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BONAPARTE  
AND THE CONSULATE







MEDALLION OF THIBAudeau  
BY DAVID OF AUGERS



BONAPARTE  
AND  
THE CONSULATE

BY

A. C. THIBAudeau

TRANSLATED AND EDITED

BY

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WITH TWELVE ILLUSTRATIONS

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## EDITOR'S INTRODUCTION

**N**APOLEON BONAPARTE, as the supreme military genius of modern history, is familiar to all of us. There are few who have not some definite idea of his great battles, of the Generals, second only to himself, who surrounded him; few who have not formed in their minds some conception of the fields of Marengo, of Austerlitz, of Wagram, or of Waterloo. The undying interest in Napoleon's campaigns has of late years been well illustrated by the success of such Memoirs as those of Marbot and Thiébauld. Marbot, indeed, has become as delightful a friend as D'Artagnan or Rob Roy; while Thiébauld, less attractive in himself, has taught us a hundred details of the military history of Europe during the great wars.

But when we come to Bonaparte as a civilian, a statesman, a philosopher, I imagine that most of us would find our knowledge confined to a few facts, such as that he destroyed the parliamentary system, restored the Church in France, had some connection with the Code Napoleon, proclaimed himself emperor, subjected France and Europe to a stern, unbending tyranny, shot a bookseller, was overthrown by outraged Europe with England at its head; and finally, as we are told by Master George Osborne, ended his life miserably "on a desert island, that of St. Helena in the South Atlantic Ocean."

Everyone who has seriously studied the life of Napoleon Bonaparte will, I think, agree with me in dividing his career into three very distinct periods. Putting aside his boyhood and early youth, the first period would extend from the 13 Vendémiaire (October 1795) to July 1807; covering the Italian campaigns, the Consulate, the earlier days of the Empire, and closing with the victories of Austerlitz, Jena, Eylau. Within this period Bonaparte's genius reached its culminating point, both military and civil; while France, reorganised and victorious under his guidance, rose to an unquestioned supremacy over the Continent of Europe. The second period, the period when Napoleon's mind and character were hardening, becoming each year more arbitrary, more despotic, more driven by wild ambitions

and desperate resolves, while France was failing in hope and energy, extends from the Peace of Tilsit, July 1807, to the final fall of the Empire in June 1815. The third period, St. Helena, was the period of disease, hopelessness, and death. It would have been, I think, more just to the memory of Napoleon himself, and more in the interest of history, had the *Memorial of St. Helena* and all the other contemporary records of the petty jealousies and sordid squabbles which took place there, been left unwritten or promptly burnt. For my own part, in editing these Memoirs of the Consulate, I have resolutely resisted every temptation to compare notes with Napoleon's words at St. Helena. The contrast between the distorted memories of a prematurely dying man and the sound and virile utterances of the First Consul in the prime of all his powers, is one which I cannot bring myself to draw.

Perhaps I could not better introduce these Memoirs to the English reader than by recalling the saying of a friend: "If I were marooned on a desert island, and allowed only one class of books, I should choose a box of French Memoirs."

With this sentiment I most cordially agree, with this proviso, that my box of Memoirs should relate to the Revolution, the Consulate, and the Empire. From this box, which would be a large one, there are few books which I should draw upon with more frequency than the Memoirs of Thibaudeau. For all that concerns the civil genius of Bonaparte in his best period, I know of no book so useful and so interesting. It gives us the most exact and fullest reports extant of the words used by Bonaparte as First Consul, during the debates in the Council of State, and in familiar conversations. These reports form, of course, the main interest of the book, but in addition it throws more light than is to be found elsewhere upon Bonaparte's methods in working out his vast schemes for the regeneration of France, and upon the relations which existed between him and the "Men of the Revolution" with whom he worked.

To understand either the position of the First Consul or of his adherents, it is absolutely necessary to have in one's mind at least an outline of the period which preceded the Consulate, a period perhaps less studied and less understood than any other epoch in the history of the Revolution.

The Constitution of the year III. was drawn up by a Committee of Eleven Members of the Convention, of whom Thibaudeau was one, and was passed in August 1795. It was both an able and an honest attempt to satisfy the longing of the nation to close the Revolution by the establishment of a Con-

stitutional Republic which should secure to it the benefits it had derived from the Revolution, above all the perpetual possession of the National Domains (the lands of the Crown, the Clergy, and the Émigrés), and should, at the same time, put an end to the tyranny of revolutionary laws and tribunals, howling mobs, the guillotine, and the Representatives on Missions of cruelty and plunder.

Unhappily for France, the Convention had no sooner passed this Constitution, than it proceeded to decree that two-thirds of its members should remain for the following year, and one-third for the year 1797-1798, in the Corps Législatif, which was to form the new representative body. This measure naturally commended itself to the Convention as a means of self-protection, and was carried with practical unanimity; but it was received in Paris and throughout the country with bitter execrations and opposition. The insurrection of the Sections of Paris, defeated by Bonaparte, led to a series of mistakes and disasters to which I allude later on in speaking of the "Regicides," and culminated in the Coup d'État of the 18 Fructidor (4th September 1797), when the three Revolutionary Directors, with the help of the Army, were able, without even a pretence of opposition, to rid themselves of their two colleagues, Carnot and Barthélemy, and of the constitutional party in the Corps Législatif; and to describe their action as a glorious victory over a Royalist Conspiracy, which in point of fact had no existence.

This Coup d'État of Fructidor forms an epoch in the history of the Revolution as important as the 10th August or the 9 Thermidor. It put a final end to all hope of establishing a constitutional republic or a system of representative government; it banished from France or drove into seclusion two hundred Deputies, among whom were included nearly every honourable or able statesman or politician, and it led the country with extraordinary directness and speed to bankruptcy, ruin, and disaster. Abroad, France lost all her conquests in Italy, and was only saved from invasion by Massena's victory over the Austrians and Russians at Zurich, 24th-25th September 1799.

At home it led to renewed and embittered persecutions such as I have alluded to in the prefatory notes to the chapters on the Émigrés and the Concordat (see pages 76, 150); to the bankruptcy of France; to a corruption which stretched downwards from the Directors to the tax-collectors of the smallest village; to the ruin of every trade and industry, even of agriculture, which had hitherto flourished throughout the whole period of the Revolution; to the desertion of conscripts,

not singly but in whole battalions ; and to an organised system of highway robbery, which became the only thriving trade of the Southern and Western Departments. Hospitals fell into ruins, bridges broke down, highways became impassable.

To give only one example, the number of silk manufactories in Lyons fell from 9355 in 1790 to 5000; while the other great industry of the city, hat making, which a few years earlier employed 8000 workmen, now failed to find work for 1500. And as it was with Lyons, so was it with every town in France. It swept away, for the moment at least, all freedom of the press, and transported or outlawed with few exceptions such eminent men of letters as still remained in France.

The legislative measures passed during these two disastrous years 1797-1799, by the mutilated Councils, deprived of all those who had lent them dignity or wisdom, were worthy of the Executive which inefficiently and corruptly carried them out. They included such measures as a forced loan, which threatened with ruin every man who still possessed anything to lose, and a "Law of the Hostages" as iniquitous and brutal as the "Law of the Suspects."

To these must be added an attempt to expel from France every ex-noble or official of the Government of Louis XVI.; a proposal to declare the "Country in Danger," which would have placed the lives and property of every citizen at the mercy of a renewed Committee of Public Safety; and finally the resuscitation of the Jacobin Club.

By the time that Bonaparte landed at Fréjus on his return from Egypt, 9th October 1799, it was clear to all the world that if France was to be saved from a fresh and hopeless Reign of Terror, one of two alternatives must be faced,—the recall of the Bourbons or the establishment of a Dictatorship. Hence the wild outburst of enthusiasm which greeted him throughout France, and most of all in Paris itself. The man who alone could save the Republic; who could sweep away the corruption, the folly, and the hopeless incapacity of the Directors and the Councils; the Dictator, wise, fearless, and incorruptible, had arrived. In a remarkable passage in the Duc de Broglie's *Souvenirs* (tome i. pp. 31-33) the period of which I am speaking is thus described. "Those who have not lived through the epoch of which I speak can form no idea of the profound misery into which France fell during the period between the 18 Fructidor (September 1797) and the 18 Brumaire (November 1799). We were plunging under full sail back to the abyss of the Terror, without a gleam of consolation or of hope. The glory



of our arms was tarnished, our conquests lost, our territory threatened with invasion. The régime of the Terror no longer appeared as an appalling but temporary paroxysm, conducting of necessity through a salutary reaction to a more settled order of things. The reaction had failed utterly, the Government, which owed to it its existence, was transporting its founders to perish at Sinamary. All the efforts made by honest statesmen to secure the legal enjoyments of their rights had been crushed by violence.

"There seemed to be nothing before us but to return to a bloodthirsty anarchy, the duration of which it was as impossible to foresee as it was to find any remedy. The remedy was found on the 18 Brumaire. Not that the 18 Brumaire was alone sufficient. We had gone through plenty of Coups d'État during the last ten years, but we had found hitherto none of the qualities which alone can excuse a Coup d'État; the genius, wisdom, and vigour which could enable its author to turn his victory to the benefit of society and save us from further danger of violent revolution. The 18 Brumaire was, as its author intended it to be, the opposite of the 18 Fructidor. It restored all that the 18 Fructidor had destroyed. It founded the order of civilisation under which we still live, in spite of all the changes of half a century. . . . The 18 Brumaire was the salvation of France, and the four years that followed it were a series of triumphs, alike over our external enemies, and over the principles of disaster and anarchy at home. These four years are, with the ten years of the reign of Henry IV., the noblest period of French history."

Thibaudeau gives no account of the Coup d'État of the 18 Brumaire. He describes only the events in which he himself was concerned, and though he was living in Paris at the time it was not until some months later that he was summoned to take part in the new Government. The latest, and to my mind the best, account of that great event will be found in Mr. H. A. L. Fisher's chapter on "Brumaire" in the *Cambridge Modern History*, vol. viii.

I will not, therefore, dwell upon the Coup d'État itself, but will pass on to some considerations on Bonaparte's methods of government, and of his words as reported by Thibaudeau.

From the day when, having disembarassed himself of Sieyès, Bonaparte entered upon his usurped inheritance as the Heir of the Revolution, and still more after this inheritance was ratified by the vote of the "Sovereign People," he might say of himself with more truth than Louis XIV., "L'État c'est moi." The

doctrine of the "Sovereign People" was unquestionably the central principle of the Revolution, and to no person, assembly, or constitution since 1789 was given so fully, or by so large a vote, the mandate to govern in the name of the people, as to Napoleon Bonaparte, both as First Consul and as Emperor.

The following figures set forth this fact very clearly. The Constitution of 1791 was not submitted to a plebiscite of the whole nation. For the Constitution of 1793 the figures were: in favour of the Constitution, 1,801,918 votes against 11,610. 1,057,390 votes were given in favour of the Constitution of the year III. and 49,978 against it.

For the Constitution of the year VIII., in which Bonaparte was nominated as First Consul with powers which were almost despotic, 3,012,569 persons voted, of whom 3,011,007 were in its favour and 1562 against it.

For the Consulate for Life there were 3,577,259 votes; 3,568,885 of which were in its favour and 8374 in opposition to it; while for the establishment of the Empire there were 3,574,898 votes: 3,572,329 in its favour and 2569 against it.

I am not now called upon to speak of the Empire, the second period of Napoleon's career; if I were, I should use very different language, but during the Consulate, with one ominous exception, can it not be truly said that Bonaparte fulfilled Renan's ideal of a good Government, "the rule of a philanthropic, well-informed, intelligent, and liberal-minded tyrant?"

If the question were asked, Why the revolution failed to establish itself as a democratic republic?, I think that most students of its history would reply that its failure was mainly due to the incurable fanaticism and folly with which the Revolutionists persisted in eliminating from their ranks, and persecuting to death or exile, not individuals only, but entire classes of their fellow-countrymen.

The Jacobin party may be said to have committed slow suicide much in the fashion of a small, dogmatic sect which, as its tenets harden and narrow, adopts an increasingly impossible standard of orthodoxy.

The method of the Revolutionists, from first to last, was to fix upon one class after another; to deprive each in turn of its privileges, rights, and property; to revile and degrade it until it necessarily represented a foe to the Revolution itself, and then, whether the persecuted class rose against its persecutors or not, declare it to be a public enemy and proceed to exterminate it.

Thus almost every class of the community was successively

attacked,—the Royal Family ; the Ministries (not the individual Ministers, but one Ministry after another) ; the Noblesse ; the Corps of military and naval officers ; the Clergy ; the Parlements ; the Farmers General, and all the financial agents of the old régime ; the ex-members of the Constituent Assembly ; all those Sections of Paris which had signed petitions in favour of the Constitution of 1791 ; the corporations and guilds ; the tradesmen who supplied Paris with food ; and lastly, under the Law of the Suspects, all who had not taken an active part in the Revolution, and all who could not obtain certificates of civism.

Bonaparte's method was the exact reverse of all this. Against individuals he could be harsh enough, but he absolutely repudiated the idea that an entire class could be irreconcilable to the Republic ; he would not even consent to divide France into classes. He dealt as far as it was possible with the individual ; Priest, Noble, Terrorist, or Regicide, the only question Bonaparte asked was : is he loyal to France and to my Government ? To this, more than to any other single cause, I attribute that marvellous regeneration of France, moral, intellectual, commercial, and social, which marked the four golden years of the Consulate.

The subject of Liberty is too vast to be discussed here ; but if the citizens of the Republic were no longer free to vote directly for their Representatives (of whose tyranny and incapacity, by the way, they were sick to death), they were at least free to go about their business in peace, to say or write (I am speaking of the Consulate only) pretty nearly what they thought, to buy and sell in honest cash, to pass their lives in security, and to be tormented by one political anxiety only, the possible death or disablement of the head and corner-stone of their prosperity, the First Consul.

But to turn to the chief interest of these Memoirs, Bonaparte's conversations and arguments in the Council of State and elsewhere, I refrain from picking out many of the gems which lie scattered so thickly through these pages. To those, and I think they are many, who know only the Napoleon of later days ; the Emperor with his stern commands, his brutal outbursts, his masterful questionings, or the peevish and cynical prisoner of St. Helena, the words of the First Consul will come as a complete surprise.

Here they will find Bonaparte at his best, speaking, as Thibaudeau says, "without preparation, embarrassment, or affectation," as an equal among equals. They will find a nobility of thought and sentiment, a generous breadth of

sympathy, a consideration for the weak or oppressed, for women and children, an extraordinary sense of abstract justice, and even (the last virtue which one would attribute to him) a modesty underrating his own supreme intellectual powers. For this last trait I refer the reader, as a good example, to Bonaparte's words in the discussions on the Civil Code (page 170), when, after extolling Tronchet and the other members of the Committee who drew up the original draft of the Code, he says: "As for the rest of us, our opinions are of little consequence. In the course of these discussions I have sometimes said things which a quarter of an hour later I have found all wrong." Once and once only in a conversation with Thibaudeau (pages 119-121) is there a hint of the overweening—one might almost say insane—ambition which was to divert his marvellous energy and his matchless genius into the road which led his country and himself to the abyss.

It may sound paradoxical, but over and over again in reading these pages I have been struck with the resemblance between Bonaparte's method of arguing and that of Dr. Samuel Johnson. No two men could be less alike, but genius has always something in common.

Like Johnson, Bonaparte had in its full perfection the art of striking at the core of a subject; like Johnson, he had cleared his mind of cant (though no man ever learnt to use cant phrases with greater effect). To whom else besides Johnson could Goldsmith's words be so truly applied: "There's no arguing with Johnson; for if his pistol misses fire, he knocks you down with the butt end of it."

I cannot pass from this brief consideration of the First Consul without alluding to the murder of the Duc d'Enghien. I hazard presently a partial explanation of the object of that dastardly crime and blunder. I only mention it here because I feel that it would be unjust, almost indecent, to eulogise, as I have done, the character of Bonaparte at this period of his career, without a single allusion to the dark blot which rests irremovably upon his reputation. As in the case of the Coup d'État of Brumaire, and for the same reason, Thibaudeau makes no mention of either the murder of the Prince or of the Cadoudal conspiracy. He left Paris on the 30th May 1803, nearly a year before either event took place.

Second only to the interest of Bonaparte's words, is the light which Thibaudeau throws upon the reasons which induced so many of the "Men of the Revolution" to join Bonaparte either before or immediately after the Coup d'État of Brumaire.

It has been a matter of common form among the eulogists of the Revolution and Republic to express their scornful surprise at the promptitude with which so many who had long figured as virtuous Republicans, fell down and worshipped the golden calf which Bonaparte had set up, and after years of constant declamation on liberty and equality, became almost on the instant the servile tools of a despot.

The same scorn (with slight differences, such as the epithet Jacobin in place of Republican) has been expended by Royalist writers on those who, after rooting out the last vestiges of ancient and venerable authority, were ready to assist a usurper of yesterday to found a tawdry burlesque of the very institutions they had overthrown.

To many, who are partisans of neither extreme, it has been a difficult problem to understand how Bonaparte found among the Conventionalists and other Revolutionists, who immediately before his arrival were unquestionably enthusiastic Republicans, so many able supporters. The answer is not hard to find, and is given perhaps more fully in this book than anywhere else. The Republicans who assisted Bonaparte to overthrow the Directory, or who joined him after he had done so, acted with the single-hearted desire to save the Republic, and rescue France from a second reign of terror, to be followed, almost to a certainty, by the restoration of the Bourbons.

Many of them were among those proscribed by the Law of the 19 Fructidor (5th September 1797), and were either exiles, or living in strict seclusion in France. A few, such as Lebrun, Sieyès and Boulay, formed part of the existing Government, but despaired of salvation by any other means than a fresh revolution. To all, except the few who desired the restoration of the Monarchy, Bonaparte appealed as the Dictator who alone could save the Republic, and by no class of the community was he more eagerly welcomed as such than by the "Regicides," who had the gravest reasons to dread the return of the Bourbons.

Two only (for I cannot recognise Carnot as such) of those who held high office under the Consulate could be fairly described as having been actually Terrorists. These were Fouché and Merlin, but in the Consulate, the Senate, the Legislative Bodies, and the Prefectures were many ex-members of the Convention who had voted the death of the King. Even in the Council of State, the most important department of the Government, and the most trusted by the First Consul, there were two, Thibaudeau and Berlier.

The "Regicides" played so important a part both before and during the Consulate, that I hope I am not going too far afield if I make a few remarks upon the peculiar position which they held during the quarter of a century which followed the death of Louis XVI.

The condemnation of the King was due, in my opinion, to one cause only, the Decree ordering the "Appel nominal," which required each member in turn to mount the Tribune and there publicly declare his opinion and give his vote. Had the voting been by ballot, I do not for a moment believe that even a doubtful majority of five could have been found to vote for his death.

The vote of the Mountain would, of course, have been for his immediate execution with or without the form of a trial, but the Mountain was in a small minority, and its vote would have been thrown away. It is incredible that such men as Cambacérès, Berlier, Thibaudeau, and a hundred other law-abiding, cool-headed men of business, Avocats or Notaries for the most part, could have been induced by anything short of deadly terror—terror of their desperate colleagues; terror of the mobs outside and inside the Convention; terror evoked by the memory of the recent Massacres; by the Jacobin Club; by the wild commune of Paris—to sentence to death a King whom they knew that they had not the slightest legal right to try, and against whom there was not enough evidence to hang a dog. These were not the sort of men to talk about hurling the head of a King against the coalesced Sovereigns, or "cementing the Republic with the impure blood of the last tyrant." In many of the speeches of the Girondists and still more obviously in Cambacérès' speeches on each phase of the trial we can trace the desire to act as upright judges, wavering and alternating with the desire to save their own necks.

But whatever their motives, whatever their hesitations or remorse, the final vote which they gave was no isolated act.

By that vote the "Regicides" condemned themselves in perpetuity to form a class apart from all others. They had given fatal hostages to the Republic, and had placed themselves in a position to answer, only too plainly, the Terrorist question, "What have you done to be hanged in case of a Counter Revolution?" Carnot exactly expressed the sentiment common to them all when, in reply to an invitation to join the so-called Royalist conspiracy in July 1797, he said: "For me it is impossible. If I had the King's pardon in my pocket I would

not trust to it for a moment. Whether he wished it or not, he would be forced to revoke it the day after his restoration."

The influence of the Regicides can be traced throughout all the disasters which befell the Republic during the Convention and the Directory. It was due to their fears that the five Directors were selected by a Committee of the Convention, on the ground that each was a "Regicide," and might therefore be trusted not to betray the Republic. Yet the failure of the Constitution of the year III. was due more to the choice of Barras, Rewbell, and La Révellière Légeaux than to any other cause. Barras' ability to sit on a horse and look like a fighting General made him popular, and would have secured his election in any case, but there were plenty of members of the Convention better known and far more respected than the other two. Cambacérès was anxious to be chosen, but his wavering and uncertain vote on the death of Louis XVI. caused his rejection. Though among the Regicides, he was not held to be sufficiently of them, to furnish a substantial guarantee. Yet had he been chosen the Directory would have had a majority in favour of constitutional methods of Government, and the whole future history of France might have been different. Again the cries of "Death to the Regicides," heard for the first time in Paris during the insurrection of Vendémiaire (October 1795), drove the Thermidorians back to the Jacobin party and led to the re-enactment of the Laws against Priests and Émigrés, the supposed partisans of the Bourbons.

Later on, in July to September 1797, when the only chance of saving the Republic lay in the union of the Constitutionals; that party was divided mainly by the half-hearted action of the Regicides, who, greatly as they feared the Directors and the Jacobins, feared yet more the faintest chance of a Royalist reaction. In the early days of the Consulate the Regicides were still haunted by the dread lest Bonaparte should prove to be a second Monk; nor were they fully reassured on this point until the murder of the Duc d'Enghien convinced them that, whatever else the First Consul might design, a restoration was as far from his views as from their own. Nor can it, I think, be doubtful that at least one of the motives which led to that mysterious crime, was the reassurance which it would give to the "Men of the Revolution," so influential under the Consulate, and so soon to be converted into the courtiers of a new dynasty.

Throughout these pages will be found a strain of alarm increasing with each step which Bonaparte was taking towards

autocracy, mingled with enforced personal admiration for his genius. Take, as one instance of this, the passage which opens Chapter XII., "The Consulate for Life" (page 216): "We were far from abandoning the hope of forming a Government which should be worthy of the dignity, the advancement, and the history of the human race. Such a Republic was by no means irreconcilable with the existence of a head of the State, and indeed it seemed to many that the head we already possessed had been specially raised up by Providence for the express purpose of resolving a problem which had so long been the dream and ideal of the publicist and the philosopher." Here we have, I think, exactly the sentiments and wishes of those "Men of the Revolution" in whose name Thibaudeau was so well qualified to speak.

By the time that the Empire arrived, these "Men of the Revolution" were divided into two classes: those who, either from conviction or from self-interest, were prepared to support the new dynasty; and those who, like Thibaudeau, Berlier, Truguet, and many others, clung to their devotion to the Republic, but found no option save to serve the Empire. To refuse to do so meant poverty, obscurity, and perhaps worse; exile or police surveillance.

Many years later Berlier was asked two searching questions: "What were your motives in condemning the King?" and "How do you reconcile your title of Count with your antecedents?"

I have alluded to his answer to the first question in my note on Berlier (page 71). The answer to the second is too long to give here in its entirety, but among other reasons he gives the following: "The whole matter of the titles was arranged in the Emperor's Cabinet. I took little interest in it, and first learnt that I had been created a Count by receiving my letters patent. If you say that I had it in my power to refuse this title, and to return my patent, I reply, certainly I might have done so, but at the same time I should have been obliged to resign my post as Councillor of State and President of the Council on Prizes of War. These offices bestowed upon myself and my large family an honourable and honest means of existence. Why should I throw them up, or what gain would France acquire if I did so? Things would have gone on just as before, and I should have ruined myself for nothing." Here is the whole case for the Men of the Revolution in a nutshell. A few brave men, like Carnot, Lanjuinais, and Grégoire, might be prepared for any fate rather than sell their conscience or their convictions, but



such heroism or quixotism is not to be expected, hardly to be desired, in ordinary mortals.

Bonaparte seldom made a mistake in his judgment of the men with whom he had to deal. He lost no time in pensioning off with a good, fat estate the clever, egoistic, overrated pedant Sieyès, and in selecting Cambacérès and Lebrun as his colleagues in the Consulate. No two men better qualified for the post of Second and Third Consuls could have been found in Europe.

Jacques Regis de Cambacérès was born at Montpellier in October 1752. He belonged to a family of the minor or provincial "Noblesse of the Robe," and succeeded his father as Councillor of the Cour des Comptes (Court of Exchequer) of Montpellier in 1771. After the abolition of the Parlements he was elected to the Presidency of the Criminal Court of the Department of the Herault. In 1792 he was returned by the same Department to the Convention. I have already alluded to his vote on the death of the King, which was curiously obscure and involved. It amounted to a sentence of death, but one that should not be carried out until the conclusion of a General Peace, when it should be again referred to the existing Legislature; unless France should be actually invaded, in which case the sentence should be executed immediately. His vote, like those of so many of the Girondist party who attempted to juggle with the question, went to make up the majority of five by which the King was condemned.

One other blot darkened his career as a member of the Convention; he had the weakness to vote against the Girondists on the 31st May 1793. After the Terror he voted with the Right, and gradually acquired considerable influence in the Convention and the country. He devoted much of his attention, in the Committee of Legislation, to drawing up a classification of Laws, which furnished a basis for the Codes of a later epoch. He presented himself, as I have already said, as a candidate for the Directory, and received the vote of most of the "New Third" of the Corps Législatif and of some moderate Conventionalists, Thibaudeau among the number.

He was elected to the Corps Législatif by more than fifty Departments, and was fortunate enough to be one of the members who retired in May 1797, thus escaping proscription on the 18 Fructidor (September 1797). He was re-elected as Deputy for Paris in April 1798, when he met with the curious experience of being excluded as an "Anarchist" in the second Coup d'État of the Directory, 22 Floreal, an. VI. (11th May

1798). On the 21st January 1799 he became Minister of Finance, and held that office until Bonaparte chose him as Second Consul, especially charged with the Organisation of the Courts and the preparation of Laws. On the establishment of the Empire he was created Chancellor of the Empire, President of the Senate, and Duke of Parma. In 1814 he voted for the dethronement of Napoleon, and accompanied the Empress Marie Louise to Blois. During the Hundred Days he again joined the Emperor, and acted as President of his House of Peers. Condemned to banishment by the Law of the 12th January 1816, as one of the "Regicides," who had taken office during Napoleon's return, he retired to Brussels, where he remained until recalled to France by the Royal Ordinance of the 3rd May 1818.

He died at the age of 71, on the 8th March 1824. Although the elevation of Cambacérès to the Consulate was held to be a concession to the "Men of the Revolution," no man was less at heart a Revolutionist than he. The whole trend of his mind and character were towards law and order. He had no enthusiasm for Republican institutions or for the benefits of the Revolution. His legal knowledge was profound, and he possessed in the highest degree the power of managing men individually or collectively by means of tact, sound judgment, and the spirit of compromise. His influence over Bonaparte was invariably exerted to modify his judgment and action in the direction of legality or mercy. Chaptal remarks that Bonaparte's first impulse was always towards energetic or violent measures. Cambacérès' method, he says, was to allow Bonaparte's wrath to have full vent, never to contradict or argue with him until the immediate storm had passed by, when he would recall the circumstances, point out the other side of the question, and bring back his imperious chief to a gentler mood, in which his natural inclination towards justice and his practical sense could have fair play. No one could assert that Cambacérès was an eminently brave man, but there was at least one occasion on which he showed genuine courage. After strenuously opposing in the Privy Council the proposed murder of the Duc d'Enghien, he followed Bonaparte to his study, where he used all his powers of persuasion to convince him of the iniquity and futility of his intention. After long argument, Bonaparte is said to have addressed him thus: "What right have you to be so scrupulous about royal blood, you who voted the death of your King." Pasquier, who tells the story, adds that it was in answer to this stinging reproach that Cambacérès drew up a *Mémoire* to prove

that the object of his vote was to save the King by postponing his execution, and allowing time to rally those who were too terrorised at the moment to offer an open resistance.

This Mémoire he showed to the First Consul and to many friends. After the restoration he placed it before Louis XVIII., who was so far convinced as to allow Cambacérès to return to France in full possession of his titles and civil rights. Pasquier remarks also that, in spite of his high intellectual powers and character, Cambacérès was extraordinarily vain of his titles and orders, which he loved to display both in and out of season. An amusing story illustrative of this well-known weakness was current in Paris at the time of his elevation to the Dukedom of Parma. In reply to an intimate friend, who laughingly asked how he should address him in future, he gravely replied: "Of course in public you would address me as Your Highness, but in private life there is no call for so old a friend as you to use so much ceremony. I shall be quite content if you simply call me Monseigneur."

Cambacérès left behind him Memoirs which have not yet been published. If these are the genuine expression of his life and experience they ought to be of inestimable value, but after the publication of the anxiously expected Memoirs of Talleyrand it is well to suspend our judgment on the autobiographies of great men.

If the Second Consul owed his elevation to his standing as a representative of the Men of the Revolution, the appointment of the Third Consul was held to be a guarantee to the Moderate Party.

Charles François Lebrun, born on the 19th March 1739, after spending some years in England and Holland, was called as an Avocat in 1763, and soon afterwards became tutor to the eldest son of President Maupeou, who quickly discovered and employed his ability and became greatly attached to him. Lebrun was, in fact, responsible for most of the speeches on the reform of the Parlements made by Maupeou after his elevation to the Chancellorship, and received from him several lucrative offices, such as the Censorship and later, the Inspectorship of the Royal Domains.

So well known was the assistance which he gave to the Chancellor that Louis XV. on one occasion said: "What would Maupeou do without his Lebrun?" It was no doubt due to his experiences during this period of his life that Lebrun became one of the principal promoters of the abolition of the Parlements in 1790 and 1791. After Maupeou's disgrace in August 1774,

Lebrun, who had married a rich wife in the previous year, retired to his or her estate of Grillon, near Dourdan, where he gave himself up to literary pursuits, and published translations of the highest merit of the *Gerusalemme liberata* and the *Iliad*. In 1789 he was elected to the Constituent Assembly, where he took an active part in the work of the Financial Committee, and while promoting the entire abolition of the Parlements advocated the establishment of an Upper House or Senate.

Twice imprisoned during the Terror, he escaped the guillotine by the fall of Robespierre. In September 1795 he was elected to the Corps Législatif, sat in the Council of the "Anciens," and was one of the very few moderate members who escaped proscription on the 18 Fructidor. He was re-elected in April 1799, and opposed the Forced Loan and the other revolutionary laws brought forward during that year. Although he took no active part in the Coup d'État of Brumaire, he was appointed on the following day to the "Commission of the Anciens," and on the 13th December 1799 to the Consulate. His duties as Third Consul consisted chiefly in the management of the finances of the Republic.

During the history of modern Europe there have hardly existed three statesmen who possessed so great a genius for finance as Lebrun, Gaudin, the Minister of France, and Bonaparte himself,—and indeed, nothing short of genius could have evolved in a few months, perfect order out of the chaos, corruption, and bankruptcy which prevailed under the Directory.

Lebrun was by no means the complaisant courtier of the First Consul or the Emperor. He opposed with all his powers the creation of a new Noblesse and the abolition of the Tribunat. None the less did he find himself virtually compelled to accept the titles of Duc de Plaisance and Archtreasurer of the Empire. In 1810, after the abdication of the throne of the Netherlands by Louis Bonaparte, he was sent as Governor General to Holland, where he remained until 1813, earning from the Dutch people the title of the "Good Stadtholder." In 1814 he gave in his adhesion to the Restoration, and was created a Peer by Louis XVIII. During the Hundred Days he accepted no other office than that of Grand Master of the University. This, however, was sufficient to exclude him from the House of Peers for some years, but in 1819 his seat was restored to him. He died at the age of 85, on the 16th June 1824.

Lebrun was a man of remarkable character and ability. He was in reality much more in sympathy with the Revolution than his coadjutor Cambacérès. He remained to the close of his

long life devoted to the ideals of the eighteenth century, though he was rather a disciple of Voltaire than of Rousseau. With an intense hatred for the tyranny and violence of the Revolution, he yet considered that it had conferred inestimable blessings on France, by abolishing hereditary distinctions and privileged classes, above all the Parlements. He was, in fact, an ardent advocate of equality, and could not speak of the new orders and nobility without a contemptuous shrug of the shoulders. Less suave and tactful than Cambacérés, he was perhaps more respected.

He left behind him a very moderate fortune, which he was with great difficulty persuaded to settle upon his eldest son, who, of course, inherited his title. Indeed, Pasquier expresses his belief that he died without making any such settlement, leaving his eldest son to arrange the matter of his inheritance with his younger brothers.

Before I turn to the author of these Memoirs I should like to call attention to one remarkable detail, the longevity of the chief civil actors in the history of the period. In the course of his work, Thibaudeau mentions forty-four persons holding high office during the Consulate and Empire, twenty of whom I may mention, began life before the Revolution as Avocats. Of these, five only died before the age of sixty, eleven between seventy and eighty, and sixteen between eighty and ninety-two. After the Restoration many of them no doubt enjoyed or endured long years of quietude, while some were compelled to bear the weight of poverty and exile, but for at least fourteen years of their career none escaped the incessant toil which Bonaparte exacted from all who (to use one of his favourite phrases) "ate the bread of the nation."

Thibaudeau, the author of these Memoirs, was himself a striking example of this longevity, dying within a few days of the completion of his eighty-ninth year.

Few men have left behind them such copious materials for the biographer. Up to the time of his exile in 1815, he has given us in his Memoirs and other works a singularly complete account of his life and of the workings of his mind. This biography, however, has little to do with the subject of the present work, and I must confine myself to the briefest possible outline of his career.

Antoine Claire Thibaudeau came of a highly respectable family, which had been settled in Poitou for more than a century, and had risen from the rank of farmers and small tradesmen to the profession of the law. He was the second

son of Antoine René Thibaudeau, Avocat and man of letters, of Poitiers, and was born on the 23rd March 1765. In 1787, at the age of 22, he was admitted as an Avocat. His father was elected as a representative of the Tiers État of Poitou to the States General, and took his son to Versailles and Paris in April 1789. In October of the same year young Thibaudeau returned to Poitou an ardent revolutionist, founded a branch of the Jacobin Club, was elected as Procureur of the Commune of Poitiers, and married Marie Marthe Tribert, of a reputable family of Poitou.

In September 1792, he was elected to the National Convention as one of the eight Deputies of the Department of the Vienne. He set out for Paris, to use his own words, "persuaded in my simple soul that in six months at the outside the National Convention would have decided on the future of the King, made such changes in the Constitution as were suited to the exigencies of the times, and that after restoring peace to France we should be returning to our homes to receive the benedictions of our fellow-citizens." Following the example of the other Deputies of his Department, Thibaudeau took his seat on the "Mountain," and consequently voted for the death of the King without delay or appeal to the people. In the whole course of his Memoirs he makes but one reference to his vote on this occasion. To emphasise this reference he devotes to it Chapter II. of his *Memoirs of the Convention*. As a rule Thibaudeau's chapters are rather long, but this one contains the following words only: "21st January 1793. On this day the most tragic event of the Revolution occurred. Thirty years have passed since then, but the time has not yet come to touch upon the subject."

Notwithstanding this vote, Thibaudeau showed his independence by absolutely refusing to join the Jacobin Club, on the ground that it was derogatory to the dignity of a legislator to account for his opinions or to receive his instructions from a society which, without any legal status in the country, had set itself up as a rival to the National Convention. To this refusal, which set him apart from the other members of the left, he attributes the dangers which he incurred during the Terror, when he was in daily peril and was compelled to remain silent while all the members of his family, his father, his father-in-law, his brothers, and most of his other relatives were imprisoned and in daily peril of their lives.

Not until after the 10 Thermidor, did he venture to address the Convention, but he soon found himself becoming famous

as a speaker, and by the end of the Convention was looked upon as one of the most important leaders of the Moderate Party, as opposed to the Thermidorians on the one side and the Jacobins on the other. After the insurrection of the 13 Vendémiaire, when the Thermidorians rejoined their former allies, he played a part of great importance in successfully opposing the scheme of Barras, Tallien, and the other Thermidorians to postpone the dissolution of the Convention, and to return to a state of things closely resembling a renewal of the Terror. Consequently he was elected to the Corps Législatif by thirty-two Departments. Sitting in the Council of Five Hundred he found himself in a difficult position.

His sympathies and convictions lay entirely with the members of the Right, whose real aim was to abolish the whole system of revolutionary government, and to substitute for it a Constitutional Republic. But the fear of a possible restoration of the Bourbons exercised, as I have already said, so powerful an influence over the minds of the "Regicides" that Thibaudeau and many others found it impossible to act in common with leaders such as Lanjuinais, Boissy d'Anglas, and others who were violently (but, as it seems to me, quite untruly) accused of the crime of Royalism.

There can be no doubt that the position of Thibaudeau and his party had a paralysing effect upon the two Councils, and was one of the principal causes of their abject failure to defend themselves on the 18 Fructidor (4th September 1797).

Thibaudeau's name was included in the list of those condemned to transportation by the first draft of the "Law of the 19 Fructidor," but he was saved by the intervention of Boulay, who as spokesman of the Directory was at the moment all powerful. After a futile attempt to return to his seat in the Council, Thibaudeau abandoned public life, and was fast acquiring a Parisian reputation as an Avocat, when the 18 Brumaire again brought him to the front. On the 27th February 1800 he was appointed Prefect of the Gironde, but after remaining at Bordeaux for six months, he was recalled to Paris (22nd September 1800), to sit as a member of the Legislative Committee in the Council of State. He was responsible for at least one title of the Civil Code, that on the *État civil*; and he enjoyed, at any rate during his earlier days as Councillor, the intimacy and esteem of the First Consul, although he voted in opposition to nearly all his schemes,—the Legion of Honour, the Concordat, the Consulate for life.

"Get rid of your dreams, my friend," was the not unkindly advice of Bonaparte on one occasion. After the promise of promotion to one of the high Departments of State (page 304) it was no slight shock to Thibaudeau to find himself, without warning, on the 30th May 1803 nominated to the Prefecture of the Bouches-du-Rhone. Marseilles was one of the most important cities of France, both on account of its commerce, its turbulent population, and its opposition to the Empire; but to fall from the Council of State to a provincial appointment could not have been agreeable or flattering to Thibaudeau's self-esteem. However, he seems to have taken his disappointment in good part, and to have remained on terms of mutual esteem with the First Consul and Emperor. He was created a Commander of the Legion of Honour in 1804, and a Count in 1808. During the remaining years of the Empire he may have found it necessary to use this title, but apparently he abandoned it after 1815; certainly, he does not adorn the title-page of any of his works by its use. He remained at his post at Marseilles until the news reached him of Napoleon's abdication in April 1814, when he at once placed his resignation in the hands of Admiral Gantheaume, Napoleon's Commissioner for the Mediterranean ports, and returned to Paris, where he remained in obscurity until the return of the Emperor from Elba, when he was again appointed a member of the Council of State, and shortly afterwards raised to Napoleon's House of Peers. From the first, Thibaudeau took a gloomy view of the Emperor's prospects, and strongly advised him to assume the position of a Military Dictator, leaving all questions of constitutional government to be decided after the campaign which was about to open. On the 28th June, when the Government of the Hundred Days was preparing, with what face it could, to receive the King, Thibaudeau had the courage to say in the House of Peers: "We are the representatives of a Nation which has pronounced the expulsion of the royal Government. For my own part, I shall respect my mandate. I will never consent to betray my duties and my conscience. By what authority are we here? By that of the very Constitution which rejects the Bourbons. If it is the Bourbons whom you are about to impose upon the country, I swear that, for my part, I will never recognise them as the rulers of France." After so outspoken a declaration it is not surprising to find that Thibaudeau was included in the Royal Ordinance of the 24th July, drawn up by Fouché, a fortnight after Louis XVIII.'s return, condemning thirty-eight persons to



banishment from Paris, and ordering them to remain under police supervision until the Chambers should decide upon their lot. He was again condemned, by the Law of the 16th January 1816, to exclusion from the kingdom as one of those Regicides who accepted office under Napoleon during the Hundred Days. Thibaudeau, however, awaited neither sentence. Armed with a passport from Fouché, he left Paris on the 7th July 1815, the day before Louis made his entry into the city, and retired to Switzerland.

At Lausanne, he was arrested by the Austrian Army under the Archduke John, but after a month's detention was permitted to take up his residence at Prague, where he was joined by his wife. In 1819 most of the Regicides were allowed to return to France, but Thibaudeau refused to sue for any form of pardon. In that year he went to Vienna, then to Augsburg, and in 1823 to Brussels, where he remained, engaged chiefly upon his *History of Napoleon*, until the Revolution of 1830 again opened to him the doors of France. He arrived in Paris on the 5th August, after fifteen years of exile and poverty. In May 1831 a Royal Ordinance granted him a pension of fr. 6000 (£240), on which he lived, devoting his time to historical study, and spending his summers at Maisons-Leffitte, near Versailles, and his winters in Paris.

Napoleon III. included him in his first list of Senators issued on the 26th January 1852, and raised his position in the Legion of Honour to that of Grand Officer in August of the same year. For some two years he was a frequent attendant at the sessions of the Senate, but early in the year 1854 he was fatally attacked by the only malady from which he ever suffered, the gout. He died on the 9th March, within a few days of his eighty-ninth birthday.

Besides his Memoirs, Thibaudeau was the author of several historical works, written during his exile and after his return to France. The most important of these is a history of the Emperor, written chiefly at Brussels. The publication of this work, under the title *Histoire générale de Napoléon Bonaparte*, was undertaken by the Stuttgart publisher, J. C. Cotta, but after six volumes, bringing the work up to the close of the Consulate, had been published, the issue was suspended in consequence of difficulties between Cotta and his Paris agents. Some years later Thibaudeau completed the book, which was published under the title *Le Consulat et l'Empire*, Jules Renouard, Paris, 1834, in ten volumes. Voluminous as it was, it enjoyed a considerable reputation during the years following its publication,

and quotations from it are still frequently to be found in recent histories. Thibaudeau left one son, Adolphe Narcisse, a journalist and railway engineer of some note, who died in December 1856.

In 1896 a daughter of Thibaudeau's sister, Mademoiselle Louise Thomé, was still living at Poitiers. She presented to the city the bronze medallion of her uncle, the work of P. J. David, of Angers, which forms the frontispiece of this volume.

Such are the dry bones of Thibaudeau's long and eventful life. I would gladly have clothed them with the record of his childhood and early experiences at Versailles in 1789, with his shrewd remarks on the insurrection of La Vendée, his account (the most vivid and picturesque which we possess) of the Convention under the Terror, his relations with Tom Paine, with Madame de Stäel and Benjamin Constant, his troubles in the pursuit of his profession in Paris after his retirement from public life.

But these matters, profoundly interesting in themselves, have little to do with the subject of the present book. I hope, moreover, on some future day to present to English readers, Thibaudeau's *Memoirs of the Convention and Directory*, to my thinking one of the most interesting and valuable works written by any contemporary actor in that great drama.

In the literature of the French Revolution there is nothing more curious than the fate of Thibaudeau's two autobiographical works, the *Memoirs of the Convention and Directory* and the *Memoirs of the Consulate*.

The earlier, the *Mémoires sur la Convention et le Directoire*, par A. C. Thibaudeau, was published by Boudouin frères, Paris, in 1824, and a second edition was issued by Ponthieu et Cie, Paris, in 1827.

For some reason not very easy to understand, the book gave great offence to the French Ministry, and in consequence of their representations, Thibaudeau, who was residing at Brussels for the purpose of obtaining materials for the history of Napoleon, on which he was engaged, received notice to leave Belgium within forty-eight hours. After many remonstrances and a stubborn resistance, he obtained the personal intervention of King William of the Netherlands, and was permitted to remain, but apparently on condition that he ceased to publish his autobiography. In consequence of this he eliminated from the volume which he was then writing all that related to his personal experiences, and published it anonymously under the

title *Mémoires sur le Consulat, 1799 à 1804. Par un ancien Conseiller d'État*, Ponthieu et Cie, Paris, 1827. A German translation, under the title *Geheime Denkwürdigkeiten über Napoleon und der Hof der Tuilleries in dem Jahren 1799 bis 1804*, was issued in the same year at Stuttgart. From that time to the present day no edition of either work has appeared, and, as I know to my cost, both books are rare and by no means cheap.

This is the more remarkable, since both are among the most frequently quoted books on the Revolution. The *Memoirs on the Convention and the Directory* form certainly, not merely the best, but practically the only contemporary work of any authority on the history of the eventful years between the formation of the Constitution of the year III. and the Coup d'État of Fructidor, an. V. (1795 to September 1797); while the *Memoirs of the Consulate* undoubtedly contain the most authentic record of the actual words of Bonaparte from December 1800 to the summer of 1804. I have gone carefully through all the biographies of Napoleon and the histories of the Consulate, and I have found in each of them, from Mignet and Thiers to Taine, Monsieur Masson, and Dr. Holland Rose, frequent quotations from the pages of this book. I am not alluding to either Monsieur Masson or Dr. Rose when I say that I have sometimes been forced to the conclusion that one after another well-known passage has been repeated and slightly altered by successive writers who have not had the original before them, until the words have travelled far away from Thibaudeau's text, or have been twisted from their original meaning.

Several of his contemporaries have given us Bonaparte's opinions on this or that subject, or have recorded a few detached sentences from his conversation, but two only, Thibaudeau and Roederer, have succeeded in noting the exact words which he used in the debates of the Council of State or in private conversation with those who enjoyed his confidence.

Whether Thibaudeau wrote shorthand or whether he trusted to an evidently accurate and well-trained memory I do not know, but throughout his *Memoirs*, from beginning to end, he is in the habit of reporting conversations, speeches, and debates in a way which carries conviction as to their exactitude. Examples of such reports abound throughout his *Memoirs of the Convention and Directory*. To take one instance out of many, Chapter XVIII. of Volume I. is devoted to the famous debate of the 23rd October 1795. No one who compares the report as given by

Thibaudeau with the versions published in the *Moniteur* or in the *Journal des Débats* can fail to perceive how much more closely Thibaudeau keeps to the actual words than the professional reporters, and how vividly he pictures the whole scene, the gestures, the interruptions, the struggle for the speakers' Tribune, until the actors in the long-buried controversy rise and show themselves in their habits as they lived.

To preserve the anonymous character of his Memoirs of the Consulate, Thibaudeau, while occasionally mentioning his own name in reporting the proceedings of the Council of State, carefully veils his personality, while conversing with Bonaparte or Josephine, under the initial N. or a "Councillor of State." That the initial and epithet stand for himself there can, I think, be no shadow of doubt. The opinions which N. or the Councillor expresses agree exactly with those which Thibaudeau in his earlier volumes gives as his own; and sometimes, as in the conversation on the Concordat, the words of N. repeat verbatim those of Thibaudeau himself in Chapter VI. of Volume I. and XII. of Volume II. of the *Memoirs of the Convention and Directory*, which are devoted to the clergy and the state of religion in France. Thibaudeau was, moreover, known to be a confidential friend of Josephine for whom, both in these Memoirs and in his *History of the Consulate and Empire*, he expresses his admiration and respect. I place Thibaudeau's reports of Bonaparte's conversations far before those of Roederer. Interesting as these latter are, they do not, to my mind, ring quite so true as Thibaudeau's, and they are to some extent marred by the passionate admiration with which Roederer regards the utterances of Councillor, afterwards Senator, finally Count, Paul Louis Roederer. There are occasions when, in talking to Bonaparte, he even gets the best of the argument, an issue so improbable that I fear that his memory occasionally fails him. Notwithstanding these drawbacks, Roederer is almost as frequently quoted as Thibaudeau, and, like Thibaudeau, is, I imagine, generally quoted at second or third hand; for these conversations are to be found only in the third volume of the *Œuvres du Comte P. L. Roederer, publiées par son fils A. M. Roederer*, 8 tom, Paris, 1854, a work of which only a small number of copies were privately printed, and which is consequently of such rarity that it was only after long waiting and many efforts that a copy was acquired for the British Museum at a sufficiently heavy price.

I have taken no liberties with Thibaudeau's text, which I have translated as literally as the differences between the French and English languages will permit.

I have, however, ventured to alter the arrangement of the chapters, which in the original seem to be thrown together quite irrespective of chronology. I have also added notes both explanatory and biographical. These I hope will be found useful by those who have not made the history of the French Revolution their special study.

G. K. FORTESCUE



## CHRONOLOGICAL TABLE OF EVENTS DURING THE CONSULATE, 9<sup>TH</sup> NOVEMBER 1799–18<sup>TH</sup> MAY 1804

1799. 9 Nov. (18 Brumaire, An. VIII.). Coup d'État of the 18 Brumaire.  
 „ 18 „ (27 „ „ ). Withdrawal of the Forced Loan of 29th  
 June 1799.  
 „ 29 „ (8 Frimaire, An. VIII.). Priests arrested under the Law of the 19  
 Fructidor, An. V. (9th September 1797), set free.  
 „ 9 Dec. (18 Frimaire, An. VIII.). Duc de Choiseul and the other ship-  
 wrecked Émigrés released.  
 „ 15 „ (24 Frimaire, An. VIII.). Promulgation of the Constitution of the  
 year VIII. Votes in favour of the Constitution, 3,011,007 ;  
 against, 1562  
 „ 15 „ (25 Frimaire, An. VIII.). Law organising the École Polytechnique.  
 „ 21 „ (30 „ „ ). Property of Crosne presented to Sieyès.  
 „ 24 „ (3 Nivôse, An. VIII.). Council of State organised.  
 „ 24 „ (3 „ „ ). Decree retaining the 14th July and 22nd  
 September as National Fête Days, and abolishing all others.  
 „ 25 „ (4 Nivôse, An. VIII.). First official meeting of the Consuls.  
 „ (4 „ „ ). First meeting of the Senate.  
 „ (4 „ „ ). Law of the 19 Fructidor (5th September.  
 1797) condemning Carnot, Barthélemy, and many others repealed.  
 „ 26 „ (5 Nivôse, An. VIII.). Letters of the First Consul to George III.  
 and the Emperor.  
 „ 30 „ (9 Nivôse, An. VIII.). Order for funeral honours to be paid to Pius  
 VII.
1800. 1 Jan. (11 Nivôse, An. VIII.). First meeting of the Tribunat and Corps  
 Législatif.  
 „ 19 „ (29 Nivôse, An. VIII.). Peace signed at Montfaçon with the  
 Chouan leaders.  
 „ 13 Feb. (24 Pluviôse, An. VIII.). Bank of France constituted.  
 „ 16 „ (28 „ „ ). Law of Local Government constituting  
 Prefects, etc.  
 „ 19 „ (29 Pluviôse, An. VIII.). The Consuls take possession of the  
 Tuileries.  
 „ 18 Mar. (27 Ventôse, An. VIII.). Organisation of the Judicial Bench.  
 „ 20 „ (29 „ „ ). Battle of Heliopolis.  
 „ 18 April–5 June (28 Germinal–16 Prairial). Massena besieged in Genoa.  
 „ 25 „ (5 Floréal, An. VIII.). French take possession of Cairo.  
 „ 3 May (13 „ „ ). Battle of Engen.  
 „ 5 „ (15 „ „ ). Battle of Moeskirch.





CHRONOLOGICAL TABLE OF EVENTS xxxv

1802. 1 May (11 Floréal, An. X.). Law of Public Instruction passed.
- „ 8 „ (18 „ „). Senatus Consultum appointing Bonaparte First Consul for an additional term of 10 years (*i.e.* to the end of the year 1820).
- „ 19 „ (29 Floréal, An. X.). Law creating the Legion of Honour passed.
- „ 10 June (21 Prairial, An. X.). Toussaint l'Ouverture captured and sent to France, where he died 27th April 1803.
- „ 2 Aug. (14 Thermidor, An. X.). Senatus Consultum proclaiming Bonaparte First Consul for life, and announcing the results of the plebiscite. Votes in favour of First Consulate for life, 3,568,885; against, 8374. (After this date Bonaparte signed his name, as Napoleon after the manner of a sovereign.)
- „ 4 „ (16 Thermidor, An. X.). Senatus Consultum altering the Constitution of the year VIII.
- „ 15 „ (27 Thermidor, An. X.). Proclamation of Bonaparte as First Consul for life on his 31 birthday.
- „ 14 Sept. (27 Fructidor, An. X.). Suppression of the Ministry of Police.
- „ 21 „ (Jour Complimentaire, An. X.). Piedmont incorporated with France.
- „ 30 „ (8 Vendémiaire, An. XI.). Bonaparte's Proclamation of his intention to act as Mediator between the Swiss parties.
1803. 23 Jan. (3 Pluviôse, An. XI.). Reorganisation of the Institute.
- „ 28 „ (8 „ „). The "École supérieure militaire" at Fontainebleau founded.
- „ 28 „ (8 Pluviôse, An. XI.). Bonaparte's interview with the Swiss Deputies.
- „ 19 Feb. (30 „ „). The Act of Mediation (Settlement of Switzerland) issued. The First National Diet met 5th March 1803.
- „ 25 „ (6 Ventôse, An. XI.). The École des Arts et Métiers at Compiègne founded.
- „ 8 Mar. (17 Ventôse, An. XI.). First Title of the Code Civil passed by Corps Législatif (the earlier titles had been rejected by the unreformed Corps Législatif in March 1802).
- „ 30 April (10 Floréal, An. XI.). Treaty ceding Louisiana to the United States.
- „ 12 May (22 „ „). The English Ambassador, Lord Whitworth, leaves Paris.
- „ 16 „ (26 Floréal, An. XI.). British declaration of war with France.
- „ 22 „ (2 Prairial, An. XI.). Decree ordering the arrest of all British subjects in France.
- „ 15 July (26 Messidor, An. XI.). Decree excluding all ships of any nationality clearing for a British port from French ports and harbours.
- „ 26 Oct. (3 Brumaire, An. XII.). Lucien Bonaparte marries Madame Joubertson.
- „ 20 Nov. (28 Brumaire, An. XII.). The French evacuate Hayti. (French losses during this expedition, February 1802–November 1803, were twenty general officers and forty thousand officers and men.)
1804. 15 Feb. (25 Pluviôse, An. XII.). Arrest of General Moreau.
- „ 28 „ (8 Ventôse, An. XII.). Arrest of General Pichegru.
- „ 9 Mar. (17 „ „). Arrest of Georges Cadoudal.
- „ 15 „ (23 „ „). Duc d'Enghien seized at Ettenheim and taken to Vincennes.

1804. 20 Mar. (28 Ventôse, An. XII.). Duc d' Enghien shot.  
 „ 21 „ (29 „ „). The Civil Code passed by the Corps  
     Législatif.  
 „ 6 April (16 Germinal, An. XII.). Pichegru found strangled in his cell.  
 „ 18 May (28 Floréal, An. XII.). Senatus Consultum creating Napoleon I.  
     Emperor of the French. Result of the plebiscite: for the Empire,  
     3,572,329; against, 2569.  
 „ 9 June (20 Prairial, An. XII.). General Moreau condemned to two years'  
     imprisonment, commuted by Napoleon to banishment from France.  
 „ 10 „ Georges Cadoudal and 19 others condemned to death. Cadoudal  
     was executed 25th June 1804.

## NOTE ON THE CONSTITUTION OF THE YEAR VIII

15TH DECEMBER 1799

SO much of the interest of the present volume turns on this Constitution, and on the efforts to amend it, that I think it well to give a brief synopsis of the ninety-five Articles of the Constitution as it was promulgated on the 15th December 1799; of the Regulations concerning the action and powers of the Council of State issued on the 26th December 1799; and of the changes effected by the *Senatus Consultum* of the 16 Thermidor, an. IX. (4th August 1802).

I do not propose to give any historical sketch of the manner in which the Constitution was deduced by the First Consul from the original scheme of Sieyès, whose proposal of a Grand Elector with an income of £240,000, and two subordinate Consuls, met with so curt a rejection from Bonaparte. There is, however, one curious circumstance connected with Sieyès' design which has passed unnoticed, and which it may be well to mention here. James Harrington, best known as the author of *Oceana*, a political writer of the seventeenth century, published in 1659 a small book entitled *The Art of Law-giving*. In this book he describes an ideal Legislative Body composed of two powers: the one a "Senate," whose duty it was to debate and provisionally vote laws; the other, the "Prerogative Tribe, or Representatives of the People," forbidden to debate but empowered to vote on the Laws which had passed the Senate, after hearing them discussed in their presence by Senators specially deputed to do so. In the year III. 1794-95, a translation of this book, with the other works of Harrington, was published in Paris under the title *Œuvres politiques de Jacques Harrington*.

In December 1799 Sieyès produced his Constitution, which included two legislative bodies,—the Tribunat, whose duty it was publicly to debate Bills submitted to it; and the Corps Législatif, who, after listening in silence to the orators of the Tribunat and of the Government, voted for the Bills (in which case they became Law) or rejected them altogether. Sieyès' friend, Boulay de la Meurthe, afterwards wrote an interesting account of the manner in which Sieyès drew up his scheme, but neither he nor any later writers makes any mention of James Harrington. Yet it is difficult to draw any other conclusion than that this fantastic piece of constitution-mongering was suggested by Harrington's book. Sieyès was the last man in the world to acknowledge his obligation to another author, or to confess to a plagiarism, however innocent or praiseworthy. Under Bonaparte's rule the Tribunat and the Corps Législatif were an absolute failure, and after some drastic attempts at reform, they were swept into the Revolutionary lumber-room. Bonaparte's epitaph upon them will be found in the following words: "One hundred men (the Tribunat) who do nothing but talk, and three hundred (the Corps Législatif) who do nothing but vote without speaking a word. Futile dream of a mediocre intelligence."

The principal features of the Constitution of the year VIII. were as follows.

The *Executive Government*.—The Government is entrusted to three Consuls, named in the Constitution as Citizen Bonaparte, First Consul; Citizen Cambacérès, Second Consul; and Citizen Lebrun, appointed for ten years—(Lebrun for five years only). They are irresponsible.

The First Consul promulgates all laws; carries on all foreign relations, signs Treaties (to be afterwards passed as Laws by the Legislature); provides for the safety of the country at home and abroad. He appoints or dismisses the Ministers, the members of the Council of State, the Foreign Ministers, the officers of the Army and Navy, the officers of the local administrations (subsequently named Prefects and Sub-Prefects), the Mayors and other local authorities. He appoints also the

Judges and other legal officers (except the Judges of the Court of Cassation, appointed by the Senate, and the "Juges de Paix," elected for a term of years). Judges are, however, irremovable, and he cannot therefore dismiss them.

The Second and Third Consuls have a "consultative voice" only in the Government. They are entitled to record their opinion in a Register of their deliberations. In the illness or absence of the First Consul either of them can act temporarily in his place. At the end of his term of office, the First Consul becomes a member of the Senate (and is therefore excluded from holding any other office). The Second and Third Consuls are free to enter the Senate or to be re-elected to the Consulate. The three Consuls are to reside at the Tuileries. The First Consul receives a salary of fr. 500,000 (£20,000). The Second and Third Consuls each receive fr. 150,000 (£6000).

The *Ministers*.—There are seven Ministers and a Secretary of State, all appointed by the First Consul. They are responsible. They are charged with framing the laws relating to their Departments and carrying them into execution. The Ministers are entitled to sit in the General Assembly of the Council of State, but have no vote.

The *Council of State*.—The Members of the Council of State are appointed by the First Consul. Their number may not exceed forty. They are divided into five sections,—Legislation, the Interior, War, Marine and Colonies, Finance. Their functions are both legislative and executive. All proposed Government Bills are first placed by the Consuls or Ministers before the proper Section, who consider and report upon them to the General Assembly of the Council. If passed by this Assembly, they are presented by the "Orators of the Government" to the Tribunat, and subsequently to the Corps Législatif.

The Executive portion of the duty of the Council consists in carrying out all laws, framing the necessary regulations, settling differences between Administrative Officers and Courts of Law. Certain Members are also entrusted with Departments of the various Ministries,—as the Treasury under the Minister of Finance; Public Instruction under that of the Interior, and

others. The Councillors at the heads of these Departments act in subordination to the Ministers. (This sometimes produced a good deal of friction, as in the case of Chaptal and Roederer, described in these Memoirs.) After the 23rd September 1800 a further division of the Council into Ordinary and Extraordinary Services was made; the extraordinary Members being charged with services outside the ordinary duties of the Council. Such were the General-in-Chief of the Army of Italy, the Minister to the Ligurian Republic, the Maritime Prefect at Brest, and others. The Council of State sits in the Tuileries. Each member has a salary of fr. 25,000 (£1000), and the Presidents of the five Sections, fr. 35,000 (£1400). (Membership of the Council of State before August 1802 was more highly considered than that of the Senate, which meant dignified retirement, whereas the Council of State was the most important and active body, and was constantly brought into direct contact with the First Consul.)

The *Legislature* consists of the "Conservative Senate," the Tribunat, and the Corps Législatif.

The Senate was to be ultimately composed of eighty members. Its composition was begun by thirty-one Senators appointed by the Second and Third Consuls with Sieyès and Roger Ducos, the retiring Provisional Consuls. These immediately elected twenty-nine more, making in all a body of sixty-two. Two additional Senators were to be elected each year until a total of eighty was reached.

The first duty of the Conservative Senate is to act as a sort of Supreme Constitutional Court of Appeal, to pronounce on the constitutionality or otherwise of all Acts or Laws submitted to it by the Government or the Tribunat. Its other duties consist of electing (from the list of "National Notability" when these were formed) the Consuls, Members of the Tribunat, and Corps Législatif, Judges of the Court of Cassation, and Commissioners of the Treasury. In March 1802 the Senate declared that it had the right not merely to nominate new Members of the Tribunat and Corps Législatif, but to select the fifth of these bodies who were to retire annually.

Senators must be forty years old or upwards; they are appointed for life. They can hold no other office in the State. They receive an annual salary of fr. 25,000 (£1000). The sittings of the Senate are held in private, in the Luxembourg Palace.

The *Tribunat* is composed of one hundred members, twenty-five years old or upwards. These are to be elected from the lists of "National Notability" when formed by the Senate. One-fifth of the members retire each year.

The *Tribunat* is not allowed to initiate or amend laws. Its duty is to debate over such Laws as are presented to it by the Council of State. These, they are free to accept or reject, but in either case three members are deputed to debate in consonance with, or opposition to, three Orators of the Government chosen from the Council of State, before the *Corps Législatif*. After sitting from November to March of each year the *Tribunat* adjourns, after appointing a standing Committee of ten to fifteen members who can summon the whole body if they consider it necessary. The *Tribunat* has also the right to receive petitions, and to express its opinion on abuses to be corrected, or ameliorations to be introduced in the laws, but it is expressly stated that these opinions have no necessary result. Members of the *Tribunat* receive a salary of fr. 15,000 (£600). Their sittings, as well as those of the *Corps Législatif*, are public, but not more than two hundred spectators are admitted at one time.

The *Tribunat* sits in the Palais Royal.

The *Corps Législatif* is composed of three hundred members, aged thirty or upwards, elected from the Lists of National Notability by the Senate. One-fifth of this number retire each year. The duty of the *Corps Législatif*, which sits for four months each year, from November to March, is to listen in silence to the speeches of the members of the Council of State and the *Tribunat*, and, after hearing them, to vote for the adoption or rejection of Bills brought before them. If adopted a Bill becomes at once a Law.

Members of the *Corps Législatif* receive a salary of fr. 10,000

(£400). Their sittings, which are in public, are held in the Palais Bourbon.

The *Electorate. Lists of Notables*.—All men aged twenty-one, with a few exceptions, such as convicts, bankrupts, etc., are entitled to vote.

Once in three years, the citizens of each Arrondissement are to elect those among themselves who are best fitted for public affairs; thus forming a list of one-tenth part of their number from whom shall be chosen all the public functionaries of the Arrondissement. These Notables of the Arrondissements shall meet together and form a list of one-tenth of their number, who shall be eligible for appointment to all Departmental functions. The citizens in the Departmental Lists shall again elect one-tenth of their number, who shall form the National List, from which shall be elected all the higher officials of the nation. The first Election of Notables was ordered to be held in the year IX. (1800–1801), and was completed in September 1801. The Communal or Arrondissement Lists contained 500,000, the Departmental Lists 50,000, and the National List 5000 names. No subsequent election took place, since the system was abolished by the reforms decreed on the 4th August 1802.

The *Judicial Bench*.—The “Juges de Paix” are elected from the Communal Lists, and hold office for a period of three years. The Judges of the highest Court (Cour de Cassation) are elected from the National List by the Senate; all other Judges are appointed by the First Consul, and all except the “Juges de Paix” are immovable.

The *Émigrés*.—The return of the Émigrés is forbidden, except in the case of those already legally “radiated.” The property of the Émigrés belongs irrevocably to the Republic, or, if sold, to the purchasers of national property. The laws immediately passed, in spite of this Article, for the relief and return of the Émigrés, were declared constitutional by the Senatus Consultum of the 26th April 1802.

The Constitution was submitted to a plebiscite, and was accepted by 3,011,007 against 1562 votes.

The principal changes in the Constitution effected by the



Senatus Consulta of the 14 and 16 Thermidor, an. X., 2nd and 4th August 1802, were as follows:

The *Consulate*.—The three Consuls are appointed for life. The right of pardon is granted to the First Consul, to whom also is given the right to nominate his successor either during his own lifetime or by his Will. If no successor is nominated he is to be elected by the Second and Third Consuls. A Civil List of fr. 6,000,000 (£250,000) is granted to the First Consul; and fr. 1,200,000 (£50,000) are divided between the Second and Third Consuls.

The *Senate* obtains a considerable accession of power. It is entitled to suspend the Constitution or trial by Jury in any of the Departments; to dissolve the Tribunat and the Corps Législatif; to annul the decisions of the Law Courts on the ground that they are dangerous to the safety of the State. Each of the Consuls is given the right to preside over the sessions of the Senate. Senators are no longer to be ineligible for other functions. The Senate maintains its power to elect its own members, as well as those of the Tribunat and Corps Législatif, but these must be selected from the lists furnished by the "Electoral Colleges."

In addition to the Members of the Senate thus elected, the First Consul is authorised to appoint forty Senators, raising the total number to one hundred and twenty.

The *Council of State and the Privy Council*.—A new body entitled the Privy Council is created, consisting of the Consuls, Ministers, two Senators, two Councillors of State, and two grand officers of the Legion of Honour. This body is to be consulted on Treaties, Senatus Consulta, or any matter requiring immediate attention or privacy.

The Privy Council diminished both the authority and the prestige of the Council of State, which had hitherto been in constant personal and direct contact with Bonaparte.

The reason given by the First Consul for the change was that the Council of State was too large to be summoned at a moment's notice, or to keep absolutely secret, urgent or important business. The number of Councillors of State is increased

to fifty, and they are brought into closer contact with the Tribunat. With the exception of debating Treaties and attending to such business as the First Consul prefers to bring before the Privy Council, they retain their former powers and duties.

The *Tribunat* and *Corps Législatif* are divided into five series, each of which retires in rotation every year.

The number of Members of the Tribunat is reduced to fifty, and divided into sections corresponding to those of the Council of State. Bills are referred by the Council of State to the section to which they belong, and the sections of each body consider them together before they are debated by the Tribunat as a whole. The method of debate by three Government Orators from the Council and three members of the Tribunat before the *Corps Législatif* is retained. The Tribunat and *Corps Législatif* are deprived of the power of passing Treaties as Laws.

The *Electoral Body*.—The Lists of Notables are abolished. In their place are substituted Cantonal Assemblies, and Electoral Colleges of the Arrondissements and of the Departments.

The Cantonal Assemblies are composed of all adult males of each canton (excepting criminals and bankrupts).

Their duties are to elect the members of two Electoral Colleges, one of each Arrondissement consisting of two hundred members, and one of each Department consisting of three hundred members. The members of these Electoral Colleges are appointed for life. The Government nominates the Presidents of the Assemblies and Colleges, who remain in office for five years.

The Electoral Colleges of the Arrondissements and of the Departments each present to the Senate two candidates for election to the *Corps Législatif*. The Colleges of the Arrondissements present two candidates for the election by the Senate to the Tribunat, while the Department Colleges present two names for election to the Senate.

The Electoral Colleges were substituted by Bonaparte

himself for the "Lists of Notability" of the Constitution of the year VIII.

But a few months later, in speaking to the Swiss Deputation, he said: "Free peoples have never allowed themselves to be deprived of the direct exercise of their sovereignty. They neither understand nor admire these modern inventions of a representative power so constructed as to destroy the essential qualities of a Republic. . . . Direct elections are preferable to Electoral Colleges, which are especially liable to intrigues and cabals."



## PUBLISHER'S PREFACE

[1827]

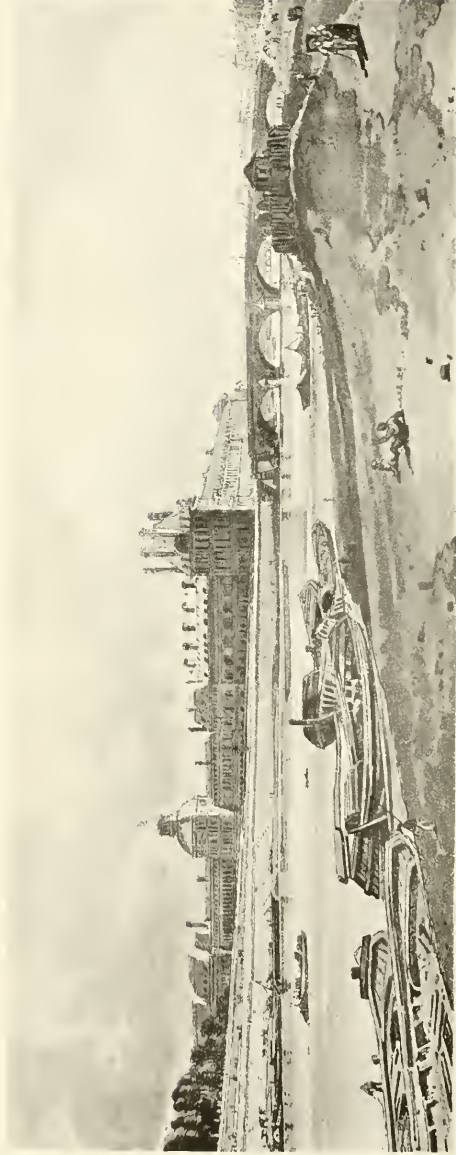
THE most accurate history of any Government is written in the records of its deliberations. A collection of those of the State, Privy and Ministerial Councils under the Consulate and Empire, would be much more instructive than all the tomes which have since been written about them. But still more useful than these official *minutes* would be a verbatim report of the opinions and discussions of Napoleon and his Counsellors and Ministers, if transcribed exactly as these were spoken at the time, by some invisible hand of which they were unconscious. And this is precisely the kind of record which we now offer to the public. It consists of the conversations and discourses of Napoleon, whether upon important questions in the Council of State, or spoken in the freedom of private discussion; and also of Josephine's conversations relative to the great political events of the hour.

Associated by their convictions and principles, certain men in the service of the First Consul, whose functions gave them every opportunity for doing so, agreed among themselves to note down his words, and form them into a general collection of Napoleon's utterances on every

occasion. Possibly the materials for some such collection may be still extant.

The fragment which we now publish should serve to create a universal hope that the complete collection may some day come to light.





VIEW OF THE TUILERIES, FROM THE QUAI D'ORSAY, 1802



# BONAPARTE AND THE CONSULATE

## CHAPTER I

### BONAPARTE AND HIS COURT—THE TUILERIES— MALMAISON—SAINT CLOUD

1800-1804

[*EDITOR'S NOTE.*—Before taking possession of the Tuileries, Bonaparte caused the Palace to be thoroughly renovated, and the caps of Liberty and other revolutionary symbols and inscriptions removed. The vestibule was ornamented by a series of busts of great statesmen and soldiers, beginning with Demosthenes, Hannibal, and Alexander, and closing with Marceau and Joubert. Among these was a bust of Marlborough, an interesting fact, since Bonaparte (so far as I can find) never speaks of him in alluding to the names of great military commanders.

Bonaparte himself occupied the apartments on the first floor, while Josephine and her son and daughter were lodged on the entresol.

The rooms in the Pavilion of Flora were assigned to Lebrun. Cambacérès, with his customary judgment and tact, foresaw that before long Bonaparte would require the whole of the Palace for his own use, and declined to go there. During the whole period of the Consulate and Empire he occupied a house in the Place du Carrousel. In the procession from the Luxembourg the three Consuls were driven in a coach with the six white horses given by the Emperor Francis after the conclusion of the Peace of Campo Formio.

Going over the Palace next day Bonaparte said: "Well, Bourrienne, here we are all safe in the Tuileries, and here we are going to stay."]

**D**URING the period of the Directory the Royal Palace of the Tuileries was occupied by the highest body in the State, the Representatives of the People, while the Directors

were relegated to the modest Palace of the Luxembourg. Of itself this arrangement was a sort of homage paid to the Majesty of the Nation. But when the newly made Consuls came to Paris from Saint Cloud, 19 Brumaire (10th November 1799), and were lodged in the Luxembourg, the beds of the late Directors were speedily seen to be much too narrow for their successors. And as a matter of fact the Constitution raised the Consular powers so far above all other authorities in the State as to leave no occasion for modest pretensions on their part. So that after the adoption of the Constitution the Government naturally determined to install itself in the Tuileries. The First Consul took up his residence there.

This translation from the Luxembourg, 30 Pluviose (19th February 1800), was made as impressive as possible by a string of carriages, with everybody in full dress, accompanied by a band and a military escort. Governmental display had not had time to become at all sumptuous. It had inherited nothing of that sort from the defunct Directory, the sorry remains of whose trappings it was obliged, as yet, to make use of. State carriages were to seek; and the procession was largely made up of hired cabs with paper pasted over their numbers to conceal them. The moment it reached the Tuileries the First Consul mounted his horse and held a review. Then followed a presentation, by each Minister, of all the officials of his department.

Behold, then, the First Magistrate of the Republic of France installed in that palace whose very stones seemed to exhale memories of her ancient sovereigns. And at this precise moment, significantly enough, came the news of the death of George Washington. He had died as modestly as he had lived, in his unpretending Virginia country-house (Mount Vernon), on the 14th of December, at the age of sixty-eight; a conqueror for the sake of his country's freedom, a legislator for her security, and a magistrate with an eye single to her prosperity. The First Consul sent a wreath for the tomb of this American hero. His death was thus announced to the Consular Guard, and to all the troops of the Republic, in the orders of the following day:—

“Washington is dead. This great man fought to overthrow tyranny. He consolidated the liberty of his country. His memory will ever be dear to the French People, as to every free man in both hemispheres, and especially to French soldiers who, like him and the other soldiers of America, are fighting for equality and liberty. The First Consul therefore orders that black crape shall be draped on all the flags and pennants of the Republic for ten days.”

On the 2nd Ventose (21st February 1800) the first presentation of the Diplomatic Corps was held. Benezech, the Councillor of State in charge of the interior administration of the Tuileries, conducted the Foreign Ministers into the room used by the Consuls, where they found the Ministers, Councillors of State, the Secretary of State, and the Secretary General of the Consuls. The Minister of the Interior received them at the door, and the Minister of Foreign Affairs presented them one by one to the First Consul.

The Diplomatic Corps consisted of the Ambassadors of Spain and Rome, the Ministers of Prussia, Denmark, Sweden, Baden, and Hesse-Cassel, and the Ambassadors of the Cisalpine, Batavian, Helvetic, and Ligurian Republics. We held in those days so high a respect for the dignity of Civil Magistrates, and so deep a contempt for the servants of a Court, that the Councillors of State were scandalised to see a former Minister of the Interior, one of their own colleagues, with an usher's rod in his hand acting as Master of the Ceremonies or Groom of the Chambers to the First Consul. Supple and yielding as Benezech was, he was yet an honest and able man, better suited for the management of public affairs than for the service of an antechamber. So far we had none of those titled domestics known as Chamberlains; their duties were performed by Bonaparte's Aides-de-camp, while his entourage on state occasions consisted of the Ministers and Councillors of State, but it soon made itself evident that a regular Court and a system of Court etiquette would soon be held as necessary for the Tuileries as a ritual and an officiating clergy for a church. The order of receptions was thus regulated. On the 2nd and 17th of each month the Ambassadors were received; on the 2nd day of each

decade, the Senators and Generals; on the 4th, the Deputies of the Corps Législatif; on the 6th, the Tribunes and the Judges of the Court of Appeal (Tribunal de Cassation). Once a fortnight a grand parade of the troops took place at noon. The new Court ceremonies formed a highly novel spectacle, both to the actors who took part in them and to lookers-on.

Each of the Directors had entertained his own friends like any private citizen. Barras alone had given official parties, but he represented only one-fifth part of the executive power, while the First Consul monopolised all its authority and influence. He soon became very particular as to Madame Bonaparte's guests, who consisted after the 18th Brumaire of the wives of the principal military and civil dignitaries and formed the first germs of a Court. For them, as for their husbands, the transition was a trifle brusque, but the natural grace and kindness of Madame Bonaparte did much to place at their ease those who were rendered uncomfortable by the rising tide of etiquette. The Court at first was small, select, and strictly decent and respectable. The title Madame was generally used in invitation cards and in the palace, and this return to the old usage quickly spread throughout society.

Once established in the Tuileries, a country residence seemed to be a necessity for the First Consul, since Malmaison, the modest home of General Bonaparte, was hardly fine enough for the head of a great Republic.

Among the former royal residences in the neighbourhood, Saint Cloud was the most convenient. The inhabitants of the town were induced to petition the Tribunat to be allowed to offer this Palace to the First Consul. Bonaparte declared to the Commission appointed to report on this matter that he would accept no gift from the people during his term of office, nor for one year after its close. If after that time it was desired to make him a suitable gift, in accordance with the clause of the Constitution which allowed a recompense to be given to officers who had distinguished themselves by great and disinterested services, he would gratefully accept it. This refusal he considered as the best means of checking corruption and regenerat-

ing public morals. The costume and insignia of those in authority made rapid changes; the Greek and Roman paraphernalia being replaced at first by military uniforms.

The First Consul in his early days resembled rather a General than a Civil Magistrate, but in spite of his boots and sabre he wore a coat of French cut, and it was easy to foresee that a more civilian form of costume was developing itself. At the beginning of the Consulate, Government documents were headed by a vignette representing the Republic in the form of a seated female figure in antique drapery holding a rudder in one hand and a crown in the other, with the inscription: "Republique française, Souveraineté du Peuple, Liberté, Egalité. Bonaparte, Premier Consul." For this inscription there was substituted another reading: "Au nom du Peuple français, Gouvernement français." The Sovereignty of the People, Liberty, and Equality soon disappeared from view.

Bonaparte's first act after entering the Tuileries was to review his troops, and the example thus set was followed habitually.

Day by day on horse or on foot the First Consul passed through the files of his troops, getting to know familiarly the officers and men, and being sure that they became acquainted with him. He entered into the most minute details of their equipment, arms, and drill, and inquired carefully into their wants and wishes. Acting in his double capacity of General and Magistrate he distributed, in the name of the nation, praise and blame, promotion and rewards. In this way also he aroused emulation among the different corps, and made the army the finest spectacle to be seen in Paris by visitors from the country or abroad.

It was easy to see how completely at home the First Consul felt among his soldiers; he took genuine pleasure in remaining for hours in their midst, while an eager crowd hurried and pressed around him, and a host of courtiers and officials, French and foreign, filled his antechambers, waiting eagerly for a word, a smile, or a glance from the great man. All this gave the First Consul splendid opportunities of exhibiting to the world

his indefatigable energy and mastery of the art of war, and of establishing that empire over the souls of men which was due to the extraordinary combination of force, genius, and fortune which seemed to unit in his person. On cloudy or rainy days it often chanced that the rain ceased and the sun shone out when the First Consul made his appearance, which led the populace, always lovers of the marvellous, to unite with courtiers and flatterers in exclaiming that Bonaparte commanded the very elements and was the special favourite of the gods.

The first year of his rule assuredly produced an extraordinary metamorphosis. Before the 18th Brumaire everything pointed to something like an actual dissolution of society, and now within a few months all was life and prosperity. Everywhere were to be seen signs of a noble emulation after the good, the beautiful, and the great. The enthusiasm for the destruction of old landmarks which marked the early days of the Revolution was now succeeded by the enthusiasm for the reconstruction and regeneration of France. There was, however, one great distinction between the two epochs. In the early days all was tumult, disorder, and anarchy; now a firm hand guided and directed every movement, permitting no one to blunder or to diverge from the course laid down for him. By the time when Bonaparte became First Consul for Life (August 1804) his Court as well as his power were on the same footing as that of a ruling sovereign. It grew step by step, and took two years to arrive at perfection.

Every code of etiquette was ransacked, every old courtier or valet was consulted. How was this done? How was that managed? The orders of the day in the interior of the palace were to return to the usages and customs of the good old times. Those who longed for a return to Monarchy, and those who were indifferent as to the form the Government chose to assume, were filled with admiration, amounting with some to positive ecstasy.

The outside world believes that everything in a Court is the pink of perfection; none the less every Court has its own failures and its own caricatures. In the early days of that of the First Consul it is no wonder that there was much to excite the merri-

ment and the scorn of those who were versed in the forms, manners, jargon, and traditions of the old Court days. Nevertheless the progress made was extraordinarily rapid, and in the course of two years the new Court could vie in every respect with that of the most flourishing periods of the Monarchy. It had one great advantage: no proofs of noble birth were required, consequently among its frequenters were to be found all that was most distinguished in every class of society. The arts, sciences, commerce, and the liberal professions were all admirably represented, and to them were added a glorious galaxy of those victorious soldiers who had won for us our independence and our fame.

If the greater number of these personages swam complaisantly down the stream, there were a few who endeavoured to stem the tide. To such it was at once astounding and pitiable to watch the importance now attached to the merest trivialities, the pains which people took to bind all the talent of the nation with links of slavery, and the impatient energy with which men hastened to replace on their necks the shameful yoke of superannuated forms, with even more speed than they had thrown them aside. When they compared the First Consul of 1804 with the First Consul of 1800, with the General of the Army of Italy who had founded so many Republics as our allies and auxiliaries, with the victor over Royalism at Toulon and in Paris, on the 13 Vendemiaire and the 18 Fructidor, they could not refrain from such bitter reflections as these: "This, then, is the ultimate end and object of so many fine words, lofty thoughts, and glorious exploits." Was it only to return to our old paths that France launched herself so gloriously on her new career, and watered the road with the noblest and purest of her blood? What has become of so many promises, oaths, vows, and hopes? Are we nothing better than a gang of revolted slaves forced to forge with our hands the chains which we had dared to break?

The First Consul rightly found the Tuileries a joyless residence, without either freedom or convenience, and he soon began to spend the fine summer weather at Malmaison, a modest

retreat which seemed to throw into a stronger light the intrinsic greatness of its owner; but the house was too small to accommodate his retinue and all the Court functionaries who surrounded him. It was only a short time since he had refused to accept any gift from the people during his tenure of office. He now proceeded to take possession, by his own authority, of the Château of Saint Cloud (24th September 1801). As soon as he was installed there Duroc gave notice that Mass would be said in the chapel every Sunday, and that the First Consul would give his audiences there for the present, holding only one reception at the Tuileries on the 15th of each month. Meanwhile the grand apartments of the Tuileries would be closed, and the Councillors of State who had hitherto held their sittings in these apartments would in future go direct to the Hall of the Council. These audiences at Saint Cloud were frequent, and lasted for several hours. They were thronged by Cardinals, Bishops, Senators, Councillors of State, Deputies, Tribunes, Generals, Ambassadors, Magistrates, private citizens, and foreigners who came to be presented, royalists and republicans, nobles and men of the middle classes, all mixed together and received on a footing of perfect equality. To each guest the First Consul would say a few words, in the course of which some would speak to him of their private concerns, while the more adroit seized the opportunity to express their respect or admiration.

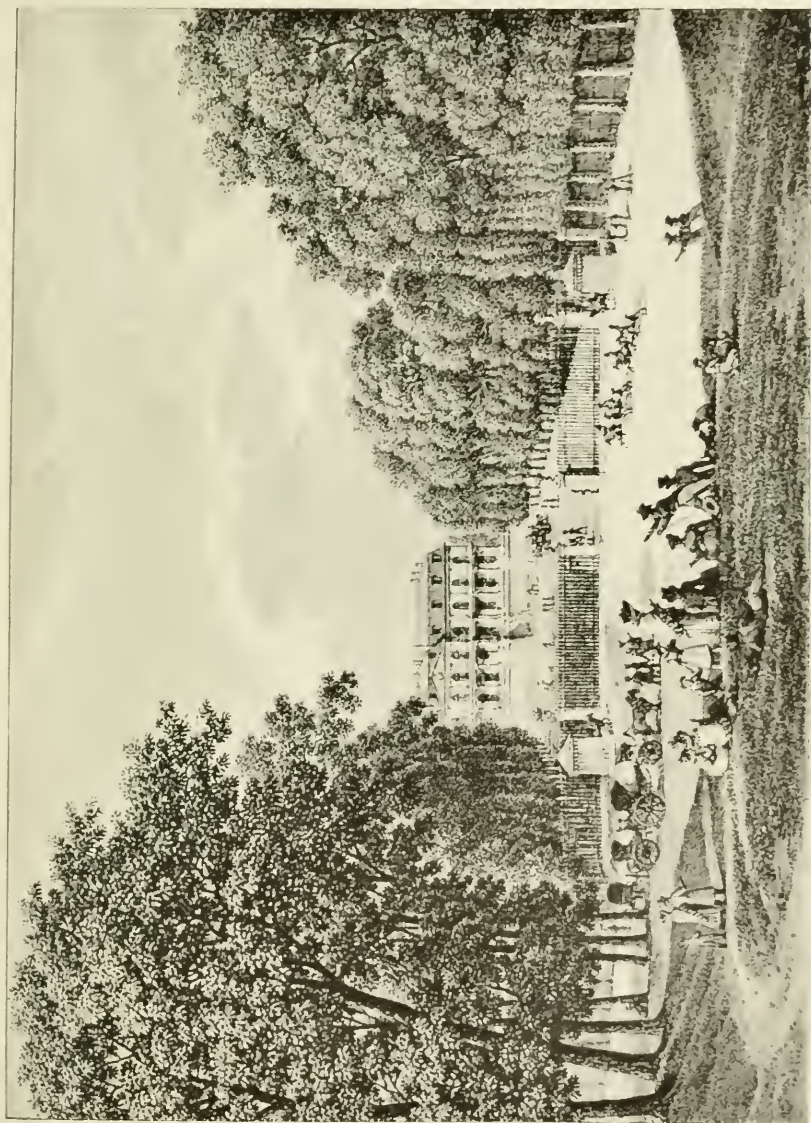
After seeing the First Consul the guests passed on to pay their respects to Madame Bonaparte.

Many great ladies from all the countries of Europe were presented to her, such as Mesdames Dorset, Gordon, Newcastle, Cholmondeley, Zamoiska, Potocka, Castel-Forte, Dolgorukov, Galitzin, etc.

On Sunday, Wednesday, and Friday, there were dinners, to which twelve to fifteen guests were invited, followed by a reception by Madame Bonaparte.

These parties, at first thinly attended, became more and more thronged. Card tables were introduced, and the First Consul himself often joined in a game. There was less freedom and more etiquette at Saint Cloud than at Malmaison; the former





PALACE OF SAINT CLOUD, EARLY IN THE NINETEENTH CENTURY



was not taken as a mere summer residence, for the First Consul took up his residence there in the autumn of 1801, and did not return to Paris until the 15 Pluviose (4th February 1802). One of his objects, no doubt, was to be less in view of the whole world, and more difficult of approach. He may even have desired to give some little trouble to those whose duty or whose service made it necessary for them to see him. Power imposed its element of charlatany even on so great a man as Bonaparte. Little by little his surroundings became a copy of Versailles, a copy, in fact, of all Courts.

Nothing caused so much annoyance to the greater part of those who came to see him as the Mass which preceded the audience. Many of those who came to Saint Cloud had been among the most active persecutors of priests and bitterest enemies of any sort of religious services; many others had forgotten all about such things, and did not know what to do.

In reality, this Mass was a simple piece of mummery. There was not room in the chapel for more than a quarter of those who came; the rest wandered about and chatted in the galleries while the praises of God were being poured forth by the actresses of the opera. The First Consul could have had no doubt of the repugnance of the greater part of his Court to these services, nor could he fail to hear the jokes and sarcasms openly made upon them. One day, the Mass having been celebrated an hour earlier than usual, he said: "We did that to spare those who do not want to attend."

The King of Prussia, who had recognised the Consulate with singular promptitude, sent the Marquess Lucchesini on an extraordinary mission in October 1800.<sup>1</sup> He was received at Malmaison by Bonaparte, who watched from the balcony with

<sup>1</sup> Girolamo Lucchesini was born at Lucca; at an early age he went to Berlin with his family and became a protégé of Frederick the Great, who made him his librarian and reader. After the death of Frederick he entered the Prussian Diplomatic Service, in which he remained from 1788-1807.

In 1802 he was accredited as Envoy-Extraordinary and Minister-Plenipotentiary to the French Republic. When he presented his credentials to Bonaparte he made a speech in Italian. This intended flattery was a stupid mistake on the part of so skilled a diplomatist as this Italian Marquess.

evident interest the rich liveries of the servants, and seemed especially impressed by the orders worn by Lucchesini. Those present reported that he said of them: "Such things impress the imagination; we must have something of the kind for our own people."

Military uniform now gave way to civil costume. Court swords and silk stockings took the place of the sabre and the riding boots.

The First Consul, who had never hitherto been seen in public out of uniform, appeared at the fête of the 14th July 1802 in a coat embroidered with red Lyons silk, but without ruffles and in a black military cravat, which had a strange effect. Of course, everyone was eager to compliment him upon the rest of his costume. He replied, laughingly referring to his cravat: "There is always something about me which smells of the army; there is no harm in that."

Gaudin,<sup>1</sup> the Minister of Finance, was one of the first to appear at an audience at Saint Cloud with a queue and lace ruffles. To please the First Consul others gradually followed his example, but this return to the old costumes had for some time the effect of a masquerade. One man wore a cravat with an embroidered coat, another a collar and dress-coat, some wore

<sup>1</sup> This is almost the only mention in this volume of M. M. C. Gaudin, the great Finance Minister of the Consulate and Empire. Gaudin was born in June 1756, and served as a Treasury official from 1779-1795. In November 1799 he was introduced to Bonaparte by Siéyes. He was at once appointed Minister of Finance, an office which he held until the 30th March 1814, and again during the Hundred Days in 1815. In 1809 he was created Duc de Gaëta. During the long period of his ministry he was mainly instrumental in bringing the financial confusion and ruin of the Directory into the perfect order of the Consulate and Empire, in founding the Bank of France (of which he was a director from 1820 to 1834), and in promoting the Grand Cadaster of France. He died in 1841 at the age of eighty-five. Though a silent, reserved man, there are many stories illustrating his wit and presence of mind. On one occasion in 1793 the Convention had been intimidated into voting pensions to the wives of soldiers of the Revolutionary Army. The Treasury was at once besieged by a dangerous mob of women demanding immediate payment. Gaudin received a deputation, and assured the women that he was desirous of paying their pensions as punctually as possible, but that in each case, to satisfy the requirements of the law, the marriage lines of each must be shown to him. The deputation quickly melted away to look for documents which, needless to say, were very difficult to find.

queues, a few powdered their hair. Nothing was wanting but the peruke. All these trifles became serious. Those who wore their hair in the new fashion were at daggers drawn with those who returned to the old method. Every morning the hair of the First Consul was carefully noted; had he once appeared in powder the Revolutionary fashion of wearing the hair powderless, a fashion both hygienic and sensible, would have been thrown to the winds.<sup>1</sup> Fortunately the First Consul refused to set the fashion, but we were given to understand that powder and queues were considered more respectable, and therefore preferred by Bonaparte.

Most foreigners, especially Englishmen, who usually wore their hair short and used no powder, had their hair powdered and a queue attached to the collar of their coat when they attended Bonaparte's receptions. The younger ladies, though levity and vanity often led them to advocate everything belonging to the old régime, rose in arms against powder. They trembled lest these reforms should affect themselves and, beginning with chignons and patches, should finish with panniers and hoops, such as were recommended by the dowagers of the Court of Louis XV., according to whom the downfall of morals dated from the time when hair à la Titus and tight-fitting costumes came into vogue. Madame Bonaparte, the most graceful and best bred lady of the Court, was at the head of the opposition. She detested constraint and theatrical etiquette. She was often heard to say: "How all this bores me. I never have a moment to myself. I was born to be the wife of a workman."

Besides the formal receptions there were frequent parties and theatrical entertainments. At the Court Theatre no expressions of applause or disapproval were permitted. Yawns had to be stifled and sleep to be open-eyed. At the parties, while Bonaparte was making the round of his guests everyone was interested and on the alert, but as soon as he had gone all fell flat. His conversation was seldom gay or jesting, but he had a

<sup>1</sup> It is curious to note that the last prominent person in France to use powder during the Revolution was Maximilien Robespierre.

wonderful charm of manner. Nothing that he said was conventional or futile. There was originality and depth in his lightest word, which made all that he said worth remembering and easy to remember.

He preferred the society of savants, finding in their conversation relief from political cares. Laplace, Monge, Berthollet, Lacépède, and Chaptal were among those whom he usually singled out for conversation, passing alternately from science to politics. No one could fairly grudge them an honour which they so well deserved. During the small balls which took place on Sundays at Malmaison he sometimes joined in a square dance, which he would have performed better had he not invariably mixed up the figures. He always asked for Monaco,<sup>1</sup> as the easiest dance and the one which he managed to get through with the fewest failures.

He looked his best in uniform at a review or at the head of a regiment. It was easy to see that here he felt himself thoroughly at home.

None the less when giving audiences, or indeed in doing anything, he always presented an imposing appearance. He seemed to have a special art of bringing tall men down to his own height or of raising himself to theirs. With women he seldom held long conversations; his character was too lofty to allow him to condescend to gallantry. He often formed strong prejudices against certain ladies, prejudices often well founded, but at other times merely resting on a dislike of their appearance or manner. Frequently he paid them very left-handed compliments on their toilet, or on some adventure they had met with; it was his way of expressing disapproval. His penchant for one or two ladies of his Court created a fresh scandal from time to time, but these were nothing more than passing caprices, and those who were supposed to have gained his affection exercised no sort of influence over him or over public affairs. In reality, he loved no woman except Josephine, in spite of the disparity in their age. Towards her he was sometimes jealous and stern, at other

<sup>1</sup> I have been unable to find any mention of this dance in the many works on music and dances of the Napoleonic period.

times tender and confiding. She responded with all her heart to his affection and bore with his ill-humour, but she was never able to resign herself to his infidelities. On the whole it was a happy marriage. Bonaparte was convinced that his wife had brought him good luck, and she shared his belief. In Messidor, an. X. (June-July 1802), when she went to take the water at Plombières, he became weary of her absence and wrote her the tenderest of letters. On her return he met her with the most loving caresses, and carried her off to Malmaison.

In Courts where women reign it is good form to be smiling, foppish, and frivolous; indeed, there are worse things to be found in the history of the past, but the greater part of those who formed the Court of the First Consul had not been brought up in any school of pretty manners, and airs and graces did not sit naturally upon them.

The Court was a moral one. The First Consul demanded decency and gravity, tempered by politeness, elegance, and grace, in all of which Madame Bonaparte set an excellent example. There were to be found there none of that class of courtiers who affect a vicious immoral air as an outward sign of their high breeding and good-fellowship.

The Revolution had improved the tone of morality, and those most given to love-making and gallantry were forced to show an outward regard for appearances. More than once Bonaparte treated lapses from decency with determined severity.

He acted as a father towards his step-children, and they regarded him with sincere affection.

Eugène was brave, loyal, and upright; Hortense gentle, amiable, and sensitive. Her mother wished her to be married to add to her happiness. In marrying her to his brother Louis, the First Consul believed that he was both promoting his own political designs and securing her happiness.

Ideas of stability, heredity, and a dynasty had already taken possession of his advisers, his family, and himself. He had no

longer any hope of a direct heir, and this marriage might furnish him with an heir-presumptive who would be his own near relation. His brothers Lucien and Joseph disliked this marriage heartily. When Hortense gave birth to a son,<sup>1</sup> rumours as unfounded as they were ridiculous to those acquainted with the facts were widely circulated. This child was generally considered as the heir-presumptive to the Consulate.

Bonaparte was by no means a perfect horseman, but he was at times bold to recklessness in riding or driving. One day he was driving Madame Bonaparte, Madame Louis, Madame Duroc, Joseph, and Cambacérès in a four-in-hand, round the park of Saint Cloud when he ran the coach on to one of the posts which divides the garden from the park, and was thrown violently off the box. He picked himself up, but fell back again stunned by his fall.

Meanwhile the horses bolted, but were soon stopped and the ladies released from the coach in a fainting condition. Bonaparte escaped with a cut on his chin and a sprained finger. When he arrived at Saint Cloud all he said was: "After all, every man should stick to his own trade." That night he entertained the three Senators, Laplace, Monge, and Berthollet, to whom he talked as if nothing had happened, though in the course of the evening he owned that he had been nearer to death than ever before. Madame Bonaparte took the matter more seriously. In her drawing-room she said: "When Bonaparte fell I thought from his closed eyes that he was dead. He has promised me not to drive a four-in-hand again. We have long been warning him against his recklessness; he always frightens us when he drives. Corvisart has been called in, but he did not think it necessary to let blood. The First Consul is anxious that the news of his accident should not get abroad."

<sup>1</sup> The eldest son of Joseph and Hortense, Napoléon Charles, born 10th October 1802, died of croup at the Hague, 5th May 1807. The second son, Napoléon Louis, born in Paris, 11th October 1804, died of smallpox at Forli, 17th March 1831. The third son, afterwards Napoléon III., was born in the Tuileries, 20th April 1802. The rumours here alluded to as widely circulated, accused Napoleon of being the father of the children of Hortense.



A very similar accident befell Cromwell. A German prince presented him with a team of six beautiful horses. Once in Hyde Park it occurred to him to drive them himself, and leaving his companion Thurlow inside the coach, he mounted the box and took the reins, not realising, says Ludlow, that it was more difficult to drive several horses than to govern three nations. But the horses, unaccustomed to their new coachman, reared and kicked and soon upset the coach. In his fall one of Cromwell's pistols went off without hurting him, though he was picked up stunned and wounded.<sup>1</sup>

Bonaparte, as General of the Army of Italy, had created several Republics; as First Consul he ventured on creating a kingdom. By a convention with Spain, Tuscany, which had been ceded to the Duke of Parma by the Treaty of Lunéville, was erected into the Kingdom of Etruria. The new King Louis I., *Infante* of Spain,<sup>2</sup> with his wife Maria Louisa (afterwards Duchess of Lucca, the sister of Ferdinand VII. of Spain), visited Paris in May 1801, under the title of Count of Leghorn. The pair were received with the highest honour.

Talleyrand gave a reception in their honour at Neuilly. On the evening of the 19 Prairial (8th June 1801) the festivities began with a concert, after which a curtain rose upon a set scene representing the great square at Florence, the Pitti Palace, a fountain and a column. Real Tuscans danced and

<sup>1</sup> The passage will be found in Ludlow's *Memoirs*, Edinburgh, 1751, vol. ii. p. 63. A French translation of Ludlow was published in Paris, 1794.

<sup>2</sup> The King of Etruria was Louis I., son of Ferdinand, Duke of Parma; the Queen, Maria Louisa, daughter of Charles VII. of Spain. The kingdom of Etruria was founded by the treaty with Spain, 21st March 1801, by which Ferdinand Duke of Parma, surrendered his duchy to France after his own death, in exchange for which the kingdom of Etruria, formed out of the Grand Duchy of Tuscany, was granted to his eldest son. Chaptal in his *Memoirs* gives a very different account of King Louis I. when Prince of Parma. He corresponded with him up to the year 1792 on various scientific subjects. "This young Prince," he says, "at that time gave every promise of becoming a distinguished scientific man, but repeated attacks of epilepsy affected his reason so seriously that I could hardly recognise him as the same man when I met him on the way to Paris before he went to be crowned as King of Etruria." Louis I. died in March 1803, and was succeeded by his son Louis II., born 22nd December 1799, Queen Maria Louisa being appointed Regent. In 1807 the kingdom of Etruria was abolished, and Tuscany incorporated with France and formed into the three departments of the Arno, Mediterranean, and Ombrone.

sang couplets in praise of their Majesties, who walked through the gardens in the midst of their own subjects. Fireworks and illuminations threw their light on this touching scene. Dancing meanwhile went on in five saloons, and supper thrice repeated put a finishing touch to the entertainment.

On the 23rd (12th June) came the turn of Chaptal, Minister of the Interior. A comedy was played before three hundred ladies. The scene was once more Florence. Italian music followed in the illuminated gardens, while a temple of Mercury arose, peopled by Apollo and the Muses. After supper nymphs and shepherds from the opera danced quadrilles. One of the nymphs presented the Count of Leghorn with a bouquet, which as soon as it touched his august hands took the form of a crown with a poem by Esmenard in the centre. The evening ended with a ball.

The 25th (14th June) was the anniversary of Marengo, and a reception was given by the Minister of War. This time the ball came first. At midnight the guests entered the gardens, which were covered with tents in which ladies were entertained by the officers. A balloon illuminated by the word Marengo was launched into the sky, and dancing was resumed until morning. Our illustrious guests were conducted with every sort of state through the public galleries and institutions. On the 21st (10th June) they were present at a séance of the Institute, where Chaptal, Fourcroy, Laplace, Sage, Cuvier, Lalande, and Dolomieu read papers or spoke. Next day they went to the Conservatories, and on the 23rd (13th June) to the Mint, where a gold medal bearing the inscription "Au Roi d'Etrurie et à Marie Louise" was struck and presented to the King and Queen by the Minister of the Interior. And what manner of people were these royal personages who were received with flatteries so contrary to republican principles; what had they done to merit the gift of the Tuscan people, who were handed over to them without their asking? Hear what Bonaparte in his own inimitable fashion had to say about this new monarch and about the motives for his pompous reception. One day at Malmaison before several people he said: "He is a

poor sample of a King. You have no idea how lazy he is; I have not been able to make him take up a pen or attend to a scrap of business since he has been here. He thinks of nothing but his own amusements, theatres, and balls.

“That unfortunate M. d’Azara (the Spanish Ambassador), who is a worthy man, goes down on his knees to him, all to no purpose; he gets nothing but insults for his pains.

“These Princes are all alike; this one believes himself to be a born ruler. He behaves as badly as possibly to his own Court. They told General Leclerc at Bordeaux before he came that he was false and avaricious. When he came to dine here yesterday he had a fit; he said it was only indigestion.

“It was his own people who told me it was an epileptic fit, and that he often had them. Now that he is going away, he doesn’t understand what he has to do. He is as stupid as he is presumptuous. I asked him a whole string of questions, and he could not answer one of them. His wife has tact and knows how to manage; her people are fond of her. I have watched them both when I have been pretending to do something else. She signals to him what to do and what to say. But after all, it is good policy to bring a reigning Prince into the antechambers of a Republican Government, and to let our young people, who have never seen such a thing, know what a King looks like. It is enough to make them disgusted with Royalty.”

After spending a month in Paris the King of Etruria left for Tuscany. He was installed by Murat, and soon justified the opinion that Bonaparte and all Paris had formed of him.

## CHAPTER II

### THE TRIBUNAT AND CORPS LÉGISLATIF

1800-1801

[A note on the Constitution of the Tribunat and Corps Législatif, and on Bonaparte's method of dealing with the opposition of these bodies, will be found in the Introduction.]

*First Session, January-April 1800*

**E**VEN before, and still more after, the 18 Brumaire (9th October 1799) no doubt could exist in the mind of anyone as to Bonaparte's determination to rule, or as to his views on Legislative Assemblies. A Senate sitting in privacy, a Corps Législatif voting without debate, were not Institutions calculated to arouse either fear or enthusiasm. The only one of the three legislative bodies which could give any anxiety to the Executive, or any encouragement to those who still clung to the theory of representative government, was the Tribunat.

The first session of the new Legislature opened on the 11 Nivose, an. VIII. (1st January 1800). The Tribunat elected Daunou<sup>1</sup> as President, a "virtuous" and enlightened Republican,

<sup>1</sup> P. C. F. Daunou, born 1761, began life as an Oratorian. He was one of those who accepted the Civil constitution of the Clergy. In 1791 he became Vicar General to the Constitutional Bishop of the Pas de Calais, but on his election to the Convention he ceased to exercise his priestly functions. On the trial of Louis XVI. he gave an outspoken and courageous vote against his execution. He was one of the seventy-three members proscribed after the fall of the Girondists. In 1795 he was elected to the Council of Five Hundred, and was one of the original members of the Institute. In 1817 he was appointed Archivist of the Empire. In 1819 he was returned as Deputy, and voted with the Constitutional Party. Louis Philippe created him a peer of France in 1839. Daunou acted for many years as editor of the *Journal des Savants*, and was one of the principal writers of the continuation of the *Historiens de France* and of the *Histoire littéraire de la France*. He died in June 1840, aged 79.

as able as he was modest. From the first it was clear that the executive would meet with a certain amount of opposition. The Government began by placing before the Tribunat a Bill regulating the procedure to be observed in debating and passing the measures placed before the Legislature. Mathieu, as spokesman of the Commission appointed to consider the Bill, reported in its favour with some slight modification. He ended with the words: "While placing great powers in the hands of the Executive Government, the framers of the Constitution evidently had in mind the fear of that flattering acquiescence to which all powerful Governments are subjected, and which too often destroys them. Tribunes, it is your duty to speak to the people of France in the austere language of truth, to arouse in them that generous devotion which leads to self-sacrifice and to strenuous effort. Yours to strike the lyre in praise of those Republican sentiments which find so ready a response in every French heart, and to silence the false note of despotism should it ever echo through the air around you." The Bill was opposed by Duchesne, Gilet, Ginguené, and Benjamin Constant.<sup>1</sup>

<sup>1</sup> Benjamin Constant de Rebecque, born at Lausanne, 1767, after spending his youth in England and Germany, where he was married to and divorced from a lady of the Court of Brunswick, came to Paris in 1796, when he formed an alliance political and personal with Madame de Staël. There is an interesting account in Thibaudeau's *Memoirs of the Directory* of the mischievous and foolish intrigues which these two, aided for his own purposes by Talleyrand, conducted in favour of the Coup d'État of the 18 Fructidor (4th September 1797). Thibaudeau did not take kindly to Constant; he says of him: "There are antipathies which are very difficult to explain; I always had a feeling of dislike to Constant. I found his manner dogmatic and peremptory. I seemed always to feel Talleyrand behind his back pulling the strings which moved him." Constant's career in the Tribunat was cut short by his elimination in 1802. In the following year he was exiled in company with Madame de Staël by order of the First Consul, and after travelling with her through Germany the pair resided at Coppet. After the death of Monsieur de Staël, Constant desired to marry his widow, but Madame de Staël declined on the ground "that she did not care to puzzle the whole of Europe by changing her name." This was too much for Constant, who left Coppet and married a cousin of Count Hardenberg. He returned to France with the Bourbons, and was entrusted with the interests of the Queen of Naples at the Congress of Vienna. During the Hundred Days he reconciled himself with Napoleon, and became a member of his Council of State. When Louis XVIII. returned he offered his sincere devotion to the King's Government, an offer of which Louis XVIII. declined to avail himself. He found it advisable to visit

The latter said: "If the constitutional object of the Tribunat had not been completely misunderstood the Bill before us would have been very differently worded. The Government has apparently taken it as a matter of course that the Tribunat will meet all its measures in a spirit of blind opposition, and will spend all its own time in altering or retarding every Bill that comes before it. Hence the clauses of this Bill designed to elude our vigilance by rushing their measures through in hot haste, or by veiling their true meaning in the hope that we may fail to understand them. In short, we are to be treated as a hostile camp, through which Government Bills must be conveyed with as little loss as possible. The whole Bill rests on a misunderstanding. In reply to it I should say to the Government: Fruitless as our debates may be, do nothing to mutilate them; vain as our resistance is, let it have fair play. Do not grudge us the power of language which, after ringing through these rafters, will too often be lost in empty air; do not turn the Tribunat into a mere sham, and make it the laughing-stock of Europe." Constant then proposed a series of amendments, the main points of which were that a minimum of five clear days should be allowed for the discussion of each measure in the Tribunat itself, and the same for the subsequent debate before the Corps Législatif; that each Bill should be accompanied by a statement of the grounds on which it was required, and that the power of fixing the date on which each debate should open should be transferred from the Government to the Corps Législatif. These amendments were opposed by Chauvelin, Thiessé, and Riouffe, the latter indulging in a violent philippic against Constant, and in an equally fulsome panegyric of the three Consuls, especially of Bonaparte. The speaker was thrice called to order. Ultimately the Government Bill was

England, but returned to Paris in 1817, and was elected a member of the House of Deputies in 1819, 1824, 1827, and 1830. Louis Philippe bestowed upon him the sum of fr. 300,000 (£12,000), and appointed him President of the Council of State. Constant died on the 8th December 1830, aged 63. Constant, who was undoubtedly a man of great intellectual ability, was a copious journalist, and author of philosophical and political works. He enjoyed also a great reputation as an orator.

carried by 54 against 26 votes. The debate was remarkable both for the powers of oratory and for the acrid tone adopted by the speakers.

On the 18th (8th January 1800) an article appeared in the *Moniteur* from which we give a few extracts: "The debate on the first proposition brought before the Tribunat by the Government has excited general interest. The public has scrutinised the voting with the closest attention, all the more so since the subject debated was hardly of sufficient importance to warrant the passionate energy which it called forth.

"It is difficult to believe that the Bill intended either more or less than it expressed, yet objections were raised against it which were sufficient to excite the minds of those who expect absolute perfection in all human institutions, and who are ready to declaim against the smallest defect as though it were a vice. Yet reflection should calm the minds of those who look with apprehension upon the fact that 26 members out of 84 should be found to vote against the Government on so simple a proposal. Deduct the perfectionists we have already mentioned and only a small minority, certainly not sufficient to exercise a dangerous influence, remains.

"We can assert confidently that many of the Tribunes most closely allied by the bonds of friendship voted on different sides; from which we may draw two conclusions, both satisfactory. First, that several members whose ambition or self-love must have made them keenly anxious to win were unable to persuade their friends to sacrifice themselves on their behalf; secondly, that those who refused to do so showed their preference for the real and substantial good of the nation as opposed to the claims of society or the gratification of minor vanities and resentments.

"Thus we may fairly assume that there does not at present exist in the Tribunat any organised or systematic opposition."

When the Bill came before the Corps Législatif, Fourcroy, the representative of the Government, replied to the objections brought against it in the Tribunat. "The Government," he said, "has no need to be taught that if it were so fatuous as

to try to suppress free speech in the Tribunat, or to intimidate the voters of the Corps Législatif, it would find an irresistible barrier in the firmness of the Legislature, whose veto would break the lever which it was trying to use for an illegal purpose."

The Bill passed the Corps Législatif by 203 against 23 votes. The want of harmony between the two powers was clearly exhibited in this first debate. The Government certainly expected opposition from the Tribunat, while the Tribunes began by imputing to the Government a fixed intention to prevent their performing their duty of criticism and amendment. Such a beginning argued anything but well for the future, and in fact the petty war began again immediately. The place selected for the sittings of the Tribunat was situated in the Palais-Égalité (the former Palais Royal), and to make the locality available a number of market-stalls were compulsorily removed and the owners forcibly ejected; casinos and houses of ill-fame were also suppressed. The choice of such a locality was the object of many pleasantries, and it was generally considered that the place was chosen on purpose to throw contempt on the Tribunat.

One of the Tribunes (H. M. M. Duveyrier<sup>1</sup>) brought forward a motion of order on this subject. Instead of blaming the place chosen, he felicitated the Tribunat on sitting in the Palais Royal. "As soldiers of liberty," he said, "we are well

<sup>1</sup> H. M. M. Duveyrier, born 1753, was an Avocat of considerable reputation before the Revolution. He pleaded in many celebrated law-suits, notably in the famous case of Kornman against Beaumarchais. In 1791 he was appointed Secretary General of the Department of Justice. On the 24th August 1792 he was denounced by Robespierre and imprisoned in the Abbaye, from which he was so fortunate as to escape, thanks to a happy stratagem of the actor Dugazon, on the 1st September, the day before the massacres began. He remained concealed until February 1793, when he was again enabled to escape the Terror through the help of Garat, who gave him an office in connection with the commissariat, which took him to Stockholm, Copenhagen, and Hamburg. Returning to Paris in April 1796, he was appointed to the Tribunat in December 1799. After the outburst of patriotic eloquence given here he became a devoted adherent of Bonaparte, and on the dissolution of the Tribunat was rewarded by the title of Baron and by the Presidency of the Tribunal of Appeal at Montpellier. After the Restoration he lived in retirement until his death in May 1839, at the age of 86.



placed in the very spot where the national cockade was first worn. If monarchical ambition were once more to send here its armed satellites we could point them to the places where the soldiers of the former Monarchy first waved over their heads the new-born banner of liberty. If they dared to reproach us with an *idol of fifteen days*,<sup>1</sup> we could remind them that here began the overthrow of an *idol of fifteen centuries*." This tirade had no immediate sequel beyond the insertion in the *Moniteur* of the 15 Pluiose (4th February 1800) of an article entitled "Tribunes of Rome and Tribunes of France." "The Tribunes of France," said the writer, "will bear in mind that if timidity renders their resources useless, such temerity wastes them. Taught by the fatal example of the Romans of the danger of despising lawful authority, they will know better than to treat it with contempt. Respecting the warrior who has saved his country, they will never condemn a Coriolanus or a Camillus to be flung from the Tarpeian Rock." On the same day (4th February 1800) Girardin<sup>2</sup> set himself to refute as a base calumny the rumours that the Tribunat was in organised opposition to the Government. "Let us hope," he said, "that we shall never again have to listen to such words as those which have left the lips of one of our colleagues, words wanting alike in common sense and in practical meaning. We know of no

<sup>1</sup> The allusions are, of course, to Bonaparte and Louis XVI.

<sup>2</sup> C. Stanislaus X. L. de Girardin, born in January 1762 of a family of the Noblesse, was the godson of King Stanislaus and the pupil of Rousseau. He served before the Revolution in the regiment of Chartres. He was elected to the Legislative Assembly, where he sat on the extreme left, but voted against the project of forming a camp of the federation close to Paris, and as President received Louis XVI. on his visit to the Assembly, 7th July 1792, with decent propriety. After the 10th August he was assisted to escape from Paris by being sent to England on a mission, a favour which he owed to Marat, whom he had previously defended. Returning in January 1793, he was imprisoned until the fall of Robespierre. He then retired to Sezanne, where he gained the friendship of Joseph Bonaparte, who in 1797 acquired the neighbouring château of Montfontaine. Under Joseph's patronage he was appointed to the Tribunat. In 1804 he was restored to his army rank, and subsequently accompanied Joseph as an officer of his staff to Naples and Spain. In 1810 he was promoted to the rank of General of Brigade and created a Count. He held many appointments of importance under the Empire, and during the Hundred Days. In 1819 he was elected to the House of Deputies, of which he remained a member until his death at the age of 68 in February 1827.

*idols* in France." In the remainder of the session there were few violent altercations, and the debates were as a rule conducted with decency and good taste. During the session several Bills were passed unanimously, or nearly so, but nine encountered some opposition. Of these seven were passed by majorities ranging from 5 to 46 in the Tribunat, and from 160 to 254 in the Corps Législatif. Two only were rejected. One of these, on the Court of Cassation, after passing the Tribunat by a majority of 13, was rejected by 95 votes in the Corps Législatif; the other, authorising the Government to charge tolls on bridges built by private persons, was rejected in the Tribunat by 24, and in the Corps Législatif by 127 votes. The Bill on the Court of Cassation owed its rejection entirely to some technical defects. That it was not thrown out from any desire to embarrass the Government is shown by the fact that somewhat later it passed with some trifling amendments as a part of the General Law on the Judicial Organisation.<sup>1</sup> The second Bill on tolls was also rejected for merely technical reasons, so that it cannot be said that either of these cases furnish proof of a set purpose to oppose or embarrass the Government. The most formidable opposition made to any Government proposal in the Tribunat was to the scheme of taxation for the year IX., which was carried by a majority of 9 votes only, though it had a majority of 229 in the Corps Législatif; but the opposition turned on the fact that the amount of the receipts was lower than that of the expenditure. An opposition which proposes to give to the Executive more than it asks cannot be considered dangerous. The Tribunat was entitled to receive Petitions, but of this right it made little use; they were generally forwarded without note or comment to the Ministry. Consequently complaints were frequently made of the levity with which this constitutional right of all citizens was treated. A Commission was appointed to consider the question, which proposed to form a bureau and a special

<sup>1</sup> Thibaudeau's note.—“ My experience is that a certain degree of indolence marks the proceedings of all deliberative assemblies, so that an entire code of laws can be more easily passed than a short Bill of a dozen clauses.”

committee to deal with them. Benjamin Constant, speaking on this question and on its bearing upon the rights of the Tribunat, said: "The Tribunat is a new institution not yet sufficiently appreciated. We are often asked what would become of us if no laws were submitted for our consideration, or what we shall do when the Corps Législatif adjourns for its vacation. People see in us nothing fixed or permanent, and consider that such vague functions as ours accord ill with the energetic and active elements of which we are composed. My proposal (of Special Committees to examine Petitions) will dissipate such doubts. It will show clearly that the progress of the State is our rule, opposition our exception. Progress is in the very nature of the Tribunat; so-called opposition is a right. Be true to yourselves, therefore. We are certainly not a chamber of constant opposition, that would be absurd and in many instances criminal; still less are we a chamber of constant acquiescence, that would be servile and on occasion criminal, but we are a chamber of acquiescence or opposition according to the nature of the measures presented to us, and a progressive body at all times. Reassure those who fear that you are becoming disorderly and tumultuous by proving yourselves a peaceful and permanent institution productive only of beneficent results."

Constant's designs and theories were opposed by many members, including Chauvelin, who characterised his plan as a system of petitions upon petitions.

The Tribunat passed to the order of the day, thus adjourning the consideration of the question.

It was usual to present to the Legislature separately all questions of local administration, after they had been examined by the Council of State.

One hundred and twenty small Bills of this description which had passed the Council were now awaiting the consideration of the Tribunat and Corps Législatif. Regnault observed that these Bills, if taken separately, would occupy thirty sittings of the Corps Législatif, and that it would be expedient to incorporate them in future in one measure. Bonaparte replied with

a laugh: "By all means have them separate. They will make good bones for the Corps Législatif to gnaw." A proposal was also made in the Council to give the Government power to authorise exchanges of land between the state and the communes, and so to save the time of the Corps Législatif, which was obliged to give much of its attention to their consideration. But Bonaparte opposed this plan, saying: "Under the old regime there were frequent outcries against these exchanges, which did in fact give rise to a good many abuses. The only way to prevent such abuses is to have the exchanges debated in public. No inconvenience can result from allowing the Corps Législatif to deal with matters of this kind, which relate to property only and excite no party passions. Besides, it gives the Corps Législatif something to do."

At the end of April the Corps Législatif was bound to adjourn until the following November. On the 23 Germinal (13th April 1800) Chénier,<sup>1</sup> one of the opposition members, raised

<sup>1</sup> Joseph Marie Blaise de Chénier, poet and dramatist, was born at Constantinople, where his father was French Consul-General in August 1764. At the age of 16 he was appointed to a regiment of Dragoons stationed at Niort. Eight years later, in 1789, he threw up his commission and came to Paris. His famous tragedy of *Charles IX.* was produced at the Théâtre-Française on the 4th November 1799, and exercised a considerable influence in favour of the Revolution. In 1792 he was elected to the Convention, when he voted for the death of the King, and committed many extravagances, such as bringing forward the decree removing the body of Mirabeau from the Panthéon and substituting for it that of Marat. He did better work during this period in writing the celebrated *Chant du Départ* and many other patriotic ballads and poems. On the 25th July, only three days before the fall of Robespierre, his brother André, a poet of a higher order than Marie, was guillotined. Marie was hotly accused of being an accomplice in this judicial murder, and several times in succession the words "Cain, what hast thou done with thy brother?" were inscribed on the door of his house. Marie ultimately succeeded in clearing himself of actual complicity, but hardly of cold-hearted cowardice. It must be remembered that during the Terror the betrayal or sacrifice of an anti-civic father, brother, or other near relative was held to be one of the highest proofs of patriotic virtue. Chénier threw in his lot with the Thermidorians, and followed their erratic transitions from extreme reaction to a revival of Jacobinism. In 1795 he was admitted to the Institute, and elected a member of the Council of Five Hundred. He supported the Directory in the Coup d'État of Fructidor (4th September 1797), but afterwards joined in that of Brumaire and was appointed to the Tribunal by Bonaparte's desire in December 1799. There he became one of the most determined opponents of the Government, and was consequently one of those eliminated by the Senate in 1802. He then received an appointment in the Education Department, but incurring the violent

the question of the form in which the Tribunat should continue its sittings during this period. He proposed that at least two sittings should be held during each month, and pointed out many ways in which these sittings could be utilised. His plan was adopted, and it was determined that the Tribunat should meet on the 1st and 16th of each month. These sittings were regularly held; they were of a peaceful character, and did nothing which could annoy the Government.

The result of the voting in the Tribunat during this session showed that the opposition averaged about 30 per cent. of the members. It is useless to inquire whether this opposition was due to party spirit or to principle. Like every other opposition, it partook of both characteristics. The important question was whether an opposition such as this could embarrass the action of the Government or diminish its prestige. So far it could not be said that it was capable of doing either. Even if it showed any promise of increasing to such an extent as to become dangerous, it is certain that the Government held in its hands the power to check opposition without violence. Meanwhile the Government itself was growing constantly more powerful, which made it probable that the opposition would rather lose than gain in the future. After the experience of former Legislative Assemblies which held a position far stronger than that of the Executive, the present Government might well have considered itself fortunate in encountering an opposition so trifling as that of the Tribunat.

Bonaparte himself had proclaimed the present to be "the Era of Representative Government," and it is impossible to see how he could have expected a less alarming opposition than in the Tribunat, whose powers were limited to submitting to the Senate any measures which it considered unconstitutional; criticising publicly all measures submitted to it, and expressing its opinion

wrath of Bonaparte by his *Epistle to Voltaire*, and still more by his tragedy of *Cyrus*, produced immediately before the Coronation of the Emperor, was dismissed. The performance of his plays was prohibited, and he was reduced to accepting the position of lecturer in a private school. In his last days Bonaparte bestowed upon him a pension of fr. 8000 (£120), but he died in poverty at the age of 46, in January 1811.

on Laws, Abuses, and Reforms ; and finally, sitting more or less permanently throughout the year.

Yet even such limited powers as these accorded ill with Bonaparte's own theory of the authority of the First Consul. He appeared from the first to be alarmed at meeting with opposition in the Tribunat, and from the first sitting of this shadow of a representative body he seemed to have determined upon its destruction. Why, it may be asked, did Bonaparte, who encouraged the most perfect freedom of speech in the Council of State, find the same freedom insupportable when it issued from the Tribunat? Simply because the debates in the Council of State were held in private and were unreported, while those in the Tribunat were open and public and were circulated throughout the country. He frequently said to one or other of the Tribunes : " Why don't you come and talk to me in my study, instead of declaiming in the Tribune? We would have a family conversation like those we hold in the Council of State." Admirable tactician as he was, he preferred to meet his opponent where he felt himself the master. But after all, it was the Constitution which had created the Tribunat and endowed it with an open Tribune.

*Session of the Year IX.*—This session of the Legislature opened on the 1 Frimaire (22nd November 1800). The two bodies, the Tribunat and the Corps Législatif, remained unchanged and the opposition in the same strength as before. Of the contentious Bills of the session there were in all ten, of which three were rejected. One of these, a Law on the National Debt and the Public Lands, owed its rejection to the fault found with some of the means of carrying it out.

The Law on the National Archives shared the same fate, because it formed merely a supplement to an Order in Council which the Corps Législatif and the Tribunat considered somewhat of a usurpation on the part of the Executive. In answer to the speeches of the Orators of the Tribunat before the Corps Législatif, Regnault, who spoke for the Government, said : " I put aside the possibility of jealousy between the Legislature and the Executive as improbable, or indeed impossible, con-

sidering the harmony which reigns between them. Usurpation of power on the part of a Government would be a sign of weakness, whereas our Government is strong both in its hold on public opinion and in its union with the other constitutional authorities; the last thing it desires is to make any attack upon their rights, a course which would react upon its own prerogative." Jubé, speaking for the Tribunat, replied: "This Harmony will always be religiously cherished by the Tribunat. If in this place we sometimes argue against the Government, it is because both parties are equally under the influence of a generous emulation. Both are alike striving for the most sacred of causes, the honour of the Legislature, the strength of the Government, the liberty and the glory of the French people." Of the measures passed by the Corps Législatif, two were of special importance. Mention will be found in Chapter VIII. of the "Lists of Notables," and of the debate on the subject in the Council of State.

The Bill as passed by the Legislature created National "Notables" to the number of 5000, Departmental "Notables" 50,000, and Communal "Notables" 500,000. All the rest of the nation, in number about 30,000,000 souls, were deprived of all rights of election, or of eligibility to office. Those who regarded the free and equal rights of all citizens as the basis of Representative Government looked upon the body of "Notables" as a new order of patricians, a sort of elective aristocracy far too limited in number to represent so vast a nation as France.

But considering that the Constitution had already deprived the people of the power of electing their own Magistrates, and even their own representatives, it mattered little who were chosen to go through the empty form of presenting candidates to be nominated by a Senate which was itself a mere dependent on the Government. The question which aroused the highest party feeling on both sides was the Law on the Creation of Special Courts.

The Government began by presenting two separate Bills, one to reduce the number, and to deprive the "Juges de paix"

of police supervision; the other creating new Magistrates specially charged with police duties. The Government asserted that the *Juges de paix* did not act in police matters with sufficient energy, which would be more efficiently exhibited by Special Magistrates. These new appointments touched very closely on the security and liberty of the people, and naturally excited a good deal of hostile criticism in the *Tribunat*. The Government therefore decided to withdraw the original Bills, under the pretext that they were incomplete without a third on Exceptional Courts, to be temporarily established for the suppression of brigandage. It had been designed, said its advocates, to introduce the three separately to suit the convenience of the Legislature, but since the two first had been met with objections which would be removed by examining the measure as a whole, it would be more convenient to incorporate the three measures in one, which was therefore presented to the *Tribunat*. But the opposition to Special or Exceptional Courts waxed fiercer than ever.

The Government consented to withdraw one article, which seemed to subject all French citizens to the Minister of Police and to render him irresponsible for arbitrary action on the part of his subordinates. But, in spite of this withdrawal, the opposition still maintained that the proposed law was unconstitutional, that it annihilated the principle of trial by jury, left no room for appeals against improper indictments, and endangered the personal liberty of every citizen. In fact, all the arguments which could be used against Special or Exceptional Courts were piled one on the top of the other, and from the point of view of constitutional law these arguments were for the most part sound. But the facts of the case were against the opposition. The brigandage which for years had turned the south of France into a desert was not yet suppressed; it still set the Government at defiance, and was beyond the powers of the ordinary law. The practical question was whether this state of things did not require exceptional means for its suppression, even at the price of passing temporary laws which were in their nature harsh or arbitrary. In this crisis the



Government obtained the victory, but only after heated discussions which left much rancour behind them.<sup>1</sup>

Bonaparte made no attempt to conceal his displeasure. In a reception of the Senators (9 Pluviose, 29th January 1801) he said, referring to the Tribunat: "Guinguiné has given us the asses' kick. We have here a dozen or fifteen metaphysicians who ought to be thrown into a pond. They are like vermin swarming round me. Do not suppose that I am going to let myself be defied like Louis XVI. I am not the man to stand that sort of usage."

He applauded a speech by François de Nantes which had given much umbrage to the Corps Législatif. "It is better," he said, "to lose a few votes than to put up with the insults of people like these." He answered Lebrun and Cambacérès, who blamed the tone of François' speech by saying: "These Tribunes are liable to fits of hysterics. I am not going to trouble my mind about them."

Taken as a whole, this second session did not go beyond what might be anticipated in the ordinary course of a Representative Government.

The heated tone of the debates, or even the rejection of a couple of Bills, were not more than a small counterpoise to the ascendancy of the Government, so rapidly rising in reputation and authority.

*Session of the Year X.*—An Order in Council regulated a new and more elaborate ceremonial for the opening of the third session of the Corps Législatif.

The members were received by the Minister of the Interior,

<sup>1</sup> The Law reducing the number of "Juges de paix" from 6000 to 2600, and transferring their police duties to the Special Tribunals, was carried in the Tribunat by 52 votes against 32, and in the Corps Législatif by 218 votes against 41. The Law creating Special Tribunals passed the Tribunat by 49 votes against 41, and the Corps Législatif by 192 against 88. The object of this law, the necessity for which is allowed by Thibaudeau, was the suppression of bands of highway robbers who during the last years of the Directory had rendered travelling in many parts of France almost impossible. The Special Tribunals were also empowered to try cases of outrages and attempts to murder members of the Government (*see* Chapter IV.). The Tribunals were composed of three Judges of Criminal Courts, three Military Officers, and two Assessors appointed by the Government. Appeals were allowed in certain circumstances to the Cour de Cassation (Court of Final Appeal). They continued in existence for two years, and were completely successful in stamping out highway robbery.

and a number of stereotyped complimentary speeches, such as those exchanged at the opening of the English Parliament, were made. The session opened on the 1st Frimaire, an. X. (22nd November 1801) under fortunate auspices.

The Republic was at peace abroad, while at home every prospect was full of promise. The first deliberations were on the Treaties of Peace. Within five days Treaties with the United States, the Two Sicilies, Bavaria, Russia, and Portugal were laid before the Legislature. Each of these was voted with something like unanimity. Who could dare to oppose a peace which had been so eagerly welcomed by France and by Europe, or show a want of confidence in the victorious First Consul? The Treaty with Russia alone provoked any discussion, and even this turned upon a single phrase. In Article 3 the word "Subject" was applied both to Frenchmen and to Russians. When the Treaty was first read on the 9 Frimaire (30th November 1801) Thibaut exclaimed: "Frenchmen are citizens, not subjects." Costaz, who reported upon it to the Tribunat, explained that the word referred only to "Émigrés," who were rightly stigmatised as Subjects. The Tribunat was not satisfied with this explanation, and held a private conference on the use of the word, in the course of which Chénier said: "Our armies have been fighting for ten years to gain us the title of Citizens, and now we have relapsed again into Subjects. The coalition has beaten us at last." Insignificant as the question seemed, the Government chose to consider it as of sufficient importance to be brought before the Corps Législatif. On the 18 Frimaire (9th December 1801) Fleurieu, Councillor of State, read a note emanating directly from the First Consul correcting the statements made in the Tribunat, justifying the use of the word Subjects, and reassuring foreign Powers of their own independence. The Treaty was voted in the Tribunat by 77 votes against 14, and in the Corps Législatif by 229 against 31.

The Constituent Assembly had restricted capital punishment to a few crimes, while on the last day of its existence the Convention did away with it altogether, but postponed its abolition until the conclusion of a General Peace.

The time had now come for the consummation of a pledge long desired by philosophers and humanitarians; but the Consular Government was of another way of thinking. The First Consul made short work of the philanthropy which shrank from the sight of the blood of a criminal. A Bill was laid before the Legislature adjourning indefinitely the abolition of capital punishment, the reason given being the necessity of putting an end to the brigandage which still ravaged France. This Bill passed the Tribunat by 71 votes against 10, and the Corps Législatif by 234 votes against 30. Another similar question was that of the revival of the punishment of the "Marque" (branding), which had been abolished by the Constituent Assembly.<sup>1</sup>

The question was raised in the Council of State. In the course of the discussion Bonaparte said: "Branding is principally necessary for the crime of forgery. Forgers have multiplied to an extraordinary degree. Almost every statement of accounts nowadays contains forged entries. Some effective punishment must be found. As a rule the forger is a well-to-do man. He is condemned and sent to penal servitude; he escapes or buys his way out, returns, and in a short time gets people to dine with him. The executioner's hand would soon put a stop to all that. The forger would be a marked man. This form of punishment is quite in accordance with our national code of morals.

"In England forgery is punishable by death, and even the King has no power of pardon.<sup>2</sup> They have made the law so

<sup>1</sup> The punishment of the Marque (branding) was abolished in 1791. As revived by the law of the 23 Floreal, an. X. (13th March 1802), a criminal convicted of serious crime for the second time was condemned to be branded with the letter R (*Récidiviste*) on the left shoulder, and any person condemned for forgery or coining false money to be branded on the right shoulder with the letter F (*Fausinaire*). The Criminal Code added to the crimes for which branding was to be a portion of the punishment. The "Marque" was finally abolished in 1832.

<sup>2</sup> For once Bonaparte was completely mistaken. An Act passed in 1801 (41 George III. c. 39) for "more effectually preventing the forgery of Bank-Notes," etc., condemned any person having in their possession machinery for making the paper used by the Bank of England for printing bank-notes, to fourteen years' penal servitude. Possibly an exaggerated account of this Act reached Bonaparte's ears.

vigorous to prevent the forging of paper money. As to branding thieves, that is not so urgent. There are a hundred professional thieves in Paris who regularly give themselves up on the eve of the national fête days. They are all well known to the Prefect of Police." A Bill was presented to the Corps Législatif re-establishing for five years the punishment of branding to be applied to persons convicted of forgery, while those who were convicted a second time were to be condemned to a minimum of four years' penal servitude. The Tribunat was unfavourable and the Bill was withdrawn, but after the purging of the Tribunat in June 1802 it was again submitted in a slightly altered form, and passed the Corps Législatif by a majority of 218 votes.

## CHAPTER III

### THE TRIBUNAT AND CORPS LÉGISLATIF

1801-1802

[*EDITOR'S NOTE.*—For a summary of the changes in the Tribunat and Corps Législatif by the Senatus Consultum of the 4th August 1802, see the Note on the Constitution.]

THE most serious opposition which the Government encountered from the Tribunat and the Corps Législatif was their treatment of the first two titles of the Civil Code.<sup>1</sup>

On the 3 Frimaire (24th November 1801) Portalis laid before the Tribunat the first title of the Code, "On the publication, the effect, and the application of Laws."

The honour of opening so splendid a series of legal achievements belonged by right to the jurist who best adorned the science of law by his profound knowledge, his powers of eloquence, and his clear literary style of exposition.

In his preliminary speech he expounded the general plan of the Code and its division into two main divisions, the Law of Persons and of Property. He expatiated on the general principles of legislation as regards Persons and briefly indicated those relating to Property, which would not be ready for submission during the present session. Andrieux, speaking for the Committee which reported on the portions of the Code presented by Portalis, proposed its rejection on the ground that it related to law in general, and was therefore irrelevant to the special Code now in preparation.

It was charged with consisting chiefly of general principles

<sup>1</sup> The discussions in the Council of State on the Civil Code will be found in Chapter X.

and of moral and legal maxims most of which would be better placed in a Code of judicial procedure. "A law of eight articles, ill arranged and incoherent," said its opponents, "forms no proper introduction to a Civil Code, no fitting portico to the legal edifice it is designed to adorn." The Bill was rejected in the Tribunat by 65 against 13 votes.

Portalis did his utmost to pass it through the Corps Législatif, but here again it was rejected by 142 against 139 votes. During the course of these debates two more titles of the Code were submitted to the Legislature,—the first, on the Enjoyment of Civil Rights, drawn up by Boulay de la Meurthe; the second, on the "Acts of the Civil State," by Thibaudeau.<sup>1</sup> Siméon,<sup>2</sup> the spokesman of the Committee of the Tribunat reported that the first title of the section on Civil Rights, though not clearly drawn up, would have been passed by the Committee had it stood alone, but that the second title, on which Thiessé was to report next day, was so defective that he had no option but to propose the rejection of the whole.

The result of these debates was naturally vexatious to the Government, especially to the First Consul, who was greatly

<sup>1</sup> The "Acts of the Civil State" include all legal formalities relating to Births, Deaths, and Marriages, Certificates of Residence, etc.

<sup>2</sup> Joseph Jérôme Siméon, born September 1749, was an Avocat by profession. He occupied the post of Procureur-Syndic at Marseilles during the Federalist rebellion, and was decreed by the Convention "hors la loi" August 1793. He made his escape from France, and remained in Italy for two years. Elected to the Council of Five Hundred, in 1795, he became one of the leaders of the moderate party, closely allied with his personal friend Thibaudeau.

On the 18 Fructidor he was President of the Council, and was one of those condemned to transportation. For the time he escaped, but gave himself up to avoid being decreed an Émigré in January 1799, and was imprisoned in the Île d'Oléron. After Brumaire he declined the post of Prefect of the Marne, offered to him by Bonaparte, and was appointed a member of the Tribunat 27th April 1800. In 1807 he was commissioned to organise the new Kingdom of Westphalia, in which he served as Minister of the Interior. In 1813 he retired at his own request on account of his advanced age, but on the return of the Bourbons he accepted the appointment of Prefect of the Nord. During the Hundred Days he rallied to the Emperor, but compromised himself so little as to be created a Councillor of State in 1815, and Count by Louis XVIII. in 1818. He held office as Minister of the Interior in 1820 and 1821. In 1830 he accepted the Monarchy of July, and for some years held office as President of the "Cour des Comptes" (Court of the Exchequer). He died in January 1842, aged 93.

chagrined. He summoned the Council of State to decide upon the form in which the Civil Code should be presented to the Legislature and how these disagreements could be avoided in the future.

*Bonaparte*: "Citizen Portalis, do you not think it would be better to present the first book as a whole?"

*Portalis*: "Yes."

*Bonaparte*: "And you, Citizen Cambacérès?"

*Cambacérès*: "Yes; but we must first revise and reshape it, otherwise there will be many details on which there is certain to be a great deal of discussion.

"The best way would be to present the general principles and rules of the code, as to which there can be no controversy."

*Portalis*: "If we withdraw the sections which have been rejected we ought undoubtedly to revise the entire book. The fact that the first title has been rejected, and that the second is threatened with the same fate, will produce a prejudice against the whole, and will supply our opponents with plenty of malevolent criticism."

*Bonaparte*: "For instance, when I hear an able man like Siméon questioning whether people born in our own colonies are Frenchmen, I begin to wonder whether I am standing on my head or my heels. Of course they are Frenchmen; it is as clear as daylight. As to the first title, I have read Citizen Portalis' speech, and I find it unanswerable; it ought to have drawn out their fangs. If we had only presented it as a whole all this trouble would have been avoided, since the discussion would necessarily have been confined to the general principles of the Code."

*Portalis*: "I have talked it over with several of the Tribunes. I said to them, when you find that each title is more or less perfect your majority ought to pass it. If you choose to debate every clause of it separately, how will it be possible for the Government to carry it through.

"Look at England, where there is always a majority for the Government; otherwise there can be nothing but anarchy, and order and Government fall to the ground. Reasonable

discussion is all very well, but each individual member must learn to sacrifice some of his own particular opinions for the sake of the public interest. If you don't know the elements of law we shall have to put you through a course of jurisprudence."

*Defermon*: "Perfectly true. It would be impossible to incorporate in any law all the amendments which have been suggested in the Tribunat."

*Thibaudeau*: "Last year I expressed my opinion that it would be found necessary to present the Code to the Legislature as nearly whole as possible if we are to escape these discussions of details which are inevitable and interminable in Representative Assemblies.

"Probably the debate on a complete book or even on the entire Code would not be longer or more verbose than that on two or three separate titles, because the speakers would be obliged to discuss general principles and would not fasten on minute details. I am of the same opinion still, and I hold that if we are to go on bringing it forward under separate titles we must find some way of discussing them in private with the Tribunat, which will allow of a fairer understanding than can be arrived at in public debates."

*Bonaparte*: "In fact, we must come to an honest understanding. Without that we shall never have a Civil Code. Why, even here in the Council we should never pass anything without it."

*Roederer*: "If we put forward the whole or the greater part of the Code, petty details will be lost sight of."

*Bonaparte*: "And in future our replies had better take the form of written documents. No matter how eloquent we may be, we cannot succeed in twenty-four hours in changing the opinion of a body which for the last month has been impressed with the idea that we are wanting in common sense. An hour after Citizen Portalis had finished speaking to the Corps Législatif they were saying that the Consuls and Councillors of State were a set of asses."

*Dumas*: "I cannot see the sense of two bodies both debating



the Civil Code. All the Corps Législatif has to do is to give its sanction. No sensible man can think otherwise."

*Cambacérés*: "For instance, I may not agree with Citizen Tronchet's views on the Law of Succession; am I therefore to upset the whole Code on that account?"

*Bonaparte*: "We should distinguish between the theoretical part of the Code—the dogmas, as we may call them—and their practical application. It is the latter only which admits of discussion. We have to choose between three ways of presenting our work. The first, in detail as we have hitherto done; the second, to present general principles only; the third, to present the entire Code at once. This third way seems to me the best. The Corps Législatif is the nation in miniature, and the nation has not the qualifications necessary to decide scientific points."

Cambacérés declared himself in favour of the second course.

*Bonaparte*: "There are still two other possible methods. First, to pass a special law appointing a Committee of the Tribunat to sit with the Council of State and join in their discussions; secondly, to present the entire Code, accompanied by a Bill of general approval, as in the case of a Treaty."

*Tronchet*: "I think that we must go on as we have begun. To change our method at this stage of the proceedings would produce a bad impression and give rise to any amount of argument and ill-humour. The Corps Législatif may reject several more titles, but it will soon tire of doing so. The Code consists partly of universal law (*droit naturel*) and partly of national laws (*lois positives*).<sup>1</sup> The first are applicable to all nations, the second to ourselves only. The first book consists of national laws, the second and third consist of both. The Legislature cannot set aside universal law, but it can to a certain degree alter national laws. For instance, a proposition that brothers should succeed to property instead of children would shock all the world. We might therefore settle the titles relating to persons, and pass on to the third book. In this

<sup>1</sup> The Civil Code is in three books,—the first treating of Persons, the second of Property, and the third of the manner in which Property is acquired.

way we shall give the people what they most want. The remainder, consisting chiefly of universal law, may follow as best it can. Not that I wish to emasculate the Code; we must have some general principles of dogmatic law to check free thinking and the mania for change."

*Thibaudeau*: "In that case the discussions will go on for years, and we shall never live to see our Code."

*Bonaparte*: "After all, a Civil Code is not an absolute necessity. France has got on well enough without one. How are you going to deal with people capable of saying that you must actually put down on paper the fact that people born in a French colony are Frenchmen. We have plenty of other matters to attend to, such as Public Instruction. We must find some way of putting an end to these futile debates."

*Dumas*: "Article 29 of the Constitution sets forth that the duty of the Tribunat is to express its opinion as to what laws ought to be enacted. Can we not profit by this Article to open preliminary communications with it?"

*Boulay*: "No; that would only strengthen the opposition. We should become the *bête noir* of the Tribunat."

*Dumas*: "If, as you suggest, the Tribunat is altogether at loggerheads with the Government, there is nothing to do but to wait until some change in its attitude takes place."

*Bonaparte*: "There is a middle course. They are now discussing two titles. We must risk this battle, and see what happens. If they are rejected we must take winter quarters. We can continue to discuss the Code until next year. We can survive these two defeats, and bring forward the Budget and the Law on Public Instruction. What impresses me most is the prospect of nine more fights over the next nine titles."

Thiessé reported to the Tribunat against the second title of the Law on the Enjoyment of Civil Rights, and after a debate which lasted for seven or eight days it was rejected by 61 against 31 votes.

The title on the "Acts of the Civil State" was passed, however, by 64 against 26 votes.

The rejection of the Law on Civil Rights by the Tribunat

made it highly improbable that it would pass the Corps Législatif. The First Consul, unwilling to risk a second engagement already more than half lost, caused the following message to be adopted by the Council and forwarded to the Corps Législatif: "The Government has decided to withdraw the portion of the Civil Code now before the Legislature, as well as the Bill on the punishment of the 'Marque.' It is with deep regret that the Government finds it necessary to adjourn the consideration of laws so vital to the welfare of the nation, but it has arrived at the conclusion that the time has not yet come when such weighty measures can be discussed with the necessary calmness and judgment." After the close of this session of the Council, Cambacérès said: "Foreign Powers are doing their utmost to give us trouble at home, and they have the help of the opposition in the Tribunat and Corps Législatif. The First Consul does not understand how to manage large assemblies. He has not nursed, as he should have done, last year's majority in favour of the Government. He has let himself be seduced by the Council of State, notably by Regnier and Crétet, into taking mistaken measures about the *Émigrés*. They talk against the Government in every drawing-room in Paris. We shall have to expel four or five hundred people, and take measures to neutralise the opposition of the Legislative bodies."

The discussions on the Treaty with Russia, coupled with the rejection of the two portions of the Code, determined the Government to do what the First Consul called taking up winter quarters. No more Bills were presented to them, while the Government awaited the renewal of one-fifth of their number at the end of Ventose (March 1802). It was proposed, as will be seen, to take advantage of this opportunity to eliminate the opposition in both chambers.

On the 2 Nivose (23rd December 1801), while discussing the Bill on Public Instruction in the Council, fears were expressed of the opposition of the Tribunat. On this subject Bonaparte said: "The Tribunat is incapable of appreciating a law which aims at so wide an object as the organisation of the entire

nation, and these six thousand pupils tend towards nothing less. They are sure to find that this law gives too much authority to the Government, as if public instruction was not the first concern of every Government. They will pour out vague declamations and make offensive speeches to show their own importance, and prove that they are doing something on their own account. In dealing with the French people, always ready to despise a Government which allows itself to be insulted with impunity, we must not submit to this sort of thing. Nothing is to be gained by allowing ourselves to be browbeaten, however successfully we might refute them in the end. Even when they were discussing the Code they made opportunities of attacking and abusing the Government. They discovered in the retroactive article, a design to abolish all that was done on the 4th August 1789; and in the article on *Mort civile*<sup>1</sup> (Civil death), an attempt to re-establish Feudalism. I said to them: 'Do you suppose that if the Government wanted to conspire against the Revolution you could prevent it? Does not the Constitution give it all the authority it wants, and more than it can use? I am told, that Citizen Boulay lost us a lot of votes by his plain speaking; for my own part, I don't think he said half enough. We can make nothing of an Institution so thoroughly disorganised. The Constitution has erected a legislative power composed of three branches; none of these has the right to make its own regulations irrespective of the others. Each can be organised only by a law regulating the debates in each chamber. We must have a law which will do this. The Tribunat must be divided into five sections, in each of which Bills must be privately discussed. Then they can talk as much as they like. We can even allow discussions

<sup>1</sup> "Mort civile" was a judicial fiction by which certain classes of criminals were held to be dead. Their marriages were dissolved, their wives and children held to be widows and orphans, they were incapable of acquiring or inheriting property. The Civil Code applied the sentence of "Civil death" only to those who were condemned to death in their absence, or who escaped before the sentence was carried out. The Penal Code, 1810, extended the punishment to those condemned to the galleys or to transportation for life. "Civil death" was entirely abolished by the law of the 31st May 1854.

to take place between the different sections and the corresponding section of the Council of State. Only the member who reads the report of each section shall have the right to speak in public. Then we shall have a practical state of things."

On the 17 Nivose (7th January 1801), during a debate in the Council on the constitutional method of renewing the membership of the Corps Législatif and Tribunat, Bonaparte took the opportunity to make a digression which went to the root of the difficulty. He said: "We have no need of an opposition in France. In England the opposition offers no danger to the State. The men who form it are not irreconcilable (*factieux*). They have no feudal system and no Terror to look back to. They rely only on the personal influence of their talents, and all they want is to be bought over by the Crown. With us things are absolutely different. The old privileged orders unite with the Jacobins to form an opposition. These people are not intriguing for place or money; one half of them are fighting for the reign of the Clubs, the other for the Monarchy. There is all the difference in the world between an opposition in a country under an old-established Government and in a country where everything is still unsettled.

"Even the most honourable members of the Tribunat aim at immediate success, without caring whether they pull the whole Constitution down about their ears.

"After all, what is this Government? Nothing, unless it has the support of the people.

"What other counterbalance has it against the Tribunat than public opinion? In this country, where there are no patricians, what do we want with Tribunes? In Rome it was quite different; yet even in Rome the Tribunes did more harm than good. The Constituent Assembly put the King in the second rank, and no doubt they were right.

"The King still held in his own hand the Noblesse and the Clergy; he represented the feudal system, but the present Government represents the people or nothing at all. These observations may seem to be outside the subject we are now

debating, but I am glad of the opportunity of suggesting them to fair-minded men. To my mind they are unanswerable."

*Portalis*: "The separation of the Executive and Legislative powers is a mistake. They ought to be distinct branches of a united body. Without unity there is nothing left but anarchy. We have made the Executive the second of the two powers; but that, I think, is quite wrong.

"The Corps Législatif, the Tribunat, and the Government are not separate powers; they are simply three branches of the same power, the most important of which is the Government. If it fell everything would be ruined, while we certainly should not be ruined by the loss of new laws; we have too many of them already. It follows that if the Government is forced to come to its own rescue it must find some way of preserving its own existence. We shall be told that this means despotism, but even so, despotic action on the part of the Executive would be only a passing malady, while the despotism of the Corps Législatif would paralyse the whole body politic. Deliberative assemblies ought to be endowed only with the power to act as a check on the Executive, while the Executive ought to have the power to prevent the boon of free speech from abuse. Our duty is to take advantage of existing circumstances to renew the two deliberative branches of the Legislature."

The next day (8th January 1802) the First Consul set out for Lyons. The Council of State went in a body to see him off. Boulay, as their spokesman, said briefly: "We wish you a prosperous journey and a prompt return." Bonaparte replied in a speech of more than an hour's duration, in the course of which he made the following proposals: (1) The division of the Tribunat into five sections, corresponding to those of the Council of State. (2) Private discussion of each Law by the proper section. (3) The nomination, by the section, of three members to discuss the Law in question with the corresponding section of the Council of State. (4) When the Law in question shall have been drawn up by the two sections it shall be forwarded to the Corps Législatif, before which body it shall be publicly debated by

the spokesmen of the Council and the Tribunat. Objection was made to these proposals, on the ground that they would take from the Tribunat its right of debating in public.

*Bonaparte*: "I do not think that an objection. A Constitution which thwarts the action of the Government must be altered. No Constitution can remain for ever unamended; it must be subordinated to the men who work it, and to circumstances. A Government that is too strong has some disadvantages, but one that is too weak has many more.

"Every day we have to break some clause of the Constitution; if we did not we should come to a standstill. For instance, I have arrested Bourmont and two hundred others, contraband corn-dealers, and so forth, in the Western Departments. According to the letter of the Constitution there is not a single minister who is not liable to impeachment. It is impossible for the Government to become despotic; it has neither the feudal system nor intermediary bodies nor old prejudices to depend upon. On the first day that it tried to act tyrannically, public opinion would turn against it and it would fall. We must have an Extraordinary Council for sudden emergencies; the Senate would answer the purpose admirably. When I was in Venice I had to complain of an injustice done to a French citizen. I demanded reparation, and was told that the laws of Venice did not recognise such cases. I threatened immediate action, and reminded the Venetians that they had a Council of Ten, an Inquisition, and so forth. The Inquisition soon found the means to satisfy me. My plan will secure a calm and impartial examination of new laws. What is the Tribunat?—of what use is it? What the Government wants is a Tribune, a free Rostrum. There is no need of a hundred men (the Tribunat) to talk over laws made by thirty (the Council of State). Then there are the three hundred, who must vote without debate (the Corps Législatif).

"Three hundred men who never speak a word. What an absurdity! It would have been more to the purpose if the Corps Législatif had the power to appoint a Committee of thirty at the beginning of each session to examine and debate

the Bills sent to them. It is high time to reorganise the Constitution in such a way as to give the Executive a free hand. We have not yet sufficiently grasped the fact that without unity of purpose between the high authorities nothing can be done. Hence the general feeling of unrest which paralyses the trade and commerce of the country.

“Among such a population as ours the majority are incapable of passing a judgment on public affairs. I hear a good deal of talk on a possible event—the death of the First Consul. In such a case, if the authorities remain disunited everything would be lost, but if all are animated by the same spirit the country will remain undisturbed and the people tranquil, feeling that they have a guarantee of safety. France is not yet a Republic; whether she ever will be so is still highly problematic; the next five or six years will decide. If the authorities work in harmony we shall have a Republic; if not, we may manage to exist for ten or twelve years, but in the end the old privileged class will sweep the board. It is inevitable. Once more, I repeat, we have no need of an opposition. What can you make of such men as Ganilh and Garat-Mailla?”<sup>1</sup>

*Regnault*: “I assure you that Garat means well enough. He would conduct himself properly if his uncle would give him a hint.”

*Bonaparte*: “All Sieyès' followers behave badly. No doubt the blame lies with him. He is a disappointed man, and never ceases to regret not having been made ‘Grand Elector,’ that is to say, master of the Government; he wanted the dictatorship created for his special benefit. I hope what I have said here will be widely circulated. I should like everyone to know my opinion on these matters.”

According to the Constitution, one-fifth of the members of the Corps Législatif and of the Tribunat were to retire and be replaced each year, but no rules had been laid down as to the *modus operandi*. The Council of State debated at considerable length on the method of selecting the retiring members and their successors. Those councillors who considered it desirable

<sup>1</sup> Members of the Tribunat.



to preserve some sort of opposition to the Government proposed that the retirements should be effected by drawing lots; those who desired the extinction of all opposition were in favour of retirement by the vote of the Senate. According to Bonaparte, to draw lots was to destroy the constitutional right of the Senate to elect new members. He was answered that the Senate had an indubitable right to elect the members who were to replace the retiring ones, but not to say who should retire. To do this would be invidious. The only just and proper way of retirement was to cast lots. The question was left open by the Council, on the ground that it was the Senate's duty to determine the mode of retirement, but it was perfectly understood that the Senators would vote themselves competent to decide on the names of those who should retire.

The Senate at once decided that their duty was to elect those members of the existing bodies who were to continue in office. They therefore decreed that the Corps Législatif and the Tribunat should consist after the 1 Germinal (22nd March 1802) of the citizens whose names appeared on the lists of those elected by themselves to continue in office, with the addition of those whom they nominated to replace the retiring fifth of each body.

The Council of State approved this declaration by 46 against 13 votes, in spite of the arguments of Garat, Lambrechts, and Leconteux in favour of retirement by lot. The members of the Tribunat eliminated by the Senate were Chénier, Daunou, Benjamin Constant, Thiessé, Bailleul, Isnard, Chazal, Ganilh, Garat-Mailla, and others. Among those who replaced them were Lucien Bonaparte, Carnot, and Daru. Thus vanished the last shadow of Representative Government. Henceforward public speech played only a minor part in legislation, which was gradually transferred to the salon of one or other of the Consuls. After the renewal of the Tribunat, Bonaparte's scheme of reorganisation was adopted by the now docile legislature. On the 11 Germinal (2nd April 1802) the Tribunat drew up new rules of procedure which divided the whole body into three sections. The Government, on its side, decreed by an Order in Council that the corresponding sections

of the Council and of the Tribunat should communicate with each other, and meet together under the presidency of one of the Consuls for the preliminary discussions on Bills to be brought before the Corps Législatif. In practice each Bill, as soon as it had been adopted by the Council of State, was forwarded to the proper section of the Tribunat. Two or three delegates of this section then met an equal number of Councillors of State, and under the presidency of the Second or Third Consul discussed the Bill in question and amended or altered it as they thought fit. It was then presented to the whole body of the Tribunat, and after passing through this Chamber was laid before the Corps Législatif and publicly debated by the Orators of the Tribunat and of the Government. This new procedure was not without its advantages; it certainly smoothed the way for the Civil Code by substituting mutual concessions made in friendly privacy for heated public debates.

On the other hand, the nation was deprived of nearly all knowledge of the steps taken on its behalf, and the members of the Tribunat often had uphill work in contending against the *amour-propre* of authorship among the Councillors, or against the superior practice of the Government orators in public debate. The First Consul, having no longer before his eyes the fear of opposition, summoned an extraordinary session of the Corps Législatif and the Tribunat on the 15 Germinal (5th April 1802).

A large number of Bills were laid before them and passed without difficulty. These were for the most part administrative and local measures, such as the formation of canals, the creation of Bureaus of weights and measures, the establishment of a new African Company of coral fisheries, the reduction of the tobacco duties, and so forth.

A revision of the Bill withdrawn a few weeks earlier on the punishment of the "Marque" was now passed into law. It condemned to branding criminals convicted for the second time of felony, forgers and coiners of false money. Another law sent cases of arson, forgery, and coining before the temporary

Special Courts recently created to try cases of brigandage, to be tried without juries. All these Bills passed without difficulty, but two other laws of greater general importance, in spite of the purgation which the Legislature had recently undergone, encountered opposition of a serious character. The first of these, dealing with the government of the colonies, was opposed in the Tribunat on the ground that it re-established slavery. It ultimately passed that chamber by the comparatively small majority of 27, but was voted by a majority of 148 in the Corps Législatif. The passing of the second measure on the Legion of Honour is described in Chapter VIII. This latter was the last effort of the Legislature to resist the will of the First Consul.

The Senatus Consultum which proclaimed Napoleon Bonaparte First Consul for Life (4th August 1802) reduced the Tribunat to fifty members after the year 1804.

## CHAPTER IV

### CRIME OF THE 3 NIVOSE, AN. IX. (24<sup>TH</sup> DECEMBER 1800)—THE INFERNAL MACHINE

DECEMBER 1800—JANUARY 1801

ON the 3 Nivose, an. IX. (24th December 1800) the First Consul, accompanied by Generals Berthier and Lannes and his Aide-de-camp Lauriston, was driving to the Opera. In the Rue Saint Nicaise a small pony-cart was standing in a position which nearly blocked the passage. The coachman managed to evade the obstacle, although he was driving very fast. The moment he had passed a loud explosion followed which broke the glass of the carriage, threw down the horse of the rearmost of the guards, killed eight people, wounded twenty-eight others, and damaged forty-six of the neighbouring houses. The First Consul continued his course, and arrived at the Opera. Haydn's *Creation* was being performed that evening; at about the twentieth bar of the opening chorus the performance was interrupted by the noise of the explosion. When the First Consul a moment later entered his box, the news of what had happened spread rapidly throughout the theatre, causing universal alarm and confusion; but the calmness of the First Consul soon reassured the audience, and the oratorio was resumed. Suspicion fell immediately on the Jacobins, to whom the authorities at once imputed the crime. Police reports of six weeks' earlier were published, in which a dozen Jacobins or "Men of September" were named as dangerous, notably a certain Chevalier in whose possession had been found an infernal machine designed to be placed on a cart and exploded by a collision. Nothing more was needed to excite the public fury against these men, although they had been arrested and



THE EXPLOSION OF THE INFERNAL MACHINE, 21 DEC., 1809  
FROM A CONTEMPORARY LITHOGRAPH



confined in the Temple some weeks before this crime was committed.

On the 4 Nivose (25th December 1800) deputations from the Council of State, the Senate, the Corps Législatif, and the Tribunat waited on the First Consul at the Tuileries to congratulate him on his escape, and to demand the sternest measures against the criminals.

Boulay de la Meurthe, speaking in the name of the Council of State, said: "It is time to satisfy the will of the nation, and to take all the measures necessary for the maintenance of public order."

The Prefect of the Seine, at the head of the Mayors and General Council of the Department also came to congratulate the First Consul. "In your person," he said, "we have learned to respect the great Magistrate whom neither power nor flattery have been able to mislead." He attributed the crime to the "Men of September." Replying to the Mayors, Bonaparte said: "So long as this handful of conspirators were content to plot against myself alone, I desired to leave their punishment to the ordinary course of law; but when it comes to so unexampled a crime as this, which endangers the lives and property of the citizens at large, the punishment must be prompt and exemplary. A hundred or so of wretches who have disgraced the name of Liberty by the crimes they have perpetrated in its name shall be deprived of the power of doing further evil." After this meeting the First Consul discussed the affair with the Council of State, the Ministers of the Interior and of Police being present. Fouché, Minister of Police, declared that the plot was the work of Royalists aided by the English.

Bonaparte replied: "I do not believe a word of it. This is not the work of nobles, Chouans, or priests, but of the 'Men of September,' scoundrels steeped in crime, conspirators in open insurrection against each succeeding Government. They consist of working men backed up by painters and suchlike, men with imagination, a little better educated than the populace who live among them and work upon them." (An allusion to the plot in which Arena, Céracchi, and others now awaiting

their trial were implicated.) "These are the people who contrived the march on Versailles (October 1789) of September (1792,) the 31st May 1793, the Grenelle rising, and all the rest of the attacks on each successive Government."

Nearly all the members of the Council agreed with Bonaparte, and set to work to contradict and scoff at Fouché, who stood aside in a recess, silent, pallid, and nervous, hearing all that was said and making no reply. One of the Councillors going up to him said: "What does all this mean; why don't you answer?"

"Let them talk," replied Fouché. "I cannot afford to risk the safety of the State. I will talk when the time comes. He laughs loudest who laughs last."

The Sections of Legislation and of the Interior immediately formed themselves into a Committee to consider the question of creating Special Tribunals to judge cases of this kind. It was agreed that the best way to form such Tribunals was by adding a clause on the subject to the Law on Special Tribunals<sup>1</sup> then being drawn up. In the evening some of the Councillors called on the First Consul, who said—

"Yes; I agree with you. It is not necessary to pass a special law. The clause you speak of will answer very well. In any case, I can find the means to have these scoundrels tried by a Military Commission."

One of the Councillors represented to him that although he had said that morning that the explosion had been due to the Terrorists, there was as yet no evidence against any of them. Bonaparte persisted in his view, and repeated nearly all he had before said on the subject.

Dubois, the Prefect of Police, arrived, and Bonaparte accosted him with the words: "If I had been Prefect of Police when this happened I should be uncommonly miserable now." Dubois replied: "The duty of the police consists in preserving public tranquillity and preventing sedition; it is impossible for them to guess at what is passing through the mind of everyone they come across. Probably there were very few in this conspiracy.

<sup>1</sup> The Special Tribunals for the suppression of brigandage. See Chapter II.



Our only chance is to get one of them to confess and give us the names of the rest. We are doing all we can, and I hope for success."

Roederer, who was one of Fouché's bitterest enemies, said to Madame Bonaparte: "We cannot leave the safety of the First Consul in the hands of a Minister of Police who is surrounded by a gang of rascals; a pretty Minister of Police he makes."

Madame Bonaparte took up the defence of Fouché, and went on to say: "The most dangerous people for Bonaparte are those who fill his mind with ideas of founding an hereditary dynasty, and want him to get a divorce and marry a Princess." She was alluding, no doubt, to Lucien, who had gone on a mission to Spain which was rumoured to have for its object the negotiation of a marriage for his brother.

On the 5 Nivose (26th December 1800) the Sections of Legislation and of the Interior added an additional article to the Law on Special Tribunals, and inserted a clause giving the Consuls power to expel from Paris any person whose presence there they held to be dangerous to the public safety. Roederer maintained that Fouché had confessed to Madame Bonaparte that he had been concerned in a pamphlet entitled *Parallèle entre César, Cromwell, Monck, et Bonaparte. Fragment traduit de l'Anglais*,<sup>1</sup> which was well calculated to lead to the assassination of the First Consul. "I declare myself," he wound up by

<sup>1</sup> This pamphlet, which was written with considerable literary skill, was undoubtedly the work of J. P. L. Fontanes. Its object was to promote the policy of Bonaparte's brothers, Roederer, Talleyrand, and others in conferring on Bonaparte either the First Consulate for life or a crown. The pamphlet was widely circulated throughout France by Lucien Bonaparte, Minister of the Interior. Bourrienne asserts that Bonaparte himself wrote it with the assistance of Lucien; he says that a copy of the proof with corrections in Bonaparte's handwriting was seen by Fouché. In any case Bonaparte disavowed it, and shortly afterwards dismissed Lucien from his Ministry, and sent him on a mission to Spain, 6th November 1800.

The Marquis J. P. L. de Fontanes, born in March 1757, a well-known author of prose and verse, emigrated to England in 1797, where he became a friend of Chateaubriand, with whom he returned to France after the 18 Brumaire, and collaborated with Chateaubriand, La Harpe, and others in the *Mercur*. In February 1802 he was appointed by the Senate to the Corps Législatif. He became a member of the Institute in 1803. In March 1808 he was appointed head of the reconstituted

saying, "the enemy of Fouché. His relations with the Terrorists and the protection and posts which he has given to his old friends have encouraged them to commit this outrage."

The Council met at noon, the Consuls being all present. Portalis was about to read aloud the two new articles when Bonaparte interrupted him by saying: "The action of a Special Tribunal would be too dilatory and too technical. We must have a more striking expiation for such an atrocious crime; it must strike like lightning. There must be as many of the criminals shot as there were victims, say fifteen or twenty, and two hundred more must be transported.

"This is an opportunity of which we must take advantage to purge the Republic of them.

"The outrage is the work of scoundrels, the 'Men of September,' who have committed all the crimes of the Revolution. As soon as these people see their headquarters destroyed, and realise that fortune has deserted their leaders, they will return to decency. The working men will go back to their work, and the ten thousand men who belong to this party but who are not incapable of reformation will abandon it entirely. A great example is necessary to reconcile the middle classes to the Republic. It is absurd to hope for this so long as they are threatened by a couple of hundred wolves ready and waiting to spring at their throats. In a country where murderers and thieves remain unpunished and survive one crisis after another, the people lose their trust in a Government of honest, moderate, but timid men; they naturally try to come to terms with the criminals who have both the will and the power to do them hurt. It is to the metaphysicians that we owe all our troubles.

"Either we must do nothing, pardon as Augustus did, or we must take some great step to guarantee social order. We

University of France, and was created a Count, and in February 1810 promoted to the Senate. After the Restoration he became a Peer of France and a member of the Privy Council, and in 1817 Louis XVIII. made him a Marquis. He died in March 1821.

must finish with these wretches by condemning them for their accumulated mass of crime. After the Cataline conspiracy Cicero immolated the conspirators, and declared that he had saved the Republic. I should be unworthy of the great task which I have undertaken if I failed to show the utmost severity on such an occasion as this. France and Europe would laugh at a Government which allowed a whole quarter of Paris to be blown up and contented itself with an ordinary criminal prosecution.

“We must look at this matter like Statesmen. I am so profoundly convinced of the necessity of making a great example that I am quite ready to have these scoundrels brought before myself, to examine them, convict them, and sign their sentences. I am not speaking on my own account. I have faced much greater dangers than this; my fortune has preserved me hitherto, and I believe it will do so still. But this is a question of social order, public morals, and our national reputation.”

This speech entirely altered the question; it was no longer a case of legal judgment, but of transporting or shooting wholesale as a measure of public safety. And the victims were not to be those who had been tried and found guilty of this crime, but simply any who happened to be picked out haphazard as revolutionary scoundrels. Such violence was repugnant to the Council. The discussion went on languidly, and the delicate question of who were the real criminals was kept in the background as long as possible. Truguet<sup>1</sup> was the first

<sup>1</sup> Admiral Laurent Jean François Truguet, born 1752, was a naval officer of distinction before the Revolution. In 1791 he was sent to England to study the British system of naval organisation. In 1793 he wrote a strongly worded letter to the Convention on the growing naval insubordination, and was rewarded by being decreed a “Suspect” and imprisoned.

He escaped death, however, and after Robespierre's fall was promoted to the rank of Rear-Admiral and Minister of the Marine. After the unsuccessful expedition to Ireland in 1797 he was dismissed from the Ministry, and sent as Ambassador to Madrid. Recalled in May 1798, he delayed his return and was consequently placed on the list of *Émigrés*, but was radiated on the 2nd July 1799 at the instance of Talleyrand. He was appointed to the Council of State 20th September 1801. In 1802 he was appointed to command the combined squadron of French and Spanish ships at Cadiz, but was removed shortly afterwards for disobeying the First Consul's

who had the courage to raise this vital point. "No doubt," said he, "the Government should have power to deal with these wretches; but there are more than one set of them.

"It cannot be denied that the Émigrés are threatening the purchasers of national property, that fanatical priests are misleading the people, that the agents of England are hard at work, that the insurrection in La Vendée is springing up again, and that public opinion is being corrupted by pamphlets."<sup>1</sup>

*Bonaparte*: "What pamphlets are you talking about?"

*Truguet*: "The pamphlets which are openly circulating."

*Bonaparte*: "What are their names?"

*Truguet*: "You must know as well as I do."

*Bonaparte*: "These declamations are not to the point. The wretches we are talking about are known to everybody. They are the men of September, who have carried out all the crimes devised by scoundrels of a higher class.

"You talk of nobles and priests. Do you want me to proscribe whole classes of people? Am I to transport ten thousand old men simply because they are priests;<sup>2</sup> to persecute the ministers of a religion professed by the great majority of Frenchmen and by two-thirds of Europe?"

"When Georges (Cadoudal) tried to renew the Chouan insurrection the first people he attacked were the priests, who

orders to keep his ships constantly under sail. He himself attributed his disgrace to a letter which he wrote to Bonaparte when sending him the votes of his fleet on the First Consulship for Life. The letter ran thus: "In forwarding to you the votes in favour of your life-tenure, permit me to add my own personal opinion, which is to advise you to keep the title of First Consul, a title to which you have given a fame vastly superior to that of either King or Emperor." In 1804 he refused the Grand Cross of the Legion of Honour, and was consequently dismissed from the Council of State. He remained unemployed until 1809, when he was appointed Maritime Prefect, first at Rochefort and afterwards in Holland, where he was taken prisoner by a party of Cossacks. Louis XVIII. created him a Count in January 1815. He took no part in the Hundred Days, was created a Peer in 1819, and died at the age of 87 in December 1839. It will be seen from these Memoirs that he possessed in a high degree the art of irritating Bonaparte. He seems to have been a blunt, outspoken sailor with plenty of courage and temper, and not too much of the doubtful virtue of tact.

<sup>1</sup> A reference to Fontanes' pamphlet referred to above.

<sup>2</sup> Bonaparte here refers to the priests in Belgium and France imprisoned or transported by the Directory after the 18 Fructidor (4th September 1797).

have remained faithful to the Government. La Vendée has never been so quiet as it is now; if there have been a few outbreaks here and there, they are only due to the impossibility of putting an end all at once to private quarrels. Am I to dismiss the Council of State because, with two or three exceptions, the members, including even Citizen Defermon, are accused of being Royalists? Am I to send Citizen Portalis to Cayenne and Citizen Devaines to Madagascar, and to form a new council out of the friends of Babeuf? Do you take us for children; perhaps you would like me to proclaim 'La Patrie en danger'?<sup>1</sup> Has France ever been so prosperous as she is now since the beginning of the Revolution, the finances in better order, the armies more victorious, the interior more peaceful? I wonder to see men who have never shown themselves in the ranks of the true friends of liberty begin all at once to express such anxiety for freedom. And do not imagine Citizen Truguet, that you could save your own neck by pleading that you took up the defence of the patriots in the Council of State. These same patriots would murder you as soon as any of us."

After a quarter of an hour of this tirade, delivered with every sign of anger, the First Consul brusquely dismissed the Council. As he passed Truguet the latter tried to say a few words, but Bonaparte cut him short by saying: "Ah ha, Citizen Truguet, this sort of talk is all very well at Madame Condorcet's or Mailla-Garat's, but it won't pass in the Council which includes the most enlightened men in France." Truguet was not always tactful, and he may not have spoken judiciously, but we all felt sorry to hear such a crushing reply to a man of his standing; all the more so because this was the first occasion on which the freedom of each man's opinion had been met with such a tirade.

<sup>1</sup> A decree, first issued in July 1792, as a preparation for the 10th August. It practically proclaimed a state of siege, and suspended all civil law and civil authority. On the 13th September 1799 General Jourdan proposed that the Corps Législatif should pass such a decree, a proposal which struck with terror all those who had anything to lose or who feared martial law in Jacobin hands. The proposal was rejected, but the terror which it inspired was one of the causes of the enormous popularity of the Coup d'État of Brumaire.

On the morning of the 6 Nivose (27th December 1800) the Sections of Legislation and of the Interior were summoned to meet under the presidency of the Second Consul, Cambacérès. Before the proceedings began Roederer asked his colleagues to sign a circular which he had drawn up, attributing the outrage to the intrigues of Fouché with the Terrorists, and proposing his dismissal and the complete reorganisation of the police. Cambacérès informed us that the First Consul insisted on the necessity of giving the Government extraordinary powers, and desired us to draw up a Bill to that effect for the Corps Législatif.

The majority of the members persisted in their opinion that the additional articles to the law creating Special Tribunals for such crimes would be quite sufficient.

Portalis, in particular, spoke with great warmth against exceptional measures, which could only be temporary, and in favour of the Special Tribunals, which being of a permanent character must necessarily be more efficacious. Cambacérès insisted on our drawing up a Bill embodying the views of the First Consul.

“This will not prevent the Council,” he said, “from discussing the advantages or disadvantages of his plan. The First Consul likes discussion, if it is not too heated or epigrammatic.” The observation, aimed of course at Truguet, was just enough. The Bill was therefore drawn up. A private meeting followed, attended by the two Sections of the Council, as well as by the Ministers of Foreign Affairs, the Interior, and Justice. The First Consul, after repeating his arguments in favour of exceptional measures, put the question whether the Government should bring in a Bill or should act on its own responsibility. His own inclination seemed to be in favour of the former. Thibaudeau opposed bringing in a Bill, on the ground that the existing law was quite sufficient to meet the present case, and that unless the proposed law were made retrospective, and was thus clearly shown to be specially drawn up to punish the present crime, it could not be applied to the outrage of the 3 Nivose. The following dialogue between the First Consul and Thibaudeau followed—

*Thibaudeau*: "Suppose that this Bill is thrown out?"

*Bonaparte*: "In that case we should have done our duty. But it will not be."

*Thibaudeau*: "I do not know that. Putting aside the principle involved, the members of the Corps Législatif know very well who are the men against whom this law is aimed. But they may not be sure that these men are the authors of the plot. To put it mildly, opinions are divided on that point. Many attribute the crime to another party. If this opinion prevails the Bill will certainly be thrown out. Ought we to risk its rejection?"

*Bonaparte*: "There is no fear of that. The Deputies know very well that these men are as much their enemies as they are ours. The Corps Législatif is composed of members of the Centre of each of the former assemblies.

"They are the very deputies whom these 'Men of September' threatened to throw in the river when they refused to declare 'La Patrie en danger' before the 18 Brumaire. In the whole Corps Législatif there are not more than eight or ten Jacobins, all well known to me, who would vote in their favour."

*Thibaudeau*: "But these 'Men of September,' supposing them to be guilty, were certainly not the inventors of this plot. They were the instruments of some abler and more important leaders."

*Bonaparte*: "It is a mistake to suppose that the populace never act without leaders. They act on an instinct of their own. All through the Revolution it has been they who have led the chiefs who seemed to lead them."

*Thibaudeau*: "Yet they must have had some plans ready in case their plot succeeded."

*Bonaparte*: "Not at all. They simply said, let us kill Bonaparte, and then we can do what we please. They would have met together, rushed about the streets spreading terror everywhere, and formed themselves into Committees. Very possibly some men of higher rank, such as Barras, for instance, may have said to them: You act first and we will appear later

Mon cher, the great majority of educated men are hypocrites; of course, I except a few who really care for truth. As to the Chouans and Émigrés, they are already subject to exceptional laws. I can have any of them shot as I had Margadel.”<sup>1</sup>

Roederer, Regnault, and some others expressed their doubt whether the proposed Bill would pass. Regnault repeated conversations he had held with some of the members of the Tribunat. The First Consul replied: “You are everlastingly in the lobbies of the Tribunat. You are frightened because one or two of the laws we proposed have been rejected. The people are tigers when they are unmuzzled.

“I possess a dictionary of the names of those who have been employed in all the massacres.

“Once we have recognised the necessity of this measure it seems to me that we must secure it in the best way possible.

“The question reduces itself to this. The extraordinary powers we require are not in our hands at present. Who has the right to give them to us? If no one has this right, should the Government itself assume it?

“Citizen Talleyrand, what is your opinion?”

*Talleyrand*: “I would rather that the Government should act on its own initiative than that it should obtain a special law. It would produce a more striking effect, and would make people say that the Executive knows how to defend itself. Consider the inconvenience of any measure which does not admit of prompt and severe action. The trial of Céracchi has interrupted our diplomatic relations for six weeks, during which time the Emperor of Russia has given orders to suspend negotiations.”

The Minister of Justice (*A. J. Abrial*) expressed his opinion that the Government should take action without delay, and

<sup>1</sup> The Chevalier Charles Nicolas Joubert de Margadel, accused of concealing arms and of robbing a courier taking despatches from Paris, was arrested, tried before a Military Commission, and shot by order of the First Consul on the 19th November 1800. It was supposed that this summary method of proceeding was taken by Bonaparte to intimidate the other Chouan conspirators in Paris. If so, it was not a success, since the infernal machine was exploded six weeks later.



the Consul Lebrun agreed with him. Cambacérés gave no vote, but he let it be understood in the course of the discussion that he was in favour of a law. The majority decided that the Government had the power to act on its own responsibility. The whole Council of State then met. Portalis reported the decision of the Sections which was adopted; Truguet, Lacuée, and Defermon voting against it, and a few others giving no vote. The First Consul ordered the two sections to draw up a Resolution. We did so, but he was by no means satisfied with our work, and sent it back to the sections with directions to decide the following points:—

Should the prisoners be tried by a Military Commission or transported by a Special Commission; and should the Senate be consulted before the sentences were executed? The sections decided that there should be a Military Commission to try the prisoners, that no Special Commission was necessary to transport them, which should be done on the responsibility of the Government, and that the sentences should be reported after their execution to the Senate, the Corps Législatif, and the Tribunat. Boulay brought back to the two sections the opinion of the First Consul on their decisions. Bonaparte insisted that the Senate should be consulted before carrying out the sentences; his reason being that the Senate was the body charged with the duty of upholding the Constitution. It was not just that an irresponsible authority such as the Consuls, acting on the advice of another irresponsible body such as the Council of State, should order a Minister who was, under the Constitution, responsible for all his acts, to execute an unconstitutional sentence. On some future day the Minister might be impeached. The only way to guard against such a possibility was to obtain the consent of the Senate beforehand. In this way also the Second and Third Consuls would obtain a guarantee which might be necessary if the First Consul were assassinated and they were indicted for having acted illegally.

As he had said to the Second Consul: "Citizen Cambacérés, if I had been killed you would have had a devil to ride, and you are not very firm in your stirrups." Finally, this step was desir-

able [in the interests of liberty. He was convinced that the Senate would approve of the proposed measures. He therefore desired that a meeting of the Council of State should be held, over which the three Consuls should preside, and all the Ministers of State should be present. At this meeting the Minister of Police should make a detailed report upon the events of the 3 Nivose, giving the names of the criminals concerned in it, and bringing forward the measures proposed by the Government. The Council should debate and after coming to a final decision a deputation should convey it to the Senate, who without doubt would approve it; and the sentences would then be carried out. Before holding this meeting the two sections should draw up in advance the necessary papers and a *procès-verbal* of the session of the Council. The procedure proposed by the First Consul was agreed to.

Four days from the 7th to the 10th (28th to 31st December), were spent by the two sections in discussing the *procès-verbal*; our debates being greatly lengthened by the uncertainty as to who the real criminals were. The First Consul, as has been already said, persisted in throwing the guilt on the Terrorists; but Fouché had expressed a contrary opinion, not so much by his words as by his silence, his reticence, his innuendoes, and his patience when attacked; all of which had gradually induced in our minds a strong feeling of doubt, which developed into more than a suspicion that the infernal machine had been the work of Royalists.

If this really were so it seemed atrocious to proscribe and punish a large number of people who might have committed many crimes (which, however, were condoned by the general amnesty), but were altogether innocent of this particular outrage. Such reactionary methods were calculated to alarm all those who had taken part in the Revolution. During the meetings of the two sections the discussions became occasionally violent, and personalities were indulged in by one member or another. Réal, Fouché's intimate friend, declaimed against the proscription of the Terrorists, and accused Regnault of reactionary motives. Even Roederer, though he still continued to accuse Fouché of

trying to throw the blame on the Royalists, and of putting the Government on the wrong scent, was less positive in his charges against the Terrorists and the police.

On the 9 Nivose (30th December) Bonaparte himself showed that his belief in the guilt of the Terrorists was weakening. On that day he conversed for two hours in his private cabinet with the Consuls, the Ministers, and the Council of State. He said a few words in defence of Fouché, and insinuated that the English might have had something to do with the infernal machine. Indeed, from his whole manner of speaking it was easy to see that he knew more than he cared to say.

On the 10 Nivose (31st December) a preparatory session of the Senate was held. A large majority was in favour of the First Consul's proposals, including Sieyès, although he was said to have expressed an entirely different opinion in his previous conversation with Bonaparte. In the *Moniteur* of the 4 Nivose (25th December) three reports of the Prefect of Police had been published relating to the infernal machine, but these reports showed no knowledge of the real criminals, and related only to a plot which had been discovered two months before. In the *Moniteur* of the 11-14 Nivose (1st to 4th January 1801) a series of police reports covering the period between August and December 1800 appeared.

In these reports all those whom it was now proposed to proscribe as guilty, or capable of having been guilty, of the crime of the 3 Nivose were described under the epithet "Enragés." A record was given of all the meetings or speeches against the Consulate; the plot formed by Céracchi, Arena, and others to assassinate the First Consul, which had been discovered on the 18 Vendémiaire (10th October 1800) was fully reported, as was the arrest of Chevalier, in whose rooms an infernal machine containing 8 pounds of gunpowder and a quantity of scrap iron and broken glass had been found.

An account was given of his examination before Senator Monge, of his declaration that his machine was made for shipping agents at Bordeaux, and of the judgment of Monge to the effect that the machine was not designed to kill a single individual, but

to be discharged in some spot where it would kill and wound as many people as possible. Finally came a report from the Prefect of Police, saying that on the 1 and 2 Nivose (22nd, 23rd December 1800) the "Enragés" had been unusually active, but that no facts had been unearthed which would show definitely what their designs on these two days had been.

This series of reports was obviously published to confirm the suspicion that the Terrorists were at the bottom of the crime of the 3 Nivose, and to justify the measures which it was proposed to take against them. They contained no legal proofs or attested documents, but were vouched for by a report of the Minister of Police of the 11 Nivose (1st January 1801). Although convinced that the infernal machine was contrived by Royalists, Fouché, in this report, was weak enough to yield to the First Consul's attribution of the crime to the Terrorists. He wrote: "These brigands, against whom justice is now taking active steps, do not merely threaten certain individuals or certain classes of property. They are the open enemies of France itself; they are a standing menace to each French citizen, whom they threaten every hour to plunge into the horrors of anarchy. These wretches are few in number, but their plots and outrages are innumerable. These are the men who invaded the Convention, penetrating to the innermost sanctuary of the law; the men who have over and over again sought to make the Committees of the Convention their accomplices or their victims; the men who plotted to turn against the Directory and against Paris the troops who were designed to guard the safety of both. They are not the enemies of any one Government, but of all Governments. For the last twelve months all their efforts have been directed towards the assassination of the First Consul, either while he was on his way to his country house, or in the streets, or at the opera, or by gaining subterranean admittance to the Tuileries. This atrocious series of crimes can only be put an end to by an extraordinary and vigorous police measure. Not all of those who have been captured, or can be laid hands upon, by the police have been taken red-handed or armed, but all are well known as men capable of any atrocity. It is not merely a

question of punishing crimes already committed, it is still more a question of securing law and order for the future."

On the 11 Nivose (1st January 1801) a sitting of the Council of State was held, at which the three Consuls and all the Ministers were present. The First Consul opened the proceedings by saying: "We are about to hear three reports; the first from the Prefect of Police (L. N. Dubois), the second from a police agent in whom I have full confidence, the third from the Minister of Police on the hundred and twenty rascals who are a danger to law and order." On hearing a passage in the report of the police agent which related to a plot to introduce assassins into the ranks of the Grenadiers of the Guard, Bonaparte said: "I knew all about that, and on that day I went to the review."

According to the report of the Minister of Police, some of the criminals were to be sent for trial before a Military Commission, others transported or exiled.

The names of those in each of these classes were read.

*Bonaparte*: "The subject of discussion is whether all these people shall be subjected to one general measure."

A sombre silence ensued.

*Bonaparte*: "I shall put the question to the vote."

*Thibaudeau*: "I have listened with amazement to the list of names which has just been read. It is not possible for us to judge and condemn a number of individuals of whom we have no information whatever. This is not within our province. The only questions we have had before us are whether extraordinary measures are necessary, and if so whether the Executive Government should ask the Corps Législatif or the Senate, or should itself assume the power, to punish persons who have been proved guilty." Boulay supported my objections.

*Bonaparte* (interrupting): "I am not such an idiot as to propose that the Council should pronounce judgment on each individual."

*Roederer*: "The Minister in his report does not speak of the crime of the 3 Nivose. He says only that he has dis-

covered some clues. We must be careful lest we punish one party for what may have been done by another."

*Bonaparte*: "There are grounds for a strong presumption, though there are no actual proofs, that the Terrorists are the authors of this attempt.<sup>1</sup> The Chouans and the Émigrés are simply skin diseases, while the Terrorists are an internal disease. The Minister has not spoken of the crime of the 3 Nivose, because the measure before us is not directed against that outrage; it merely gives us an opportunity for the action we propose to take. It is our duty to profit by the present feeling of indignation. If the attempt had succeeded, the clergy and the émigrés would have been the first to suffer."

*Roederer*: "We must not be suspected of reactionary motives the fear of which has already been expressed in the Council."

*Bonaparte*: "It is not reactionary to root out the enemies of every form of Government."

*Regnault*: "It would be better to say at once that we do not know who were the authors of this attempt, but that whoever they were, we are determined to take from them the only weapons they can make use of. If we say that we hold clues to their discovery shall we not be met some day by the retort, why did you not wait until your clues brought you proofs against them?"

*Bonaparte*: "The Government is convinced, but in absence of legal proofs it cannot proceed against these individuals. We transport them for their share in the September massacres, the crime of the 31st May, the Baboeuf Conspiracy, and all that has happened since."

*Cambacérès*: "I see no reason for altering the report. The Minister is responsible. It would be misleading to speak of the crime of the 3 Nivose as being the motive for this measure, which is one of general utility. It will be carried out neither by the Council nor by the Consuls, but by the proper responsible authorities, the Minister and the Prefect of Police."

*Bonaparte*: "No doubt. The list has been read only in case anyone wishes to make any observations. I am now con-

<sup>1</sup> Thibaudeau's note.—Yet both he and Fouché knew that this was not the case.

sulting the Council as to whether an extraordinary Police measure is necessary." (Decided in the affirmative.) "Next, ought we to have a Law?"

Lacuée and Defermon maintained that since the measure was to be referred to the Senate, no Law was necessary. Truguet insisted on the necessity of a Law. (Decided that there should be no Law.)

Boulay then read the *procès-verbal* of the sitting drawn up by himself.<sup>1</sup>

After hearing it, Defermon asked: "Why state that the Act is referred to the Senate to decide whether it is constitutional?"

*Bonaparte*: "The Senate can neither add to nor alter it; its duty is only to declare that it is, or is not, in accordance with the preservation of the Constitution."

The Consuls sent this Act to the Senate, accompanied by a message relating to the attempt of the 3 Nivose, the report of the 14 Nivose from the Minister of Police, the Order in Council of the same date ordering the transportation from the territory of the Republic of the citizens whose names were appended.

These were a hundred and thirty in number; nine of them were stigmatised as "Men of the September massacres," the names of the remainder being unaccompanied by any description or accusation. Among them were several members of the Convention, Choudieu, Destrem, Taillefer, Thirion, and Talot; Rosignol, General of the Revolutionary Army, and Félix Lepelletier. The rest were for the most part obscure, almost unknown, names.

The Senate altogether outbid the Council of State, enlarging and widening the scope of the measure submitted to it. Its judgment ran thus: "Considering that the Constitution has not determined on the measures necessary to be taken in such a case as this; that, in face of the silence of the Constitution and of the Laws on the means by which such a daily menace to the safety of the State can be put

<sup>1</sup>I omit the *procès-verbal* of this sitting, which merely repeats in official terms the account given by Thibaudeau.

an end to, the will of the people can be expressed only by the authority specially charged with the duty of maintaining Acts favourable to the preservation of the Constitution, and of suppressing those unfavourable to it; it follows that the Senate, acting as interpreter and guardian of the Constitutional Charter, is the natural judge of the measure proposed to be taken by the Government. This measure has the advantage of being at the same time firm and indulgent, since on the one side it removes from the country the disturbers of the public peace, while on the other it gives them a last chance of amendment. The Senate therefore declares that the Act of the Government of the 14 Nivose is a measure in accordance with the preservation on the Constitution."

On the 16 Nivose (6th January 1801) the First Consul consulted the Council on these three questions—

1. Is the "Senatus Consultum" obligatory on the authorities?
2. How should it be promulgated?
3. Ought it to be communicated to the Corps Législatif and the Tribunat?

The Council decided affirmatively on the first question, after some discussion in the course of which Truguet said that it would be generally held that the Government and the Senate were deliberately ignoring the Corps Législatif and the Tribunat.

To this Bonaparte replied: "Suppose I went mad or committed a murder, would not the only body which could take action be the Senate?"

On the second question it was decided that the "Senatus Consultum" should be promulgated in the same way as Laws and Acts of the Government.

The third question was decided in the negative.

Throughout the Departments the news of the attempt of the 3 Nivose led to a universal search for plotters and their accomplices. Revelations poured in from every quarter. According to the reports of Prefects, the Terrorists had organised a vast conspiracy which would have led to a civil war throughout the country if the First Consul had fallen a victim to the infernal machine. A mass of evidence was promptly forth-



coming to prove that the Terrorists were everywhere involved in this conspiracy, and that the sternest means were necessary to prevent a recurrence of such outrages. I do not know that this evidence proved anything, but it ought to have served as a warning against popular rumour, and a lesson to the Government not to trust overmuch its own servants, always more ready to flatter its weaknesses or passions than to enlighten it by telling the truth. Although the First Consul knew how groundless these reports were, he was not ashamed to use them for the purpose of getting rid of the Terrorists. He had already made up his mind to concentrate all the power of the State in his own hands.

In accordance with his schemes he wished to make it known that his only internal enemies were the hated and discredited party which was supposed to be opposed to every form of Government. It is true that this party, beaten and powerless, was still alive and was quite capable of planning and executing the crime of the 3 Nivose, but as it happened it was not the guilty party on this occasion, and even if it had been, this scheme of transporting one hundred and thirty men without trial would have been an arbitrary, illegal, and monstrous abuse of power.

One month later, on the 11 Pluviose (31st January 1801), Fouché again reported on the crime. This time he had the criminals in his hands, and they proved to be royalist agents. In his report Fouché explained that at the time when the outrage was committed, and was universally believed to be due to the Terrorists, he had in his possession evidence to the contrary. He related the details of Georges Cadoudal's expedition from England to assassinate the First Consul, and the successive landing of his accomplices Carbon, Joyan, Limoelan, Saint-Régent, and others; he told the story of his unsuccessful attempt to arrest these conspirators on the 15 Frimaire (6th December 1800). Finally, he explained that a clue had been given to the police by following up the history of the horse which had drawn the cart containing the infernal machine, which had led to the arrest of Carbon, who had lain con-

cealed in a house belonging to two ex-nuns, Madames de Goyon and de Cicé. Carbon after his arrest had betrayed the names of his accomplices. There could no longer remain a shadow of a doubt as to the iniquity of the measures taken against the Terrorists. The report demonstrated with transparent clearness that Bonaparte and Fouché had punished one hundred and thirty individuals for a crime of which they both knew them to be innocent.

Fouché had never for a moment believed them to be guilty, while Bonaparte had clearly stated that if there were no proofs of their guilt on this occasion they ought to be transported for their share in the September massacres and in other crimes. But the case was different as regards the Councillors of State and the Members of the Senate, who had honestly believed that the Terrorists had committed the outrage, a belief which was shared by the country at large. In spite of the discovery that the real criminals were agents of the Royalists and of the English, the Government persisted in their proscription. As if to emphasise the arbitrary injustice with which they had been treated, the Royalist conspirators were legally tried before the ordinary Tribunals. Saint-Régent and Carbon were convicted and executed on the 1 Floreal (21st April 1801). The general feeling at the time was that the illegal sentences passed on the one hundred and thirty victims mattered very little.

They were men of infamous character, the dregs of a hateful party. The Councils, while coldly condemning the abuse of law in their case, took care not to show the smallest sign of sympathy with the condemned; while the people, accustomed by long habit to the melancholy spectacle of illegal proscription, applauded their condemnation as an act of expiation and reprisal on hateful criminals. They failed altogether to realise that, having once carried through such an abuse of power, it was an easy step for the Government to put in peril the individual liberty of anyone, however honourable or high-minded, who dared to oppose their action, and to end by endangering the safety of every class in the country.

After the judicial condemnation of Saint-Régent and

Carbon, those who had advocated legal methods, and still more those who had been condemned without a semblance of law, hoped for a revision of their sentences. Two of the victims—Destrem, provisionally imprisoned in the Île d'Oléron, and Talot, in the prison at Saumur—had recourse to Berlier, formerly their colleague in the Convention, now a Councillor of State. They begged him to obtain from the First Consul a reversion of their sentence. Berlier,<sup>1</sup> though he had never been a personal friend of Talot, felt an interest in him as a man whose head was more at fault than his heart. Of Destrem

<sup>1</sup> Théophile Berlier, born February 1761, practised as an Avocat at Dijon, and was elected to the Convention by the Department of the Côte d'Or. He voted for the death of Louis XVI., but otherwise remained silent until after the 10th Thermidor, when he appeared as a moderate, spoke frequently on legal questions, and was one of the Committee of Eleven who drew up the Constitution of the year III. Re-elected to the Council of Five Hundred, he escaped proscription on the 18 Fructidor, at which period he was acting as "Commissioner of the Directory before the Court of Final Appeal" (Cour de Cassation). He was re-elected in May 1798, took no part in the Coup d'État of Brumaire, but was shortly afterwards appointed to sit in the Section of Law of the Council of State, where he collaborated in the formation of the Codes. He was created a Count in 1806. During the Hundred Days he acted as Secretary of the Council of Ministry. After the return of Louis XVI. he was one of those who were exiled as a regicide who had also taken office during the Hundred Days. He took refuge in Belgium until the Revolution of 1830, after which he returned to Dijon, where he died, at the age of 83, in September 1844. His career bears a curious resemblance to that of Thibaudeau, though he never played so large a part in the Convention or Directory. In 1838 the editor of the *Biographie des Hommes du Jour*, when engaged in writing his biography, ventured to put to him two exceedingly delicate questions: "What were your motives in voting for the death of Louis XVI.?" and "How do you reconcile your title of Count with your antecedents?" Precisely the same questions might have been asked of Thibaudeau. Berlier's answers are too long to be given here, but they are worth reading, and will be found in tome iv. part i. pp. 176, 177 of the *Biographie*.

It is possible here to quote only one curious sentence in his defence of his vote for the King's death. "Considering the public excitement then at its height, I was, both at the time and now, convinced that it would have been impossible to take so great a personage as the accused out of prison and conduct him safely to the frontier. Such an attempt, in my opinion, would inevitably have put many lives in danger without saving the King himself."

Thibaudeau's note.—When the Council of State was being organised after the 18 Brumaire, the patriots complained that the majority of the Councillors selected were Royalists. The First Consul said one day to Madame Monge: "You will be pleased with me to-day; I have nominated three Jacobins to the Council." "Who are they, Citizen Consul?" "Réal, Brune, and Berlier."

he knew very little, but he was moved to compassion by the tears of one of his twelve children. Moreover, the whole transaction had been hateful to him, and seemed even more offensive to his sense of justice now that the real conspirators had been convicted. He therefore determined to ask the First Consul for an audience, which was granted him towards the end of Prairial (June 1801). When he explained his object Bonaparte showed some signs of surprise and even of displeasure. After a brief pause the following conversation took place—

*Bonaparte*: "Have you thought over the consequences of your proposal? Don't you see that if I make any exceptions I shall be overwhelmed with petitions in favour of all the rest; why, in a short time I should find myself compelled to open the doors of France to every one of those who have been condemned by the 'Senatus Consultum' of the 15 Nivose?"

*Berlier*: "My imagination, Citizen Consul, has not flown so far; but even if it were so, should you think it an unmixed evil?"

*Bonaparte*: "You astonish me. Do you understand what manner of people these are?"

*Berlier*: "Personally, I know only the two on whose behalf I am appealing to your sense of justice. But I am bound to say that in my opinion every one of them has a right to appeal against a sentence pronounced without any legal trial."

*Bonaparte*: "There is not one of them who would not have been sentenced to death by any Court of Justice for his crimes during the revolution. These scoundrels have covered the face of the country with scaffolds and mourning. I maintain that the way in which they have been dealt with is not so much a punishment as a favour."

*Berlier*: "They have not asked for favours of this sort."

*Bonaparte*: "Would you have the Government give them their choice? But, after all, has not the highest authority of the country (the Senate) given judgment against them?"

*Berlier*: "To all appearance, Yes; but in reality their judg-

ment was given on your *ex-parte* statement without any legal indictment or evidence."

*Bonaparte*: "You are talking like a lawyer; I like a statesman. I am content with the approval of all good citizens, that is to say of all that great mass of people who are in favour of law and order. I recognise their voice as that of France itself, and I find that they approve the measures I have taken to rid them of the everlasting authors of all our troubles. It matters little to me whether the Jacobins like what I have done or not." Berlier, appreciating this sarcastic utterance, turned to go when Bonaparte said to him with more geniality—

*Bonaparte*: "Come, come, Citizen Berlier, don't take my words too much to heart. There are plenty of good Jacobins; there was a time when every man who had a soul worth saving was bound to be one. I have been one myself, just as you and thousands of other excellent people have. But men of this type, though they have never given up their liberal principles, have never been simple stirrers-up of mischief.

"The really bad Jacobins are those incorrigible people who dream of nothing but destruction, while we are bent on reconstruction. I don't confound you with people of that sort."

After a few words of reply Berlier retired. A fortnight or three weeks later Bonaparte, after a meeting of the Council of the State, beckoned to Berlier to come to his study, when the following conversation took place:—

*Bonaparte*: "Well, Citizen Berlier, your grand patriot Destrem turns out to be a Royalist in disguise. He sat on the right in the Legislative Assembly, and the police, who have been inquiring into his case, find that in the early days of the Revolution he figured at Toulouse as an aristocrat of the first water."

*Berlier*: "Citizen Consul, even though all you say of him were perfectly true, and if I had known it all, it would not have altered in the smallest degree my petition in his favour. My request was due rather to my principles and to my respect to yourself than to any personal feeling for a man whom I hardly know.

"I will say no more, Citizen Consul. I do not wish to renew a discussion which is disagreeable to you. I prefer to believe that I have made a mistake."

*Bonaparte*: "That is to say, in polite language, that you don't believe what I say. Explain, I beg of you, and speak with perfect freedom."

*Berlier*: "Since you ask me to speak freely, Citizen Consul, I will say at once that I cannot reconcile to my conscience the idea of a sentence of transportation pronounced upon a man for a crime which he has not committed. Even when the construction of the infernal machine was unknown this measure seemed to me arbitrary and dangerous; but now, is it not obviously unjust?"

*Bonaparte*: "Your reasons would have had some foundation if the attempt of the 3 Nivose had been the cause of the transportation of these one hundred and thirty Terrorists, but the 'Senatus Consultum' does not say a single word about this attempt: it sentences them for their conduct during the Revolution."

*Berlier*: "But is not the 'Senatus Consultum' founded on the crime of the 3 Nivose, and on the consequent necessity for extraordinary measures?"

*Bonaparte*: "Certainly not"; and taking up a copy of the *Bulletin des Lois* he pointed out to Berlier that the crime of the infernal machine was not once mentioned in the text. Then, turning to him with an air of triumph, he continued: "Well, Citizen Berlier, what becomes of your argument now?"

*Berlier*: "I acknowledge that the Senatus Consultum does not expressly name the crime of the 3 Nivose; it merely speaks in general terms of the necessity of purging the State of those who endanger its existence, but all the world knows that unless that crime, committed by Saint-Régent and Carbon, had taken place, the question of transporting Destrem and Talot would never have arisen. Moreover, the coincidence of dates is enough to show the influence which the affair of the 3 Nivose had upon the law of the 15th."

*Bonaparte* (laughing): "Ah ha, Mr. Lawyer, you won't allow that you are beaten," and so closed the conversation.

Bonaparte this time was in a better humour than before, but the result was quite as unsatisfactory for Berlier's unfortunate clients.<sup>1</sup>

In common with all who were brought into close contact with the First Consul, Berlin was by this time convinced that he was absolutely opposed to Royalism or reaction of any kind, but there could be no doubt that he dreaded the Jacobins much more than the Royalists. About this time he was heard to say: "With one company of grenadiers I could send the whole Faubourg St. Germain flying; but the Jacobins are made of stronger stuff, they are not to be beaten so easily. And his words at the meeting of the Council of State on the 11 Nivose (1st January 1801) will be remembered—"Chouannerie and the Emigration are skin diseases; Terrorism is an internal malady."

<sup>1</sup> Destrem died at the Île d'Oléron in 1803, immediately after his son had succeeded in obtaining his release. Talon was more fortunate; he regained his liberty, and received a post under Government in 1809.

## CHAPTER V

### THE ÉMIGRÉS—THE ARMY AND NAVY—THE COLONIES

1800-1802

[*EDITOR'S NOTE.*—No chapter in the history of the Revolution has been so misstated or misunderstood as that relating to the Émigrés. Those Émigrés, for the most part nobles in opposition to the Revolution, who left France in the summer of 1789, and who formed the nucleus of Condé's army were, of course, guilty of treason, and in any country would have received treatment similar in kind if not in degree to that meted out to them in France. But these Émigrés formed only a small proportion of the total number of those whose names were in the lists. An outside estimate places all who bore arms against their country, or in any way assisted the enemies of France, at 20,000, whereas the total number of those on the lists of Émigrés in 1800 was stated by the Minister of Police to be at least 145,000, vast numbers of whom had never left France at all.

In addition to these was a penalised class of some 300,000 persons, who as relatives of Émigrés were deprived of all civil rights, and were liable to special police supervision and fines. When Bonaparte became First Consul there were upwards of three hundred laws extant relating to Émigrés and their relatives. Their general purport was to condemn all Émigrés to perpetual banishment, and to confiscation of all property or right of succession. The Émigré who returned to France was liable to immediate death, with no further trial than personal identification. Those subjected to these drastic measures of confiscation and death were all persons whose names appeared in the lists of Émigrés, drawn up from time to time by the officials of each commune, except such as had been "radiated" by the proper authority. At first these lists were carefully drawn up and published, but under the Terror all supervision ceased, and from early in 1793 to the end of the Directory the lists were constantly growing. In many communes all persons not actually present at certain dates were entered; everywhere private enmity, local jealousy, or mere recklessness were at work to swell the lists.



After the rising of the large towns in 1793 the greater number of the inhabitants of Lyons, Marseilles, Bordeaux, Orange, and Toulon were decreed guilty of emigration, as were thousands who fled before the Terror from Strassburg, Nantes, and other places. Bonaparte mentions the case of Monge, who while serving as Minister of Marine discovered that his name was on one of these lists; and there were hundreds, perhaps thousands, of similar cases in which soldiers serving abroad or civilians in Paris or elsewhere found themselves condemned by their native commune as Émigrés. The insuperable difficulty in repealing or modifying these laws during the Convention or Directory lay in the fact that the forfeited lands of the Émigrés and clergy formed, in the absence of any complete system of taxation, the only resource on which the Government could draw. It was by means of this property that the Republic was enabled to carry on the war with Europe. It formed, moreover, the greater part of the national domain on the security of which the assignats were issued. A large proportion of the lands and houses of the Émigrés had been sold, and the purchasers constituted the main supporters of the existing Government.

During the first two years of the Directory, 1795-1797, the Constitutional party in the Corps Législatif, though they fully acknowledged the iniquity of these laws, did not dare to advocate a general amnesty. All that they ventured to attempt was to repeal the law which deprived the relatives of Émigrés of their civil rights, and to take the power of *Radiation* from the Directors and place it in the hands of the Judges, or in those of a Committee of the Corps Législatif. This was bitterly opposed, partly no doubt because these *Radiations* made up a considerable part of the plunder collected by Barras and his satellites. Any hope of reform was finally frustrated by the Coup d'État of the 18 Fructidor (4th September 1797).

The Law of the 19 Fructidor, passed under compulsion by the terrified remnant of the Corps Législatif, ordered the rigorous execution of the Laws against Émigrés, and during the two following years upwards of one hundred and sixty men and women accused of being on the lists were summarily shot on identification.

In the course of the following chapter Bonaparte says: "Until I came into power I knew nothing of the Laws against the Émigrés." He had, however, had one object-lesson. While at Toulon on his way to Egypt in 1798 he witnessed the death of a crippled old man, who, without any form of trial beyond identification, was carried in a blanket to a suburb, and there shot by a party of soldiers. Bonaparte immediately issued a general order to the army under his command, which

began with the words: "I learn with profound grief that men seventy or eighty years old, and women with young children, are being shot on the accusation of emigration. Is it, then, true that the soldiers of liberty are being turned into executioners?" One of his first public acts as First Consul was to release the Duc de Choiseul and some other *Émigrés* who had been shipwrecked on the coast near Calais and retained as prisoners by the Directors against the judgment of the Supreme Courts. Shortly afterwards, 3rd March 1800, he caused a law to be passed closing the lists of *Émigrés* from the 31st December 1799. The history of his subsequent dealing with the question, as told in the following pages, perhaps requires a word or two of explanation.

The Constitution of the year VIII. expressly forbade the return of the *Émigrés*, in the interests of the purchasers of National Property. In spite of this clause of the Constitution, Bonaparte by a series of enactments secured to these purchasers all property which had been genuinely bought and paid for. He then divided the *Émigrés* into two classes,—the larger, consisting of those who had taken no active part against their country; the smaller, of those who had actually borne arms against it.

By an Order in Council of the 20th October 1800 the names of all those in the larger list were *radiated*. Finally, on the 26th April 1802, a *Senatus Consultum* was issued granting a general amnesty to all except those who had taken office abroad or had led insurrections against the Republic, the possible number exempted being limited to 1000 persons.

All other *Émigrés* were required to return to France (if they had ever quitted it), and to swear an oath of fidelity to the Constitution before the 23rd September 1802. All who obeyed this injunction were entitled to take possession of such portions of their property as remained unsold or had not been applied to Government purposes.

The credit of this act of justice and statesmanship must be attributed to Bonaparte himself. Among the politicians and men of the Revolution by whom he was surrounded, hatred of the *Émigrés* had developed into a sort of religion. Thibaudeau serves as a good example. He was in the main an honest, fair-minded man, but he was absolutely incapable of understanding the first principles of either honesty or justice when *Émigrés* or Priests were in question. In his *Memoirs* of the Directory he deliberately puts forward as his final judgment that nothing can be done for the innocent *Émigrés*, lest in assisting them some of those guilty of taking arms might succeed in obtaining *radiation*.]

THE Constitution maintained in force the laws against the Émigrés, but, reassured by the leniency of the Consular Government, large numbers flocked from all sides into Paris asking permission to return. A Commission was appointed to examine the petitions for "radiation." They began by decreeing that the claims of members of the Constituent Assembly should be the first considered. A law was also passed finally closing the lists of Émigrés.

During the campaign of Marengo the Commission reported in favour of a number of radiations which Cambacérès, in Bonaparte's absence, signed. Among the names struck from the lists were those of several men of high rank who had borne arms against France. On his return from Italy Bonaparte was highly dissatisfied with these radiations. He vigorously reprimanded Cambacérès, the Commission and the Ministers, and ordered measures to be taken to prevent such an abuse in future. He consulted Berlier as to whether it was not possible to revoke radiations passed in opposition to the law and to the intentions of the Government. Berlier began by explaining that Cambacérès had signed these radiations only after he had been advised by men of unquestionable honour and probity, and added that, so far as he could see, the Commission had acted in accordance with the legal formalities prescribed to regulate their proceedings.

On the First Consul's table were some bundles of papers relating to the radiations to which Bonaparte objected.

Taking up one of them, Berlier pointed out that all the certificates of residence in France were duly and legally witnessed and signed. "We ought to have such witnesses as these hanged," was Bonaparte's reply. Berlier proceeded to say that it seemed to him impossible to revoke these radiations without first taking criminal action against the witnesses and securing their conviction for perjury. "Shall we do this?" he continued. "I doubt whether we should find evidence enough to convict them. My advice would be to let what has been done alone, and to take better care in future. It will not do the Republic any great harm to have five or

six more of her enemies in her midst; there are thousands of them in France."

Somewhat unwillingly Bonaparte consented to follow this advice, and the conversation then turned on the general question of the laws against the *Émigrés*.

*Bonaparte*: "How are we to get out of this labyrinth? There are some 100,000 names on this wretched list; it turns one's brain to read them. The worst of it is that the most important, and those most hostile, are the first to escape, because they have the money to buy their witnesses. Consequently the duke is struck off the lists and the penniless working man remains on them. It is a pitiable paradox. I want to see the small fry eliminated by some system of classification which will enable the lower classes to escape, instead of helping only the rich.

"The *Émigrés* of 1789 and 1791, those who were really guilty of treason against the nation, all belong to the upper classes. The lists must be reduced by three-quarters so as to contain only the names of our real enemies. Then we shall know who they are, and they will no longer be able to escape by stirring up the muddy water." The conversation then turned on the means to be employed, and it was settled that the social status of each person on the lists should be stated, together with the date when he left France.

But such a task as this could not be improvised. "We must mature our scheme," said Bonaparte when they parted.

Berlier went direct to Cambacérès, who was greatly relieved to hear that the First Consul's wrath was appeased. He at once set to work to carry out his design. The task occupied some months, and was then brought before the Council of State and passed on the 28 Vendémiaire, an. IX. (20th October 1800). It divided the *Émigrés* into two classes; all those in the first class, which was much the larger, were at once eliminated while those in the second class were still retained on the lists. Cambacérès was personally against the scheme. Addressing its principal supporters, he said: "Each of you have some fifteen or twenty friends among the *Émigrés* whom you want to help; but when

they are free you will see what will happen. You will not be masters of the situation any longer."

He said on this occasion to Bonaparte: "The existence of the Government will not be secure until we have around us a hundred or so of the men of the Revolution and their families, rich, respected, and high in office, to act as a counterbalance to the Émigrés."

This Order opened wide a door for Émigrés, but so great was the number of those who wished to return in safety that a continuous struggle ensued between the authorities and the Émigrés awaiting radiation. The Minister of Police, with as much publicity as possible, arrested and sent out of the country a certain number of Émigrés who had returned without permission or had threatened the purchasers of their former properties. At the same time, he unostentatiously assisted all those who asked for radiation, whether they were on the second list or not.

The discussions on the Civil Code were now engaging the sittings of the Council of State. The title on the "Enjoyment of Civic Rights" brought up afresh the case of the Émigrés (who were deprived by the existing laws of all civil rights).

The Committee which had drawn up the Code had eluded the difficulty, or rather had implicitly repealed the laws against the Émigrés, by their silence regarding them. In the discussion on this subject Bonaparte said: "In all countries and in all ages there have been laws like those against the Émigrés. We must not ignore their existence. We need not hesitate to accept them as exceptional laws dealing with the diseases of the body politic." Lebrun said that they were revolutionary laws.

*Bonaparte* (with vigour): "What country has not got its revolutionary laws? Look at England, with its Test Act and its Irish laws. 'Revolutionary!'—it is only a word. There are five or six thousand Émigrés whom we are not going to allow to return and disturb the proprietors of their former property. They will have to pass over our dead bodies first."

Yet the radiations were continuing steadily. They had already brought back to France many of the five or six thousand

Émigrés whom Bonaparte declared his intention of keeping on the list.

On the 24 Thermidor (12th August 1801) Bonaparte brought before the Council an Order decreeing that woods of 300 acres and upwards formerly belonging to Émigrés must still be maintained as national property.

On this subject he said: "The Émigrés who have been radiated are cutting down their trees, either because they are in need of money or because they want to send money abroad. I am quite willing to see these Émigrés return, but I do not intend that the bitterest enemies of the Republic, the defenders of worn-out prejudices, should recover all their fortunes and despoil the country.

"Our forests must be preserved in the interest of the nation. They are wanted for shipbuilding, and their destruction is contrary to all the principles of economics. We have no desire to confiscate these woods without indemnifying their owners. They shall be paid for as best we are able, and by degrees. Progressive payments will be a further means of keeping the Émigrés in order."

Defermon said that the Émigrés who were first radiated were getting the best of it, though they were by no means the most deserving.

Regnault represented that the Order under discussion was the necessary result of the abuses which had taken place in radiating names from the lists of Émigrés.

*Bonaparte*: "I enjoy hearing all these complaints about the radiations. Pray, how many of them have each of you asked for? It could not be otherwise; there is no one who has not friends or relations on the lists. Moreover, the lists never were lists of real Émigrés, but only of those who were absent.<sup>1</sup> I have myself seen on them the names of Members of the Convention and of Generals. Citizen Monge was on one of them. These declamations are only rhetorical.

<sup>1</sup> As has already been explained, the later lists of Émigrés were drawn up by the authorities of each commune. In many cases the Mayor, or whoever drew up the list, would enter as an Émigré any proprietor or householder or other inhabitant who happened to be away at the moment. This is what Bonaparte means when he speaks of "Lists of the absent."

"If you were a member of the Consulate or a Minister you have done just as we have. Before denouncing the Government, try to put yourselves in its place."

*Defermon*: "In any case, it would be well to make some allowance to the children (of Émigrés), to conciliate public opinion."

*Bonaparte*: "What do I care about the opinion of drawing-rooms and their tittle-tattle? The only opinion I care for is that of decent peasants (*gros paysans*); all the rest is worth nothing. Try to look at this question from the political not the legal point of view. When I became Consul I knew nothing about the laws against the Émigrés. Sieyès laughed at my ignorance. The laws are there, and all that we can do is to take into consideration the interests of families whenever we issue an Order."

Several members expressed their conviction that a law (in contradiction to an Order in Council) should be passed on the subject and demanded that the matter should be referred to the Section of Finance of the Council.

*Bonaparte*: "I don't want any law; if we asked for one we should have to set forth some dangerous truths.

"Nor do I wish to refer the matter to the Section of Finance. That would cause delay, and the destruction of the forests must be stopped at once. This measure is my own, and I want it to be known that I alone am responsible for it."

The Council passed the Order almost with unanimity.

Bonaparte then brought forward a second Order dealing with houses of Émigrés which had been taken for the use of one of the Public Services.

*Regnault*: "I go farther. I maintain that to take a house for the public service is the same thing as to sell it."<sup>1</sup>

*Bonaparte*: "That is so like you. When we want to help the Émigrés you find that we are not doing enough for them

<sup>1</sup> This is rather obscure. Bonaparte's proposition was to pay a part of the value of houses taken for public use. Regnault's, that such houses should be treated as sold; property belonging to Émigrés which had been sold being absolutely the property of the purchasers.

and when I propose anything against them you want to go a step farther."

The Council adopted the second Order unanimously.

On the 12 Vendemiaire (4th October 1801) Bonaparte, after a tirade against the Théophilanthropists, said: "What is this pamphlet by Lasalle, on the Order relating to the woods of the Émigrés?<sup>1</sup> I have not read it myself, but I have seen the account of it in the *Gazette française*, which gives the names of the booksellers who supply it. I believed at first that it was by that crazy creature Delille Desalle of the Institute, who proposed that we should consult the nation as to whether they wanted the Bourbons back. But this Lasalle is in the police." Turning to Fouché he continued: "He is the man whom you recommended to me to fill the post of Commissioner of the Police at Brest or Marseilles. At your request I sent him to Brest, and then had to dismiss him."

*Fouché*: "It was not I who recommended him. I can tell you who it was."

*Bonaparte*: "The man says that I was induced to give this Order by the Generals who throng about me. All Europe is to be told that I have a Council of Corporals. Why, there is not a man in France who is more of a civilian than I am. It is an insult to the Generals as well as to me. The Order was given solely in the interest of the nation; if this man chooses to criticise it, well and good, but lies like these are more than I ought to stand. If he had been a Chouan you would have had him in the Temple long ago. I see what it all means. I find these people everywhere. The moment the price of the loaf goes up they all begin to howl at me as if I were responsible. Well, if this goes on I shall take my sword and cut the Gordian

<sup>1</sup> Lasalle's pamphlet, entitled *Sur l'Arrêté des Consuls du 24 Thermidor relatif aux lois des prévenus d'émigration*, Paris, 1801, was widely read throughout France. Henri Lasalle was appointed a Commissary of the Central Bureau of Police, 4th September 1797; afterwards Commissary General of Police at Brest, from which post he was recalled in 1800.

He remained unemployed during the Consulate and Empire, but in July 1815 was one of the eight commissaries who were commissioned to regulate the police in the Departments.



knot. . . . That man Méhée,<sup>1</sup> one of the September murderers, has been allowed to publish a paper; I have it over his own signature. These are the sort of people who are protected. Is it my business to manage matters of this kind? They are police business; I ought never to be troubled with them."

*Fouché*: "The police are on the lookout."

*Bonaparte*: "And so am I. Do you suppose because I am staying at Malmaison that I know nothing about what is going on? I don't depend on your police. I do my own police, and I am on the watch until two o'clock in the morning."

*Fouché*: "Lasalle is not one of the 'Patriots' at all. He is just an intriguer at large. He has thrown himself into the arms of the Émigrés. If I had locked him up in the Temple I should have given him more importance than he deserves. Besides, he is my personal enemy."

Six months later the Senatus Consultum (26th April 1802) granting an amnesty to all the Émigrés was passed.

After hearing a report by Boulay the Council of State decided that the Émigrés amnestied by the law had no claim to property to which they would in the ordinary course have succeeded during the time when they were still Émigrés, such properties belonging to the nation. The First Consul ordered the Sections of Finance and Legislation to solve several questions relative to the Émigrés and to their creditors. The Émigrés demanded a share of successions which had fallen in either during their absence or since the Law of Amnesty had been passed.

<sup>1</sup>J. C. H. Méhée de la Touche was one of the Secretaries of the Commune of Paris in September 1792, and in this capacity countersigned an order for the payment of fr. 48 each to a number of men who had "worked in the prison of the Abbaye" (in massacring the prisoners) on the 2nd and 3rd September.

In 1814 Méhée published a *Mémoire* on this subject, in which he details a long conversation (presumably imaginary) which he had held with Madame Beauharnais (the Empress Josephine), in which he succeeds in exculpating himself. In 1803 Méhée was employed both by the Cadoudal Conspirators and by Bonaparte, to whom he gave valuable information. After the execution of Cadoudal he had the courage to publish the story of his own double treachery under the title of *Alliance des Jacobins de France avec le Ministère anglais*. After an adventurous career of journalising, plotting, penury, and lying he died in Paris in 1826. The newspaper to which Bonaparte alludes was entitled *L'Antidote ou l'année philosophique et littéraire*, only two numbers of which were published.

The Sections decided that they had no claim to such successions, for the following reasons:—

1. Because the Law of Amnesty restored to the *Émigrés* only *their own* property, and the successions to which they laid claim were not and had never been *their own*.

2. Because the law had not removed the effect of *Civil death* (*Morte civile*), to which they had been subject during the period of their emigration.

3. Because the amnesty, though general, was not applicable to any individual until the actual date when he or she received the certificate of release.

As to the debts of the *Émigrés*, the Sections decided that creditors were free to proceed against any *Émigré* who had received back his property.

Treilhارد and Defermon presented this judgment of the Section to the Council.

Petiet and Lebrun protested against the interpretation given to the words *their own*, which they stigmatised as mere chicanery. In answer, the principle of *Civil death* was urged as a reason why they could not inherit while under that sentence.

*Bonaparte*: "I have a proposal to make to which I think we can all agree. The nation must not give up those properties which it has inherited, but it can and ought to pay the creditors of the *Émigrés* out of them." There were practical difficulties in carrying out this suggestion which formed the subject of long discussions, but *Bonaparte* insisted that the State must not allow the creditors to suffer while it retained the money from which they should be paid. To do so, he urged, would turn the creditors into partisans of the *Émigrés*, and enemies of the Government. The matter was referred back to the two Sections, and was ultimately settled by an Order in Council of the 3 Floreal (23rd April 1802), which decreed: "1. That after June 1802, direct or collateral successions falling due to the Amnestied *Émigrés* or to their heirs should be paid to the person to whom they were due, without any claim upon them by the Government.

"2. That all debts due to the Republic by the amnestied

Émigrés should be cancelled if it was proved that the Treasury, during their emigration, had received an equivalent for the sums due.

“3. That the creditors of Émigrés should be paid by the Government out of the proceeds of their estates accruing before the amnesty.”

Although we were now (1801) enjoying a time of peace, the First Consul was one of those who never slept. He knew well that the only way to maintain the reputation of France as the foremost of European Powers was to keep up both the numbers and efficiency of the army.

The Section of the Council on Military Affairs was ordered to present a Bill on the conscription. They drew up a project which was designed to place all the young men liable to conscription in military classes, and subject them to military discipline under retired officers pending the time of their incorporation in the regular army.

The result of this plan would have been to transform the rising generation into a race of Mamelukes. Emmercy and Thibaudeau opposed it on account of the injury it would cause to education, the arts and sciences, commerce, and the liberal professions.

Some modifications were made to suit our views, but in its main principles it remained the same when it came before the Council. Bonaparte thus expressed his opinion of it: “You tell us that the employment of retired officers will not cost much. I know better. As soon as they go on duty they will begin to worry us for more pay and allowances, and after a few months of resistance we shall be obliged to yield to their importunity.

“This is what happened in the case of the retired officers who were employed in the Councils of War. Moreover, these half-pay officers will want to keep the conscripts in their own part of the country; they will sacrifice the spirit of the army to local prejudices. I have another plan. I propose to place the conscripts under officers on the active list, temporarily seconded from their regiments, each of whom will be responsible for the

training and drill of the conscripts who are to be drafted into his own regiment. They will teach them the true *esprit-de-corps* of the regiment they are to join. They will act under the stimulus of their own superior officers, and will take care, for their own credit, to get their men ready as quickly as possible, to send only conscripts fit for service, and to prevent desertions.

“Everything will be arranged between the Commanding Officer and his subalterns, and there will be no need for the interference of the Minister of War, who has no time to devote to such details. The work of selecting conscripts I propose to leave entirely to the municipal authorities as a part of their duty. The business of the Military Officer will be confined to seeing that the men sent to him are fit for duty. The civil authorities are less likely to act unjustly, and less liable to corruption than the officers who are only temporarily employed in one place and don't care what is said of them after they have gone away. The idea of organising auxiliary battalions out of young men before their service, will not do at all.

“The conscripts' minds would be filled with local prejudices, which are clean against the spirit of the army. Besides, we do not want such masses of men in time of peace. We need only men enough to keep the regimental establishments up to their full strength; the rest can remain free. The last thing I want to do is to cause unnecessary discontent and annoyance. We must think of the arts, science, and trade. We are not Spartans. We need do no more than organise a reserve in case of war. Twenty-five or thirty thousand men are enough for that. On the question of substitutes, we must allow them. In a nation in which all fortunes are equal, every man must of necessity give his personal services, but among a people whose existence is based on the inequality of wealth, it is essential to allow the rich to buy substitutes. All we need is to make sure that the substitutes are fit for service, and to secure a share of the money paid for them for the equipment of the conscripts forming the army of reserve. The details in the project before us relating to recruiting for the cavalry and artillery are superfluous. Frenchmen are as well adapted for one arm as for another.

“The cavalry will find more volunteers among the conscripts than they need. The only point we shall have to see to is that a sufficient number of mountaineers are drafted into the Light Infantry. That is my opinion of the system we ought to adopt.”

The great majority of the Council heartily agreed with Bonaparte's views. Even among the members of the Section of Military Affairs only Dumas argued in favour of their own project. A Bill was drawn up in accordance with the First Consul's views, and presented to the second session of the Corps Législatif, which passed it without demur. It ordered a Levée of 120,000 conscripts, 60,000 of whom were to complete the regimental cadres and 60,000 to form an Army of Reserve. In case of war the conscription was to be raised to 150,000 men. As a modification of the existing system the duties of raising and settling the destination of the new conscripts were assigned to the authorities of Departments, Arrondissements, and Communes.

Speaking of his own creation, the *École militaire*, Bonaparte said: “The establishment of the new Military School will lighten the burden of conscription. Conscription breaks up the education of a boy in order to make a soldier of him, but in this school he will be able to go on with his education. The school will also help the cause of science; it will give us well educated officers who will be none the less soldiers on that account. In the old Military Schools young men learnt nothing practical.

“The non-commissioned officers found it all they could do to turn them out fit for the service. I was obliged to teach myself. In this school the young officers will receive that education which is the only real justification of inequality. The school will be directly under the eye of the Government. I shall make a point of inspecting it myself two or three times a year, when I shall examine the cadets and teach them something. I know no school of the kind so well organised; it will raise our Army to the front rank. The Army has too long been officered from the hundred battalions who left their schools to serve as volunteers in 1793. There are only a few of them left now, and commanding officers are asking me every day for well-educated young men. I nominate lots of them, but they know

nothing of soldiering, and their appointment is naturally felt to be an injustice by the rank and file. This must be stopped. The French are so apt to become infatuated about foreigners that it will perhaps be better not to teach the cadets foreign languages.

“One of the obstacles to the re-establishment of our Navy is the fixed opinion that our sailors have of the superiority of the English. It was our ‘Prussomania’ that lost us the battle of Rossbach.” While discussing a report by Dumas on reducing three half-battalions of Piedmontese to two, and forming a half-brigade of the Belgians who had formerly served under Austria, Bonaparte saw that Dumas had written ‘His Imperial Majesty,’ and said, ‘Don’t write His Imperial Majesty, write the Emperor.’ These Belgians have served against us; all the more reason why we should take them into our service. France is now giving pensions to 400 Piedmontese veterans who fought against us, and we are paying them for the very wounds which our men gave them. But we draw the revenues of their territory, so it is but just that we should take over the liabilities also.”

In drawing up a project on regimental councils, Lacuée had struck out the sergeants. Bonaparte said: “Why do you strike them out? They are necessary. It is always the tendency of commanding officers to isolate themselves from their men; a very bad tendency. A system of subordination founded on nothing but force is always liable to break down under any unforeseen accident. We must do all we can to strengthen the bonds which join our officers and men together. One of the best ways of doing this is to insist on the presence of a sergeant at the regimental councils. It is useful and in no way dangerous. Regimental accounts will never be properly kept until we have independent treasurers who have paid sufficient caution money. At present the Quartermaster is a regimental officer who is bound to obey his Colonel. A civil treasurer could say: ‘You are responsible to the Treasury, and I must act in conformity to its orders.’”

A plan for organising the marine and dockyard services was brought before the Council of State. The discussion began by a long conversation between Bonaparte and the Sections of

War and Marine. The Minister of Marine asked for 800 workmen to be supplied by conscription.

*Bonaparte*: "The Minister of Marine is the head not only of the Navy, but of the Mercantile Marine also. You have wood, iron, and hemp in plenty, yet nothing is being built. We have no workmen either for naval or commercial shipbuilding. We must draw workmen from the interior to the coasts for the service of the State and for the Mercantile Marine. In order to secure 800 good workmen we must requisition 2000. It would also be useful to have a regular corps of seamen enrolled for each ship of war, after the model of a regiment of soldiers."

*Truguet*: "If we can build up our commerce we shall soon have sailors enough without any cost to the Government. It is only when there is no Mercantile Marine that it is necessary to train sailors and form them into regiments. There ought to be no such necessity in France. Then, it takes a much longer time to make a sailor than a soldier. The latter can be trained in six months."

*Bonaparte*: "That is a great mistake, and a very dangerous one; it would soon lead to our having no army at all. At Jemmapes there were 50,000 French against 9000 Austrians. During the first four years we made war in a way which was simply ridiculous. It was not the recruits who won our victories; it was the 180,000 men left of the old regular army, and the retired soldiers whom the Revolution brought back to the colours. Among the recruits many deserted and many died. Those who survived became real soldiers in course of time. Why did the Romans achieve such great things? Because they took six years to train a soldier, consequently a Roman Legion of 3000 men was worth 30,000 of their enemies. With 15,000 men like the Guard I could beat 40,000. I shall take good care that I never make war with an army of recruits.<sup>1</sup> As to the plan of procuring labourers for the marine, we must get the workmen we require, regardless of economy. A carpenter in the interior of France will never come to the dock-

<sup>1</sup> Thibaudeau's note.—Yet we have seen him go to war with an army of recruits in 1813-14, who fought magnificently.

yards of his own free will ; we shall have to bring him there by force. There is no general system of manning our fleet. Officers and sailors scramble on board, knowing nothing of each other or of their ship. To command a ship manned in this way requires a quite exceptional captain, and of these we have not too many. As things are, the captain does not command at all ; the command varies between lieutenants, midshipmen, petty officers, and quartermasters. What can a captain do if he knows nothing of his officers or men ? Conscription for the Navy should begin with boys ten or twelve years old who will serve for life. We must have a corps of 12,000 men, that is 300 boys each year—no very heavy demand.

“ As to difficulties in the way, let us get rid of theories (*idéologie*), and learn how to deal practically with men. The naval service is a fine career. I would propose to raise about 5000 sailors from the interior of France, so as not to interfere with the present method of getting men along the coasts. Do you ask what we shall do with these men in time of peace ? Why, at present we have quite this number on naval stations, guarding the coast and so forth.

“ You say that the English system is different. Of course it is, but that is due to the fact that England has a very extended coast-line, which supplies her with any number of sailors, while France has very little coast and a large amount of inland territory. Nature has ill-treated us in giving us such a large population and such a small coast-line. If the Spaniards were Frenchmen or had our national courage it would be well for them and for us, but as things stand they are worse than useless. England is like a permanent wart on our nose. Nature has favoured her. We have to make up for our natural deficiencies by legislation, just as a weak Power protects itself against a stronger by costly fortifications. The Minister tells us that he can get no sailors at six sous, so we must take them by force. Do you believe that you could get soldiers to volunteer for six sous ? Not at all ; they would naturally prefer to live in peace, with their families, earning thirty or forty sous. France is too good a country to live in for men to take to army service.



But the strong arm of authority forces men to do what Nature teaches them to avoid. So we must have a Maritime Conscription sufficient to give us an abundant naval force in time of peace and a reserve in case of war. This will prevent our having to draw all the sailors away from the Mercantile Marine during a war.

“This system will not help us much for the first year or two. It will take six years to bring it into working order; but it is worth doing, and the sooner we begin the better.”

An Order in Council of the 7 Ventose (16th February 1801) provided for a system of legislation for workmen to serve in the ports. This was not in accordance with the First Consul's system, which followed at a later date.

A discussion took place in the Council of State on the establishment of Chambers of Agriculture in the colonies.

*Truguet*: “It is the colonists themselves who have brought all the trouble on their own heads. They must be held down with a strong hand. Agriculture would gain nothing by these chambers; the colonists would use them only as a means of annoying the agents of the Government.”

*Bonaparte*: “Under a weak Government every Institution becomes a dangerous instrument. But, after all, our colonists are Frenchmen. They have all a Frenchman's pride and independence. They know their rights, and they have no intention of becoming slaves. To enslave them you must deprive them of the power of speaking, writing, or thinking. The Constitution, for good reasons no doubt, has given them no representatives, so the least we can do is to offer them the means of communicating with the Government, letting us know their wants, and protesting against their grievances. No doubt we must govern the colonies with a firm hand, but firmness must go hand in hand with justice.

“The Government must therefore be informed of what goes on, and must hear both sides of any questions that arise. It is not enough to satisfy ourselves that we are acting with justice; it is quite as necessary that the colonists should think so also, and this they cannot do unless we hear what they have to say.

If the Council of State were composed of gods and angels who were infallible it would still be necessary for the Government to impress the colonists with the conviction that what they had to say would be listened to.

“The strength of a Government rests on public opinion. It is mainly to have public opinion on our side that the proposed Institution is necessary. At the present moment there are no personal relations between France and her colonies. The most ridiculous reports circulate among the colonists, who knowing nothing about the real principles of the Government are ready to believe any nonsense. Those who come home pick up all sorts of foolish rumours, gathered in antechambers from the enemies of the Government, or in private society of people who know nothing about us. But if we had here some sort of colonial representatives in touch with the Government they would soon learn the truth and enlighten their fellow-colonists. Here is Citizen Serres,<sup>1</sup> who has been committing all sorts of horrors and iniquities in Senegal, until the convicts have risen in revolt against him. I shall have them tried because they have mutinied against the lawful authority placed over them, but assuredly I shall put Serres on his trial as well. If there had been a chamber of any sort in Senegal, or a deputy here in Paris, he would have been more careful as to his behaviour. Perhaps we shall be told that we ought to make a better choice of our Colonial Agents, but Citizen Serres was a man of good repute; his head has been turned by power. The Institution we propose will not only act as a check on our Agents, it will also serve to defend them. For instance, a thousand abominable tales have been circulated about the unfortunate General Dugua.<sup>2</sup> You must have heard lots of them. The general accusation against him is that he was always supporting the negroes,

<sup>1</sup> I can find nothing of Serre or Laserre beyond an Order in Council, dated 13th August 1802, reading, “Major Blanchot is appointed to the command of Senegal and its dependencies, in succession to the Citizen Laserre, recalled.” *Moniteur*, an. X., p. 1413.

<sup>2</sup> C. F. J. Dugua, an officer who, after serving with distinction in the Egyptian campaign, was sent as Chief of the Staff of the Expedition to reconquer Haiti in November 1801. He died of fever shortly afterwards.

whereas, in point of fact, if he did wrong at all it was by treating them with too much severity. I have done all I can to stop these calumnies against an unfortunate but honest man who has paid for any mistakes he has made with his life, yet they are still spreading abroad every day. Or take another case. One of our Colonial Agents, under the pressure of absolute necessity, raises the custom duties or allows foreign corn to be imported; instantly Nantes and Bordeaux are up in arms against him. Don't you see that if there had been a deputy from his colony here he would make known the truth, and defend the man who had acted in the interest of his own people?

"Merchants at home always have interests directly opposed to those of the colonies. Whenever it is necessary to put a protective duty on colonial exports or imports the Chambers of Commerce overwhelm me with remonstrances, while there is not a soul to plead for the interests of the colony. Or again, a law is sent out to a colony. The colonists suffer from its penalties, but there is no one to point out to them why it has been passed, or what compensatory advantages it may have. I know, of course, that the theory of colonies is that they exist for the benefit of home trade and the supply of the metropolis, but after all the colonists are as much Frenchmen as we are. They pay their own way, they have their own interests to defend, and the very least we can do is to give them this rather feeble form of representation."

*Truguet*: "At least, let the question be adjourned; the present is anything but a favourable time to press such a measure as this."

*Bonaparte* opposed the adjournment, and added: "The colonists are supposed to be on the side of England, but I can assure you that in Martinique there are plenty of excellent French citizens."

"The partisans of England are few in number, and their names are known. When they sent M. Dubuc here I was forewarned that he was a friend of the English. Our agents have been received there with the highest enthusiasm by the inhabitants."

*Truguet*: "Not by the majority."

*Bonaparte* (with animation): "See how easy it is to misrepre-

sent facts. In order to make a pretext for oppressing the colonists you begin by misnaming them as English partisans. Well, Monsieur Truguet, all I can say is this, had you come to Egypt when we were there, to preach liberty to the Arabs and negroes, we would have strung you up to the yard-arm of the nearest ship. In these islands such preaching handed over our own people to the ferocity of the negroes, and you wonder that the victims should be discontented. Had I been in Martinique in those days I would have been all in favour of the English. The first impulse of a man is to save his own life. I am for the white race because I am a white man myself, that is an argument quite good enough for me. What folly to give freedom to the blacks, people wholly uncivilised, who did not even know where France was or what was meant by a colony. Those who agitated for the freedom of the blacks meant to enslave the whites, their motives were intelligible; but do you believe that if the majority of the Convention had known what they were doing, or had an elementary knowledge of the colonies, they would have set the negroes free? Not they; there were very few people there who knew enough to foresee the results, and humanitarian sentiments always act powerfully on the imagination. But to hold such sentiments to-day is impossible; to pretend to hold them is sheer hypocrisy. To take a case nearer home, would you have advocated, or would we have submitted to leave, the French in Italy to the tender mercies of the people, of the Piedmontese, for instance. We should have been finely treated; they would have done to us pretty nearly what the blacks did to the whites in the West Indies. No, it was our duty to take every precaution and to hold them down.

“Had I been forced to choose between ravaging the whole of Italy or sacrificing a couple of my soldiers, I should have decided to wreck Italy, for the simple reason that I belonged to my army, and consequently my first duty was towards it. Even to-day we are still obliged to keep a watchful eye on that country, although they are as white and as highly civilised as we are, and our next-door neighbours.”

## CHAPTER VI

### PUBLIC INSTRUCTION—THE INSTITUTE

1800—1803

[*EDITOR'S NOTE.*—Thibaudeau's energetic defence of the work of the Convention in the matter of education is clearly due to the fact that in 1793 and 1794 he had been an active member of the Committee of Public Instruction.

In his Memoirs of the Convention he gives a highly interesting account of the proceedings of this body. It contained several sensible and enlightened members like himself, but these had to contend against such men as Felix Le Pelletier, with his Spartan scheme of Common Education; Leonard Bourdon, whose sole object was to exalt his own private establishment; and Choltière, "a brave man who slept from the beginning to the end of our sessions, and was probably the wisest and certainly the happiest of us all." There were other members who looked upon learning as "the source of all the errors, vices, and ills of humanity," and who "would gladly have burnt all libraries and cut off the heads of all savants."

A worse difficulty with which he had to contend was the absolute want of money. By a decree of the 8th March 1793 the Convention swept into the coffers of the State every remaining endowment or exhibition of the schools and colleges of France. In face of these difficulties the Convention and its Committee developed on paper an entirely novel scheme of education. Several successive Laws decreed the establishment of free primary schools, one to each thousand inhabitants, with teachers of both sexes, to be paid and lodged by the State; and for each of the ninety-eight Departments an "École centrale," a higher day-school, each of which was to be furnished with a library, cabinets of natural history and chemistry, and manned by a staff of fourteen professors, who were to teach mathematics, mechanics, applied science, and modern languages and literature. Naturally, in both primary and secondary schools republican morals were to take the place of religion. Such was the theory; in practice the primary

schools scarcely came into existence. The teachers were granted the old presbyteries, but they received no payments, and being mostly minor politicians fell into complete disrepute.

In 1799 there were in Paris twenty-four elementary schools, with about 1000 pupils; in the country, practically none at all. Of the "Écoles centrales," thirty-two only had any real existence. There were a few flourishing private schools, such as that of Dom Ferlus, of which Marbot gives an interesting account, and no doubt a certain number of priests and members of the old teaching orders surreptitiously taught throughout the country. These flocked back to France after the 18 Brumaire, and were attracting large numbers of scholars, when Bonaparte, who had no intention of allowing education to fall into other hands than those of the Government, intervened.

As will be seen in the following pages, he did little for primary instruction. His great object was to substitute the "Lycées," Government boarding schools where a classical education on the old lines was to be combined with a good deal of military discipline, for the "Écoles centrales," which were day-schools with short hours and little or no discipline, devoted chiefly to scientific training. He allowed both communal and private schools to exist under Government inspection. The bourses or exhibitions, with which the State endowed secondary education, were 6400 in number, 2400 of which were reserved for the children of officers and civil servants educated in the Lycées, while 4000 were distributed among the pupils of secondary boarding schools, communal or proprietary. He also reorganised the Polytechnic, and established a number of special schools of Law and Medicine, the School of Highways and Bridges, the School of "Arts et Métiers" at Compiègne, and the Military School described in Chapter V.

Bonaparte's scheme of higher education was completed by the University of France, established in 1808, one of the principal objects of which was to supply a competent body of professors and masters for schools of every description.

*The Institute.*—The four French Academies were suppressed by a decree of the Convention, 8th August 1793.

The Institute was founded by the Constitution of the year III., 22nd August 1795, and organised by a Law of the 25th October of the same year. On the 23rd January 1803 the reorganisation described at the close of this chapter took place. In 1816 another reorganisation, while preserving the generic name of the Institute for the entire body, restored to the four classes the former names,—the Académie française, Académie

des Inscriptions et Belles Lettres, Académie des Sciences mathématiques, etc. and Académie des Beaux Arts. In 1832 the class of Moral and Political Sciences, suppressed by Bonaparte in 1803, was restored as a fifth class of the Institute under the title of Académie des Sciences morales et politiques.]

**P**UBLIC instruction was a subject never long absent from Bonaparte's mind. He knew well that it was one of the most powerful resources in the hands of his Government, and he was not the man to neglect so potent an aid to power. Consequently the organisation of education was the subject of numerous schemes and counter-schemes, originating either in the Ministry of the Interior or in the Council of State. It was the fashion of the time to denounce the Revolution as a purely destructive epoch, and both the enemies of democracy and the adherents of the Consular régime were loud in their assertions that public instruction had ceased to exist during the course of the last twelve years.

Unquestionably the Revolution had overthrown the old feudal or gothic system, but it could well be pleaded in its defence that, although it had destroyed the schools and for the time had turned the attention of a great part of the nation from the course of peaceful study, it had opened to the young a source of education as fruitful in its results as the former colleges and universities had been. The spectacle, often terrible but always imposing, of the great events which had occupied the stage of the world, had been for the younger generation an education in itself. Battling daily with the storms of the Revolution, the young learnt to feel the dignity of life, to comprehend its rights, to endure misfortune, to crave for glory, to detest tyranny, to brave death.

The faculties developed with astounding rapidity amid the victories or the reverses of liberty. But beyond all this the Convention had done much for education. It had established several Schools of Medicine, a Normal School, a Polytechnic, two Schools of Agriculture, a course of training in Oriental languages, a complete course of instruction in gunnery, engineering, public works, mining, geography, and navigation. It had

also decreed the establishment of a Central School in each Department, and to crown the edifice erected in honour of education it had created the "Institut nationale." It may well be questioned whether any other country possessed so complete a system. It was not schools that were wanted before the Consulate, but peace and order abroad and at home. Yet the schools were already in some sort of working order. The numbers of scholars were increasing, and were being taught by an excellent professorial staff, which the Government availed itself of for its new Lycées. During the Revolution no one can deny that the study of physical science and mathematics made steady progress, and that their practical application to the public service as well as to the arts and sciences was widely extended. The Polytechnic School, the creation of the Convention during the last seven years, was a credit to France, and excited the admiration of foreign scientific men. France, torn by ten years of discord, misfortune, and war, had not fallen behind the most advanced nations, but its advance had taken a different direction.

It had been so entirely absorbed by serious affairs that it had neglected the studies which lend grace and charm to life. Those Frenchmen who still cultivated the muses no longer wrote love-poems or madrigals, but turned their gift for poetry into hymns in praise of glory, liberty, and love of country. In common justice the Consular Government should have taken such achievements as these into consideration, but it failed to do so. It could hardly hope to enlarge the sphere of education, but in the existing system liberty and independence played a large part, and with such qualities it was entirely out of sympathy.

Chaptal<sup>1</sup> presented to the Council of State a report on

<sup>1</sup>Jean Antoine Chaptal, born in June 1756, a distinguished chemist, was Professor of Chemistry at Montpellier when the Revolution began. Arrested for writing a pamphlet in favour of the Girondists in June 1793, he was shortly afterwards released through the influence of Fourcroy, and became in succession Director of the Saltpetre works at Grenelle, reorganiser of the School of Medicine, Professor at the Polytechnic, and Member of the Institute. Bonaparte appointed him to the Council of State, and on Lucien Bonaparte's dismissal or retirement he succeeded to the Ministry of the



Public Instruction which resembled in many ways the famous report of Talleyrand to the Constituent, or that of Condorcet to the Legislative Assembly. He began by tracing the history of education from the days when little more was taught than medicine and theology down to the present day, when the pendulum had swung to the opposite extreme and every possible subject is supposed to be drummed into the head of every possible student. Such historical disquisitions, except as proving the author's erudition, are usually of little practical use. But Chaptal in compiling his history had the courage to commend the educational establishments founded by the Convention. The result of his exposition came to this: that there was not much left to do, but that, to enable the Consular Government to boast that they were the restorers of education, it was desirable to reconstruct the system on a new plan. The objections, as stated by him, to the existing state of things were that, except in the towns, there existed hardly any primary schools; that the *Écoles centrales* were deserted by scholars and ill organised, having too much liberty and too few rules and regulations.

As a substitute for the existing system he proposed to divide Public Instruction into three degrees, thus—

23,000 Primary or Municipal Schools, costing	5,000,000 fr.
250 Communal Schools or Colleges . . . . .	3,000,000 „
— Schools for special subjects . . . . .	1,306,000 „
The National Institute . . . . .	266,000 „

Each Communal School to have eight scholarships. Private persons to have the right to open schools. It will be seen that there was little in this proposal either striking or original.

The First Consul found that the Section of the Interior which was responsible for Chaptal's report had not sufficiently

Interior. In August 1804 he resigned his Ministry and was appointed a Senator, and in April 1808 created Count de Chanteloup. During the Hundred Days he again became Minister of State and a member of Napoleon's House of Peers. The second Restoration removed him for a time from political life, but after being elected to the *Académie des Sciences* in 1816 he was created a member of Louis XVIII.'s House of Peers in March 1819. He died at the age of 76, on the 22nd July 1832.

appreciated his own views; and Chaptal having been appointed Minister of the Interior, he instructed Fourcroy<sup>1</sup> to draw up a further report. Fourcroy was in favour of allowing complete liberty to private persons to found and conduct schools side by side with a national system of education.

This question of private as opposed to Government schools gave rise to more prolonged discussion than any other matter connected with education. On the 18 Thermidor (6th August 1801) a report on Bonaparte's scheme was brought before the Council of State. It had been previously considered by the Section of the Interior, who differed materially from the First Consul and unsparingly criticised his ideas on the subject.

These differences of opinion were set forth in a paper which, after having been shown in advance to Bonaparte, was read aloud to the Council by Fourcroy. I give the text of Bonaparte's notes, and of the criticism of the Section upon them.

<sup>1</sup> Antoine François Fourcroy, born in June 1755, was by profession a physician, and attained before the Revolution considerable fame as an anatomist, chemist, and lecturer. Elected as one of the supplementary Deputies to the Convention, he was called upon to take his seat as successor to Marat, 29th July 1793; here he joined the Committee of Public Instruction, where he sat with Thibaudeau, who speaks of him in the highest terms of eulogy. He was enabled by his official position to save Chaptal from imprisonment, and probably from the guillotine, by engaging his services in the fabrication of saltpetre; he was less fortunate in his efforts to rescue Lavoisier. He was the original proposer of the foundation of the Institute.

From 1795 to 1797 he sat in the Council of the "Anciens." In December 1799 he was summoned by Bonaparte to the Council of State, and in the winter of 1800 was appointed Inspector General of Public Instruction.

When the University of France was established in 1808 Fourcroy expected the appointment of Grand Master, which carried with it the Inspectorship which he still held, but after some hesitation Bonaparte appointed Fontanes to this high office.

To soften his supersession Fourcroy was created a Count, and a pension of fr. 20,000 (£800 per annum) was granted to him; in December 1809 he died, at the age of 54.

"The more the world changes, the more it remains the same"; Chaptal and Fourcroy can hardly fail to remind the reader of Marclein Berthelot, chemist, politician, and Minister of State, whose death on 17th March 1907 is still fresh in our recollection. His studies in explosives during the French-German War will recall Chaptal's investigations into saltpetre and gunpowder in 1793-94; and indeed his whole career bears a curious resemblance to that of Chaptal and Fourcroy, with the essential difference between serving a dictator or a democracy. Thibaudeau's opinion of Fourcroy's administrative ability will be found below, Chapter XV.

*Bonaparte's Notes.*—1. To establish ten thousand scholarships (bourses) to be paid by the Government, and divided between the expenses of the Lycées, the professors, and the scholars.

2. The First Consul to have the nomination to all these scholarships.

3. Secondary Schools to be combined with the Lycées.

4. The First Consul finds the report of the Section incomplete as regards the administration of Schools.

5. He thinks that several of the clauses of the report might be delegated to a code of bye-laws.

The criticisms of the Section of the Interior read thus—

1. This system would turn the professors into business-men, and debase their office by making them teach with a view to obtaining the scholarships.

2. Impossible for the First Consul to nominate with discernment. He would be deceived and would cause discontent. This prerogative would be more of a nuisance than an advantage to him. It would be better to allow the scholarships to be competed for. This would make the secondary schools popular with capitalists and other citizens, and lessen the expense of maintaining the schools at the public cost.

3. A bad plan. The Government secondary schools would become specially privileged, and private schools would be unable to compete with them.

4. The Section believes that it has said all that is necessary on administration.

5. The Section did not think it right to abridge any part of its report.

Bonaparte listened to these objections to his proposals with good humour. In reply he spoke for more than an hour with great spirit and animation.

He complained that the Committee had misrepresented his note, making him say what he had not said in order to refute him. He then took one by one each article thus—

“1. I never intended that the masters should become men of business, carrying on a trade on their own account. That

would be ridiculous. But I do not think it desirable that they should have fixed salaries independently of the number of their pupils. I want them to be paid proportionately to the quantity of their scholars, so as to give them a personal interest in the success of their schools. Nor do I think it would be practicable to allot a uniform scale of pay; it must be graduated according to the locality of the school and the merit of the master.

"2. The Section has considered the nomination to scholarships from one point of view only. They have not thought of other essential considerations. Whether the First Consul himself nominates to scholarships is only a minor point which can be settled later; the important point is that the Government should have the means of recompensing the family of a deceased soldier or civil servant who has done good service, or of rewarding a deserving servant of the State during his lifetime. In the latter case a scholarship would practically be an augmentation of his salary. Do you not think that this object altogether outweighs the advantage of rewarding boys who are able to satisfy the examiners that they know a little Latin and the four rules of arithmetic? It is no use to count on capitalists establishing schools; private endowments are mostly dictated by sentiment or by a particular purpose, not by the interests of the State. If we assume that there are some two hundred secondary schools in existence, it will be enough to give them fifteen hundred scholarships to be competed for by examination. The Section has entirely misunderstood the political objects at which we ought to aim. Thus it proposes to assign three hundred places in the *École militaire* to be competed for by pupils at the *Lycées*, and to give them commissions in the Army when they have gone through their course there. This is a detestable proposal. It goes far beyond a mere matter of education. It might easily be the means of giving commissions to the sons of those who have fought against their own country. Between such officers and their men there would be no sort of sympathy; it would be enough to imperil the safety of the Republic. I have never, to my knowledge, nominated a

single sub-lieutenant whom I have not selected from among the private soldiers or known to be the son of a man well-affected to the Revolution.

“The Lion of the Revolution may be sleeping, but take care, gentlemen, that you do not awaken him. You would be the first to fly before his wrath.

“3. My system is highly economical. It saves buildings, double staffs, double expenses of all kinds. Rather than give it up I would carry it further, and unite all the Lycées and Secondary Schools.

“4. The Section blames me for finding its proposals sometimes too long, sometimes too short. It seems to me that some of these are simply matters of detail, while other subjects of first-rate importance are omitted. It is not enough to say: there shall be a director and a bursar; you must settle who shall be responsible for the discipline of the schools, and what the punishments and, generally speaking, the discipline shall be.

“You have altogether slurred over the Moral Code to be adopted. The religious teaching corporations organised this side of education admirably.

“They are the only people who have ever found the true solution of the problem. If it were not that they are bound to obey a foreign ruler (the Pope) we could not do better than hand over to them the management of public instruction.”

After this reply the discussion began.

*Regnault*: “In nominating to scholarships the Government ought to guard against having to support at a Lycée for five years a boy who proves to be undeserving of so great a reward.”

*Bonaparte*: “That is a totally wrong notion. We have no right to inflict on a mere child a disgrace which would last for his lifetime.

“Some children are backward at twelve or fourteen years old, while others are too forward at ten. A child should never be despaired of until he reaches the age of puberty. Not until then do his intellectual faculties fully develop. We should always

give children as much encouragement as we can. The Minister of the Interior has an entirely different plan in his mind, for which we must wait. I take it that Citizen Roederer has drawn up the Memoir of the Section." The First Consul was mistaken; the Memoir, which he had refuted with such acumen, force, and good temper, was the work of Fourcroy.

After long discussion Bonaparte's system, based on the creation of Lyceés and of six thousand scholarships in the patronage of the Government, was adopted by the Council of State, and presented by Fourcroy to the Corps Législatif on the 30 Germinal, an. X. (3rd April 1802).

Fourcroy had been a member of the Committee of Public Instruction of the Convention, and was responsible for much of the existing system, but this did not prevent him from declaiming against his own work in former years. Indeed, of all who spoke on the subject, one only, Daru,<sup>1</sup> of the Tribunat, had the courage to defend the work of the Convention. He made the following admirable confession of faith: "You are all accusing the philosophers and the Revolution of destroying morality and education. The philosophers do not need my defence, they are well able here to defend themselves, but the Revolution has no official advocate. It is identified with no single name; no man can say that it was his doing. It is as much the work of those whose misdeeds made it necessary as of such as aided it by their courage. To-day, when the very men who were the accomplices of its errors or its crimes, are excusing themselves by attacking it, its defence falls as a special duty upon those who did not yield to its worst excesses, and who are so fortunate as to have nothing to retract."

The Convention had soon abandoned its early attempts to

<sup>1</sup> Pierre Antoine Noel Brune Daru, born January 1767, began life as an officer of Artillery. He was appointed a Member of the Tribunat in March 1802, Councillor of State in 1805, Ambassador to Berlin in 1808, Count in 1809. He accompanied Napoleon on his Russian expedition in 1812, and in 1814 was appointed Minister of War. He accepted the return of the Bourbons, but rejoined Napoleon during the Hundred Days. In 1819 Louis XVI. appointed him to the House of Peers, and he is said to have refused the Ministry of War in 1822. He died, at the age of 62, in September 1829.

train a race of young Spartans, and contented itself with training plain French citizens. The most burning question which came before it was whether the duty of educating children should be entrusted in whole or in part to private enterprise, or should be in the hands of the State. Free trade in education had many advocates, but the times were too critical, and the legislators did not dare to run the risk of leaving the rising generation to the possible enemies of the Revolution. Consequently the Law of the 3 Brumaire (25th October 1795) established a system of education entirely under the control of the State. At the present time the trend of public opinion inclined towards the traditions of the Monarchy, and Bonaparte had made up his mind to obtain the complete mastery of Public Instruction.

His wide and carefully planned design embraced every branch and degree of education, from the alphabet to the highest forms of specialisation. The main features of his system were the Lycées and the schools for special subjects, which between them were to provide for 6400 pupils. The generosity of the Government was confined to higher education; it paid nothing towards primary instruction, the expense of providing for which was thrown upon the communal authorities, while the payment of teachers was made to depend on the scholars. It seemed as though the Government rather feared than encouraged too much enlightenment among the lower orders, especially in the country. The establishment of Secondary Schools was left to municipalities or to private enterprise but in neither case could these schools be opened without a licence from the Government. This was hardly in accordance with the freedom theoretically granted to private enterprise; it also gave the Government an opportunity of preventing Secondary Schools, private or municipal, from competing on equal terms with the favoured Lycées.

The teaching and managing staff of the Lycées, according to their original foundation, were to be composed exclusively of married men or widowers.

The rule was made to exclude the clergy, a curious measure at a time when the dominant religion was being re-established;

it seems to prove that at this time Bonaparte had little faith in the priests whom he was bringing back into power.

What seems stranger still is that no provision whatever was made for religious instruction of any kind. The Law was passed by the Tribunat by 80 against 9 votes, and by the Corps Législatif by 251 against 27 votes.

Roederer was appointed head of the Department of Public Instruction, which was formed into a branch of the Ministry of the Interior.

The establishment of a technical school (École des Arts et Métiers) at Compiègne was debated in the Council of State.

*Bonaparte*: "The present plan is extravagant. I do not think the school ought to cost more than 400 francs a head, with a sum of 60,000 francs for the primary expenses which should be repaid to the State, by the sale of articles made there.

"The scheme has been drawn up, in accordance with my own ideas, by Citizens Costaz and Conté, both enthusiasts on art and science. I am afraid they have not thought out the cost with sufficient economy. The school is intended for the children of soldiers and sailors, etc., who should be educated in conformity with their position in life. It may be said that it would be better to apprentice them, but apprenticeship lasts only for a year or two, and I do not know what would become of them afterwards. There is another object to be considered. It is of importance to have the same system at work throughout all classes of society, giving to each the same sentiment of devotion to their country, a sentiment which these children would never learn as apprentices. The Lycées will supply us with lawyers, doctors, military officers, and so forth. These schools will do the same sort of thing with a lower class. We must found two more—one at Beaupreau and one at Pontivy<sup>1</sup>—

<sup>1</sup> Beaupreau, Department of the Maine-et-Loire, and Pontivy, Department of the Morbihan, were both situated in the district of the Vendéan and Chouan wars. In 1804 Bonaparte erected large barracks and other buildings at Pontivy, and renamed the town Napoléonville.

At the present time the portion of the town which he rebuilt is still known as Napoléonville, while the old town keeps its former name, Pontivy.



and draft into them the children of newly annexed Departments, so that they may learn French; from these schools we shall be able to draw workmen for our ports, our military arsenals, and our colonies."

Objections were raised to Compiègne as an out-of-the-way place, and a bad market for the disposal of objects made in the school, which it was suggested would be better placed near one of the arsenals, where building and other practical trades could be taught.

*Bonaparte*: "This is not a commercial enterprise, only a place where boys may be taught the principles and methods of the industrial arts. The discipline and work of the arsenals are too strict and hard for boys."

The school was established by an Order of the Government, 6 Ventose, an. XI. (25th February 1803). In 1806 it was transferred to Châlons-sur-Marne.

Among the many regulations which were discussed, with a view to amendment by the Council of State, was one on the mode of granting diplomas to physicians and surgeons. A distinction had always hitherto been made between these two classes, assigning the higher rank to medicine. On this subject Bonaparte rallied Fourcroy and Béranger, both doctors of medicine, and warmly defended surgery against the old-world prejudices against it.

Early in the Consular period some of the ex-Academicians began to dream of the revival of the Academies, especially of the Académie française, and of the abolition of the Institute.

They looked on themselves as a sort of literary and scientific nobility, every whit as exclusive and haughty as any other aristocracy, while they considered men of letters or learning who had devoted their talents to the triumph of the Republic as mere intruding parvenus.

The Institute, though respected by all foreign nations, was to them a creation of the Republic which the real Academicians could not be supposed to tolerate.

Two pigmies of literature, Suard<sup>1</sup> and Morellet<sup>2</sup> by name, led the attack on the fortress of talent and genius manned by the giants of the republic of letters. Suard was an out-of-date courtier, a supple over-elaborating sonneteer. Morellet, originally a priest, attached to the Church only through his devotion to his benefice, subsequently by turns a philosopher and an atheist, always a so-called economist, who for thirty years had been drawing a pension from the State on account of a great Dictionary of Trade and Commerce of which he had as yet written nothing beyond the preface. It was a current joke at his expense that, instead of making a Dictionary of Trade, he was making a Trade of his Dictionary. These two old gentlemen managed to get hold of Lucien Bonaparte, and to persuade him that he could win eternal fame as a second Richelieu by refounding the Academies. Young and eager for distinction, Lucien took the Academies under his special protection, constituted himself their advocate, and secured for them a meeting place of which they took advantage to draw up lists which included such names as the Cardinal de Rohan and the Abbé Maury, and omitted those of real savants and excellent citizens.

The Republicans began to scent another counter-revolutionary scheme and the Institute prepared for warfare. The

<sup>1</sup> Jean Baptiste Antoine Suard, born January 1733, was joint-editor of the *Gazette de France*, 1762-1777, and Censor of Plays, 1774-1790. He was elected an Academician in 1772. During the Terror he contrived to conceal himself, and in 1795 returned to Paris, when he edited a so-called Royalist newspaper, the *Nouvelles politiques*. Proscribed with other journalists on the 19 Fructidor (5th September 1797), he escaped to Switzerland. Returning in December 1797, he edited a Bonapartist newspaper, *Le Publiciste*. He was appointed Perpetual Secretary of the Institute, 20th February 1803. Suard died at the age of 84, in July 1817.

<sup>2</sup> The Abbé André Morellet, born in 1727, was one of the Encyclopædists, and wrote much on the liberal side of politics. He was elected a Member of the Academy in 1765. He received from Louis XVI. a pension of fr. 4000 (£160), and inherited a small fortune from Madame Geoffrin. The revolution changed his views, and during the period of the Directory he wrote several vigorous and able pamphlets in favour of the *Émigrés* and their relatives. He was one of the original members of the Institute. In 1808, at the age of 84, he was appointed Deputy for the Seine in the Corps Législatif. He held his seat until 1815, and died at the age of 92 in 1819.



LUCIEN BONAPARTE.



Academics defended themselves in the *Mercur*. It was not, they said, *the* French Academy which they were trying to establish, but only *a* French Academy, whose objects were to continue the Dictionary (the main official duty of the Académie française), and to devote themselves to the study of the French language and literature. When Bonaparte returned from the Marengo campaign the principal members of the Institute had no difficulty in enlisting his sympathy. He scoffed at the Academics, and laughed at his brother. Lucien drew himself out of the mess by writing a letter addressed to "the citizens who have formed themselves into a free Society of Literature," informing them that the Government would welcome the fruit of their labours. "The enemies of literature," he continued, "have been disseminating a rumour that you desire to assume the title of the French Academy, and to re-establish the *civ*devant Academies. You are, of course, too well versed in the laws of your own country to think of assuming a title which has been legally suppressed." Suard and Morellet replied that, since the French Academy was not to be alluded to further, they had not the smallest wish to found a "free Society of Literature."

In spite of this serious check the ex-Academics did not abandon their intention.

Failing to gain any support from Chaptal, the Minister of the Interior, they turned to the Section of the Interior of the Council of State, which proved to be more complaisant. The First Consul himself seemed, as time went on, to grow more disposed to make some concession to their senile vanity. In March 1802 Miot<sup>1</sup> read a report to the Council of State in favour of re-establishing the Academies and permitting the survivors of the former Academies to take their seats again.

Lacué vigorously opposed this proposition as anti-revolutionary and destructive of the Institute, and demanded that the Institute itself should be consulted. Fourcroy replied

<sup>1</sup> This is the only mention in this volume of André François Miot, Count de Melito, whose *Mémoires sur le Consulat, l'Empire, et le roi Joseph* form one of the most authentic records of the Consulate and Empire.

that it was within the province of the Government to make what alterations they chose in the constitution of the Institute, and that to consult the Institute was a practical impossibility, since the one hundred and forty-four members who formed it had no meeting-place, and in fact had never met together for any purpose.

Ultimately the project was carried on the 3 Pluviose, an. XI. (23rd January 1803) in a very modified form, which prevented the subordination of the citizens of the Institute to the Messieurs of the Academies. Bonaparte rejected altogether the use of the word Academies, and substituted a division of the Institute into four classes.

1. Class of Physical and Mathematical Sciences.
2. Class of French Language and Literature.
3. Class of History and Ancient Literature.
4. Class of the Fine Arts.

The class of Moral and Political Science was suppressed, while the second class was composed of forty members, out of respect for the number of the French Academy, usually named "The Forty." All the members of the Institute were retained under the new organisation, while the total number was increased by giving seats to the survivors of the *ci-devant* Academies. The First Consul continued his membership of the first class, while Lucien was appointed to the second.

A yearly gratuity of 1500 francs was allotted to each member, while each of the four secretaries received a salary of 6000 francs. Suard lost not a moment in getting himself appointed to one of these. The Academicians were no doubt entirely devoted to the love of literature, but they hardly scorned a good sinecure. Membership of the French Academy was usually bestowed in old days upon men of letters and learning, but it was customary to add to its social eminence by adding a few high officers of State or great nobles. Some of the new appointments,<sup>1</sup> such as

<sup>1</sup> Bernard Hugues Maret, afterwards Duc de Bassano, was at this time Secretary of State, with a higher rank than that of the Ministers of State; Michel Regnault de Saint Jean d'Angely was President of the Section of the Interior of the Council of State.

those of Maret and Regnault, were looked upon as being very much of the same character. One of the Academicians who had been most envenomed against the Institute, La Harpe, died (February 1803), and Fontanes, in pronouncing his funeral oration, said: "It is by preserving the great models whom La Harpe had the secret of interpreting to us, and by welcoming the younger generation who are replacing those who have gone, that we may hope to renew the fame of the French Academy, which was adorned during a century and a half by so many illustrious names, and is now restored to us by one even greater and more illustrious than its first founder."

CHAPTER VII  
PEACE AND WAR—TREATIES OF LUNÉVILLE AND  
OF AMIENS

DECEMBER 1800—MAY 1803

[*EDITOR'S NOTE.*—This Chapter covers the period between the battle of Hohenlinden, December 1800, and the renewal of the war with England in May 1803.]

THE First Consul announced to the Corps Législatif the battle of Hohenlinden (3rd December 1800), and the armistice which followed, by a message in which he sketched beforehand the conditions of peace and proposed a decree that the Army had deserved well of their country.

The Councillors of State who had taken the message returned in the customary manner to report their reception by the Corps Législatif. In the conversation which followed Bonaparte said: "The only possible ally for France is Russia. The sway of Russia stretches from the Baltic to the Black Sea, and holds the keys of Asia. The Emperor of such a domain is a Sovereign indeed. The Emperor of Germany is merely a child in the hands of his ministers, who in their turn are controlled by England. If Paul is peculiar, at least he has a will of his own.

"In this campaign the Austrian Generals had a capital plan, but they did not push home their attack on General Grenier when they had beaten him.

"If they had known how to profit by their position and numbers they could have forced Moreau to abandon twenty leagues of territory without themselves striking a blow. They are now throwing the blame for the loss of all their artillery on each other.



“There was no army in France on the 18 Brumaire (November 1799); the troops were scattered all over the country. The 17th Division (the Army of Paris) had six thousand cavalry. The Directory wanted to govern everywhere by military force. That was the cause of all their military disasters. Of course, the brigandage in the interior of France to-day is due to the want of troops on the spot, but one cannot be in force everywhere at the same time. If all goes well with our armies we shall have little to fear at home. I attach less importance to Germany than to the preservation of Italy.

“This is the real point to secure in making peace. I hope that Brune will not consent to an armistice without securing Peschiera and Ferrara. By announcing some of the conditions of peace in my message to-day, I hope to let Europe know beforehand what are the essential points on which I shall insist, and so shorten the negotiations by twenty days.” In speaking of the advantages which Spain would derive from the Treaty of Lunéville, Bonaparte said, 24 Pluviose (13th February 1801): “We must see whether we can make her express her gratitude by ceding a mine in Mexico or Peru.”

An extraordinary meeting of the Council of State was held on the 25 Ventose (16 March 1801). The First Consul announced that the ratification of the Emperor and the German Princes had been received, and that it was now necessary to determine the form in which the Treaty of Peace should be presented to the Corps Législatif. Roederer, speaking in the name of the Section of the Interior, said that it should be submitted in the form of a law, thus, “The Treaty concluded at Lunéville, etc., shall become Law.”

*Thibaudeau*: “Articles 49 and 50 of the Constitution indicate the course we ought to follow. Article 50, which reads ‘Treaties should be proposed, debated, decreed, and promulgated as laws,’ shows clearly that they should be submitted to the Corps Législatif for ratification. The faculty thus afforded to the Corps Législatif by the Constitution is perhaps illusory; all the more should we recognise it. Citizen Roederer maintains that a Treaty of Peace lies outside the jurisdiction of the Corps

Législatif, that it is not in any sense a law, but rather a contract rendered valid by the consent of the contracting Governments, and that the Corps Législatif has no concern with it beyond decreeing its promulgation. I allow that a Treaty is not a law in the ordinary sense of the word, but I maintain that it requires the force of a law by the sanction of the Legislature, and that while the contract is binding on the nation it cannot be completely legalised without the approbation of the National Representatives.

“If the Government is pledged to lay before the Corps Législatif matters of much smaller importance, *a fortiori*, should it do so in an affair of such moment as this? In short, the Constitution has finally decided the question.”

*Bonaparte*: “The Constitution does not contain the word *ratified*, and there is no reason why we need go beyond its own words.

“A declaration of war is different, because that is the act of one party only, but a Treaty of Peace between two Governments should not be subjected to the chance opinions of the members of a Legislative Assembly.

“Two points only need be submitted to such a body: 1st, Whether the Constitution has been violated; 2nd, If any part of the territory of the nation has been ceded. All other points are above the jurisdiction of a Legislature. Besides, the Ministers of foreign Powers might find the means of influencing the members of the Tribunat and Corps Législatif and secure the rejection of the Treaties. Mons. de Lucchesini (the Prussian Minister) might make himself master of the situation by means of dinner-parties and bribery, and France would be no better off than Poland. Suppose a Treaty of Peace rejected, what would follow? Would the Treaty be annulled, and the pledges of the Government brought to naught? It is true that the Diet of the Empire ratifies Treaties, but it also negotiates them, or appoints the Ministers who do so. If the Corps Législatif has the power to ratify, it ought also to be kept informed of the negotiations as they proceed, including any secret articles, and to approve each step as it is taken. I propose therefore to

submit to the Corps Législatif the Treaty, with a Bill (*projet de loi*) worded thus, 'The Treaty, etc., is not contrary to the Constitution, nor to the interests of the people.'

Portalis followed with a long speech to prove that a Treaty is not a Law. The Consuls and the Councillors of State laughed to see him arguing so trivial a question with so much eloquence and warmth, but Portalis was too blind to detect their merriment. Truguet spoke in favour of ratification by the Corps Législatif. He recommended that the authors of the Constitution should be asked whether Article 50 was or was not intended to cover the submission of Treaties to the Corps Législatif for ratification.

*Bonaparte*: "I was one of the authors you refer to, and I can tell you that we had no such intention."

*Truguet*: "But what is your opinion?"

*Bonaparte* (annoyed by the interruption): "I am of no party myself. I have no opinions here. I am here to profit by the wisdom of the Council."

Crétet proposed that the Bill should read, "The Treaty shall be promulgated as a Law."

Champagny proposed as an amendment the words: "The Treaty ratified by the Emperor, the Empire, and the Consuls shall be promulgated."

*Thibaudeau*: "It is clear that the proposed wording implies indirectly that the power of ratification rests exclusively with the Government, but since whatever formula we adopt is liable to be opposed or rejected by the Corps Législatif it is clear that we recognise their right to pass or reject the Treaty. It seems to me wiser to acknowledge this frankly rather than to appear to evade Article 50 of the Constitution."

*Bonaparte*: "There is no question of evading it. What you propose is to add to it words which it does not contain."

The Council voted in favour of the formula proposed by Champagny, but the First Consul, before sending the Bill to the Corps Législatif, altered the wording by substituting for the word "ratified" the phrase "the ratification of which has been exchanged between," etc. This was a less positive denial

of the right of the Corps Législatif than the original word "ratified."<sup>1</sup>

In England the Peace of Amiens (25th March 1802), though popular, was not considered by statesmen of either party to be more than a temporary truce. This was clearly demonstrated by the debates in the English Parliament, and by the protection which the Ministry gave to the plotters who were conspiring in London against the Consular Government. The First Consul naturally shared this opinion; not to do so would have been unworthy of his high rank and great reputation as a statesman.

England had been driven by sheer necessity to make peace; not so Bonaparte, whose reasons were founded on the desire of the French nation for peace, the fact that the terms of the Treaty were glorious to France, and the recognition by his bitterest enemy of the position which the nation had bestowed upon him. In the following conversation with one of the Councillors of State the First Consul expressed his opinion clearly.

*Bonaparte*: "Well, citizen—what do you think of my peace with England?"

*The Councillor*: "I think, Citizen Consul, that it does high honour to your Government, and gives great satisfaction to the people."

*Bonaparte*: "How long do you think it will last?"

*The Councillor*: "I should like it to last at least four or five years, to give us time to reorganise our navy; but I doubt if it will last even so long as that."

*Bonaparte*: "I doubt it also. England is afraid of us, and the Continental Powers bear us no good will. Under such circumstances how can one hope for solid peace. But do you think that a peace of five years or more would be an advantage to our position or our Government?"

*The Councillor*: "I think that a period of repose would be worth a great deal to France after ten years of incessant war."

<sup>1</sup> The Senatus Consultum of 4th August 1802 settled this question by depriving the Tribunat and Corps Législatif of the power of discussing or passing Treaties in the form of a Law.

*Bonaparte*: "You don't understand my question. I am not asking whether a firm and lasting peace is a benefit to a well constituted country. What I want to know is, whether you think that France is sufficiently settled to dispense with more victories."

*The Councillor*: "That is a question much too grave to answer categorically without much reflection. All I can say offhand is that a country which cannot consolidate itself without perpetual war is in a very unfortunate state."

*Bonaparte*: "The greatest misfortune which could befall us would be to arrive at a wrong decision on this question. If we know the truth we can at least provide for the future. Again, do you believe that the Governments which have signed these Treaties are implacably hostile to us?"

*The Councillor*: "I find it very difficult to believe otherwise."

*Bonaparte*: "If so, what follows? If these Governments are constantly at war with us in their hearts, and if they are determined to renew open war with us some day, would it not be better that war should come sooner rather than later? Every day weakens the deep impression of their late defeats and lessens the prestige we have gained by our victories. All the advantage of delay is on their side."

*The Councillor*: "But Citizen Consul, do you count for nothing the opportunities which peace gives you for settling and improving the condition of the country?"

*Bonaparte*: "I am coming to that. You may be sure that this consideration is never absent from my mind. Even in the midst of war I have never neglected the establishment of useful institutions and the promotion of peace and order at home. There still remains much to be done, and I certainly shall never rest from my labours. But is not military success still more necessary to dazzle or to content our people? Remember that a First Consul bears no resemblance to those Kings by the grace of God who look on their countries as their inherited property. Their authority is supported by ancient tradition. With us ancient tradition has fallen into contempt, and carries

less than no weight. The French Government of to-day bears no sort of resemblance to that of the countries which surround us. Hated by its neighbours, obliged to deal at home with large classes of enemies, we have need to impose on our friends and foes by deeds of glory gained only by war."

*The Councillor*: "I admit, Citizen Consul, that you have a far harder task to consolidate your Government than the Kings your neighbours have to maintain theirs. But after all, you have thoroughly taught Europe that you know how to conquer, and there is no need for you to give fresh proofs of your invincibility every year; while the opportunities which peace will give are of no small order, and you have in perfection the art of commanding admiration by the grandeur of your achievements in peace as in war."

*Bonaparte*: "Victories which are past soon cease to strike the imagination, just as great works of art make a strong impression only on those who see them, that is to say, on a small number of people. My intention certainly is to multiply the works of peace. It may be that in the future I shall be better known by them than by my victories; but for the present nothing is so resonant as military success.

"That is how I look at it. Mine is an unfortunate position. I repeat that a new-born Government like ours can only be solidified by dazzling and astonishing the world."

*The Councillor*: "It does not seem to me, Citizen Consul, that your Government is so newly born as you say. It came of age at Marengo.<sup>1</sup> Ruled by the strongest of men and supported by the arms of thirty thousand people, it holds no mean place among the Governments of Europe."

*Bonaparte*: "And do you believe that is sufficient, Mon cher? I tell you that our Government must either stand first of all or go under altogether."

*The Councillor*: "And you see no way of obtaining this supremacy but by war?"

*Bonaparte*: "Yes, I do. If our neighbours understand how to

<sup>1</sup> "My House dates from Marengo" was a frequent observation of Napoleon in later years.

keep the peace I will make peace secure, but if they oblige me to take up arms again it will be to our advantage to take them up ourselves before they have been allowed to rust by long disuse."

*The Councillor*: "Citizen Consul, how long do you anticipate that this state of uncertainty will last, a state so acute that in the midst of peace it makes you wish for war?"

*Bonaparte*: "Mon cher, I cannot see into the future far enough to answer that question, but I can see that if we are to hope for good faith or durability in our Treaties, one of two things is necessary. Either the other Governments of Europe must approximate more closely to mine or my Government must be brought more nearly into harmony with them. Between these old Monarchies and our new Republic there is suré to be a constant danger of war. There lies the root of the European discord."

*The Councillor*: "But do you not think that this spirit of hostility will be greatly subdued by recent events, or can be changed altogether by the attitude which you are able to assume towards foreign Powers?"

*Bonaparte*: "Palliatives are no remedies. In our position I look upon peace as a short respite only, and I believe that my ten years of office will be passed almost entirely in fighting. My successors will act as they think best, but be quite sure that it is not I who will break the peace. No, I have no intention of being the aggressor, but I have too much at stake to leave the initiative to the foreign Powers. I know them well. It is they who will either take up arms against us, or will supply me with just motives to declare war. I hold myself in readiness for either alternative."

*The Councillor*: "Thus, Citizen Consul, what I just now said that I dreaded is exactly what you hope for."

*Bonaparte*: "I await events. My principle is that war is better than an ephemeral peace. We shall soon see whether this peace is hollow or not. Meantime it gives us a great momentary advantage. It puts the seal on the recognition of my Government by the Power that has most persistently

refused to recognise it. That is the most important point. The rest, that is the future, will be as circumstances make it."

The persistent hostility of the old Governments was not long in showing itself, especially in England. The unfriendly conduct of the Ministers gave rise to remonstrances from the First Consul, while the tone of the official organs of both countries again became bitter and virulent. Notwithstanding this condition of affairs, the English flocked into France and to Paris.

After an absence of ten years they were eager to visit this nation of revolution, and to see the extraordinary man whom victory had raised to the head of the Government. They expected to find an exhausted country, a miserable people, and ruined agricultural districts. They viewed with mingled astonishment<sup>1</sup> and jealousy the prosperity of the country, the brilliance of Paris, and the splendour of the Court. The Parisians became infatuated over these foreigners. Everyone in society vied in welcoming them; it became the height of good form to entertain them with dinners, balls, and amusements of all sorts. The women especially went quite mad on the English, and ran after all their fashions. Things went so far that the whole nation seemed to be effacing itself before a few hundreds of these

<sup>1</sup> This mingled feeling of astonishment and jealousy was not universal among the English visitors to Paris. I have in my possession some unpublished letters from Lady Liston, wife of Sir Robert Liston, English Minister to Holland, written in the summer of 1802.

Lady Liston writes: "I quitted Paris with more pleasure than I entered it. Nothing can equal the dirtiness of their streets at all times, or the abominable smells in hot weather. France offers, in many respects, a very melancholy aspect. Churches in ruins, palaces levelled to the ground, and convents made into stables give a look of desolation to the whole country through which we passed which often made me sad." The following description of Bonaparte himself is not without interest. "His figure is rather genteel and his features regular, but his complexion pale and sickly, the expression of his countenance rather mild. He was distinguished from his attendants by the plainness of his dress and the fine decoration of his horse, but at his levée, which is after the parade, Robert says he was dressed in a very fine silk coat richly embroidered. He receives in the palace, and with as much ceremony and splendour as the Kings of France used to observe, but he takes care not to be often seen, and I am told that he lives in the constant apprehension of being assassinated." Bonaparte was the last man to live in fear of anything of the sort, but as current gossip the statement is worth recording.



islanders, and the hospitality shown them became ridiculously profuse. That is one of the weak points of our national character. There were still, however, to be found a few Frenchmen of the old school who did not share in this intoxication, and who groaned over the general loss of our national dignity. The audience given on the 15 Fructidor (15th September 1802) to the Diplomatic Corps was very largely attended. Mr. Merry, the English Minister-Plenipotentiary, presented to the First Consul a number of distinguished Englishmen, mostly members of the Parliamentary Opposition, among whom Mr. Fox excited the greatest curiosity.

The First Consul set his heart on making a conquest of this celebrated man. He said to him: "There are only in reality two nations, the West and East.

"France, England, and Spain all have, as nearly as possible, the same manners, the same religion, the same sentiments. They all belong to one family.

"The man who tries to make bad blood between Western nations is really doing all he can to provoke civil war. I have observed with pleasure that you share my opinion on this point: it does honour to your head and heart." The First Consul said to Alderman Combe:<sup>1</sup> "You acted quite right, and were both firm and moderate in the matter of the food supplies. Your conduct has won you the esteem of all Governments and all statesmen." Lord Erskine, however, when presented, was received with the curt question: "Are you a lawyer?" The First Consul conversed at great length with these Englishmen, especially with Fox, both during the audience and after dinner.

<sup>1</sup> Harvey Christian Combe, of the firm of Combe, Delafield & Co., brewers, Alderman of the city of London, 1790, Lord Mayor 1799-1800, Member of Parliament for the City 1796-1817. Alderman Combe was a member of the Opposition, voting steadily with Fox and his party. I have searched diligently but in vain for the "matter of the food supplies" which won for him the "esteem of all Governments and statesmen." His name appears but rarely in the *Parliamentary Debates*, and he is one of the few Englishmen of any note whatever who have escaped notice in the *Dictionary of National Biography*. Alderman Combe died in 1818, and a short obituary notice will be found in the *Gentleman's Magazine*, July of that year.

Fox had come to France partly to see the great man and partly to look for important documents relating to the history of the last two Stuart Kings, which were preserved in the Royal Irish College in Paris.

Every source was open to him by order of the First Consul, including even the Foreign Office archives.

The relations between the two countries became every day more embittered. The tone of the official journals grew more envenomed. The *Moniteur* said: "The French people are not ignorant of the jealousy which they excite, nor of the efforts made to embroil them at home and abroad. Their duty is to adopt the attitude given by the Athenians to Minerva, helmeted and carrying her spear. Nothing can be won from them by menace. The brave are incapable of fear." A speech of the King of England, in which he spoke of the necessity of preparation, gave the alarm.<sup>1</sup> Though nominally at peace, the two countries were absolutely hostile.

The insults of the London newspapers had made the First Consul so angry that he was constantly thinking and speaking of England. In a debate in the Council of State, 19 Pluviose (10th February 1803), on the question of the trade with India, he burst out: "People talk of the wealth and good government of England. Well! I have just seen the English budget,<sup>2</sup> and I

<sup>1</sup> George III.'s speech at the opening of Parliament on the 23rd November 1802. The words referred to are: "You will, I am persuaded, agree with me in thinking that it is incumbent upon us to adopt those measures of security which are best calculated to afford the prospect of preserving to my subjects the blessings of peace."

<sup>2</sup> The actual revenue and expenditure of Great Britain during the year 1803 were as follows. I give the totals in sterling and in francs. It will be seen that they do not agree with Bonaparte's statements. The figures are taken from Hansard's *Parliamentary Debates*, vol. i.

Revenue . . . . .	£48,707,131	Fr. 1,227,419,701
Expenditure . . . . .	50,840,078	1,281,169,965
Deficit . . . . .	2,132,947	53,750,264
The Army . . . . .	11,299,406	284,745,031
The Navy . . . . .	7,979,878	201,092,925
Interest on the Permanent Debt and on Exchequer Bills . . . . .	£25,066,211	Fr. 631,668,517

am going to publish it in the *Moniteur*. It shows a deficit of from five to six hundred million francs. There is a considerable sinking fund, out of which they say the national debt can be liquidated in thirty-eight years, but to do that war must cease immediately. They do not call this a deficit, but among the receipts appears a loan which increases the debt; it is impossible to foresee what may happen with such a system. England has an army of 110,000 men, which costs her 333,100,000 francs, an enormous sum, showing how bad her administration must be. It is the same with her navy, which costs 406,000,000. Of course, her resources are considerable, but her expenditure is out of all proportion. People are infatuated about England, without knowing anything about her. It is the same with her literature. Shakespeare was forgotten even by the English for two hundred years, until Voltaire at Geneva, and much mixed up with English people, took it into his head to write him up, to please his English friends; ever since people have gone about repeating that Shakespeare was the greatest author that ever lived. I have read him, and there is nothing in him which approaches Corneille or Racine. His plays are not worth reading; they are below contempt ('Elles font pitié'). As for Milton, there are only two or three passages which are really fine, such as the Invocation to the Sun. The rest is mere rhapsody. I prefer Vély<sup>1</sup> to Hume. There is nothing in England which France need envy.

"Its inhabitants desert it the first moment they can get away; there are more than 40,000 of them on the Continent at the present moment."

The English budget was published in the *Moniteur* of the 21st (12th March 1803) with the following explanatory note: "It will be seen, first, that England has an annual deficit of 658,000,000 francs, which up to the present time has been covered only by successive loans; and second, that England, not

<sup>1</sup> Paul François Velly was part author of the *Histoire de France jusqu'au regne de Louis XIV.*, 33 tome, Paris, 1769-1799. Velly wrote vols. 1-7 of this work; C. Villaret, vols. 7-17; and J. J. Garnier, vols. 18-33.

The work has long been superseded, and it seems as though Thibaudeau himself hardly remembered the name of the author, since he spells it Vély.

including Ireland, pays 530,000,000 francs for the interest of her debt.

"It is thus evident that the Bill authorising the bank not to pay in cash will have to be prolonged from year to year.<sup>1</sup> The English Government say that by means of their sinking fund they can pay off their debt in about thirty years, but this period is quite insufficient in the face of the sort of vertigo which still seems to possess many of those who enjoy credit among their countrymen. When we see the Ministers presenting a budget without a loan or deficit, and the bank cashing its own notes, it will be reasonable to believe that after thirty years of economy, peace, and good-will towards its neighbours, England will succeed in filling up the gulf caused by the blind hatred which longs for nothing less than the destruction of France."

The speech by the King of England on the 8th March 1803<sup>2</sup> urged Parliament to give the Ministry full powers to employ all the means necessary to preserve the honour of the Crown and the interests of the nation. These precautions were declared to be necessary in the face of the great preparations said to be going on in the French and Dutch ports, and the important matters still awaiting settlement between the King and the French Government. In the Council of State, on the 24 Ventose (15th March 1803), a Bill on the Bank of

<sup>1</sup> The Bank Act, continuing the suspension of cash payments, was passed in February 1803.

<sup>2</sup> On the 8th March 1803 George III. sent a "Message to Parliament respecting Military Preparations in the Ports of France and Holland." The message began with the words, "His Majesty thinks it necessary to acquaint the House of Commons that as very considerable military preparations are carrying on in the ports of France and Holland, he has judged it expedient to adopt additional measures of precaution for the security of his dominions." The message was debated in both Houses of Parliament, and addresses in reply were unanimously carried by the Lords and Commons. No definite scheme was set forward either in the Message or in the Addresses of Parliament.

The Message reached Paris on the 11th, and on Sunday, 13th March, followed Bonaparte's violent words to Lord Whitworth. The exact text of Lord Whitworth's despatch relating to this conversation, which Bonaparte began by saying in a loud voice, "So, you are determined to go to war," will be found in Dr. Holland Rose's *Life of Napoleon*, vol. i., 418. I commend the entire chapter entitled "The Renewal of War" as the best summary of the position in 1802 and 1803.

France was under consideration. The First Consul said: "Has anyone anything to say?"

Defermon replied by the question: "Is not the present state of politics injurious to the success of the scheme?"

*Bonaparte*: "While the capital was undergoing a siege the Romans sent an army to Africa. If, as seems hardly credible, we have to go to war again, I shall begin by diminishing the taxes by 30,000,000 francs. We shall live on Europe, and on Hanover in particular.

"Italy will give us 40,000,000 francs instead of 20,000,000, and Holland 30,000,000 instead of nothing. I said to the English Ambassador: 'Sir, you may kill Frenchmen, but you cannot intimidate them.' I cannot conceive the motives of the King of England's message. There are two points which he brings forward:—

"1. Our Armaments. This reduces itself to the expedition to Louisiana. Two thousand men and three gunboats were delayed by the frost at Dunkirk, but despatched to San Domingo on the very day of the King's message. The English Ministers must know all this; if they do not, why have they not asked for an explanation?

"2. The discussions over the negotiations. There are none, so far as I know. Are they speaking of Malta, and their intention to hold it? But Treaties must be carried out, and France cannot give way on this point without giving way on all the rest. That would be contrary to our honour. A nation ought never to act contrary to its honour; better perish at once. If we yield on this point they will go on to command a Commissioner at Dunkirk. Those times are gone bye; we are not what we once were: we shall never again be the vassals of England. Eight or nine months ago they threatened me with war if I would not make a Commercial Treaty with them. I replied that they could do as they liked. I did not want a Commercial Treaty; I wanted a Tariff which would benefit France. That was the way in which England snatched the Treaty from Monsieur Vergennes. He knew quite well that it was a bad one. If they

are going to try and keep Malta, war is inevitable. It is true that Malta belongs to the sea, and that it is proposed to garrison it with Neapolitans, whom everybody knows are not likely to favour us; but it is a question of honour. The English have always been in the habit of bullying Europe, and they have met with so little resistance that they resent it all the more when it comes. So much the worse for them. They say that we are planning an invasion of England. We want nothing from England except the fulfilment of the Treaty. If the message refers to foreign policy, it must be to Malta. If it refers to our domestic affairs, it can only be a demand that we should give up five or six thousand people of whom they are afraid after what happened at the funeral of Colonel Despard.<sup>1</sup> If it is not this, I really cannot imagine what it can be. As a rule when the English want to go to war they begin five or six months before by giving secret orders for the capture of merchant ships, and they warn the money market. But this time the message has fallen on us like a bomb.

“The day before it was delivered the King was out hunting, and the exchange had no warning. Consequently consols have fallen from 72 to 62,<sup>2</sup> a thing that never happened in England before. It is an inexplicable blunder, and all to their own injury. For what does the message say?—It asks for neither men nor money; it only says that if we invade England they hope the House of Commons will be ready to oppose us, and the Commons say, Yes. Truly, a great discovery. Anyhow, this will do more harm to England than to us, for she lives only on her credit. All her merchant ships are forbidden to put to sea. War will make her spend forty times as much as we shall, and she will have no definite object to fight for.”

<sup>1</sup> Colonel Despard was tried and executed for high treason, 21st February 1803, at Newington. He delivered a long address on the scaffold which was loudly cheered by a large crowd of people.

<sup>2</sup> The War loan at 5 per cent. stood at 71 on the 8th March, but fell immediately afterwards to 64½. The 3 per cent. consols remained at 63 to 64, but rose by the end of March to 66 to 67.

In stating the motives of a Bill relating to manufactures, Regnault, the spokesman of the Government, ended in these words: "The Government prepared this Bill in a time of peace; at the moment when it presents it to the Corps Législatif it is still in the enjoyment of peace, but it has reason to fear that it may not long enjoy this blessing!" The phrase spread alarm through the Corps Législatif and throughout Paris. It was everywhere held that Regnault spoke to order, and that a more formal declaration of the rupture of peace would soon follow. But the sentence was omitted in the report given in the *Moniteur* on the 13th (3rd May 1803).

The Section of the Interior brought before the Council a Bill on the police of the ports of Brest and Toulon. The Section recommended the appointment of a number of police inspectors in plain clothes to serve in these ports.

*Bonaparte*: "This will not be sufficient. These inspectors would not have the power of making arrests. We can only march with the Law, and therefore we must have regular Magistrates armed with legal authority. At present the police are under the Mayor, and the Mayor of Brest is obliged to wink at things: he is afraid of his own shadow.

"We must have a man who cares nothing for local interests. A few days ago an English naval captain came to Brest with the passport of a commercial traveller, and nobody dared to arrest him. All that the Military Commandant ventured to do was to order him to leave within twenty-four hours. If there had been a Magistrate there armed with special powers he would have arrested the captain and sent him to Paris, when I should have had him shot as a spy.

"No Englishman, a lord or even an ambassador, should be allowed to enter one of our arsenals."

The rumours of war began to be universally accredited. At the audience of the 11 Floreal (1st May 1803) the First Consul openly avowed his intentions. The English Ambassador was not there, only the Secretary of Legation and some private English visitors being present. Bonaparte held a conversation of a quarter of an hour's duration with Count Marcaff. After

the Ambassador had retired the First Consul said: "Since the English wish us to jump the ditch, we will jump it. They may capture a few of our frigates or colonies, but I will carry terror into London, and I predict that they will weep tears of blood before this war is ended.

"The English Ministers have put lies into the King's mouth in the face of all Europe. There have been no armaments in France, and no negotiations. They have not sent me a single note, a fact which Lord Whitworth cannot deny. And yet it is by the help of such vile fabrications that a Government stoops to excite the anger of a nation. For two years I have endured English insolence. I have waited to let them fill up the measure of their wrong-doing; they have taken this for weakness, and redoubled their insolence, until things have come to such a pass that their Ambassador dared to say to me: 'You shall do so and so or I leave France in seven days.' 'Is that the way to speak to a great nation?' I answered him,—'Put your claims on paper and I will lay them before the Government.' 'No,' he replied; 'my orders are to communicate verbally only.' Is not this an unheard-of way of negotiating? They make a great mistake if they think they can dictate laws to a nation of forty millions. They think I am doubtful of my own position, and am therefore afraid to go to war. Why, I can raise two million men if I want them. The result of our first war has been to aggrandise France by the addition of Belgium and Piedmont. The result of this one will be to secure and extend our federative system.

"The only bonds which can bind two great nations together are justice and the observance of treaty obligations. The country which suffers from their violation must resist or suffer degradation. Once it allows such violations to pass it falls into dependence.

"It would be better for the French people to become vassals of England at once, and to raise a throne for the King of England in Paris, than to submit to the arbitrary caprices of that Government. The next thing they will do is to order our ships to salute theirs, or forbid our sailors to pass beyond such



and such a latitude. Even now they mark with jealous eyes the fact that we are dredging our harbours and building up our navy. They make such things as these the subjects of complaint, and demand guarantees. A few days ago Rear-Admiral Lesseigues with his ships touched at Malta, where he found fourteen English vessels.

"They wanted him to fire a salute, which Lesseigues refused to do, and then followed a good deal of abusive language. If he had given way I would have had him taken about the streets on an ass, as a more ignominious punishment than the guillotine.

"I flatter myself that our conduct, when it is known, will be applauded by every country in Europe.

"When England made peace she believed that we should have all sorts of domestic commotions and that the Generals would give us a lot of trouble. They have been altogether mistaken, these English, and their intrigues have failed utterly. Our time has been entirely devoted to making good our losses. A little sooner or a little later war was bound to come. Better have it at once, before our maritime trade is in full swing again." This allocution lasted for nearly an hour. Only a few Senators, such as Laplace and Bougainville, took any part in it, and they talked of the ease with which England could be invaded.

On the 12th (2nd May 1803), in a private audience, Bonaparte repeated to one or two Councillors of State the substance of what he had said the day before, and added: "The English have no allies on the Continent. The Court of Vienna is utterly dissatisfied with their conduct. The Emperor has written to that effect both to London and Paris, but the English Ministers are a set of imbeciles; there is not a man among them with whom we could come to an understanding."

On the 24 Floreal (14th May 1803), at a sitting of the Council of State, Bonaparte said: "The departure of the English Ambassador is too serious an event to be passed over in silence. As long as our Ambassador remains in London it would be contrary to precedent to publish the papers relating

to the recent negotiations. Moreover, as the departure of the English Ambassador is not in itself a Declaration of War, we may still entertain some hope of peace, though personally I have none.

“But it is time to communicate confidentially to the higher authorities the present state of the negotiations. The latest note sent to Lord Whitworth will now be read; it contains an epitome of all that has preceded it.” On the same day the communication was transmitted to the Senate, the Tribunat, and the Corps Législatif. All three replied by a eulogy on the moderation of the Government, and expressed their desire to pass whatever measures should be judged necessary for the safety and dignity of the nation.

Fontanes distinguished himself in the Corps Législatif by a speech as noble as it was vigorous.

“If the English,” he said, “dare to make war on us, France is ready once more to guard herself with the arms which have conquered Europe. France will not declare war, but she knows well how to accept such a declaration. Once again our country is the centre of civilised Europe. No longer can England boast herself the defender of the fundamental principles of society shaken by the Revolution to their very base. It is for us to maintain the right of nations and the cause of humanity by repelling the unjust attack of a nation which negotiates to deceive, demands peace to prepare for war, and signs Treaties only to trample them under foot. The signal given, France will with unanimous devotion rally round the hero to whom she is devoted. Party spirit, which is silenced in his presence, will dispute only on the best means of showing zeal and courage. All alike comprehend that nought but his genius could support the burden and the greatness of our new destinies. Those who so recently returned from exile will be the first to defend their country.

“I propose that a large deputation shall wait upon the First Consul, charged with the duty of expressing to him our devotion and our assurance that the French people, always growing more confident in their great leader, will give him

freely all the means he requires to render the coming war short, glorious, and decisive."

Deputations from each of the three legislative bodies waited on the First Consul.

Fontanes, speaking in the name of the Corps Législatif, even surpassed his first oration in the dignity of his language and the devotion which he expressed towards the First Consul.<sup>1</sup> He ended thus—

"England believes herself to be invulnerably protected by the ocean; but the English people do not seem to understand that at rare epochs of the world's history there is given to mankind a man endowed with a genius which can achieve what has hitherto been held impossible. When such a man has arisen, is it wise on her part to provoke him to wring all that he has a right to expect from his genius for success?"

"In a word, there is nothing which a great people cannot achieve when they possess a truly great man whose glory is inseparably bound up with the interests and welfare of his country."

<sup>1</sup> Fontanes' devotion to his master was not eternal. In April 1814 he drew up an Address from the Senate to the Army, asking the soldiers to consider their allegiance to Napoleon, "who is not even a Frenchman," at an end. The address was of course justifiable and necessary, but Monsieur Fontanes might have spared himself the gibe.

## CHAPTER VIII

### LISTS OF NOTABILITY—LEGION OF HONOUR

1801—1802

[*EDITOR'S NOTE*.—For the Lists of Notability see the Note on the Constitution of the year VIII.

The system was abolished by the *Senatus Consultum* of the 4th August 1802, which substituted for it “Electoral Colleges.”

The copy of the *Mémoires sur le Consulat* in the library of the British Museum formerly belonged to the Marquis de Pastoret.

At the end of the chapter he has written: “Et maintenant c'est le plus populaire des Institutions de ce tems. Comptez donc sur la prudence humaine.” The words must have been written before 1840, the date of Pastoret's death.

At the present day, in spite of errors and scandals, the Legion of Honour is perhaps more eagerly sought after and more highly prized than any Order on the continent of Europe.]

ARTICLE 14 of the Constitution had decreed that lists of persons should be drawn up who alone should be eligible for public employment. This curious attempt to form a new aristocracy under the title of “Notables” was strongly disapproved by public opinion, and serious difficulties had arisen in the formation of the lists. It was, in fact, a sort of religious rite with an esoteric aim, of which Roederer constituted himself the high priest. He had added to the obscurity of the institution by his code of rules and regulations, and the Prefects were in despair.

The first retirement of one-fifth of the members of the *Tribunat* and of the *Corps Législatif* would take place in the year X. (1801—1802), and the question arose whether the Senate was bound to nominate the new members by selecting names

from these "Lists of Notables," in which case the executive was bound to have the lists completed and laid before the Senate. The matter was brought before the Council of State on the 14 Pluiose (3rd February 1801), and the following discussion took place :—

*Roederer*: "Article 14 of the Constitution decrees that the lists should be drawn up in the year IX. (1800–1801), and Article 38 that the renewal of one-fifth of the Corps Législatif and Tribunat should take place in the year X. (1801–1802). It is therefore obvious that the new members should be elected from the names in the lists. To fail in doing this would be a violation of the Constitution, for which no pretext or excuse can be found. It has been alleged that the lists are not yet completed, and that those which have been drawn up have excited considerable opposition. I reply that only eight or ten lists are still incomplete, and that we ought not to allow further delay on that account. Those citizens whose names appear on the lists in our hands have acquired rights of which they cannot be deprived without creating well-founded discontent and complaint against the Government. As to the protests which have been sent to the Tribunat against these lists, I have seen them all.

"They are in the interest of private persons, and as they are not based on the well-being of the country they have no weight whatever. The report of the Minister of the Interior proves that the names of the most honest and capable citizens throughout the Republic are to be found in them, a fact which I can fully attest as regards the list of my constituency, Metz. Of course, this may not be true of Paris, where there are many more well-educated and enlightened people than anywhere else."

*Emmery*: "I am of a totally different opinion even as regards Metz. The system is a bad one. The formation of these lists has given rise to every sort of intrigue in most of the Departments. It is impossible for the Government to accept them without rigid inquiry into the lists themselves, and into the numerous protests to which they have given rise. Even if

these protests come from aggrieved persons only, what stronger motive can anyone have than a personal grievance? The Government will be acting entirely in the interest of the public if it adjourns the consideration of the lists until it has time to consider what is to be said against them. Public opinion is opposed to them, because they rob the majority of our citizens of the most popular of the benefits of the Revolution, the right of all to serve the State. In order not to offend some 5000 individuals whose names appear in the lists, you give just grounds of discontent to the many thousands whose names are omitted.

“The general feeling of the Council is that the whole system is bad, and that it ought not to be carried out. Certainly, it would be possible to get enough good names out of these lists to last for two or three years. But if we do this we shall make it the more difficult to get rid of them or to adopt a better plan in future.”

*Cambacérès*: “The discontent of those who are on the lists would be more dangerous than the complaints of those who are not.”

Several others spoke, some against the system itself, others over the difficulties of putting it into execution.

*Bonaparte*: “The system is a bad one. It is absurd, childish, the work of the ‘ideologues.’ This is not the way to organise a great nation. Fifty men, suddenly summoned in the midst of a political crisis to draw up a Constitution, had no authority to alienate the rights of the people, whose sovereignty is inalienable. Yet, detestable as this institution is, it forms part of the Constitution, and we are bound to carry it out, both as a duty and as a proof of our good faith. Nine-tenths of these lists have been sent to the Executive, and we must act on them. While we are doing so, everyone will be criticising them, the voice of public opinion will make itself heard, and we shall be enabled to follow its guidance.

“Moreover, the nation cannot remain without some sort of organisation, and a bad system is better than none at all. It is not enough to appoint a number of high authorities. A

Government must have subordinates and intermediaries; otherwise it falls out of touch with the people, and finds itself unable to speak to them or to find out what their wishes really are. Clearly, then, we must not give up these lists until we can substitute something better.

“We are all agreed that they give us a list of names sufficient to choose good men from for the time being. Finally, the Constitution has established them, and we have made them part of the law of the State. All France has taken a share in drawing them up. In the country districts the elections of Notables have been more generally attended than any others.

“We cannot afford to despise the expressed will of the people simply because Paris has made a bad list, and because Paris is pleased to look down with contempt on the rest of the country.”

Regnault, Réal, and Devaines opposed the First Consul's plea that the best way to find out what opinion the public had on the subject was to put the lists into force. They held that if once adopted they would be more difficult to get rid of.

*Bonaparte*: “Very well, if the lists are favourably received, and are approved by the public, so much the better. After all, it is easier for the Government to select men from a list of 5000 names than from the whole nation. What harm can come from using these lists for the next two or three years? They are the only source of influencing the Government which the people possess. We shall see when the question of renewing them comes to the fore. It was believed at first that this article of the Constitution was unworkable, yet we made it part of the law of the State. Even then it was supposed to be so incomprehensible that the only person in the world who understood it was Citizen Roederer. Well! the people have taken the pains to understand and to work it. If you now annul it you will be lacking in respect for the people who have shown plenty of respect for your law.”

*Portalis*: “We are all agreed that the system is bad; we differ only on the best means of getting rid of it. Some of us think that the right way of doing this would be to adjourn it, others that we should achieve our purpose better by carrying it

out. On the whole I agree with the latter view." The Council decided unanimously that the lists should be used.

Roederer saw in the Lists of Notability the germs of a ready-made noblesse for use when his plan of making the First Consul an hereditary ruler should be ripe. The principle of heredity, he said to himself, once adopted in the person of the First Consul could not stand alone. Other hereditary titles will be necessary, and the lists will furnish them admirably. Mathieu Dumas, on the other hand, opposed the lists because he preferred the old noblesse to a new noblesse of the Revolution.

Large numbers of protests against the names on the lists were sent to the Tribunat, which declined to consider them. The Government forwarded them to the Senate with a message stating that they had been examined, but that no sufficient reasons for taking action in consequence of the protests had been discovered.

The Senate published the lists in April 1801.

On the 14 Floreal, an. X. (4th May 1802), the First Consul directed Roederer to read to the Council of State the Bill for the establishment of the Legion of Honour.

Bonaparte then proceeded to explain his intentions in founding the Order, thus—

"Article 87 of the Constitution promises a system of national rewards for military services, but no such system has yet been organised. An order has been issued for the distribution of Arms of Honour, some of which carry with them double pay, while others do not. This is both expensive and confusing. Above all things, we ought to direct the spirit of the army in a right direction, and to maintain it at a high level. The proposed plan makes the system of military rewards consistent and complete. It is a first step towards the organisation of the nation."

Mathieu Dumas read a paper in support of the proposal, in the course of which he opposed the plan of extending the Legion to civilians, and maintained that it ought to be confined to soldiers, or at least should be given to no one who had not served his legal term in the army. "Military honour and glory," he said, "have been on the decline ever since the destruction of



the feudal system, which assured a predominant place in society to the army."

*Bonaparte*: "Such ideas were all very well in the days of feudalism and chivalry, or in the age when the Franks conquered the Gauls. In those days the nations were slaves; the only free men were the conquering Frankish soldiers. The first requisite of a General or a Chief was physical force. Thus a Clovis or a Charlemagne was the strongest and the most active man in his army. Each was worth a whole battalion, and was obeyed and revered on this account alone.

"The whole military system rested on the same basis. The Knights fought with each other face to face, and personal strength and courage won the day.

"But when military science changed from a series of duels between Knights to the management of organised masses of men, copied from the Macedonian phalanx, everything was changed. Battles were no longer won by individual courage, but by science and military skill. Such battles as Agincourt, Crecy, and Poitiers prove this. See how King John and his Knights went down before the Gascon phalanx, just as the troops of Darius before the Macedonians.

"Just in the same way the Roman legions were invincible. It was this change in military science, not the abolition of feudalism, which entirely altered the qualities necessary to a commanding officer. Moreover, the feudal system was abolished by the sovereigns to free themselves from the yoke of their turbulent, overwhelming nobles. They liberated the towns and raised battalions of peasantry.

"The military spirit passed from the exclusive possession of a few thousand Franks to become the common property of all the Gauls. Far from being weakened by the change, it became infinitely stronger; it no longer rested on individual violence and strength, but on the same qualities as make for success in civil life.

"Then came the invention of gunpowder, which exercised an immense influence on the art of war. Since this revolution, what has been the most essential qualifications for a military

commander? Why, his civil qualities,—foresight, power of calculation, administrative ability, ready wit, eloquence (not of the legal sort, but the eloquence which appeals to soldiers), and above all knowledge of men. All these are civil qualities.

“It is not nowadays the man of five foot ten who achieves great things. If strength and courage were all that are needed to make a General, every private could hope to command. The General who is capable of great things, is he who possesses the finest civil qualities. He is obeyed and respected on account of his intellectual ability. If you hear the soldiers talking round their bivouac fires, you will find that they think more of the officer who can plan and calculate than of the bravest fighting man. Not that they fail to esteem personal courage; they have nothing but contempt for cowardice. Mourad-Bey was the strongest and most active fighting man among the Mamelukes, therefore he was their Bey. When he saw me he could not imagine how I could be in command; he only learnt why as he came to understand our system of warfare. The Mamelukes fought like the Knights, man to man, squadron to squadron; that is why we beat them.

“Suppose the Mamelukes were rooted out, and Egypt, free from their yoke, formed a national army of its own, the military spirit of the nation would not be destroyed; on the contrary, it would be enormously strengthened. In all lands force yields the palm to civic virtues. Bayonets are sheathed before the priest who speaks in the name of heaven, or before the man of science whose knowledge inspires respect. I have often told officers who were troubled with scruples that France would never submit to a military government until she had been brutalised by half a century of ignorance. Any attempt of that kind is bound to fail, and to ruin the man who makes it. It is not as a General that I am governing France; it is because the nation believes that I possess the civil qualities which go to make a ruler. If it did not believe this the present Government would soon collapse. I knew very well what I was doing when, holding the rank of a General in command of an army, I became a Member of the Institute.

“I was quite sure that my motives would be understood by the youngest drummer-boy. It is useless to apply arguments drawn from barbarous ages to the present day.

“We are a nation of 30,000,000 people, bound together by enlightenment, property, and trade. Three or four thousand soldiers count for nothing in such a mass.

“Not only do our Generals command by virtue of their civil qualities, but when they are not on active service they themselves become civilians. The soldiers themselves are the children of civil citizens. The army is simply the nation. Take the soldier and separate him from all his civic surroundings and you have a man who knows no other law but brute force, who judges everything by that standard and sees nothing beyond it. The civilian, on the contrary, makes the good of the nation his standard. The method of the soldier is to act despotically; that of the civilian to submit to discussion, to truth, to reason.

“This leads, if you like, to looking at questions through different prisms, to deception and self-deceit. Nevertheless discussion brings light, and I do not hesitate to say that the civilian method is the better. If we divide our rewards into two branches, military and civil, we shall establish two separate orders, while in reality we are all one nation. If we bestow them upon soldiers alone the results would be still worse, for then we shall ignore the nation altogether.”

This reasoning, sustained with so rare a mixture of eloquence and good sense, produced a great effect on the Council, who, being mostly civilians, were of the same opinion. The weight of Bonaparte's words was increased by the fact that they came from the mouth of the head of the Government, himself the most famous of French Generals. Dumas made no attempt to reply, nor did anyone else offer to speak.

We all seemed afraid of weakening the impression produced by the First Consul's words, and perhaps with a view to preserving it in our minds he closed the session. The debate was continued on the 18th (8th May 1802). We had not yet touched the delicate question of the utility or otherwise of the

proposed institution. Its opponents by no means rejected a system of rewards and distinctions, such as had been voted by former Legislatures. Their objection to this proposal was that it created an *Order*, which they held to be contrary to the spirit of equality, the essential characteristic of the French Republic. In the course of the discussion several speakers referred to the Greeks and Romans. Berlier, for instance, said: "The proposed Order leads straight to an aristocracy; crosses and ribbons are the toys of a Monarchy. I do not quote the Romans as an example to ourselves. Their divisions into Patricians and Plebeians had nothing to do with merit; they were matters of birth.

"The national honours bestowed on their benefactors were personal, and did nothing to alter the rank of the recipient. We have no longer any classes or rank; let us be on our guard against returning to either. Magistracies and other appointments under Government are the proper rewards of good service under a Republic."

Bonaparte, replying to Berlier and the others who had cited ancient history, said—

"People are everlastingly talking about the Romans. It is curious to hear the example of the nation which carried ranks and classes to their extremest limit, quoted by those who want to do away altogether with both. The Romans had their patricians, knights, citizens, and slaves. Each class had its own distinctive costume and code of morals. They bestowed all sorts of distinctions as rewards; titles recalling services rendered, mural crowns. Then they had their superstitions. If you leave religion out of your ideas of Rome you lose the key to its history. When the splendid race of Patricians fell Rome was rent into pieces. The populace was the vilest of mobs. Then followed the fury of Marius, the proscriptions of Sylla, finally the Emperors.

"People talk about Brutus<sup>1</sup> as the foe of tyrants. In point

<sup>1</sup> Bonaparte's words on Brutus form an interesting example of his knowledge of history. At the time when he spoke Brutus was universally considered to be the patron saint of democrats and tyrannicides. To give one instance only, Lucien Bonaparte in 1794 changed his name to "Brutus Bonaparte, Citizen Sans-Culotte."

of fact, he was nothing but an aristocrat; he only killed Cæsar because Cæsar was trying to decrease the authority of the Senate and to increase the power of the people. See how ignorance and party spirit misread history. I defy you to give a single instance of a Republic, ancient or modern, in which there have been no distinctions. You are pleased to call them toys; well, it is with toys that mankind is governed.<sup>1</sup> I should not say this if I were making a speech, but in a council of statesmen and men of the world one ought to speak freely. I do not believe that the French people are in love with liberty and equality. The spirit of the nation has not been turned upside down by ten years of Revolution. Frenchmen are to-day what the Gauls were, high-spirited and light-hearted. They have one sentiment only, 'Honour.'<sup>2</sup> This sentiment we must keep alive, and you cannot do this without distinctions. See how the people prostrate themselves before foreign decorations; of course, they want the same things at home. Voltaire called soldiers 'Alexanders at five sous a day.' He was quite right. Do you think you can make men fight by philosophic analysis? Never. That sort of thing is all very well for the scholar in his study, but the soldier wants glory, distinctions, rewards. The armies of the Republic have achieved great triumphs because they are composed of the sons of workmen and good farmers, not the refuse of the towns; also because their officers have kept up the traditions of the officers of the old régime; most of all because they have kept up the sentiment of honour; they have, in fact, been inspired

<sup>1</sup> Thibaudeau's note.—"You cannot govern old and corrupt nations as you can ancient and virtuous ones. For one person who would sacrifice himself for the public good there are thousands who give themselves up to vanity and enjoyment. This is one of the causes of the return to monarchical forms, of the re-establishment of titles and orders, innocent toys fitted to attract the respect of the multitude and to promote one's own self-respect."—Las Cases, *Memorial de Ste. Hélène*, July 1816. (English translation, vol. iii. p. 27.) I give this note in justice to Thibaudeau's text. I have explained in the Introduction the reasons which make me unwilling to quote from Napoleon's utterances at St. Helena.

<sup>2</sup> It need hardly be pointed out that the French word *Honneur* differs greatly in meaning from our word *Honour*. It might perhaps be better translated as *Glory* or *Renown*.

by exactly the same principles as those which led the armies of Louis XIV. to achievements just as great as those of our own day. You can say, if you like, that the proposed distinction will create an *Order*. Names are nothing. Consider what a world of talk there has been during these last ten years about institutions, but what new institution has been founded. Not one. The time was not ripe for them. What was the use of bringing people into a cold church to hear the laws read out, and then to be turned out into the frosty air to think them over? It was not over-amusing to those who had to go through it. How could anyone hope to make the people attached to such an institution as that?<sup>1</sup>

“Looked at through the confused chaos of the last ten years, the proposal of which we are speaking might seem quite useless, but looked at from the standpoint of to-day it assumes a very different aspect. The Revolution is over, the time for reconstruction has come. All the old institutions have been swept away; our duty is to construct new ones. There exists now a Government and a source of authority, but all the rest of the nation are so many grains of sand. We have still amongst us the remains of the old privileged orders, acting together with common interests and common principles, knowing exactly what they want. We can take stock of our enemies, but we ourselves seem to have no common aims, no system, no bond of union. As long as I am here I can answer for the Republic, but we must make provision for the future. Do you believe that the Republic is definitely established? If so, you are very much mistaken. We are in a position to establish it, but we have not done so yet, and we shall not do so unless we can plant on the soil of France some masses of granite. Do you think you can count on the people? They are as ready to shout ‘Vive le roi’ to-day as ‘Vive la ligue’ to-morrow. Our duty is to turn them in the right way, and to do this we

<sup>1</sup> Bonaparte is referring to the “service” of the *Décadi* as established by the law of the 4th August 1798. Part of this function consisted of reading aloud the laws passed during the preceding decade, which were issued in an official publication entitled the *Bulletin décadaire*.

must have the proper instruments. In the war of La Vendée I have seen forty men master a whole Department. That is the sort of system we must get hold of. In short, we must found Institutions. Those who object to this one should propose others. I do not maintain that this alone will be the salvation of the Republic, but I believe it will play its part."

Cambacérés supported the project, and set himself to prove that such distinctions were not opposed to the spirit of the Constitution. Portalis also supported it, and quoted Rousseau on the influence and necessity of outward signs.

The Bill was discussed in another sitting of the Council, at which Bonaparte was not present.

On the 24th (14th May 1802) he again presided. This time he did not put the question to the vote, but, acting as though the principle of the measure had been passed, he dealt only with matters of detail, and proposed that the Bill should be at once laid before the Corps Législatif so that it might be carried before the end of its session, now near at hand. In reply to this Thibaudeau said: "This law is of the highest importance; it is, moreover, diametrically opposed to the principles of the Revolution. Distinctions and Orders were not abolished during that disastrous period, which has ever since thrown discredit upon the best of schemes. Their abolition was decreed by the Constituent Assembly in its most brilliant epoch. The nation is profoundly sensitive to the feeling of honour, but this sentiment only heightens its love of equality.

"These two sentiments were the source of the glorious victories of the Army of the Republic in its earliest days. I cannot see that the Legion of Honour would have added any lustre to their prodigies of valour. Instead of being, as it has been called, a fresh guarantee of the Revolution, it seems to me the exact opposite. It has been said that the Legion will act as an intermediary between the Executive and the people. To my mind this theory is directly opposed to the principles of Representative Government. With all due respect to the motives which have been urged in its favour, I confess that I still have my doubts. My fear is that the love of ribbons

would tend not towards strengthening the sentiments of duty and honour, but towards relaxing both.

“In any case, I think it highly desirable that such an institution should be thoroughly considered in all its bearings by the highest consultative bodies of the Republic. The Corps Législatif will adjourn in the course of the next few days, and I ask you to consider whether it is wise or judicious to place before it at this moment a Bill which requires its most earnest attention. I foresee that it will meet with determined opposition. It seems to me the more prudent course to adjourn its consideration.”

The adjournment was opposed by Portalis, Dumas, and Roederer. The First Consul put it to the vote, and it was rejected by 14 against 10.

The following members who voted in favour of the adjournment were in reality opposed to the project; namely, Lacuée, Emmery, Berlier, Berenger, Thibaudeau, Jolivet, Defermon, Crétet, and Réal.<sup>1</sup>

On the 25th (15th May 1802) the Bill was laid before the Corps Législatif, with a preamble by Roederer in these terms: “This institution is consistent with our Republican laws, and is designed as an aid to the consolidation of the Revolution. It bestows upon military or civic achievements the reward due to courage in either capacity, thus uniting the two classes of citizens by a common bond corresponding to the gratitude of the nation towards both services. It fosters the mutual friendship and esteem of soldiers and civilians, recalling to the minds

<sup>1</sup> It lends a touch of humour to the record of those who “were in reality opposed to the project,” and still more opposed to hereditary honours, to note their future fortunes.

Thus Lacuée became Grand Officer of the Legion of Honour in 1804 and Count de Cessac in 1808.

Emmery, Chevalier in 1803 and Count in 1808.

Berlier, Chevalier in 1803 and Count in 1808.

Berenger, Chevalier in 1803 and Count in 1808.

Thibaudeau, Chevalier in 1804 and Count in 1809.

Jolivet, Chevalier in 1804 and Count in 1808.

Defermon, Chevalier in 1805 and Count in 1808.

Crétet, Chevalier in 1804, Count de Champmol in 1808.

Réal, Chevalier in 1804.



of both their duty and their oath to preserve our fundamental laws of equality, liberty, and property. It supersedes the old hereditary distinctions which placed inherited above self-acquired glory, and raised the descendants of great men above great men themselves. As a moral institution it adds force and vigour to the sentiment of honour, which is so predominant a characteristic of our race. As a political institution it creates an intermediate body admirably calculated to bring the Government and the people into close relations with each other. As a military institution it serves to attract to the army those young men whom luxury and love of ease might otherwise estrange from the career of arms. It is, in fact, a new form of coinage widely different from that which issues from the mint; a coinage the value of which can never depreciate, since it rests on the solid basis of the glory of France; the only description of coin which can be paid for actions which are far above mere monetary rewards."

Lucien Bonaparte, who acted as spokesman of the Commission appointed by the Tribunat to consider the Bill, reported in its favour. Savoye-Rollin opposed it in a weighty and eloquent speech which produced a great sensation.

He was ably supported by Chauvelin, who also brought sound and able arguments to bear against it.

The principal objections raised by these and other speakers were that the Legion of Honour contained in itself all the germs of an hereditary nobility, such as titles, honours, privileges, and revenues. Seldom had such opportunities for the growth of an aristocracy been granted in any country. Nor could any number of phrases on progress, enlightenment, or the altered aspect of the time bring conviction to the contrary. The heart of man does not alter, the same circumstances lead to the same ends and to the same errors. The Legion of Honour, once established, would lead to the revival of old prejudices in favour of militarism and its offspring, hereditary nobility.

Such prejudices might for the time be nearly extinct in France, but they were still rampant throughout the rest of Europe. While ostensibly founded as destructive to the old

noblesse, it would soon produce a new noblesse which would rehabilitate the old.

As an intermediate body the Legion would be worse than superfluous: such intermediaries might be of service to despotic Governments, but in a nation blessed with a republican system, the only true intermediaries between the Executive and the nation are the Legislative bodies, whose debates and proceedings are fearlessly open and can be read by the public at large.

Finally, the establishment of a Legion of Honour was contrary to the principles of the Republic and to the whole spirit of the Constitution. Fréville defended the project, and Lucien Bonaparte replied to its opponents with the presumption of a young man presuming upon his relationship to the head of the State. He accused the opposition of attacking the Government with criminal intentions, and declared the nation itself to be in a "pitiable" condition. His imprudent utterances lost the Government many votes, and the Bill was carried through the Tribunat by a majority of only 18.

The Bill was next submitted to the Corps Législatif, but here there was no possibility of debate. The three Orators of the Government and the three members of the Tribunat delegated to defend the measure had it all their own way. The debate closed with a parallel drawn by Dumas between the Roman Emperor Marcus Claudius Marcellus, "the Sword of Rome," and the First Consul. "Our Marcellus," said the speaker, "our Consul on whose Life Tenure of his office the nation is now being consulted; he who has protected science and art in the midst of the horrors of war; he who, borne on the wings of victory, has revived both in Egypt, the cradle of all knowledge and art whence the Greeks and Archimedes draw their inspiration; the 'Sword of France' brings before you, pontiffs of the Law, his proposal to erect a temple to honour and virtue." The pontiffs after this exordium proceeded to vote, and in spite of all the eloquence employed to procure their suffrages carried the institution of the Legion of Honour by the small majority of 56 (19th May 1802).

A victory so narrowly carried through two legislative

bodies which had recently undergone "purgation" was not particularly flattering to the First Consul.

One of the Councillors of State said to him: "You see that those of us who voted for adjournment had some right on their side. A determined opposition is always inconvenient." Bonaparte replied: "You are quite right, it would have been better to wait, we did not give it time enough; it was not so urgent after all. The speakers who defended it did not use the best arguments in its favour."

The institution of the Legion of Honour was passed—

In the Council of State by 14 votes against 10.

In the Tribunat by . 56 „ against 38.

In the Corps Législatif by 166 „ against 110.

That is to say, there were in all 236 votes in its favour and 158 against it, making a total majority of 78 votes. No scheme of Bonaparte's ever encountered so serious an opposition.

## CHAPTER IX

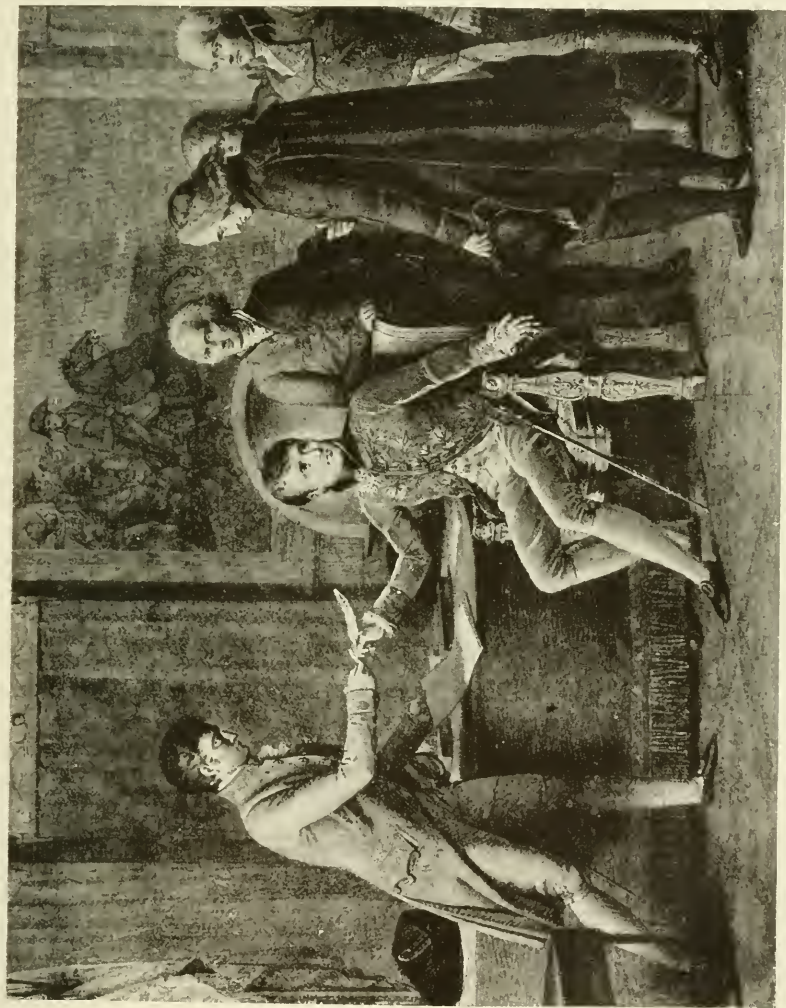
### THE CONCORDAT

1801-1802

[*EDITOR'S NOTE.*—It is impossible to understand Bonaparte's policy in making a Concordat with the Pope without some knowledge of the ecclesiastical history of the Revolution, a history so complicated and difficult that it would require a volume to give even its outline. I can only attempt here to give a few dates and facts which may assist the reader to appreciate the religious condition of France when Bonaparte took the government into his own hands.

During the course of 1790 tithes were handed over to the landed proprietors, the property of the Church was confiscated, and salaries, as a rule very much smaller than the former endowments, were granted to the bishops and beneficed clergy. During the same year a Committee of the National Assembly was engaged in drawing up a new "Civil Constitution of the Clergy" which substituted election for presentation, and abolished Papal jurisdiction in all but name. On the 4th January 1791 the bishops and clergy were summoned to take an oath (known as the "Serment civique") of adherence to this Constitution.

The vast majority, including nearly all those of reputation or high character, refused, on the ground that the Constitution was schismatical and would cut the Church of France off from communion with the whole body of the Roman Faith. Four bishops only, including Talleyrand, and a small remnant of the clergy consented, while 128 bishops and the great majority of the dignitaries and parish priests refused. These were henceforth known as "unsworn" (*insermentés*) or "refractory" priests, while those who took the oath formed a body known as the "Constitutional Church." With the advance of the Revolution came the September massacres, in which about 300 priests perished, and a series of laws of the most drastic description against the "unsworn" clergy. According to these laws, passed in 1792, 1793, and 1794, every unsworn priest was liable



THE FIRST CONSUL SIGNING THE CONCORDAT  
AFTER A DRAWING BY GERARD



to transportation, or if he had emigrated or escaped and was found in France, to execution without any form of trial beyond identification. During these years large numbers of priests had fled to England, Rome, Switzerland, or Germany, but a considerable number remained in France, clandestinely exercising their religious functions. Of the number of these latter no exact statistics are obtainable, but it is known that eleven bishops, who had lived in concealment in France during the Terror, still survived at the close of the year 1795.

After the Terror, and notably during the first two years of the Directory, large numbers returned to France, until in July 1797 it was estimated that religious services were held by either "unsworn" or Constitutional priests in over 31,000 communes, and that in Paris itself forty-one churches were crowded with worshippers.

The fatal Coup d'État of the 18 Fructidor (4th September 1797) put an end to this state of things. The Law passed by the Corps Législatif on the following day, among many other revolutionary clauses, contained one authorising the Directors to transport by an administrative order any priest "who disturbed the public peace."

Among the local administrative officials the priests had found many friends, but when the power of arbitrary imprisonment was placed in the hands of Barras, Rewbell, and above all La Revellière Lépéaux, the clergy had every cause for fear and none for hope.

During the two years that followed (September 1797–November 1799) the clergy underwent the most bitter and searching persecution to which they had been subjected since the beginning of the Revolution. The Directors began by transporting to Cayenne 294 priests, but as two ships containing about 58 of these were captured by English cruisers, they substituted imprisonment either in the ordinary gaols or in the Île d'Oléron, where there were herded together 1212 priests.

A Government which could find no means of paying its soldiers or civil officials naturally neglected to supply these detested prisoners with the necessaries of life, and their consequent sufferings may be imagined. After the Belgian Insurrection in 1798 over 8000 of these administrative orders were issued, but the Belgian people of all ranks so effectually befriended and concealed their clergy that few were captured.

Meanwhile the Constitutional clergy had fared very badly. Stipends ceased to be paid after the fall of the Monarchy. Churches were closed or abandoned to other purposes, and the Constitutional clergy were ejected from their presbyteries. On the 21st February 1795 a law was passed by the Convention proclaiming the liberty of all

forms of worship, under police supervision; declaring that the State neither paid nor lodged the ministers of any religious body, closing churches to any form of worship and forbidding any external costumes, inscriptions, ornaments, or means of summoning persons to join in religious exercises.

This law, while it gave no alleviation to the laws against the proscribed "unsworn" clergy, deprived the Constitutional body of its quasi-established status. Many of the Constitutionals threw up their orders, married, or became aggressive anti-clericals; and though the Church itself was kept alive mainly by the efforts of the brave member of the Convention, Bishop Grégoire, it found no support from the many Catholics who still remained in France, while the anti-Christian party made no distinction between the Constitutional and the "unsworn" clergy. Many of the former, as well as a number of Protestant ministers, were thrown into prison in 1798 and 1799 for refusing to substitute the *Décadi* for Sunday or for other equally valid causes.

In those parts of Brittany and the western Departments in which the Vendean or Chouan insurrection had still continued, the clergy had remained in full exercise of their religious functions. During his pacification of Brittany and La Vendée in 1796 General Hoche had behaved towards these priests with statesmanlike generosity, and his success was to a great extent due to their aid, a fact which Bonaparte both remembered and acted upon at a later period.

Bonaparte himself, during his Italian campaign, had openly protected and defended the French clergy who had taken refuge in Rome. Immediately after Brumaire (November 1799) he had set free all the priests who had been arbitrarily imprisoned by the Directors, and strongly expressed his sympathy with their sufferings.

During the course of the year 1800 the great majority of exiled priests had returned to France, religious services were being celebrated throughout the country, and the church bells, which for years had been absolutely silenced, were now to be heard in town and country.

The sentiments of "N." in the dialogue which opens this chapter are precisely those expressed by Thibaudeau in his *Memoirs of the Convention and Directory*. In these volumes he professes a philosophic indifference in matters of religion, and gently rebukes those of his colleagues "who foam at the mouth when they hear the word *Priest*." But neither he nor the vast majority of those who had been members of the Convention or of the Corps Législatif were any longer capable of doing justice when an *Émigré* or a priest were concerned. They had spent so many of the best years of their lives in denouncing nobles







THE FIRST CONSUL AT MALMAISON

BY J. B. ISABEY

and priests that they had come to believe in their own denunciations, and to make it an article of the creed of a "Virtuous Republican" that every Émigré and every clergyman was a vice in being, whom "to be hated needs but to be seen."]

EARLY in 1801 it became known that Bonaparte was negotiating a Concordat with the Court of Rome. The Pope sent<sup>1</sup> (in June 1801) as his plenipotentiaries, Cardinal Consalvi, Spina, and Caselli; while the First<sup>1</sup> Consul appointed Joseph Bonaparte, Crétet, Councillor of State, and the Abbé Bernier as the representatives of France. The fact that negotiations had been set on foot between the First Consul and the Pope caused priests and politicians of every description to set to work to develop plans on their own account for the restoration or the reformation of the Church. On the 21 Prairial (10th June 1801) the Councillor of State N. dined at Malmaison. After dinner Bonaparte strolled with him in the park, and soon began a conversation on the religious question. He argued at length against the different systems of philosophers, deism, natural religion, and so forth. All those he pronounced to be mere idéologie.<sup>1</sup> He spoke much of Garat,<sup>2</sup> whom he called the head of the "idéologues." "Listen to me," he said; "last Sunday I was

<sup>1</sup> Neither Littré nor any other French dictionary traces either of Bonaparte's favourite words of contempt "Idéologie" or "Idéologues" further back than Chateaubriand in 1804. But in 1801 Antoine Destatt de Tracy, a member of the Senate and Institute, published the first volume of the *Elements d'Idéologie*, a work which was not completed until 1818. I had always been under the impression that Bonaparte himself invented the word "Idéologue" until a friend pointed out to me its use by Richard Simon in a letter written in 1684.

Littré defines Idéologue as equivalent to Metaphysician, or in an unfavourable sense "a philosophic and political dreamer."! A more exact definition of Bonaparte's use of the word would be, a person who forms *à priori* ideas of men and circumstances, and then tries to fit human beings or institutions to his preconceived principles.

<sup>2</sup> Dominique Joseph Garat, born 1749, one of the most shifty politicians of the Revolution, was Minister of Justice in 1792-93, and as such took to Louis XVI. the news of his sentence and accompanied him to the scaffold. In May 1793 he succeeded to the Ministry of the Interior in succession to Roland, which partly accounts for Madame Roland's characterisation of him as a "political eunuch." By dint of flattering each leader, from Robespierre onwards, Garat, among all the chances and changes of the Revolution, kept his head well above water. Although a strong partisan of the Directors until the day of their final downfall, he

walking here alone when I heard the church bells of Ruel. I felt quite moved by the sound; so strong is the power of early association. I said to myself, if such a man as I am can be affected in this way, how deep must the impression be on simple believing souls. What have your philosophers and 'idéologues' to say to that? A nation must have a religion, and that religion must be under the control of the Government. At present fifty émigré bishops<sup>1</sup> pensioned by England control the French

was employed by Bonaparte to pronounce a eulogy on the Coup d'État of Brumaire on the 14th December 1799, for which he was rewarded by a seat in the Senate. In September 1800, he was selected to deliver a panegyric on the occasion of laying the foundation-stone of a monument erected to Kléber and Desaix. Bonaparte's comment on his eloquence on this occasion was delivered to Bourrienne: "Did you ever see such an animal as Garat; what an endless spinner of words? I have had to listen to him for three mortal hours." The rest of his long career consisted of panegyrics and eulogies of those who at the moment deserved his turgid homage by success. Among his last efforts of this kind was his Éloge on Moreau, in which the glories of Alexander and Wellington were not forgotten. He was unfortunate enough during the Hundred Days to be elected a Representative, a mistake which concluded his political career; he retired to the Department of the Lower Pyrenees, where he died at the age of 82 in December 1833.

<sup>1</sup> In the sense in which Bonaparte uses the term, the émigré bishops and clergy were not pensioned by England, that is to say, none of them were in the service or at the command of the English Government.

The clerical emigration to England began after the massacres of September 1792. By the end of November of that year upwards of 6000 bishops and priests had taken refuge in England and the Channel Islands, and many of these were in a state of total destitution.

A Committee for their relief, consisting of persons of different creeds and political parties, was formed, and collections were made throughout the country. In addition to the grants made by the King and Government for the general body of Émigrés, a sum of £76,659 was raised for the relief of the French emigrant clergy during the years 1793-1796. In addition to this, George III. granted to the Committee the use of the old royal residence at Winchester, where 220 priests were lodged. The minutes and accounts of this Committee are preserved in the British Museum (Add. MS. 18591-93). Unfortunately, these books cease with the year 1796. By that time a large proportion of the clergy had surreptitiously returned to France. Numbers of them came back to England after the 18 Fructidor (September 1797), but we have no record of the assistance offered to them during the two following years.

Many of the bishops remained in England after November 1799, but the great majority of the priests returned in December 1799 or in 1800 to France. Of the few who remained, some had formed means of livelihood in this country. The graves of many bishops and priests who died in England may be seen in old St. Pancras Churchyard.

clergy. Their influence must be destroyed, and nothing but the authority of the Pope can do that. He will deprive them or induce them to send in their resignations. We shall issue a declaration that the Catholic religion, being that of a majority of the French nation, must be recognised and organised.

“The First Consul will nominate fifty bishops, whom the Pope will institute. They will appoint the curés, and the State will give them all salaries. All alike shall take an oath of fidelity to the Government. Those who refuse to submit shall be banished, and those who preach against the Government shall be handed over to their ecclesiastical superiors for punishment.

“The Pope shall confirm the sale of Church property, and give his blessing to the Republic. We shall have ‘*Salvum fac rem gallicam*’ chanted at Mass. The Bull is here; there are only a few expressions to be changed. People may call me a Papist if they like. I am nothing. I was a Mohammedan in Egypt; I shall be a Catholic in France, for the sake of the people. I do not believe in any religion,—but when it comes to speaking of God”—pointing to the sky,—“who made all that?”

N. (who up to this moment had listened in silence), replied: “It is not to the point to discuss the necessity of a religion; I will even grant you the utility of a form of religious worship. But such worship cannot exist without a body of clergy.

“An individual priest and a regular body of priests are two widely different things. The clergy, as a body, must have a hierarchy, a common *esprit de corps*, and a common object. They must form, in fact, a class, a power, a colossus. This would be only a minor evil if they owned the head of the State as their own chief, but when this chief is a foreign Prince he becomes a rival power. The situation of France has never been so favourable as now for a great religious revolution. You have at this moment the Constitutional Church, the Pope’s Vicars-Apostolic, the émigré bishops in England, and among these three larger divisions, a number of minor sects. Citizens and priests are absolutely inimical, and behind both is the nation, profoundly indifferent.”

*Bonaparte*: "You are quite mistaken. The clergy are in the full tide of life, and will continue to exist so long as the religious instinct, which is inherent in the heart of the people, remains. We have plenty of experience of republics, democracies, and all the other descriptions of governments we see around us, but never has one of them been without a religion, a form of worship, or a priesthood. Is it not wiser to organise public worship and to keep the priests within the bounds of discipline than to let them drift as they are doing now? When the priests preach, as they do at present, against the Government, what do you propose to do?—would you renew the system of transportation? Certainly not, to do that, we should have to reverse our whole system of government. Our popularity rests on our respect for religion.

"We can send Englishmen or Austrians out of the country, but to banish Frenchmen living in their own home and guilty of nothing but holding certain religious opinions is impossible. The only resource remaining to us is to reconcile them to the Republic."

*N.*: "That you will never succeed in doing. The Revolution has deprived them of their property and their social position, and they will never forgive it. It will be war to the knife between them and the Revolution for ever. They are less dangerous when they are scattered as they are now than they will be when they are again formed into an organised body. I am not proposing to transport or persecute a single man; it would be quite simple to allow each priest to say his Mass before any who care to hear him, and to leave every Frenchman to go to a church or to a Protestant temple at his own free will. If at any future time the incompatibility between the priests and the Republic becomes a source of public danger, I should not hesitate to sacrifice the priests for the sake of public order and security."

*Bonaparte*: "In such a case you would proscribe them?"

*N.*: "Yes, rather than proscribe the Revolution."

*Bonaparte*: "That is juggling with words."

*N.*: "No, it is defining facts. But after all, with good dis-

cipline and an effective police I do not believe we should ever come to that."

*Bonaparte*: "And for my part, I can tell you that the priests who accept office will by the fact of their acceptance cut themselves off from the old dignitaries and incumbents. It will be to their interest to promote the new order of things, and to prevent their return."

*N.*: "I wish it might be so, but I do not believe it. But this is only one small point in a great question. The Catholic religion has become intolerant, and its priests are counter-revolutionists. The whole spirit of the age is entirely opposed to them. We are much nearer to the spirit of the Gospel than they are."

*Bonaparte*: "What we are doing deals a mortal blow at the Papacy."

*N.*: "On the contrary, it will resuscitate it and give it new force."

*Bonaparte*: "According to you, I ought to do exactly the contrary to what Henry IV. did."

*N.*: "Other times, other manners. Personally, if we must have a dominant form of worship, I should prefer Protestantism."

*Bonaparte*: "Mon cher, you don't know what you are talking about."

*N.*: "Everything is ready for such a change. We are in a very different position from that of England or Germany, and there was no Bonaparte in the time of the Reformation. In the existing condition of men's minds you have only to say the word to make France a Protestant country and to bring the Papacy to ruin."

*Bonaparte*: "Yes, one-half of France, while the other half would remain Catholic, and we should be plunged into interminable quarrels and divisions."

*N.*: "If we had argued in that fashion during the Revolution, the Constituent Assembly would have yielded to feudalism and the Convention to royalism. Every revolution, political or religious, has to face resistance."

*Bonaparte*: "But why go out of our way to provoke such resistance from both the people and the priests? Enlightened men

do not excite themselves against Catholicism; they remain indifferent. I shall save myself grave difficulties at home and abroad by the help of the Pope"— Here Bonaparte stopped abruptly.

*N.*: "The help of the Pope! yes, but at the price of what sacrifices? You have to deal with an astute foe, and one who is stronger against those who come to terms with him than against those who have broken with him. At present you are looking only at the bright side, but just when you believe that you have settled matters with your Pope you will see what will happen. The occasion is unique, if you let it escape"—

*Bonaparte* (after a moment's reflection): "Mon cher, there is no longer any good faith or belief left. The priests have no longer anything to give them a hold on the people. This is a purely political affair. The matter is practically settled, and it seems to me that I have chosen the safer course."

*N.*: "In fact, since the Bull has actually arrived, it is only talking in the air to oppose it any longer."

The negotiations dragged along rather slowly until Cardinal Consalvi came to Paris to put the final touches to the religious restoration. A day or two later (21st June 1801) the First Consul said to three of the members of the Council at Malmaison: "I have had a conversation with Cardinal Consalvi. I told him that if the Pope would not come to terms, I should establish a Gallican Church; he replied that the Pope would do all that he possibly could to satisfy the First Consul. The Cardinal said to Talleyrand: 'They say that I am a devotee, but I am as fond of pleasure as anyone else.' The Cardinal and M. Spina regret that they cannot go to the theatre for fear of scandalising the French clergy, who do not understand that sort of thing, whereas in Rome, priests and their mistresses go together. . . . The clergy of Paris have presented me with an excellently worded petition, complaining of the arbitrary action of the Prefect of Police in the case of the priest Fournier.<sup>1</sup> I replied:

<sup>1</sup> Marie Nicolas Fournier, born 1758, was celebrated as a preacher. After being confined as a lunatic for ten days at the Bicetre he was sent to Turin, where he remained a prisoner for three years. In 1805 he returned to Paris, and was consecrated Bishop of Montpellier in 1806. He held this See until his death at the age of 76 in December 1834.



‘The Prefect acted under the orders of the Government. I want you to understand that whatever I chose to do (‘si je mettais mon bonnet de travers’) you priests must obey the civil power.’ They went away without a word. Fournier leads them, and they have felt deeply what has happened to him. It is a revolutionary act no doubt, but until we have regulated matters there is nothing else to do. Fournier shall not come back; I shall send him to Italy and recommend him to the Pope.”

At the sitting of the Council of State on the 18 Thermidor (6th August 1801), at the close of a debate on Public Instruction, Bonaparte said: “I have to bring before the Council a matter of the greatest importance. It relates to the Treaty concluded with the Pope on the state of religion.”

He then entered upon an analysis of the history of religious questions during the Revolution, and gave an account of his own action. Next he caused the text of the Concordat to be read aloud, and concluded by saying: “There will be fifty bishops to whom salaries ranging from five to six thousand francs will be paid, and about six thousand curés, one for each canton.

“The bishops will be paid out of the Secret Service Funds, and the curés from the *centimes additionels*.<sup>1</sup>

“I have also issued regulations for the Protestant forms of worship. The Calvinists have their metropolis at Geneva; there will be no difficulty about them. The Lutherans have been supplied with ministers by German princes, who have sent them the worst they have. In future they shall elect their own ministers in accordance with the wishes of the Strasburg Lutherans. As to the Jews, they form a nation apart, and have no connection with other sects; besides, there are so few of them that they do not require any special organisation.”

Bonaparte then adjourned the sitting without consulting the Council; he had stated in his previous speech that he did not intend to take the Council’s opinion. His communication was coldly received.

Consalvi returned to Rome, while Spina remained in Paris.

<sup>1</sup> *Centimes additionels* is a term still in use in France for an addition to the general or local taxation, calculated at one centime to the franc.

The Pope ratified the Treaty, and appointed Cardinal Caprara as his Legate.

At a sitting of the Council of State on the 1 Fructidor (19th August 1801) Portalis read an order for the registration and promulgation of a Brief from the Pope permitting "his very dear son" Talleyrand to dispense with his orders and return to secular life. After the Brief had been read Cambacérès, who presided, asked for the vote of the Council; a few members raised their hands, but the majority disdained to vote on such a subject.

Regnault said: "I see no object in registering this Brief, which concerns neither the Government nor the public. It is a purely private matter, relating to the conscience of a single individual; such a document as anyone might apply for and obtain for himself." Réal went further, and set himself to prove that to register such a Brief would set a dangerous precedent.

Cambacérès interrupted his speech, saying with some warmth: "It is a principle on which the Government insists, that no Papal Brief shall be valid unless it has received its sanction. This Brief must be registered, for if Citizen Talleyrand were to demand lay communion and it was refused him he could not use this Brief unless it were registered. I am at a loss to understand how anyone can oppose the registration of a Brief which turns a bishop into a layman. Moreover, registration is the best means of preventing the Roman Curia from infringing on temporal authorities." The Order was put for a second time to the vote and carried. For two years negotiations had been carried on with Rome on this weighty matter. The First Consul entered the hall immediately after the vote had been taken, and Cambacérès, speaking in a low voice, told him what had happened.

The Concordat had hardly been signed before obstacles and difficulties began to rise on every side. The resignation of the pre-Revolution and of the Constitutional bishops, the nomination of the new prelates, their institution, the liberties of the Gallican Church, all these furnished fuel for theological rivalries, chicaneries, and pretensions. The *ci-devant* bishops were divided,—some obeyed the Pope and resigned their Sees; others,

more Catholic than the Pope himself, refused to do so. The Constitutional bishops were more docile, but even they resisted the Pope's orders to retract their former errors.

Bonaparte found himself involved in all these disputes, nor did he find the Court of Rome more accommodating than before the signature of the Concordat.

A proclamation by the Consuls announced to the nation the establishment and endowment of all recognised forms of religion. On Easter Day (18th April 1802) the new Laws were solemnly promulgated throughout Paris. The Consuls, accompanied by all the highest authorities, went in state to Notre Dame. Etiquette was making steady progress, but in this procession there were still to be seen a good many hackney-coaches with their numbers concealed. The occasion was memorable as marking the first appearance of Bonaparte's household in livery. The diplomatic corps were invited, and requested to bring their servants in livery; the same request or advice was given to all the officials who possessed carriages of their own. High Mass was celebrated by Cardinal Caprara, during which ceremony the new bishops took their oaths of fidelity. After a sermon by M. de Boisgelin, the new Archbishop of Tours, a *Te Deum* was sung. A display of military pomp accompanied the service, which was announced by salvoes of artillery throughout the morning. In the evening followed an illumination and concert in the gardens of the Tuileries. The officers were strongly opposed to these religious observances, and very grudgingly assented to be present at Notre Dame.<sup>1</sup> Bonaparte said to

<sup>1</sup> According to Thiébauld (*Mémoires*, tome iii. 274, 275), Moreau walked ostentatiously about outside Notre Dame. In the interior no places had been set aside for the Generals and other officers who attended the High Mass. About sixty of them stood in the nave waiting for seats, when one of the chamberlains arrived and said that he would do what he could for them, but that the church was already full. Massena replied: "You can go to the Devil" (the French phrase is somewhat different, and is in fact untranslatable), and, seizing a priest who was sitting opposite to him, pulled him from his chair and took his seat. His example was followed by the other officers, and after an unseemly struggle each of them took a seat which had been occupied by a priest.

This curious incident is not mentioned in any other Memoir of the period. On the contrary, more than one writer states that the officers present stood immediately

General Delmas: "Well, what did you think of the ceremony?" to which Delmas replied: "It was a pretty capuchinade. Nothing was wanted except the million of men who have died to put an end to what you have just set up again."<sup>1</sup>

A few days later a dinner-party was given by Moreau, at which Berthier, Marmont, and Delmas were among the guests. There was a good deal of talk about this incident, and Delmas was asked what reply Bonaparte made to his retort. He answered: "Nothing in particular; I only laughed at him." When he heard of this, Bonaparte sternly censured Berthier, Minister of War, for not taking official notice of Delmas' words.

Delmas himself was afterwards exiled, partly for what he had said on this occasion and partly for the general opposition he had shown to all the measures taken by the Government.

Bonaparte said one day to his Aide-de-camp Rapp, who was a Protestant: "Do you intend to go to Mass?"

"No, General."

"Why not?"

"Oh, it is all right for you; and so long as you don't appoint these people your aides-de-camp or your cooks I snap my fingers at them!"<sup>2</sup>

Rapp was always free to say whatever he chose. Anything was forgiven him, on account of his devotion to his chief.<sup>3</sup>

behind Bonaparte in the choir. I do not think Thiébault a specially trustworthy authority, and I am inclined to disbelieve his story.

<sup>1</sup> There are several versions of Delmas' words on this occasion. Thibaudeau's agrees with that of Madame Junot, and is probably correct.

It is doubtful whether General Delmas, who had served with distinction under Scherer in Italy and Moreau on the Rhine, was exiled for the reasons given by Thibaudeau or for the affair of the duel with General Destaing. Whatever the cause, he was placed under surveillance and sent to Porrentruy, in Switzerland, on the French border, where he remained until 1813, when he offered his services to the Emperor. He was killed during the battle of Leipsic, October 1813.

<sup>2</sup> Thibaudeau's note.—One day Rapp brought a Corsican who had an appointment with Bonaparte into his study. He refused to leave the room, and was only induced to go by Bonaparte's reiterated orders.

At the close of the day Bonaparte asked him why he had so obstinately insisted on remaining, and Rapp answered: "Because I have no faith in these damned Corsicans." The First Consul and all his Court laughed heartily at this naive reply.

<sup>3</sup> The exact phrase used by Rapp is much like that attributed to Massena in Notre Dame, and is untranslatable. Jean Rapp, born April 1773, acted in the Italian

Rumours were circulated that the First Consul had decided on having the regimental colours blessed, but that he had been deterred by the threats of the soldiers to trample on the consecrated flags. A caricature was secretly circulated throughout Paris representing Bonaparte drowning in a holy-water stoup, while the bishops were pushing him down with their pastoral staves. The whole system of the *Décadis* was now abandoned, and the Gregorian week restored.

Government offices were closed on Sundays, and an order was issued that banns of marriage should be published only on that day. The Archbishop of Paris said Mass regularly at the Tuileries.

From what has been said it will be seen that the re-establishment of the Church was not carried through without serious opposition, and no small annoyance to the First Consul himself. The public knew little of all this, since the subject was rigidly excluded from the newspapers. The demarcation between the old "refractory" and the Constitutional clergy was by no means effaced; the former still remained the only orthodox representatives of the priesthood in the eyes of the Roman Curia, and the favour of the Government fell chiefly upon them, to the serious prejudice of the newly converted Constitutional clergy. The Civil Authorities were often at almost open war with the Ecclesiastical Hierarchy, who tended steadily towards the revival of the old régime, and who were always trying to restore institutions, laws, and rules of conduct which the Revolution had swept away, and which were no longer in conformity with the campaign as Aide-de-camp to General Desaix, who died at Marengo in his arms. Bonaparte from that date attached him to his staff, and he served in each of his campaigns with distinction. He was created a Count after the battle of Wagram. On his return from Russia he threw himself into Dantzic, which he defended during a siege which lasted for a year before he consented to capitulate. Returning to Paris in 1814, he was well received by Louis XVIII., who in 1815 placed him in command of an Army Corps sent against Napoleon, whom he joined. During the Hundred Days he was appointed to command the French Army of the Rhine, but unable to face the superior forces opposed to him he was obliged to take refuge in Strassburg. After Waterloo he made his peace with Louis XVIII. In March 1819 he was created a Peer of France, and in 1820 he was appointed High Chamberlain. On the death of Napoleon he is said to have shown signs of the most profound grief. He died at the age of 48 in November 1821.

spirit of the age. It was all that even such a man as Bonaparte could do to maintain an even balance between Church and State.

In any hands but his the clergy would either have recovered their former privileges or have been swept away. Many of the prelates and curés, it is true, were animated by the spirit of charity and peace; but too many others were ambitious, hot-headed, and reckless enough to wreck their own fortunes and endanger the public safety without a moment's hesitation or remorse.

A gross example of intolerance occurred at this time in Paris which gave a universal shock to public opinion. Mlle. Chameroi, one of the leaders of the ballet at the Opera, died. A large number of the dramatic profession attended her funeral. When the procession arrived at the parish church of Saint Roch the curé refused to allow the coffin to be brought into the church, and closed the doors upon the procession. A serious disturbance followed, and the curé would have been in personal danger but for the intervention of an actor named d'Azincourt, who succeeded in calming the anger of the crowd.

Ultimately the coffin was taken to the district church of the Filles Saint-Thomas, where the incumbent made no difficulty about performing the funeral service. At the next public reception given by the First Consul at Saint Cloud this affair was much talked about. Bonaparte said: "Why did they want to take the coffin to a church; the cemetery is open to everyone, they should have gone straight there?"

The Senator Monge, who was standing by, took the opportunity to say: "After all, Citizen Consul, it is only a dispute between one set of comedians and another."

"What do you mean?" said Bonaparte sternly.

"Oh," replied Monge, "we can speak quite freely, none of the Grand Crosses are listening."

The conduct of the curé was universally condemned, and the following article in the *Moniteur* of the 30 Brumaire (21st October 1802), obviously inspired or dictated by the First

Consul, met with general approval. "The curé of Saint Roch in an irrational moment refused to perform the service over the body of Mlle. Chameroy, or to permit it to be brought into the church. One of his colleagues, more reasonable and better versed in the true spirit of the Gospel, received the coffin in the Church of the Filles Saint-Thomas, and conducted the funeral service with due solemnity.

"The Archbishop of Paris has ordered the retirement of the curé of Saint Roch for a period of three months, during which time he will have leisure to recall the fact that Christ commanded us to pray even for our enemies.

"He will also be able by prayer and meditation to bring his mind to a sense of duty, and to learn that superstitious practices, dating from ages of ignorance or rising from overheated imaginations, serve only to degrade religion, and are forbidden by the Concordat and by the Law of the 18 Germinal."

Up to this time the First Consul had not interfered with the handful of Theophilanthropists who were still preaching in the wilderness, but at a meeting of the Council attended by the Minister of Police he made a lively attack on a printed sermon delivered before the Theophilanthropist congregation.

"These people," he said, "have taken advantage of a funeral oration upon a brave soldier to complain that the Pope is going to govern France again, and that we have retrograded to the fourth century. I am not surprised. I always said that they were more of a political club than of a religious sect; they are beginning a new campaign by trying to flatter and attract officers. I do not wish to interfere with anyone on account of his religious convictions, but I will not allow religion to be used as a pretext for meddling with politics. There are only two hundred of these people, and they monopolise six or seven churches in Paris.

"Let them have a chapel in future. If the leaders had been sent for and hauled over the coals ('qu'on leur eût bien lavé la tête') this would not have happened. Their cry is 'Vive La Revellière.' Certainly I have nothing to say against him; he is an honest man enough. It is he and Chénier who compose

these sermons, which are in very decent French,—far better than the most of them could write. Then there are these Constitutional priests, whom people are always bothering me about.”

This harangue was addressed to Fouché, whom Bonaparte was accusing of neglecting his duty. He then turned to the two other Consuls, and after whispering to them for a few minutes he said aloud: “Citizen Lagarde,<sup>1</sup> draw up an Order in Council for the suppression of the Theophilanthropists.”<sup>2</sup>

<sup>1</sup> Joseph Jean Lagarde was Secretary General to the Consuls.

<sup>2</sup> Theophilanthropy was a form—one might say with little exaggeration, a burlesque—of Natural Religion originally borrowed from an English deist named David Williams. It owed its existence during the Directory chiefly to the patronage of Larevellière Lépcaux, who secured for its curious ritual eighteen of the finest churches in Paris. A few distinguished men, such as Bernardin de St. Pierre, Marie Chénier, David the painter, and Dupont de Nemours, gave it a success of curiosity, but by the time Bonaparte so abruptly gave it the *coup de grâce* it had practically ceased to exist.



## CHAPTER X

### DISCUSSIONS IN THE COUNCIL OF STATE ON THE CIVIL CODE

1801-1802

[*EDITOR'S NOTE.*—One of Bonaparte's first measures after his return from the victorious campaign of Marengo was to appoint a small committee, composed of four of the most distinguished jurists of the day—Tronchet, Portalis, Bigot de Préameneu, and Malleville—to draw up the plan of a Civil Code. This plan was completed and printed by the 1st of January 1801.

It was then submitted to the principal benches of judges and legal officials, and with their comments was placed before the Section of Law of the Council of State. It was next brought before the whole body of the Council, and discussed during some ninety sessions, over nearly half of which Bonaparte himself presided. In the winter of 1801-02 the first three Titles were laid before the Tribunat and Corps Législatif, who rejected two of them. The debates in the Legislature and the subsequent discussions on the subject in the Council of State will be found in Chapter III., pages 35-41. The Code was ultimately passed and became Law in March 1804.

Thibaudeau's object, as shown in the following pages, is not to give an account of these sittings, but only to illustrate the part which Bonaparte took in the debates on the various sections of the Code as they came before the Council. In order to do this he gives reports, taken down no doubt by himself, of portions of several debates not to be found in the official reports which were published in 1805 by J. G. Locré, the General Secretary of the Council of State, under the title *Esprit du Code Napoléon tiré de la Discussion, ou Conférence historique et raisonnée du Projet de Code Civil.* 3 tome.

In the reported discussions he places in parallel columns Locré's report and the actual words used by Bonaparte, "as they were carefully taken down by another hand," in all probability by his own. The difference between the two reports cannot be clearly shown in a trans-

lation, and I have therefore not reproduced the extracts from the official reports. It is enough to say that there can be no doubt whatever that Thibaudeau is right in asserting that, far from improving upon Bonaparte's own words, Locré's reports "detract immensely from the freedom, vigour, and originality which distinguish them."]

WHEN Bonaparte was raised to the chief Magistracy he already enjoyed a great reputation. But great as this reputation was, all the world was astonished by the ease with which he grasped the reins and mastered those parts of the administration with which he was totally unfamiliar. Still greater surprise was felt at the manner in which he treated matters which were entirely strange to him, such as the Civil Code. He presided over nearly all the sittings of the Council of State during which the Civil Code was being discussed, and took a very active part in the debates, beginning, sustaining, directing, and reanimating them by turns. Unlike some of the professional orators in the Council, he made use of no rhetorical efforts; he never sought for well-rounded periods or for fine words: he spoke without any preparation, embarrassment, or affectation; using the freedom of an ordinary conversation, which varied according to the subject, the differences of opinion, or the state of the discussion. He was never inferior in tone or knowledge of the subject to any member of the Council; he usually equalled the most experienced of them in the facility with which he got at the root of a question, in the justice of his ideas, and in the force of his arguments. He often surpassed them all by the turn of his sentences and the originality of his expressions. I advance here no statement which cannot be verified from the printed reports of these debates. Many people in France and throughout Europe have affected to believe, or have really persuaded themselves, that Locré, Secretary General of the Council, whose business it was to draw up the official reports of its discussions on the Code, had in conjunction with Cambacérès edited and arranged Bonaparte's words in such a way as to make them appear in the strongest and most flattering light. But this is a complete mistake. Locré drew up the report from day to day while the



CAMBACÈRES



Council was sitting, and sent the proofs to each member for correction. He allowed himself to take no liberties with the actual words as they were spoken, except occasionally to alter a few careless conversational phrases into more official language. No doubt he occasionally dealt with Bonaparte's words as he did with those of the other speakers.

In the sitting of the Council on the 24 Brumaire, an. X. (15th November 1801, not printed by Locré) a question was raised as to the drawing up of these reports. Some found them too meagre; others too verbose. Cambacérès considered them very carefully and faithfully rendered. A comparison was made between them and the reports of the conferences of Pussort<sup>1</sup> under Louis XIV.

*Bonaparte*: "These conferences on the Ordinances of the old régime have no resemblance to ours. They were held by a set of legal experts to discuss their own subject, Law; while we are a Corps Législatif in miniature. I cannot speak like Citizen Tronchet,<sup>2</sup> but all that has been said by him or by Citizens Portalis<sup>3</sup> and Cambacérès has been worthy of the

<sup>1</sup> The reference is to a Committee under the presidency of Henri Pussort, which drew up the revised Ordinances of 1667 and 1670.

<sup>2</sup> François Xavier Tronchet was born in March 1723, and was consequently 75 years old when Bonaparte alluded to his intellectual powers. Before the revolution he was an avocat of considerable reputation. He was elected to the Constituent Assembly as one of the Deputies of the Tiers-État of Paris. As a member of this Assembly, and afterwards when sitting in the Council of the *Anciens* he took an active part in the reform of the Law Courts and of Legal Procedure. He was chosen by Louis XVI., along with Malesherbes and de Sèze, as his counsel, and acted with courage and spirit in pleading for a cause lost before it came before the Convention. After the 31st May 1793 he was decreed a "Suspect," but found a refuge in the country until the 10 Thermidor. In 1795 he was elected to the Corps Législatif, and sat in the Council of the *Anciens* until May 1799. Appointed by Bonaparte to the Council of State in December 1799, he acted as one of the Commission charged with the preparation of the Civil Code.

In June 1800 he was appointed President of the Supreme Court (Tribunal de Cassation), and in February 1801 he took his seat in the Senate. He died on the 10th March 1806, within a few days of his eightieth birthday. A well-known street in Paris is named after him.

<sup>3</sup> Jean Marie Étienne Portalis was born at Aix in Provence in April 1745. Before the Revolution he acquired considerable fame as an avocat at the bar of Aix. He was eulogised by Voltaire for his opinion on the validity of the marriage of Protestants, and was concerned in many important causes. He acted as advocate

occasion. If the reports are accurate, they will form a fine monument for posterity. In reading the reports of the Pussort conferences we find a good deal of verbiage. This must not be the case with us. The legal experts of our Council must be careful not to let any mistakes or words which do not exactly represent their opinions remain in the reports.

“Our sittings are so long that some of us are sure to be absent, and we must not be misled, for the words of such a man as Tronchet, for instance, are authoritative to us all. As for the rest of us, men of the sword or of finance, who are not lawyers but legislators, our opinions are of little consequence. In these discussions I have sometimes said things which a quarter of an hour later I have found were all wrong. I have no wish to pass for being worth more than I really am.”

Locré has reduced all the speeches to a cold, measured uniform style, such as perhaps best suits the subject. But far from having flattered the First Consul by making him speak like the rest, these reports detract immensely from the freedom, vigour, and originality of Bonaparte's own words. To show this as clearly as possible I propose to give portions of unreported debates and of those reported by Locré, in the latter case placing in parallel columns the words of Bonaparte as

for the Countess of Mirabeau, and thus incurred the hatred of her husband. Partly owing to Mirabeau's enmity and partly to his own absence of enthusiasm for the Revolution, he failed in his candidature for election to the Constituent Assembly. Imprisoned in Paris during the Terror, he was released after the fall of Robespierre, and elected to the Corps Législatif as one of the representatives of Paris in 1795. After sitting in the Council of the *Anciens* for two years, where he became one of the leaders of the party whose object was to establish a Constitutional as opposed to a Revolutionary Republic, he was proscribed by the Law of the 19 Fructidor (5th September 1797). He made good his escape, however, and remained in Holland until his return to Paris after Brumaire.

Bonaparte at once appointed him to the Council of State. He was one of the small committee appointed to draw up the original plan of the Code Civil; he also took a principal part in negotiating the Concordat, of which he was a warm advocate. In 1804 he became Minister of Public Worship. For many years Portalis was nearly blind, and after an unsuccessful operation for cataract he completely lost his sight. He died in August 1807, at the age of 62. Portalis was a man of high character and great ability. As a jurist he was hardly second to Tronchet, and he was one of the few eminent men of his day who remained sincerely attached to Catholicism and to the legal traditions of the old régime.

they appear in his official reports and his actual words as they were carefully taken down by another hand.<sup>1</sup>

In each case I give a short epitome of the discussion, which often does scant justice to the opinions expressed by other members. It is designed merely to make Bonaparte's own words more clearly intelligible. During a conversation with two Councillors of State on the debates upon the Code, Bonaparte thus characterised some of the speakers. "Tronchet is a man of great intellectual power, and with a wonderfully sane mind for a man of his age.

"I find Roederer<sup>2</sup> weak.

<sup>1</sup> See the introductory note at the head of the chapter.

<sup>2</sup> Pierre Louis Roederer (all things to all men) was born 1754, and before the Revolution became a Councillor of the Parliament of Metz. Elected as representative of the third estate of Metz to the Constituent Assembly, he voted and spoke as a moderate Revolutionist. After the dissolution of the Assembly he was elected Procureur-syndic of the Department of the Seine.

Roederer had been since its foundation a member of the Jacobin Club, but having spoken strongly at the bar of the Legislative Assembly against the invasion of the Tuileries on the 20th June 1792, he was denounced as a Counter-Revolutionist and removed from the Club. On the 10th August he was present at the Tuileries as legal officer of the Department of the Seine (a body superior in rank and composed of more moderate men than the Municipality). Either from treachery, or from the mere habit of flinching before a mob so characteristic of the earlier period of the Revolution, he gave the King the fatal advice to leave the Tuileries and take refuge in the Assembly. In 1832 Roederer published his defence against the accusation of treachery under the title, *Chronique de cinquante jours, 20 Juin au 10 Août 1792*. The book is highly interesting, but whether it clears the author of the charges brought against him is another question. In either case, on this, the great occasion of his life, if his advice were given in good faith, he failed miserably. It would have been far better for the King, infinitely better for the Queen, and immeasurably better for the Revolution, had the Royal Family perished on that day. And there was at least the chance of their ultimate victory. It is fair to say that Roederer had the courage to publish in the *Journal de Paris*, on the 16th January 1793, an article denying the right of the Convention to try the King.

From this time until the fall of Robespierre he judiciously disappeared from view. In 1796 he founded the *Journal de d'Economie politique*, and was elected a member of the Institute. He narrowly escaped proscription on the 18 Fructidor (4th September 1797). After Brumaire he refused a seat in the Senate, and was appointed a member of the Council of State and Director of Public Instruction. The circumstances of his removal from this post and "promotion" to the Senate are related in Chapter XV.

In 1806 he became Minister of Finance of the Kingdom of Naples under King Joseph. In 1809 he was nominated Administrator of the Grand Duchy of Berg.

“Portalis would be the most eloquent of speakers if he only knew when to stop.

“These are not the sort of discussions which suit Thibaudeau; he speaks too coldly here; he wants a tribune. Like Lucien, he is over-vehement.

“Cambacérès plays the part of Attorney-General; he likes to speak sometimes in favour of a cause, sometimes against it.

“The most difficult part is drafting the clauses (*rédaction*). Fortunately we have the best of draftsmen in Lebrun.”<sup>1</sup>

An article exempting members of foreign Embassies from the jurisdiction of the French Courts was proposed.

*Bonaparte*: “I would rather see our own Embassies placed under the law of foreign countries, so that their members could be arrested for debts or conspiracies, than give foreign diplomatists such privileges here, where conspiracies are rendered easier by the fact that France is a Republic. The people of Paris gossip enough already; it would never do to raise still higher in their eyes the position of foreign Ambassadors, whom they already look upon as worth ten ordinary men. No other country gives them such indemnities as are proposed. Of course, such a measure would be necessary among a barbarous race, but it is both useless and dangerous in a highly civilised, well-policed country. Far from being grateful to us, foreign Powers would believe that we granted these privileges with a view to reciprocity on their part in order to allow our diplomatists to promote revolutionary schemes within their territories.

After the Restoration in 1814 he became Prefect of the Department of the Aube, but was shortly afterwards removed from the post.

During the Hundred Days he was raised to the Emperor's House of Peers, but on the second restoration of the Bourbons he fell upon evil days, and lived in retirement until 1830, when he was restored to the House of Peers and to a seat in the *Académie Française*.

He died in December 1835, at the age of 81.

Mallet du Pan's judgment is harsh, but perhaps not undeserved: “He *undulated* (*serpenté*) through the contests and parties of the time with a sinuous cleverness which had expedients of its own in reserve for every occasion.”

<sup>1</sup> Thibaudeau's note.—The Third Consul Lebrun gained this reputation under the Maupeou ministry, and no doubt deserved it, but he took no part in the discussion on the Civil Code or in drafting it. Each Councillor himself drafted the clauses for which he was responsible.





LEBRUN



We are told that in Rome Ambassadors have these privileges. Rome is a sort of capital of the world ; we can make no comparisons with, or derive no precedents from what takes place there."

According to the official report, the discussion in the Council on the article Adoption did not begin until the 27 Brumaire, an. XI. (18th November 1802). In reality it opened during the sessions of the 6, 14, and 16 Frimaire, an. X. (November and December 1801), but the debates were unreported. The First Consul took a leading part in this debate, raising it to a higher plane than that on which it was at first considered. In view of the importance which he attached to an institution which had so few partisans, and the serious way in which he spoke of it, it is difficult not to believe that he had in his mind the possibility of using it for purposes of State policy. The proceedings began by a report from Berlier on the establishment of the principle of Adoption, which was altogether opposed by Tronchet and Malleville.

*Bonaparte* : "You speak against Adoption, but your chief objection seems to be to the form in which it has been brought forward. This is to begin at the wrong end of the question. We must begin by discussing the principle of Adoption, and decide on the cases in which it should be permitted ; we can then pass to the proper wording of the Article."

The discussion continued, and finally the Council decided in favour of the principle of Adoption.

*Bonaparte* : "The next thing is to decide whether unmarried persons shall be allowed to adopt a child. Who will plead the cause of the unmarried. Will you, Citizen Cambacérès?"<sup>1</sup>

*Cambacérès* : "Many thanks" (laughter). He proceeded to speak in favour of allowing the unmarried to adopt ; other members spoke for and against this. Thibaudeau opposed it, on the ground that adoption should serve only as a supplement to marriage, a legal fiction by which family life could be completed by bringing into it a child.

*Cambacérès* : "Since this question is to be seriously considered, I will reply. Every man must defend his own reputa-

<sup>1</sup> Thibaudeau's note.—Cambacérès was a bachelor.

tion. It seems to me that we are getting dangerously near the Conventional doctrine that celibates must be taxed three-quarters more heavily than married people. The fear that the number of marriages will decrease is quite chimerical. Marriage is not a passing fashion, nor are its advantages difficult to see."

*Bonaparte*: "There is much to be said in reply to Citizen Cambacérès. Thibaudeau's remark seems to me to be profoundly true. As he says, adoption is only a fictitious method of completing an unfruitful marriage. It ought not, therefore, to be open to the unmarried. Adoption, to be an honoured institution, must make the adopted person an actual member of the family. Otherwise you will degrade adoption to the same level as bastardy, which would be a gross injury to the principle.

"Also you will diminish the number of marriages, and consequently the population. Why should people marry if they can have children without the expenses of marriage? You say that such fears are chimerical. We have to look forward and provide for distant possibilities. Who would have prophesied that the possession of the New World would decrease the population of Spain?

"Results such as these do not immediately follow their cause; they are the fruit of centuries, the drops of water which in time hollow a block of granite. Adoption would not be an immediate cause of celibacy, but in course of time it might tend in that direction. Marriage is popular, you say. Quite true, and we must do our best to keep it so. If adoption is incorporated into our customs it must be only as an occasional supplement to marriage, not as a substitute for it. The person to be adopted must in all cases be under age."

At the sitting of the 14 Frimaire (5th December 1801) Berlier brought forward an amended article on the subject, by which it was provided that the authorisation of Adoption should be within the competence of the ordinary Courts of Law.

*Bonaparte*: "There are three ways of legalising Adoption:

it may be dealt with by a Notary, by the ordinary Courts, or by a political body.”

Portalis, rejecting the Notaries, said that the matter must be in the hands either of the Law Courts or of a political body, which latter he preferred. This opinion was opposed. It was argued that to put the matter into the hands of a political body would be to favour unduly the aristocracy, and would render adoption impossible to the masses. Also that it was contrary to the Constitution, which decreed that political bodies could legislate only on matters of public interest.

*Bonaparte*: “Citizen Tronchet, in opposing Portalis, has instanced the case of the Romans. Yet in Rome the ceremony of adoption took place in the Comitia<sup>1</sup> in the presence of the people. Citizen Portalis has pointed out that wills were also legalised in the presence of the people, the reason being that wills implied a modification of the law of the family and the law of succession.

“The objection founded on our own Constitution is not valid. Whatever is not actually forbidden by the Constitution is tacitly permitted. Adoption is not, strictly speaking, either a civil contract or a judicial process. What is it, then? It is an institution by which society endeavours to imitate nature. It is a sort of new sacrament. I can find no other word which so nearly expresses the meaning of the act.

“The child of the blood and bone of its real parents becomes, as it were, by the sanction of society, the child of the blood and bone of new parents. It is the most important act that can well be imagined. It gives those who are not in reality parent and child the reciprocal rights and duties of that relationship. The authority for such an act should therefore come from on high, like the thunder. It cannot come from too lofty a source. It is for the Corps Législatif to say, ‘You who are not the child of this parent shall become so.’ Fears are expressed that if the Corps Législatif’s sanction is required it will set limits to Adoption; certainly it will make

<sup>1</sup> The Comitium was the public meeting place, the Comitia the Assemblies of the people.

Adoption honoured. Again, it is said that the Corps Législatif has no time to enter into details or go through the necessary preliminaries.

“But these can be prepared beforehand and presented in due legal form, leaving nothing to be done but to put the matter to the vote. Three hundred such acts could be passed at the same time if necessary. The Legislator, acting as a sort of pontiff, will give the act a sacred character. Let us suppose a dispute between a natural and an adopted son. The latter will be able to reply, ‘The same authority which sanctioned your parents’ marriage has made me your brother.’ Some have spoken of the possibility of revoking an adoption, but I, for one, would not consent to that. It is not to the purpose to cite the law of divorce; how can you compare a dissolution with a creation? If a high political body shall once have declared a child to be adopted we certainly cannot permit its decision to be revoked.

“If the adoption were simply the work of an ordinary Court of Law it would be quite different. That would be no more than a legal judgment, which would enable the adopted person to say at any time, ‘You are not really my father.’ No, no, that would never do.”

Tronchet seconded the opinion of the First Consul. Roederer opposed it. “It is,” he said, “chiefly the working classes who would find Adoption useful; the labourer, for instance, would adopt a child from an Orphan Asylum. The First Consul desires to give the institution too lofty a position.

“This will not be of any advantage to the working man; on the contrary, it will prevent his making use of it.”

*Bonaparte*: “We must impress the imagination of the people. Suppose a quarrel arose between the natural and the adoptive father; or carry it further and suppose that both were in the same shipwreck, the son’s duty would be to take the side or to save the life of his adoptive father before the other.

“Nothing but the ‘Will of the Sovereign’ can inspire the son with the sentiment which would make him act thus. In this case the Corps Législatif will not pronounce judgment

as on a matter of property or taxation, its voice will be that of a High Priest of morality pronouncing on a sacred institution.

“The vice of modern legislation is that it makes no appeal to the imagination. Unless you touch the imagination you cannot govern men; without imagination, man is only an animal. If Adoption had been established by the Church there would be a special solemn service for it. It is an error to govern men as if they were inanimate matter (*comme les choses*). All the aid of society must be called to assist this institution. The other system (the Law Courts) would allow the cancelling of an Adoption.”

*The Minister of Justice (A. J. Abrial)*: “The consent of the parties would constitute the contract; the Corps Législatif would do no more than sanction it.”

*Bonaparte*: “There is no such thing as a contract with a minor. A contract contains only mathematical obligations; it has nothing to do with sentiment. Why not propose to print ‘Legal heir’ (*héritier*) in your law, and have done with it. ‘Legal heir’ conveys only mathematical ideas; but adoption conveys ideas of an institution resting on morality and sentiment. Analysis leads to the most vicious results. It is not for five sous a day or for a paltry distinction, that men are ready to risk their lives. It is only by appealing to the soul that you can electrify a man. No notary can produce this result for a twelve-franc fee; he can deal only with mathematics. Do not look at matters as law-makers, but as statesmen. Look at Adoption through your imagination, from the point of view of the misfortunes of life. I should like to hear from Citizen Berlier what is the difference between a legal heir (*héritier*) and an adopted child (*adopté*).”

*Berlier*: “I cannot answer that question without first knowing exactly what is to be the nature and the result of the system of adoption which we are now debating. Roughly speaking, I should say that the legal or natural heir would bear the same relation to the adopted child as fact bears to fiction, without prejudice to the modifications which may be made in their respective rights and duties.”

*Bonaparte*: "If the natural father became a rich man the adopted child might abandon his adoptive father. There must be some way of uniting them for life, otherwise the adopted child is nothing more than a legal heir. Who holds the place of the Deity on earth?—The legislator. Who is the son of his father?—No one can be certain, the legislator must decide. The adopted son must be in exactly the same position to his adoptive father as the natural son would be; if there is the smallest difference we shall miss our aim entirely. According to Oriental morality, a slave admitted among the Mamelukes has all the sentiment of a son towards his patron."

At the sitting of the 16th (7th December 1801) a third version of this article was brought forward, and discussion was again renewed on the question whether adoption should be legalised by the Law Courts or by a political body. Regnault opposed the latter in the interest of the poorer classes, who could not afford the expenses entailed by an appeal to the Corps Législatif.

*Bonaparte*: "I am much impressed by what Citizen Regnault says. Although on the face of it a matter of detail, this question forms part of a larger issue, the competence of the Legislature and the division of power between the legislative bodies and the Courts of Law. If it is a serious inconvenience to the public to have to go before the Corps Législatif, to compel them to do so might upset our scheme altogether. Legislators may be too much engrossed in the general affairs of the nation to attend to the affairs of individuals or of families. It is different with the Law Courts; but when they have decided the preliminary details, they have done all they can do. They have not sufficient authority to alter the natural order of things. Both authorities must give their consent.

"The Court will see that the interests of the families concerned are properly cared for, and this being done the Government will send each case before the Corps Législatif to receive its sanction. This plan will meet Citizen Regnault's objection. We are agreed, I think, that adoption is not in any sense a law suit, but we agree also that if the legislator were to intervene in



the first instance it would result in the sort of tyranny which marked the Convention.

“In the East the meanest subject is as much master in his own family as the Sovereign on his throne. We shall begin, therefore, with the Law Courts.”

Cambacérés proposed an administrative order as a substitute for an order of the Courts.

*Bonaparte*: “A private citizen cannot fight the Government. The Law Courts are the natural judges in such cases. The interference of the high authorities of the State in private affairs offers no security to the ordinary citizen. By that path there is no thoroughfare.”

*Cambacérés*: “You are subordinating the judicial to the political power. Is there not some confusion in this?”

*Bonaparte*: “If a Court does not find that it ought to decide in favour of a case of adoption, the Sovereign has no right to inflict an injury on what I will call the third party in the case, the families concerned. Nothing could be more barbarous than the idea of the Kings of France *judging* their subjects under the shade of a tree. Political bodies cannot act as *judges*. I am altogether opposed to your idea of an administrative order in these cases; even if a regular formula were followed the administrative official would still lack the power to judge. A Prefect is not a judge of family life. The administration should only intervene in matters concerning its own duties or interests.”

I now proceed to give some specimens of the actual words spoken by Bonaparte in reported debates, in order that they may be compared with the reports given by Locré in the official debates. It will be seen that the two differ considerably.

*Session of the 16 Thermidor, an. IX. (4th August 1801)*—

Among the effects of “Civil death” (*Mort civil*) a dissolution of the civil contract of marriage was included.

This clause was repugnant to Bonaparte, who said of it: “What! when the condemned man is transported, are not justice and public vengeance satisfied. You had better kill the man at once. Then, his wife will be able to put up an altar of sods in her garden and come to weep over it. It happens some-

times that the wife has instigated her husband to commit the crime; if so she owes him what consolation she can give. Would you not respect a wife who followed her husband?"

The question of transportation as a punishment was raised. An amendment proposed that the consideration of transportation should be postponed until the Criminal Code was brought forward.

*Bonaparte*: "This measure is urgent. It is in accord with public opinion, and is prescribed by humane considerations. The need for it is so obvious that we should provide for it at once in the Civil Code. We have now in our prisons 6000 persons who are doing nothing, who cost a great deal of money, and who are always escaping. There are thirty or forty highwaymen in the South, who are ready to surrender to justice on condition that they are transported. Certainly we ought to settle the question now while we have it in our minds. Transportation is imprisonment certainly, but in a cell more than thirty square feet."

*Sitting of the 14 Fructidor, An. IX. (1st September 1801).—*The question of the civil status of soldiers, and especially of marriages contracted in the armies abroad, was brought before the Council. The proposed draft read: "All civil acts of Frenchmen in foreign countries are valid if they are performed with the proper legal formalities."

*Bonaparte*: "This matter is most important. War is not an uncommon event, and we ought to provide for it beforehand. If the Army is in France and a soldier dies in hospital, his case is provided for by an earlier clause. But even when the Army is in France a soldier may die in action; and abroad on active service he may die at any moment in action or in the hospital. The flag must be looked upon as the domicile. Wherever the flag flies there is France. Of course this domicile is a fiction; but civil acts must be drawn up under the cover of the flag, and forwarded to the soldier's real domicile. A soldier's heirs must not inherit until his certificate of death has been sent in. Provision must also be made for the marriage of soldiers. Acting on the principle that the flag is France, soldiers have been

married by their corporals. We must put an end to such scandals."

26 *Fructidor* (13th September 1801).—*On the age at which marriage shall be legal.*

*Bonaparte*: "Is it desirable that marriage should be permitted at the age of 13 to 15?"

A number answered in the negative, and proposed to fix the limit of age at 18 for men and 14 for women.

*Bonaparte*: "Why make so great a difference between the sexes? Is it to prevent certain accidents?—but the interest of the State is much more important than that of the individual. I see less inconvenience in fixing the age of a man at 15 than that of a woman at 13, for what sort of child would a girl of that age be likely to bear? You quote the Jews. At Jerusalem a girl is ready for marriage at 10, growing old at 16, and impossible at 20. You do not allow children of 15 to make an ordinary contract, why then allow them at that age to enter into the most solemn contract of all? To my thinking it would be desirable to forbid men to marry before they are 20 and women before they are 18. Unless we do so we shall never have a fine race."

*Nullity of Marriage on account of an Error in the Person married.*

*Bonaparte*: "The error cannot be in the physical nature of the person; it can only be in the quality. A contract based on error or fraud is null and void. I intend to marry my cousin who is on her way home from the Indies. I am tricked into marrying an adventuress by whom I have children. I find out that she is not my cousin. Is the marriage valid? Is it not in the interest of public morality that it should be? There has been an exchange of soul and of personality. In marriage there is more than the union of name and property. Ought the legislator to admit that these are the chief reasons of marriage, and not the outward personality, moral qualities, and all those things which excite sentiment and animal affection?"

"If these latter are the principal foundation of marriage, would it not be shocking to annul the marriage because the

woman married does not possess the accessories expected from her?"

Réal brought forward a revised version of the chapter on the nullification of marriage, and a discussion followed which is not included in the official report.

*Bonaparte*: "You must not use the term *first* marriage, because you say that in such cases as those before us there has been no marriage. In this discussion we have distinguished between two cases: (1) No marriage has taken place when consent has not been given before the Civil Authority, or when it has been stated in writing that the woman has said Yes when in reality she said No. (2) If the woman having said Yes afterwards maintains that she was forced to do so, there has been a marriage, but this marriage may be annulled. Somewhat similar to these are the cases where a marriage has been mistakenly contracted with the wrong person. If when I wished to marry a fair woman with black eyes I have been given a brunette with blue eyes, there has been no marriage. If there has been an error only in the quality of the person there has been a marriage, but it can be annulled. Your revision does not set forth these distinctions."

*Réal*: "Yet I have done my best to incorporate the ideas of the First Consul. There is no consent where consent has been obtained by force."

*Bonaparte*: "Certainly, there has been consent for the moment. Only, the consent has not been freely given."

The discussion continued on error as to the person married.

*Bonaparte*: "You do not show the respect for marriage which is accorded to it by the ideas of the present time. Now that the system of caste has been swept away, marriage has become the most imposing institution left. Now take an instance. I have married a brunette whom I have known well for six months. Afterwards I discover that she is not the daughter of the man whom I believed to be her father. There has been no mistake as to her personality. In spite of the error as to her position I am assuredly married to her; otherwise the whole thing would be mere play. We have made the exchange of

souls—so much the worse for the man. It would be a good thing not to allow two people to marry until they have known each other for six months. Your clause is immoral; you look at marriage as if it were a picnic. The legislator ought not to take any notice of such considerations as these; he ought to presume that the parties know what they are about. The only exception I make is when the woman is an accomplice in a fraud.”

*Cambacérès*: “Such cases are too rare to require legislation.”

*Bonaparte*: “But in future they may be common enough. During the Revolution people often changed their names. Then there are the *Émigrés*. Every day, lost children are being found. You hold as essential to marriage things which I look upon as mere accessories. You cannot restore a woman to the state she was in before marriage. I find your plan immoral and unworthy of the dignity of man. A play which was not written on my system would be hissed off the stage.”

*Cambacérès*: “Take the case of a soldier who returns from the army after ten years’ absence. He comes to marry his cousin, but his cousin’s guardian substitutes his own daughter; where is his consent in such a case?”

*Bonaparte*: “You must not treat marriage as a mere matter of business. Such a marriage is good. After all, the dowry is only an accessory; the union of husband and wife is the essential point.”

*Cambacérès*: “Let me propose another hypothesis. The soldier wishes to marry a woman who is plain and poor. In her place a woman who is pretty and rich is substituted, but she is not what he wanted. Thus all your arguments fall to the ground.”

*Bonaparte*: “All this system of yours grew up when people were married by proxy. Nowadays they marry face to face.”

The following clause was read, “Marriage shall be celebrated in the presence of the proper civil official of the domicile of the parties.”

*Bonaparte*: “Are you not going to make the wife promise obedience? There must be a regular formula for the official’s use, and it ought to contain a promise of obedience and fidelity

to be made by the wife. She ought to be made to understand that she is passing from the guardianship of her family to that of her husband. You say that the civil officer is to perform the marriage without any formula or ceremony. That is too bald; there ought to be some moral function. Look at the priests; they always had a sermon, and even if the bride and bridegroom did not attend to it, it was heard by the bridal party."

The discussion then turned on the obligation of children to support their parents. It was proposed as an amendment that the obligation should be made reciprocal, but this was met by the argument that the support of children could safely be left to the universal sentiment implanted in the heart of parents by nature.

In any case it was agreed that a son who was of age had no claim to further support.

*Bonaparte*: "Do you intend to infer that a father may turn a daughter of fifteen into the street? Again, a child may be an invalid, deaf and dumb perhaps. Do you propose to allow a father with an income of 60,000 francs to say to his son: 'You are big and strong, go and work for your own living,' and thus condemn his natural heir to abject poverty?"

*Berlier*: "The Courts of Law will decide whether the son is infirm (invalid)."

*Bonaparte*: "Stop a moment. What is valid or invalid? May a father turn his son out to beg his bread? If a child has been brought up in comfortable circumstances, the father is bound to help him or her as long as he has means to do so."

*Tronchet*: "The obligation imposed on a father to supply his son with the necessaries of life, is absolute. But the Code should be confined to stating the principle, leaving it to the Courts to apply the law in detail."

*Bonaparte*: "Citizen Tronchet has proved to us that we cannot fix by law the exact portion of his income which a father is bound to spend on his children; it is quite clear that the least he can do is to support and educate his child until he comes of age, and afterwards to give him what help he can. A father who is rich or well-to-do should always let his children

have the run of his table. As the law stands to-day I could consult a lawyer and he could find in the existing laws the means of compelling my father to give me a proper measure of assistance, but when your system becomes law I could get no such assistance. The Courts would refuse it to me."

Several members insisted on the respect due to paternal authority.

*Bonaparte*: "You are doing your best to make children murder their parents."

The following clause was brought forward:—

"The husband owes his wife protection; the wife owes her husband obedience." On the word obedience Crétet asked: "Has the law ever imposed obedience?"

*Bonaparte*: "The angel said so to Adam and Eve. The word used to be said in Latin during the Marriage Service, and the woman did not understand it, at any rate not in Paris, where women believe that they have a perfect right to do just as they please. I don't say that of every woman, but the majority of them think of nothing but their pleasures and their finery. If it was not for growing old I should want no wife.

"Ought we not to add that the wife is not free to see people of whom the husband disapproves? Women always have the words in their mouth, 'You want to stop me from seeing whom I please.'"

The principle of divorce was agreed to, and the discussion turned on the causes for which it should be permitted. Portalis desired to make it as difficult as possible.

*Bonaparte*: "Your system combines the doctrines of Catholicism and Protestantism; you would make the terms on which divorce can be obtained so difficult as to be irreconcilable with good morals. If you had the power you would forbid divorce altogether. No one who did not detest the whole system would make it so difficult and so discreditable to obtain a divorce that only a man of brass would try to get it. That is your idea, is it not?"

*Portalis*: "Certainly, if we were legislating for a new community I should not allow divorce."

*Bonaparte*: "You have advocated fixing the marriageable age of a girl at 15, an age at which she can neither alienate her property nor make a contract of any other description. Nature and policy forbid her to do either. Yet you have chosen to make an exception in favour of marriage. A person who has married while still a minor, and who cannot have acquired much foresight or prudence, may well discover later on that he has made a mistake, that he has not found in the person of the opposite sex whom he has chosen, the qualities he sought for, but he cannot dissolve the marriage without bringing disgrace on his partner and discredit on himself. Had you fixed the marriageable age at twenty-one this would have been very different. You say that divorce on account of incompatibility would be disastrous to the husband and wife, and to their children and their families.

"For my own part I think nothing can be more disastrous than an unhappy marriage or a discreditable divorce. There were formerly as many separations as there are divorces now. (I am not speaking of what happened immediately after divorce was permitted.) In cases of separation do not the children and the relatives suffer? The worst cases of all are when the wife continues leading an immoral life while she still bears her husband's name, and inflicts a heavy, lasting disgrace upon him.

"Every day he hears people talking about his wife—saying Madame So-and-so has been doing such and such things, each of which is a fresh outrage upon himself. I am willing to accept legal separation to avoid burdening sensitive consciences, but it must not be made the only possible remedy for unhappy marriages.

"Let us pass to the article which enumerates the different causes of divorce. How many of us could say, like the old Greek, that we wished our houses made of glass so that all the world could see our home-life and all the working of our nerves? Incompatibility as a plea has at least this advantage. If a wife has been unfaithful during the absence of her husband he may use this plea to get rid of her without dishonouring her



character. Or he may be convinced that she has committed adultery without being able to produce legal evidence such as you require. To sum up, I hold that separation is the same thing as divorce, without its advantages, and that your clause as now worded will compel everyone who wishes to dissolve a marriage to have resource to separation only."

*Portalis*: "The Law does all it can to protect the minor. He cannot marry without the consent of his parents, etc."

*Bonaparte*: "Recall what you said about the nullification of marriage. According to your view, error in the quality, which you call error in the personality, of one of the parties ought to nullify marriage. In this case you show little respect for marriage; when a man is thinking of marriage he lives for the time in a world of illusions. It would be well if we could forbid marriage between persons of disproportionate ages. Two people, one fifteen years old, the other forty, can never see things eye to eye. As a rule the advantages of the respective families are considered rather than those of the husband and wife. If the marriage turns out badly, ought not the Civil Law, which has nothing to do with exalted, sacramental ideas of marriage, to step in and do what it can to remedy the evil?"

*Portalis*: "Nature is man's master. Social laws are only superstructures. We read a great deal about the social contract. For my own part, I do not understand what is meant by the phrase. Man is a gregarious animal, and marriage is in his very blood."

*Bonaparte*: "You are quite mistaken. It is not *marriage* that you are thinking of. Marriage does not originate in nature, but in the laws necessary for the self-preservation of society and morals. Marriage with us is a totally different thing from marriage in the East, which permits of any number of wives and concubines, a thing which would be absolutely immoral with us, but which works well enough in Oriental countries, where the laws are adapted to it. I do not hold that the family is the product of the Civil Law, and the Civil Law itself the product of the law of nature. The Romans held very different opinions, which rested on their peculiar social organisation. Citizen

Portalis has not given any answer to my objection to the age fixed for marriage. Most marriages are made for reasons of convenience; they can be hallowed only by time. I can understand the motives of those who would forbid divorce (except for adultery, which is a criminal offence) after a certain period, such as ten years of married life, particularly if there are children. A man has no right to put away a woman who has given him children. But during the first ten years incompatibility should suffice. The divorce should be settled by the Family Council (*Conseil de famille*) presided over by a Magistrate. No person should be allowed to claim a second divorce; that would be absurd and debasing to marriage. Divorced people should not be allowed to marry again for five years; this would prevent either party from suing for a divorce in order to marry someone else. By these means you will have done all that public morality requires, and you will not be liable to the charge of having wilfully closed your eyes to the disadvantages of divorce.

“Everyone should enjoy absolute liberty in his family life; this is a principle even under Oriental despotisms. The welfare of individuals must also be considered.

“What do you say about a woman who demands divorce, such as the Roman law permitted, on account of the impotence of her husband? You do not mention this, yet such cases will occur, and it will be no use to denounce them as scandalous. Many members of the Council maintain that divorce on account of incompatibility is immoral, but this is not strictly true. A man knows that his wife is an adulteress. If he is himself a man of good morals her conduct is abhorrent to him, and he can no longer live with her. Yet he is unwilling to claim a divorce on this ground, partly from pity for his wife, partly on his own account, because he has no desire to be a mark for those witticisms which society showers on a deceived husband, and partly to save his children from being dishonoured by the misconduct of their mother.”

Emmery proposed that incompatibility of character should be admitted as a ground for divorce, provided that both parties

consented to it. The opponents of divorce argued against this, while Bonaparte supported it on the condition that the consent of the parents was given.

*Bonaparte*: "Laws are made in support of morals. It is not right to leave a husband no option but to plead before the Courts of Law for divorce on account of adultery. It should be made possible for the parties to obtain a divorce by mutual consent, which although not in itself a reason for divorce is a sufficient indication that divorce is necessary. The Family Council would examine into the facts and decide.

"This is a very different thing from the system, which seems to me ridiculous, of allowing divorce simply on the ground of mere incompatibility. We must on no account leave the door of divorce open for trivial reasons; but my plan does not favour such cases.

"For instance, if the husband and his father agreed, the father of the wife could refuse his consent; he could say: 'I oppose a divorce. My daughter is innocent, and if I consented she would be believed to be guilty. You threaten an action. Very well, we will defend it.' If, on the other hand, the wife is guilty, her parents would certainly consent to the divorce.

"In the Civil Law adultery is a portentous word, but in real life it is only gallantry, an episode of a masked ball."

Portalis resumed the debate left unfinished in the last sitting. Tronchet read his opinion, which was opposed to mutual consent, and indeed to divorce under any circumstances. Many members followed for or against.

*Bonaparte*: "I have listened to a good many objections, which do not seem to me to have much force. The question is a difficult one, I grant. The Law authorises marriage at a very early age, and presupposes the consent and desire of both parties; but experience often gives the lie to this supposition. All religions in all ages have allowed of divorce for adultery. No such thing as absolute indissolubility of marriage has ever existed. Our projected Code admits of divorce for various reasons, and the present question is whether incompatibility should be allowed as one of these. The grave objection is that it suggests the

idea of getting rid of marriage as though one of the parties could say, 'I am going to marry until I change my mind,' while the other would be intending to marry for life. It is to be presumed that both man and woman chose to be married for life. So far as their intentions are concerned the marriage is indissoluble, since the causes which may lead to a dissolution cannot be foreseen by either.

"In this sense alone marriage may be said to be indissoluble. A simple allegation of incompatibility is therefore contrary to the nature of marriage, which is contracted with the intention of being binding for life. Can those who maintain that marriage is indissoluble, not merely in the intention of those who marry, but in the nature of things, bring forward an example of a religious system, under which princes or great men have not been able to obtain divorce, or of a century in which they have not done so? Is it in accordance with nature that two individuals who are absolutely incompatible should be forced to live together?

"It is quite true that the institution of marriage ought to be so organised that when marriages are contracted there should be no thought of the possibility of their ever being dissolved; but at the same time the Law ought to provide for cases in which such dissolutions should take place. We have agreed on two such causes, when we declare that in case of impotence marriage is void, and that adultery breaks the marriage contract. In your scheme you allow causes for divorce quite as vague and as dangerous to society as incompatibility. It is for those who object to the proposed system to suggest alternatives. As long as we do nothing but criticise we shall never come to any decision.

"I believe the best system to adopt is this. Crime is a definitive cause of divorce. When there is no crime, mutual consent. Citizen Tronchet says that the parents will always consent when the two parties are agreed. I reply that it will always be in their power to refuse. The indissolubility of marriage is only a fiction. Separation is liable to as great abuses, and is as much an attack upon marriage as divorce."

Boulay proposed that before divorce was granted, separation for five years, as a test, should be obligatory.

*Bonaparte*: "Your system is too harsh, and supersedes divorce altogether. It is impossible to assert that two individuals are to be made into one for the whole course of their lives. I have every desire to respect the sanctity of marriage, except in cases of necessity. I desire nothing unjust to either of the parties, since I propose their mutual consent; I do nothing to injure the sanctity of marriage, since I require the consent of the family. I consider married persons who are seeking divorce as temporarily incapacitated by passion, and therefore in need of guardians. If there had ever been a period during which marriage had been absolutely indissoluble, I should be of Citizen Tronchet's opinion. A separation is just as much an end of family life and of marriage as divorce.

"I remember enough of Church history to know that there are cases in which Popes have authorised divorces. You cannot compare marriage to grafting two branches on a fruit tree and forming them into one. Human nature differs from vegetable. When I propose that the father's consent shall be necessary to a divorce by mutual consent I am met by the objection that parents would be too partial and indulgent; but those who oppose divorce *in toto* plead the interests of the children, whom they say will be sacrificed for the sake of their parents, who in this case are supposed to be as stony-hearted as you please. A Roman frequently married only after he had made the woman *enciente*, and we do the same. A country must fit its laws to suit its conditions. As to gambling or debauched women, must a husband be driven to the publicity of the Law Courts to get rid of a wife of that kind?"

Portalis said that if it were necessary to choose between incompatibility or mutual consent he would prefer the latter, and he proposed various methods of preventing its abuse.

*Bonaparte*: "We have already agreed that a marriage is celebrated with the full intention of its remaining intact for life. I hold that we should allow of divorce by the mutual consent

of the parties and their families, for the causes detailed in Article II.<sup>1</sup>

“If we do not make it clear what these causes are, we certainly shall not be understood by the general public, who will believe that divorce can be obtained without any special cause by mutual consent. We shall seem to say, ‘People may marry until they change their minds and mutually agree to divorce each other. But my main object is to avoid the intervention of the Law Courts. Such cases should be tried before the Family Council, so as to avoid the scandals of a trial for adultery.’”

Tronchet, however, persisted in his opinion, and Bigot Prémeneu opposed Mutual Consent.

*Bonaparte*: “That is to say, you are opposed to divorce altogether. You look at the question from one point of view only. Think of the disadvantages of legal separation.

“The husband and wife may both lead vicious lives, the family be broken up, and the property wasted.

“It seems to me that public morals and the interests of the children would both profit by divorce. But if you insist on the open trial and formal judgment of a Court of Law, divorce will become a mere illusion.

“You will place the petitioner between the deep sea and the devil. It is no use looking at the matter from an ideal standpoint. It is quite simple. You tell me that a high tone of morality is only to be preserved by maintaining good marriages. I repeat, laws must suit the existing state of public morals, and that nothing could inflict a heavier blow on public morals than a law which made divorce impossible.

“The advocates of the indissolubility of marriage march straight on their road without bestowing a thought on the needs of society as it is. But indissolubility exists only in the intention of both man and wife at the time when they contract to marry each other. It may not be strong enough to survive unforeseen circumstances, such as disparity of character or temperament, or other causes of disunion. If two people are agreed in wishing to be divorced, we may take it as a sure

<sup>1</sup> Article II. deals with “Divorce for cause defined.”

sign that the differences between them are of a very serious character. But what man in France would be so estranged from the social ideas and traditions of his country as to wish to arraign his own wife before a public Court. You cite the example of England,<sup>1</sup> but these English debates on bills of divorce are the laughing-stock of Europe. Such debates would demoralise our provinces. There are more than six hundred married couples in Paris living lives of which no one in the country has the remotest idea. It would never do to publish the dangerous details of a mode of life altogether unknown to the majority of our people.

“To sum it all up. The real question before us is this. Shall we or shall we not have divorce? I appeal to our national code of morality. All that has been said against divorce is opposed to that code. The arguments used against it are based on religious prejudices, not on reason.

“I have been perfectly outspoken; I have given you my prescription,<sup>2</sup> and you use it as a means of attacking divorce.

<sup>1</sup> Before the Law of Divorce passed in 1857, divorce could be obtained only by three processes,—first, a civil action for Criminal Connection; secondly, a suit in the Ecclesiastical Courts; thirdly, a private Act of Parliament dissolving the marriage. The whole process was very costly. The objections to the law as it stood before 1857 were summed up by Mr. Justice Maule in 1845 in sentencing to one day’s imprisonment for bigamy, a working man whose wife had some years before eloped taking with her all his money, and who after a long interval had married again. “You should,” he said, “first have brought an action against the man who ran off with your wife, and have obtained damages from him, which in all probability he would not have been able to pay, and you would have had to pay your own costs, perhaps a hundred or a hundred and fifty pounds. You should then have gone to the Ecclesiastical Courts and obtained a divorce *a mensa et thoro*, and finally have gone to the House of Lords, where, having proved that these preliminaries had been complied with, you would have been able to marry again. The expense of these proceedings would amount to not more than five or six hundred pounds. You say you are a poor man, but it is my duty to tell you that in this country there is not one law for the rich and another for the poor.”

<sup>2</sup> Meaning, of course, his plan of Divorce by Mutual Consent. This form of divorce was carried, and forms “Chapter III. of Title VI., Divorce” of the Civil Code. The entire system of divorce was abolished in May 1816. When it was re-established in July 1884, Divorce by Mutual Consent was excluded from the law on the subject. It still remains in force, in certain cases, in Belgium. It has been adopted by the Civil Code of Japan.

In the year VIII., 1799–1800, there were in Paris 698 divorces against 3315

“Adultery is no phenomenon. It is a passing affair (*une affaire de canapé*), an everyday occurrence. You insist on nothing short of a trial at law, while I desire the Courts to act only as a means of bringing about a divorce by mutual consent. Women in these days require restraint, and this will restrain them. They go where they like; they do what they like. This is the case throughout the Republic. It is not French to give women the upper hand; they have too much of it already.

“There are more women who wrong their husbands than men who wrong their wives. We want a bridle for the class of women who commit adultery for gewgaws, for verses, for Apollo and the muses, and all the rest of it.”

The only discussion on the Title relating to Paternity and Filiation reported in the official Procès Verbaux took place on the 29 Fructidor, an. X. (16th September 1802), which was presided over by Cambacérès.

Yet the matter had been debated at an earlier sitting under the presidency of Bonaparte, who took a very active part, as will be seen from the following. The clause under discussion was one which sanctioned the principle that a child born in wedlock was the son of his reputed father, unless adultery or impotence were proved.

*Bonaparte*: “The result of an act of adultery is not always a child. If a woman has relations with her husband and with another man, we must presume that the husband is father of the child. In such a case there can be no evidence that it is not his, and every presumption that it may be. Impotence is a vague term. It may only be temporary. It is not in the interest of the wife that we must act, but in that of the child. The competence of the husband may be taken as proved by the existence of the child. What doctor would say that this or that disease has rendered a man absolutely impotent, and has

marriages. In the year IX., 1800-1801, 808 divorces against 3842 marriages. From this date the number of divorces decreased gradually, until in the year XII., 1803-1804, there were 316 divorces to 3676 marriages. The decrease continued to the end of the Empire.



left no germs of competence behind. It is different when the physical absence of the husband is proved; no amount of imagination can produce a child."

Cambacérès insisted on these two exceptions in certain cases.

*Bonaparte*: "So long as there is a possibility that the child may be the husband's, the legislator should hold his hand before his eyes. The child must be regarded as a third party interested in the case."

Cambacérès protested against such a principle being inflexibly maintained. "There will," he said, "be no restraint upon wives if it is sufficient for them to plead mere possibility."

*Bonaparte*: "In all your long experience at the Bar you have never seen a case of impotence established. When it comes to the point the woman can always plead that the child proves the competence of the husband.

"In such cases who will consider the interest of the child if the law does not. We must have a fixed rule which will settle all doubtful cases.

"You say such a rule is contrary to good morals. I say No! For if some absolute principle is not adopted, the wife may say to her husband, 'Why should you restrain my liberty? If you suspect my virtue it will be open to you to prove that my child is not yours.' That would be an intolerable state of things.

"The husband must have absolute power to say to his wife: 'Madame, you shall not go out; you must not go to the play; you must not meet such and such a person, because if you bear a child, that child is legally mine.' For the rest, if the husband pleads his own impotence, people will say, 'Lucky for him that someone else has given him a child.'"

*Malleville*: "But if the husband becomes impotent from an injury or wound? There are such cases."

*Bonaparte*: "Perhaps we ought to admit impotence from an accident, but it must be proved up to the hilt, as nothing less will do. You all speak as though the main consideration were the interests of the husband or his indirect heirs. But there

is no comparison between the pecuniary interest of an individual or two and the legal existence of a child.

“By the latter the country gains a good citizen instead of a person rendered vicious by disgrace. In these cases I should refuse to allow the heirs to take action, and should permit no one but the husband to plead, and I would limit him to the first two or three months after the birth of the child, and then only if he had not lived in the same house as the child, in which case he would have adopted it. In cases of impotence resulting from a wound, what becomes of the marriage? Would it not form a ground of divorce? It could be pleaded without a scandal. Such a thing might happen to anyone. To myself, for instance.”

The next question was, at what term must a child be born to be considered legitimate.

*Bonaparte*: “Could a child born on the sixth day of the sixth month live?”

*Fourcroy*: “It is held that it would not.”

*Bonaparte*: “Our knowledge of the subject is very vague. It is not to the public interest to bring disgrace on an innocent creature. Who is to say the exact moment at which conception takes place? When do the theologians hold that the soul enters the body?”

*Fourcroy*: “Some at six weeks, others at”—

*Bonaparte*: “There are two points to consider. First, the period at which the child is born. Second, the state in which it comes into the world. The foetus is said to be fully formed by the sixth week; it can therefore be born at that time. It will be born dead certainly, but it will be born. The term born is therefore not sufficient; it must read ‘born alive.’ A child may, of course, be born dead at nine months. Is there any way of knowing whether an infant can come to the birth? When does its pre-natal life begin?”

*Tronchet*: “We might say a child born at a term of less than 186 days.”

*Bonaparte*: “What is the exact meaning of the word *term*?”

*Fourcroy*: “The period of from seven to nine months.”

*Bonaparte*: "Can experts decide whether a child is a nine months' infant?"

*Fourcroy*: "No."

*Bonaparte*: "Can a child be born alive at six months?"

*Fourcroy*: "Yes; but it will not survive."

*Bonaparte*: "I would adopt the principle that a husband could disavow a child born at a term of less than 186 days, and continuing to live for a certain time. But when a child is born dead it should always be considered as legitimate. When do children's nails appear?"

*Fourcroy*: "Before six months."

*Bonaparte*: "If a child were born to me at six months I should consider it to be mine, and I should believe it in spite of all the doctors say."

## CHAPTER XI

### THE COUNCIL OF STATE—MISSIONS AND DEBATES— NEWSPAPERS AND PLAYS

1801-1802

THE Councillors of State were sent separately on missions throughout the Military Divisions of France (1801). They were instructed to inquire into the working of every branch of the administration of each Department, as well as into its financial, political, and commercial condition. Another part of their duty was to hold a series of administrative councils, the first composed of the General in Command, the Prefect, and the other high local officials; the second, of the Superintendent of Taxes, and other financial authorities; the third, of the Prefects and engineers employed in public works; and the fourth with the Prefects alone. All public officials, military or civil, were warned to treat the Councillors on missions with every honour, and to assist them in their investigations.

These instructions were carried out to the letter; the local officials, either from respect for the Councillor himself, or from a desire to obtain his good offices with the First Consul, vied with each other in fêtes and lavish hospitality. When the round of inspections was completed each Councillor delivered to the Consuls a written report containing an account of the political, military, and commercial condition of the Departments through which he had travelled, the assistance required to reestablish manufactures and trade, the state of the hospitals and schools, the character and work of the local functionaries, the names of persons likely to be dangerous to the public peace, of those who in any way disturbed the purchasers of the national lands, and of contractors guilty of fraud or default.

These Missions were unquestionably serviceable, the more so because those to whom they were entrusted were as a rule well qualified and trustworthy. They supplied the Government with information which they would not otherwise have obtained; they kept the local officials on the alert, and they gave opportunities to private citizens to put forward their views and express their grievances. A Councillor was allowed to remain only a fortnight in each Department comprised in the Military District to which he was sent. This was far too short a time,—a month at least was needed to carry out fully his instructions; as it was, he was often obliged to content himself with a superficial inquiry, or to fix his attention only on the most important questions. At the same time, these Missions made excellent training for the Councillors themselves; they learnt an immense amount of exact information about the localities through which they travelled, and were able to speak with authority when questions relating to local interests or local officials arose in the Council.<sup>1</sup> The only people inimical to these Missions were the Ministers and Under-Secretaries, who did not care to see the Members of the Council of State, of whose position they were already jealous, intervening between themselves and their subordinates.

Among the many questions debated in the Council of State (in 1801 and 1802), the following are interesting:—

Supposing that it should be necessary to suspend the working of the Constitution in any Department, would the First Consul have the right to appoint new Magistrates?

The question was referred to the Section of Legislation, who reported that since Art. 92 of the Constitution allowed only a temporary suspension, the First Consul would have the power only to appoint temporary Magistrates during the period when the Constitution should be in abeyance.

Bonaparte expressed his opinion that Art. 92 did not decide

<sup>1</sup> Thibaudeau speaks from experience, as he himself was one of the Members of State sent on Mission. The district which he visited in May and June 1801 was the Sixth Military Division, which included all the Departments formed out of the Province of Franche Comté, Besançon being its headquarters.

the matter, but left it to himself to act as he considered best; and that he should consider it his duty to replace the Magistrates permanently in cases (1) where their predecessors were proved to have fomented popular disturbances; or (2) when they had lost the respect of the people; or (3) when they could not be trusted, if reinstated, to give unbiassed judgments. The Section replied that Art. 92 appeared to them to give a positive decision; that in the first instance, if the Magistrates had fomented public disturbances, they should be prosecuted like any other persons; in the second instance, that a general suspension would not affect the reputation of the Magistrates more than that of other officials; and in the third, that it was better to endure minor inconveniences than to lessen the independence of the Magistrature.

The Council voted in favour of the judgment of the Section of Legislation.

Another interesting question concerned the form in which the Court of Cassation (the final Court of Appeal) should make its Annual Report to the Government.

Among other clauses of the Order (*Arrêté*) under discussion was one providing that the Court should be informed of the date when the Government should reply to its Report.

*Bigot Prémeneu*: "This clause is useless and improper. It is the duty of the Court to point out abuses in the administration of justice, and to suggest alterations in the law. It is not the duty of the Government to approve or disapprove of these Reports. To do either would be injurious to the independence of the Court."

*Roederer*: "Supervision and subordination would in no way injure the independence of the Court. The Government certainly has the right to direct the administration of justice."

*Bonaparte*: "Citizen Bigot's observations are well founded. The Tribunal is not bound to render an account of its decisions. If it were it would cease to be independent. Its duty in reporting is to give us its views on any alterations of the law which it considers desirable. Thus we shall have the advantage

of the opinions of eminent jurists, and the public will be prepared for any important changes before they are submitted to the Corps Législatif. The Court should communicate its report beforehand to the Minister of Justice, who will draw up the reply to be given on the day fixed for its reading. If it contains matter outside the proper sphere of the Court, either the Government will refuse to accept it or the First Consul will call the Judges to order and tell them not to meddle with finance or whatever it may be. If the Report relates only to the administration of the law it will be received and answered without difficulty." The following Order in Council was passed, 5 Ventose (24th February 1802). "The Court of Cassation shall send annually a deputation of twelve of its members to present to the Consuls sitting with the Council of State and the Minister of Justice, a report on those laws which experience has shown to be faulty or insufficient, with suggestions for their amendment." In consequence of this decision the Court delivered its first report to the Consuls shortly afterwards. In it the jury system was severely criticised, and proposals were made for raising the qualifications of jurymen and for simplifying the issues placed before them, as, for instance, in criminal cases when the simple formula "Is the Accused guilty?" should be adopted. The maintenance of capital punishment was advocated; one argument used in its favour being that the right of pardon rested in the hands of the First Consul.

The establishment of a College of Advocates attached to each Court was recommended.

Many protests were received by the Government against a decision of the Minister of Finance, 16 Frimaire, an. VIII. (7th December 1799), that payments for the purchase of National Property made in Assignats, after March 1796, would be reckoned only at one-thirtieth of their face value.

On the 21 Prairial (10th June 1802) Regnault brought forward the draft of an Order in Council decreeing that these Assignats should be taken at par.

*Bérenger*: "Whatever we may lose by adopting this decree we shall more than regain by the greater security it will give

to the holders of National Property, and by the consequent rise in value."

Crétet and Cambacérès followed on the same side, and an Order in Council was passed declaring that all payments made in Assignats, during the time that they were legal tender, were to be considered as good for their nominal value.

Rumours were current that a special tax was to be imposed on the purchasers of National Lands; the Government therefore ordered the following note to be published in the *Moniteur*. "The first duty of the Republic, and the keynote to the policy of the Government, will always be to maintain intact and unimpaired the security of those who have purchased National Property. These purchasers threw in their lot with the Republic, and risked their whole fortunes at a time when it was attacked by the united forces of Europe. They are therefore foremost among those who have deserved well of their country, and their interests will always be upheld by the Government and the Nation." Constant endeavours were made to subject the produce of the land to the "cens."<sup>1</sup>

The First Consul submitted the question to a commission composed of Treilhard, Jolivet, and Defermon, Councillors of State. The three were unanimous as to the fact that the "cens" was included in the feudal dues abolished by the Convention, but were divided in their opinion on the desirability of reviving it.

The revival was brought before the Council, who decided against it. The opinion of the Commission was published by order of the First Consul in the *Bulletin des Lois*, No. 251 (tome vii. pp. 497-499), but he omitted the words stating that the decision "was in accordance with the will of the nation," nor did he as usual add the word "Approved."

These omissions were taken to show that he had some intention of raising the question again at some future time.

In discussing a Bill regulating State pensions Bonaparte

<sup>1</sup> Cens is, of course, a word of many meanings. As used here it means the due or quit-rent paid by tenants or copyhold owners of land. As revived after the Revolution it became a Government land tax.



said: "The proposed law has two objects. The first is to publish lists of pensions.<sup>1</sup> Such statements are always liable to abuse, and cause a hubbub more exaggerated than the abuses themselves; the second, to establish a system of pensions for the civil service. Military pensions are already regulated by law, and there is no room for uncertainty about them, but there are at present no legal means of bestowing other pensions. They can be granted only to persons without means, and even so they are ludicrously inadequate. For instance, the widow of General Hoche, who rendered the highest services to the Republic, could only obtain a pension of 1200 francs, and even this she cannot draw because she has a small private income of two or three thousand francs. We must be in a position to grant pensions to civilians who have done good service, such as Prefects, Judges of the Higher Courts, Councillors of State, and their widows. When civil servants have no future to look forward to they naturally abuse their position.

"The Directory, finding themselves unable to grant any pensions, used to allow public servants to make money out of their posts; a highly immoral system. Suppose they wanted a brigand arrested, they would promise to pay 12,000 francs to the man who caught him; when he was caught they had to pay the money to the officer who took him: it would have been far more economical to pay him a pension.

"The Minister of the Interior divides 200,000 francs a year among needy men of letters. The money is given, not as a national recognition of literary merit but as a charitable dole, a disagreeable method altogether."

In the course of a discussion on the taxes on land Bonaparte said: "Your system of taxation is the worst in Europe. It is destructive both of property and of civil liberty, for true liberty depends on the security of property.

<sup>1</sup> Bonaparte here alludes to the "Livre Rouge," the Register of Pensions published in April 1790 by the Committee of Pensions of the Constituent Assembly, which caused an amount of scandal greater even than the abuses of centuries contained in it warranted.

“There is neither liberty nor property in a country in which the amount of taxation to be levied from each individual varies from year to year. A man who is now drawing 3000 francs from land cannot form any idea what he can draw next year; his whole income may be eaten up by his taxes. In ordinary business you will find people conducting a lawsuit before a solemn tribunal about a trifling sum of 50 or 100 francs; while a mere clerk with a stroke of his pen may overcharge you thousands of francs. Under conditions like this there is no such thing as property. If I buy an estate in France to-day I don't know what the real value of it is.

“In Lombardy and Piedmont there is a regular Cadastral Survey, and everyone knows what taxes on land he has to pay. The cadastre is fixed, and varies only under extraordinary circumstances, and after a legal decision. If the taxation is raised each person pays in proportion, and you can calculate your share in your own study. People know what they possess—and therefore they own their property. Why is public spirit so wanting in France? because every proprietor is obliged to pay his court to the powers that be. If he falls into bad odour he may find himself a ruined man. The decisions on appeals, too, against taxation are quite arbitrary. In no other country are the people so servile to the Government as in France, because here all property is dependent on its good-will. In Lombardy, on the contrary, a proprietor lives on his own land without troubling himself about who governs. Nothing has been done in France on behalf of property. The man who would devise a good law on the cadastre would deserve a statue.”

*Bigot*: “There used to be a cadastre in Provence and Languedoc. Everyone has been afraid of the expense and of the length of time it would take to complete the work in France.”

*Lebrun*: “A general cadastre is an enormous work; it would cost over thirty million francs, and would take at least thirty years to finish. The most difficult part of the business would be, not the mensuration and valuation, but the determination of the exact boundaries of the different Departments.”

What Bonaparte had said was profoundly true and just. The formation of a cadastre was ordered to be undertaken.<sup>1</sup>

Among the commercial matters brought before the Council of State, was the question of whether ships returning from India should in future be compelled to unload in the ports of Lorient and Toulon, or whether they were free to choose any port. The discussion developed into a larger one, as to whether the trade with the East Indies should be free or should be confined to a privileged company. The Section of Marine was in favour of a company, while the majority of the Council preferred freedom of trade.

*Bonaparte*: "At first I was in favour of a privileged company, but for the last two years I have been in correspondence with the merchants at all our ports, and I find that they are all for freedom of trade. They have shown me solid reasons for their preference, and have answered all the arguments advanced by the partisans of a close corporation.

"The Indian trade should be in the hands of companies, but these companies should not be privileged, but free like the Rabaud Company at Marseilles. Such companies can command capital, and are altogether better suited to the Indian trade than a chartered company, which is like a Government, whose operations and administration are always far more costly than those of private traders.

"A privileged company makes a single market for itself, and never goes outside of it. It is like a canal which runs along a given course and never leaves its bed. Private traders, on the other hand, turn aside from the beaten track and go about everywhere searching for new openings for trade. Government cruisers with fixed stations never take half as many prizes as privateers who undertake all sorts of enterprizes which navy ships never think of.

"It has been demonstrated to me clearly that during the

<sup>1</sup> The "Grand Cadastre," a general survey of France on which is founded the taxation of real property, was begun, after some preliminary Commissions had reported on it, in 1807, and was not completed until 1880, since which date it has been undergoing revision.

twenty years of free shipping to India the trade has been far more productive than under the old chartered company, and has led to much larger exports of our own manufactures. The old company exported little except silver. It is a mistake to suppose that England is the exclusive mistress of the Indian trade.

“There are still independent princes in India who would welcome French trade. Indian goods circulate widely throughout the world without being sent first to England. We found plenty of Indian merchandise of excellent quality in Egypt.

“The example of the Americans is all in favour of freedom; they have no privileged companies, but they have a considerable trade with India, the Red Sea, China, and the Persian Gulf. They go everywhere. Of course, the war has favoured them materially, but peace will give our shippers an opportunity of following their example and competing with them. It is desirable to come to a definite conclusion on this point, and to put it on the statute book as soon as possible, so that our traders may have complete security. I have heard it said that the reason why we ought not to start a privileged company is that we cannot afford it, but this I do not believe; we are always trying to make ourselves out poorer than we really are. I hold that the argument against the company is that it is a vicious method, condemned by the trading community, who would not invest their money in it. If it were otherwise there would be no difficulty in forming a company; it needs only a capital of 20,000,000 francs, and what is that to such a country as France?”

In the last sixty years legislation in favour of the working classes has been the subject of deep study and of earnest discussion throughout the whole of Europe.

Thoughtful men with the widest views and the longest experience have come to the conclusion that if the people were left free to pursue their own interests, they would follow the course most favourable, not to their own interests only, but to the nation to which they belong. Such ideas were widespread before the Revolution. The French Government under Turgot in 1776 had done its best to realise this ideal, but changes in the

Ministry had prevented it from thoroughly carrying out his schemes. The Constituent Assembly unhesitatingly suppressed the trade corporations (*jurandes*), and repealed the laws relating to the regulations of workshops. Henceforth there were to be no restrictions on the freedom of industry or the circulation of the products of labour. It cannot be denied that under these conditions many inventions and improvements were carried out, and many important trades and industries flourished in spite of such adverse circumstances as the wholesale withdrawal of capital and the instability of paper currency. But, on the other hand, there were frequent complaints of the violation of contracts by apprentices and workmen, and of the sale of goods under false trade-marks. In consequence of these complaints the Minister of the Interior instructed his Council of Agriculture, Trade, and Commerce to draw up a scheme to obviate these inconveniences; this scheme was approved by the majority of the Departmental Council, and was finally presented to the Government with a report. An Order in Council was issued forming the butchers of Paris into a corporation, with a syndic, and six assistant syndics at its head. No one was to be permitted to trade as a butcher without the permission of the Prefect of Police who required a deposit of caution money from each member of the trade. This was a step towards the re-establishment of trade corporations, though it was certainly justified by serious considerations of public hygiene. The work of the Minister of the Interior was incorporated in a Bill which was debated by the Council of State. After adopting the regulations respecting apprenticeship, the relation between employer and employed, and trade-marks, the question arose of the proper authorities for the regulations of such cases. In the Bill, the Mayors were given jurisdiction in all causes of this kind, but on this point a difference of opinion arose.

*Bonaparte*: "Written contracts and intricate or important questions must necessarily go before a Court of Law, but matters arising out of everyday difficulties, questions of detail or of routine, should be decided by the Mayors with other police business. The 'Juges de Paix' are not always on the spot

and they work too slowly. The Mayor, who is the true representative of public order, is always at hand and ready to decide. There will be no good system of police unless the Mayor has the right to send people to prison for three days, or to impose fines of twelve or fifteen francs.

“There are many cases which ought to be dealt with in this way, but at present such action is illegal. The sooner the law gives the Mayors this power the better. The Prefect of Police is guilty of illegality every day; he has no choice. What an idea, that a father with a recalcitrant son fifteen or sixteen years old should not be able to have him locked up for twelve hours without going before a Court of Law!

“In any case, even if it is not thought judicious to give such authority as I have described to the Mayors, they ought at least to have special powers to deal with matters of trade and labour. As to registration and classification as proposed in this Bill, we shall have to make up our minds whether we are going to re-establish the system of corporations (‘jurandes’ and ‘maîtrises’<sup>1</sup>) or to have complete liberty of industries. I have heard a great many sensible arguments against the ‘jurandes,’ and I observe that those who are now proposing this system of classification think it necessary to declare that they have no desire to set them up again. Personally, I have no opinion on the point, but I am always for freedom. The present proposals seem to me inadequate. We have already a system of registration in the trade licences (‘patentes’), and from these we can form a classification whenever we please. As for Councils of Industries and Trades, we are free to form them as we have the Chambers of Commerce.<sup>2</sup> To frame regulations may be a fit matter for the Legislature, but it is ridiculous to have a whole code of them passed off-hand by the Council and approved by the Government. Moreover, these regulations can relate only to things not to persons, and in any case apply to foreign trade only.”

<sup>1</sup> The “Jurandes” were the governing bodies of the trade corporations or guilds abolished in 1790 and 1791. The “Maîtrise” the collective term for those who had become “Masters” in their own corporations.

<sup>2</sup> The Chambers of Commerce were refounded by a decree, 24th December 1800.

The Council rejected by a large majority the re-establishment of the Jurandes, adopted the proposals on the jurisdiction of the Mayors, and left the question of the regulations undecided.

A Bill was drafted and presented to the Corps Législatif giving the Government the right to establish consultative Chambers of Trade, and on their advice to make regulations relative to manufactured products exported to foreign countries; such regulations to be presented to the Corps Législatif in the shape of a Bill within three years of their first issue as an Order in Council. The remainder of the Bill concerned workshops and factories, trade-marks, and the jurisdiction of Mayors.

The Section of the Interior proposed to issue an Order in Council permitting the exportation of silk from Piedmont to foreign countries on payment of a fixed duty. It was calculated that before the Revolution the silk manufacturers of Lyons consumed from one-third to one-half of the silk cultivated in Piedmont (800,000 livres). The remainder was exported to other countries. The Lyons manufacturers could not now consume the whole of the silk produce of Piedmont, and they offered no objection to the export of the remainder, provided that it passed through Lyons and that a duty was paid on it.

*Bonaparte*: "We must look at the question from both sides. As regards France, the law has always prohibited the exportation of raw silk. People reason as if the annual product was always the same, whereas nothing is more uncertain. Some years produce too little, other years too much. Of course, the manufacturers provide against this uncertainty. There is a never-ending dispute between the planters of mulberry trees and the silk manufacturers. The English would gladly sacrifice millions to burn down Lyons. Let us therefore maintain the prohibition as regards French silk. Now for Piedmont. If it is true that it produces more silk than France can consume, it must be permitted to export a certain quantity. A duty of two francs per pound is not excessive, considering that the King of Piedmont used to take one franc. To permit the silk

to be exported through Vercelli would be to encourage the trade of Trieste and Leghorn to the prejudice of Marseilles. Piedmont must be kept in close union with France. The bonded warehouses of Lyons are a means of doing this. From there the silk can be sent to Marseilles for shipment to Lisbon, and to Calais for the English market, and the Lyons people will be able to select what they want for themselves."

*Gally*: "Warehousing at Lyons would be injurious to the merchants of Turin. Instead of dealing directly with the raw silk, they would have to pay a commission to agents at Lyons. Inconveniences of this sort added to the proposed duty will end in the buyers of raw silk giving less for the cocoons, and in that case the cultivation of the mulberry, already too much neglected, will be in danger of being abandoned altogether."

*Bonaparte*: "We must make the warehousing as little onerous as possible. We might allow the silk to be exported from Nice also, charging a higher duty for exportation by this route."

It was decided that the importation and exportation of the raw silk of Piedmont should be permitted either through Nice or Lyons.

In spite of the activity of Fouché and his police, numbers of publications hostile to the Government, usually of a Royalist character, circulated throughout the country and abroad. Among these was a newspaper called *L'Invisible*, clandestinely printed in Paris by the Royalist Committee, which contained numberless tales, for the most part untrue and always in the worst possible taste, of the private life of Bonaparte and his family.

One day Fouché brought Bonaparte a number of this paper in which it was asserted that he was contemplating a divorce because his wife had given him no heir. Fouché read this aloud, and laughed or pretended to laugh at it, in the presence of several people.

Roederer, who never let slip an opportunity of attacking Fouché, said on this occasion: "A much more important affair is an article in *La Vedette de Rouen* on the Tribunal, which contains libels sufficient to have every newspaper in Paris



suppressed, unless by chance it should be a Terrorist one." Fouché stammered out something, and Bonaparte affected not to hear what was going on.

Another paper circulated in manuscript contained all sorts of details, true or false, about the principal personages of the Republic, and especially about the First Consul. The writer pretended to know exactly how he spent every hour of his life by day and night, all that he said, did, or thought. Foreigners, who abounded at this time in Paris, carried this paper away with them, and the English and German press copied from it all sorts of scandalous anecdotes. The police discovered and arrested the author of this Bulletin, a man named Fouilloux. Among his papers were found lists of subscribers, including Serbelloni, Ambassador of the Italian Republic, the Marchese Lucchesini, the Prussian Ambassador, and Count Marcof, the Russian Ambassador, from whom were found letters giving the author information and advice.

Bonaparte spoke of this matter in the presence of the Councillors of State in his own study. "This paper," he said, "is a mass of absurd drivel. The author knows absolutely nothing about me or my character. He describes scenes of gallantry like those which Louis XV. amused himself with. I am that kind of man; am I not? It seems that I spend fabulous sums on my journeys to Malmaison. I am the sort of man to fling money out of the windows; am I not? Then again, there is a description of a tremendous row between Barbé Marbois (Minister of the Treasury) and myself. It seems that I demanded fifteen millions for my journey to Lyons, and that he refused me. In point of fact, I did not spend quite so much as fifteen thousand. Then come tales of quarrels between Lannes and myself.<sup>1</sup> I told Serbelloni, in the presence

<sup>1</sup> Note by Thibaudeau.—There was a good deal of truth in this report. General Lannes, whose tendencies were strongly revolutionary, disapproved of the Concordat and of the return of the *Émigrés*, and spoke openly against the First Consul's Government. His expressions of opinion on these subjects brought him into temporary disgrace, and led to his being sent on a Mission to Portugal. In spite, however, of these clouds between them the First Consul always had a great esteem and affection for Lannes, while Lannes was devoted to Bonaparte.

of several of his countrymen at Lyons, that he had given 300 francs to the author, and was one of his regular subscribers. He is not the only tittle-tattler here; it is wonderful to me that men in high office should stoop to encourage such stuff. I see too in this precious Bulletin all sorts of exaggerated rumours of the dangerous opposition of the Tribunat and the Corps Législatif. It appears that I hesitated for a long time before I dared to go to Lyons (January 1802). I never hesitated for a minute. I arranged with Talleyrand to return within twenty-four hours if there were any signs of disturbance in Paris."

In spite of the censorship exercised over the Theatre by the Ministry of the Interior, two pieces were acted in Paris which greatly exercised Bonaparte's mind. The first was a play by Duval entitled *Éduard en Écosse*, which was accepted by the Théâtre-Français for production as soon as the censorship had passed it. While Chaptal, the Minister of the Interior, was hesitating to sanction the piece, the author obtained permission to read it to Marat, Secretary of State, who recommended it to Chaptal. The Minister was attacked on another side by Mlle. Contat, who had a part in the play.

She obtained from him permission to read the play in his drawing-room after a dinner-party. Mlle. Contat, who was a fine actress, with all the airs of good society, kept on exclaiming as she read, "That is charming, isn't it?" or "What a divine passage!"

To disagree with so charming a commentator seemed boorish or revolutionary. Consequently everyone expressed themselves as delighted, and the Minister authorised the representation.

The first night of the piece was the 28 Pluviose (17th February 1801). The house was filled with Émigrés and Royalists, who discovered all sorts of allusions to the Bourbons, which they applauded with rapture. Next day they flocked to leave their cards on the author. The First Consul was asked to forbid a further performance, but he determined to see the piece for himself, and attended the second representation. He listened to the first act very attentively, and seemed to be moved by the sad

situation of Prince Edward, but he was soon aware of the affected and prolonged applause which broke out in several parts of the theatre, and especially from a box facing his own, occupied, it was said, by the Duc de Choiseul. The First Consul assumed a stern aspect, and though he remained in the theatre he paid no further attention to the play.

Further performances were forbidden, and the Royalists and Émigrés were loud in their outcries against such tyranny. Bonaparte justified his action by saying in his salon: "Ministers have no business to sanction plays on political subjects without asking the Government's advice. That sort of thing has never been allowed in any country even in the most settled times. They will soon be saying that I let such pieces be played on purpose to test public opinion. In point of fact, I have refused to allow *La Partie de chasse d'Henri IV.* to be played, although it is a very different case from this; for Henry IV. saved France without foreign aid from the domination of Spain, then the most powerful country in Europe. But we have no need of plays as traps for Royalists. If they choose to show themselves too visibly above the surface we shall have to put them down openly.

"There is not a country in Europe which wants to house the Pretender.<sup>1</sup> He is only allowed to stay in Prussia with my acquiescence. The Prince of Condé has not been given a single audience with the English Government; he is twenty leagues away from London.<sup>2</sup> The fact is, that these Princes cost a lot of money, and set before the people a dangerous example of Kings deposed on philosophical principles."

Duval was advised to travel; he took the advice and went to Russia, where he remained for a year.

A little later a play by Emmanuel Dupaty<sup>3</sup> called *L'Anti-*

<sup>1</sup> Expelled from Blankenburg in October 1797, after the Treaty of Campo Formio, Louis XVIII. took refuge in Russian territory, but was ordered to leave Russia in the winter of 1800. In January 1801 he found a refuge at Warsaw, then in Prussian Poland, where he lived for several years under the name of the Count de Lille.

<sup>2</sup> The Prince de Condé came to England in June 1801, and remained here until May 1814, when he accompanied Louis XVIII. to Paris. During most of this period he lived at Malmesbury.

<sup>3</sup> Emmanuel Dupaty, born 1775, was the son of the well-known President Dupaty, and brother of Louis Mercier Dupaty, the sculptor. He served for a time in the

*chambre, ou les Valets entr'eux* was produced at the Opera Comique. Lucien Bonaparte was present at the first performance.

Bonaparte was informed that the three valets in this play wore coats of the same colour as those of the three Consuls; that one of the characters playing the part of an officer when asked by one of the valets what profession he followed replied: "I am in the service," and was answered by the valet: "Why, so am I. Then we are colleagues." He was told also that one of the actors named Chénard obviously imitated the gestures and manner of the First Consul.

Chaptal, summoned to the Tuileries, excused himself by saying that he knew nothing of the piece.

Arnault, Under-Secretary of the Ministry of the Interior, gave the same excuse. It seems that the play had been examined and licensed by a subordinate clerk in the office. Bonaparte repeated his usual exclamation on such occasions: "See what it is to have such Ministers as mine." Cambacérès advised Chaptal to sacrifice Arnault. But Arnault was the brother-in-law of Regnault de Saint Jean d'Angely.

Bonaparte, still smarting from the annoyance which Duval's play had caused him, said that the clothing of the actors must be examined, and that if it turned out to be true that they were imitations of the uniforms of the three Consuls, the actors must be taken to the Place de Grève (the place where executions took place) and the clothes torn off them by the Public Executioner. He ordered also that Dupaty should be sent to San Domingo and placed at the disposition of the General in command there, and that the whole matter should be published in a General Order of the Army.

Inquiry soon proved that the play had been written before the Consulate, that the characters were intended to be simply valets, and that their costumes had been picked up in a shop and bore no resemblance to the Consular uniforms.

French Navy and afterwards as an Officer of Engineers. He was the author of many plays, libretti, and poems. He was elected a member of the French Academy in 1835, and died at the age of 82 in 1857.

Meanwhile Dupaty had been sent to Brest, and attached to the garrison there in his capacity of Officer of Engineers. Bonaparte shortly afterwards allowed him to return to Paris, where he resumed his labours as an author, and enriched the drama by many witty and graceful plays. The piece which had caused so much trouble was reproduced soon afterwards under the title *Picaros et Diégo*, under which name it still keeps its place on the boards. Bonaparte compensated the author for his undeserved misadventure generously, and in a manner most flattering to him.

These incidents made the censorship more careful and much stricter. The officials now went far beyond the wishes or orders of the First Consul. They even talked quite seriously of prohibiting *Tancredi* and *Tartuffe*,—the first because its hero was a fugitive returning to his home; the second, because it might give offence to the newly restored clergy.

## CHAPTER XII

### THE CONSULATE FOR LIFE—REFORM OF THE CONSTITUTION

MAY TO JUNE 1802

**B**ONAPARTE'S words will be remembered: "France has not yet a Republic. The question whether she ever will have one is highly problematical. The next five or six years will decide." The First Consul did not wait so long to give his own solution to the question.

The hope of establishing in France a counterpart of the Republics of the ancient world had long been extinguished, but we were far from abandoning the hope of forming a Government which should be worthy of the dignity, the advancement, and the destiny of the human race.

Such a Republic was by no means irreconcilable with the existence of a head of the State; indeed, it seemed to many that the Head whom we already possessed had been specially raised up by Providence for the express purpose of resolving a problem which had long been the dream and ideal of the publicist and the philosopher. The French Revolution, the greatest achievement of the modern world, had opened to him the opportunity of his glorious career. It had done more than this: it had stirred human nature to its depths; it had aroused the people of every land, and had taught them to understand their rights. The evils which accompanied its early progress were passing away; every day saw the effacement of one blemish or another. In a few more years the last traces of injustice would have disappeared, while the inestimable benefits which it had bestowed upon the world would remain to us.

The rulers of France now stood at the parting of the ways.

Two roads were open to them,—one, wayworn and miry, led back to the old state where the people were regarded as the property of the Sovereign; the other led forward to the new State, where the people chose their rulers to act as their delegates and as guardians of their liberties. The old road was the easier; it was certainly the more inglorious. The new road presented many dangers and difficulties, but of all men in the world, who was so admirably qualified to overcome these, and to lead the nation into a new earth, as Bonaparte; if only he truly understood his own vocation, and the glory and happiness of his country? Yet it had been apparent ever since Brumaire that he had been tending steadily towards concentrating the authority of the State in his own hands, and shaping the fortunes of France into absolute dependence on himself alone. At the period of which we are now writing, the general talk was of increasing the power of the Government and minimising that of the Tribunat; of definitively organising the nation; of hereditary succession, and of the possibility of establishing a new dynasty.

Lucien<sup>1</sup> was one of the most ardent advocates of these new ideas, which Roederer supported with all the powers of his metaphysical genius, and Talleyrand with all his influence over foreign Cabinets.

Of the men of the Revolution, some, seeing the impossibility of arresting the movement, held their peace, while others assisted it, consoling themselves for the ruin of the Revolution by the personal advantages they would derive from the new monarchy.

To speak of liberty or of republican virtues was to stigmatise oneself as an "ideologue," a Jacobin, or a terrorist. Order and stability were the catchwords behind which personal authority grew ripe and flourished, until it seemed as if France and the whole of Europe were entering into a common conspiracy to sacrifice the rights of the nation to the ambition of the First Consul.

<sup>1</sup> Thibaudeau's note.—In the year IX. he had published a pamphlet with this purpose. Bonaparte, disapproving of this premature revelation of his projects, sent Lucien into a sort of exile by naming him as Ambassador to Spain.

See the note on this pamphlet on page 53.

At Court one woman alone resisted the torrent. Even in her happiest moments Madame Bonaparte showed nothing but dark forebodings at the brilliant prospect which opened before her. It is possible that she foresaw that her husband's elevation involved her own downfall ; but quite apart from this, that feminine instinct which often pierces further into the meaning of things than masculine reasoning filled her with alarm for the future of one who, owing all his greatness and glory to the Revolution, was about to raise himself to a throne built upon its overthrow.

During the early months of 1802 there had been much talk of prolonging the First Consul's term of office either for ten additional years or for his lifetime, and of giving him the power to appoint his successor, and when the news came of the peace with England (27th March 1802) it seemed as though no man had ever found himself in a position to dare or to accomplish so much.

On the 16 Floreal (6th May 1802) the Government laid before the Senate, the Corps Législatif, and the Tribunat a message from the First Consul announcing the conclusion of the Treaty of Amiens.

The Tribunat, on the proposition of Siméon, determined to send a deputation to congratulate the Consuls. The President (Chabot) rose from his chair, and said : " It has been the custom in all ages and in all countries to bestow public honours and national rewards upon the heroes who have shed lustre upon their country or saved it from eminent danger. What man, in the history of the world, has deserved the gratitude of his country more than General Bonaparte ; whether at the head of an army or as the chief of the civil government, who has rendered services so magnificent, or added so much to the glory of his own land ? His valour and his genius have saved France from the horrors of anarchy at home and of war abroad. The French people are too magnanimous to leave unrewarded such a benefactor. I call upon you, therefore, Tribunes, to act as the mouthpiece of the nation ; it is your privilege to take the initiative in expressing the wishes and the will of the people on this memorable



occasion. I suggest the following resolution: 'The Tribunat expresses its desire that a reward worthy of the gratitude of the Nation be presented to General Bonaparte, First Consul of the Republic. The Tribunat orders that its desire should be announced by a Messenger of State to the Senate, the Corps Législatif, and the Government.'

The proposition was carried unanimously.

On the 17th (7th May 1802) Siméon, at the head of the Deputation of the Tribunat, spoke thus: "Never have the congratulations of the Tribunat been offered on so memorable an occasion. We are now reaping the harvest of a glorious though bloody war, and gathering the fruits of a splendid peace. To the magnificent position in which this peace leaves France abroad we have to add the internal condition of the Republic, so bright in comparison with the past, so rich in the progress of the present, so full of hope and promise for the future. New prospects are opening for the French nation. The same genius and the same skill characterise our leaders, the same efforts on our part will second their action, the same attachment will follow their course. Our Armies have deserved well of the country which they have defended, saved, and enriched. So, too, has the man who has led them so often to victory. Memorials of his fame are to be found on every side: on the banners of our soldiers, proud of the glory of their General; on the summits of the Alps, and on the plains of Italy. They have not been earned by warlike prowess alone. Has he not pacified La Vendée, put an end to tyrannical proscription, given back their fathers and brothers to so many sorrowing families, and restored liberty of conscience and freedom of public worship. To speak the truth is not to flatter, nor is it possible to allude to such benefactions without emotion, but I must restrain myself. All that we Tribunes can do is to express our ardent wish to second the measures by which the highest legislative body (the Senate) proposes to interpret the sentiments of the nation. Citizen First Consul, the Tribunat desires to add to any honours which the Senate may bestow upon you its own testimony to the gratitude of the nation. Such gratitude to a lofty spirit such

as yours is the highest reward we can offer you; it will serve to bind you yet more closely to the French nation, whose welfare and liberty are your happiness and your glory."

Bonaparte replied: "The Government is deeply moved by the sentiments which you express in the name of the Tribunat. You say truly, that the justice which you render to its action is the highest reward it can receive. We recognise in this the immediate result of those reforms which have enabled you to estimate its acts and intentions more justly than before. I acknowledge with profound gratitude the sentiments of the Tribunat towards myself. I desire no other glory than that of fulfilling to the uttermost the task imposed upon me. I am ambitious for no other reward than that of the love of my fellow-citizens. I am content if they are convinced of my profound concern for their welfare. Life itself is dear to me only because of the service which I may be able to render to my country, and death will have no bitterness if, in my last moments, I may see France as happy at home as she is glorious abroad."

This noble response was at the same time worthy both of the nation and of its First Magistrate. But unfortunately the finest sentiments may cloak purposes by no means in keeping with them.

On the 18 Floreal (8th May 1802) Madame Bonaparte said to N., Councillor of State: "I am far from approving of the projects which are being brought forward. I have told Bonaparte so, and at the time he listened to me, but his flatterers soon change his opinions. The new concessions they are going to make to him will increase the number of his enemies.

"The Generals are grumbling. They say that they did not beat the Bourbons to put the house of Bonaparte in their place. I do not regret that I have given my husband no children. If I had I should tremble for their future. However perilous his destiny may be, I shall remain by his side so long as he keeps for me the regard and kindness he has always shown me; but the day when I see him change towards me, I leave the Tuileries. I know well that every effort is being made to turn him against me. Lucien gives him the worst advice, but



JOSEPHINE AT MALMAISON

BY PRUD'HON



Bonaparte knows him too well. You have no idea of the insolence of these people of his. I asked Jerome why he did not dine with us three days ago, and he answered: 'I do not care to come until a proper place is kept for me. Bonaparte's brother ought to have precedence next after himself.' 'But remember,' I said, 'what all of you really are. As for you, you are only a mere boy; at my table all the guests are equal.'

"If my own son had spoken to me as he did I would have ordered him to leave the room. It astonishes me that those who have the First Consul's confidence, such people as the Councillors of State, do not dare to warn him against the pitfalls that are being laid for him. Cambacérès is in the secret of all these schemes."

N. replied: "You cannot suppose that a few Councillors, and those in a minority, could hope to weigh down the scales against Bonaparte's natural inclinations and the advice which assails him on all sides to seize the supreme power and seat himself on the throne. You know how he has behaved to Truguet whenever he has tried to tell him the truth, and how contemptuously he labels everyone who speaks of liberty as either an 'ideologue' or a terrorist. He is assured of the majority of the Senate and the Corps Législatif, while the nation seems to be either indifferent or inclined to give him a free hand to do what he pleases. Moreover, all these schemes are ripening in the dark, and most of us will be permitted to know nothing about them until it is too late to interfere.

"The Council will only be consulted as the merest form. . . . You know what my principles are, and also how sincere a regard I have for the First Consul; you may be assured that I share your feelings. The more power he grasps the wider does the breach become between him and his best supporters, the Men of the Revolution. They will submit, no doubt; but they will no longer be attached to him. He may do what he likes for the Nobles and the Priests, but he can never trust them; and if he finds himself in danger in the future, to whom will he turn? What is the value of a *Senatus Consultum*? Was any attention paid to the will of Louis XIV., and who can Bonaparte appoint

as his successor? As First Consul for a term of office he really is far more more powerful than as First Consul for life. He will listen to you, and I beg you not to cease to repeat to him that his glory and his safety depend on his maintaining a free Government. Unfortunately things have already gone so far that I fear he will not be content to rest in his present position."

Madame Bonaparte promised to speak to her husband, and N. agreed to do so also.

The First Consul concerted his plans with several of the Senators, Laplace, Lacépède Fargues, Jacqueminot, and some others. Rumours were circulated that nothing more was in contemplation than a prolongation of his term of office for another ten years, and that Bonaparte himself was averse to being nominated First Consul for life. The Second and Third Consuls declared that his hand must be forced, that merely to prolong his office for ten years, was only a half measure, and that the opportunity to complete matters must on no account be thrown away.

On the 18 Floreal (8th May 1802) Lacépède read a report to the Senate in favour of the ten years' term of office. Despinasse proposed as an amendment Bonaparte's nomination for life. Garat, Lanjuinais, and a few others combated both proposals. Fargues, inspired by Cambacérès, demanded in vain that the voting should be extended to the alternative periods of ten years or life. Tronchet,<sup>1</sup> the President, held firm, and put only the first proposition to the vote, and the prolongation of Bonaparte's term of office for a second term of ten years was carried by sixty votes against one; <sup>2</sup> Lanjuinais being the only Senator who voted against it.

<sup>1</sup> A note on Tronchet will be found on page 169.

<sup>2</sup> Jean Denis Lanjuinais, born March 1753 of a Breton family, was before the Revolution a Professor of the University of Rennes and an Avocat. He was a member of the National Assembly, the Convention, and the Corps Législatif. In the two latter bodies he was the principal leader of the Right. He was nominated to the Senate in March 1800, where with characteristic independence he voted against the First Consulship for life, and against Napoleon's elevation to the Empire. Yet in spite of this he retained the respect of Bonaparte, who created him a Count in 1808, and during the Hundred Days made a successful personal appeal to him for assistance. He was nominated to the House of Peers in 1814, and although he had

Tronchet was neither a Republican nor a Courtier. His personal preference was for the Monarchy ; but while he admired Bonaparte he also feared him. In a private meeting of the Senators he said : " He is a young man still, but he has begun like Cæsar, and he will end like him. He is too fond of talking about mounting his horse and drawing his sword."

The *Senatus Consultum* began with a preamble stating that it was the duty of the Senate to give to the Government all the stability possible ; that the First Consul had led the Republican legions to world-wide triumphs ; had saved France from anarchy, restored religious liberty and civil freedom, and had thus earned the gratitude of his fellow-citizens and the admiration of all future ages ; that the wishes of the *Tribunat* should be regarded as synonymous with the desires of the whole nation. They therefore decreed :

I. "That the Senate, in the name of the French people, expresses its gratitude towards the Consuls of the Republic.

acted as a representative in the Chamber of the Hundred Days, his seat was restored to him at the second restoration. As a "Constitutional Royalist" he continued to play an important part in the proceedings of the House until his death, at the age of 70, in 1823. Lanjuinais was a man of the highest character and of the most intrepid courage. It is interesting to note that throughout his whole career he is invariably spoken of by his contemporaries with a respect and deference which is shown, so far as I know, to no other member of the Convention or *Corps Législatif*, unless it be Bishop Grégoire. It is not difficult to account for this. During no period of history have intimidation and fear played so large a part as in the four Assemblies of the Revolution, 1787-1799. Yet during the stormiest periods of the Convention and *Corps Législatif*, these two deputies, Lanjuinais (constitutional republican, with leanings towards a Constitutional Monarchy) and Grégoire (fanatical republican and sincere Catholic) never flinched for a moment from what each considered to be his duty.

If it is possible to accept Carnot's avowal, that he was so completely absorbed in the direction of the Republican armies that he habitually signed the blood-thirsty orders of the Committee of Public Safety without having read them, he may be added as a third political personage of sustained and consistent courage.

The conduct of each of these three during the Napoleonic era was marked throughout by the independence which had characterised their earlier career,—Lanjuinais in the Senate, and Carnot in the *Tribunat*, each voted against the Consulate for Life, and against the establishment of the Empire. Grégoire, in the Senate, joined with Lanjuinais in voting against the Empire, and at a later period voted also against Napoleon's divorce. He is said also to have refused a Bishopric under the Concordat, and a Cardinal's Hat, though I confess that I think the offer of the latter highly improbable.

II. "That it re-elects the citizen Napoléon Bonaparte,<sup>1</sup> First Consul of the Republic for the ten years immediately following the ten years for which he has been already elected by Article 39 of the Constitution."

The nomination for life having thus fallen to the ground, it was at once resolved to give the project another form. Consequently the First Consul made an evasive reply in these words—

"Senators, the flattering proof of your esteem expressed in your Act of the 18th will remain for ever engraven on my heart. I was invested with the supreme Magistracy by the vote of the people, and I cannot feel myself assured of their continued confidence in me, until the Act which prolongs my term of office shall have been ratified by the whole nation. For the past three years fortune has smiled on the Republic, but fortune is an inconstant goddess, and too many who have enjoyed her favours have lived long enough to experience her disdain. My own glory and good fortune seem to be at their height at this moment, when the peace of the world is secured. But the glory and happiness of an individual citizen are as nothing in comparison with the happiness and glory of France. You have decided that I owe a further sacrifice to the nation, and I am ready to make it if the will of the people confirms your mandate."

On the 20 Floreal (10th May 1802) an Extraordinary Session of the Council was summoned.

The Second and Third Consuls were both present, and all the Ministers except Fouché. What passed was as follows.

*Cambacérès*: "This extraordinary session has been called for reasons of the highest importance. The recent *Senatus Consultum* and the reply of the First Consul will both be laid

<sup>1</sup> It is noteworthy that had Bonaparte accepted and adhered to this extension of his office for an additional term of ten years he would have remained the head of the Republic until 1820. He died on the 5th May 1821.

I have already mentioned the letter of Admiral Truguet, in which he says: "Permit me to offer you my personal opinion, which is this. Preserve your title of First Consul; a title to which you have given a fame vastly superior to that of either King or Emperor."



before you, and you will be asked to consider the steps which must be taken.

“The Government depends upon your zeal, your enlightenment, and your attachment.”

Maret, Secretary of State, then read the *Senatus Consultum* and the First Consul's reply.

*Cambacérès*: “The questions before us are how, when, and in what terms the necessary vote shall be put to the nation.”

Bigot de Prémeneu, inspired by *Cambacérès*, opened the debate by flattering compliments to Bonaparte. He went on to say that the people must be consulted at the earliest possible moment, and in the form established for all elections; he added that the general vote of the nation could not be restricted merely to the period of ten years fixed by the Senate.

*Roederer* (taking as his text the phrase from the preamble of the *Senatus Consultum*, “to give stability to the Government,” said): “An extension of ten years only does not give us sufficient stability; the interests of trade and of the public credit require a stronger measure. The Senate confined itself to ten years, under the impression that it had no authority to do more; but the people's authority is unbounded, and the question to be submitted to it must be whether or not the First Consul shall be elected for life, and whether he shall or shall not have the right to appoint his successor?”

Abrial, Minister of Justice, and Regnault, expressed the same opinion.

Portalis indulged in a series of eulogies on the First Consul, speaking of “This man on whom hangs the destiny of the whole world; this man before whom the world stands silent,” and so forth.

*Dubois* (Prefect of Police): “According to all my reports, public opinion is entirely opposed to the terms of the *Senatus Consultum*. The election of the First Consul for life is demanded by everyone, as is also the bestowal upon him of the power of nominating his successor. In my opinion the Notables only should be called upon to vote.”

*Cambacérès*, saying that it was obvious that the Council

were unanimous, put the question of nomination for life to the vote, and declared it carried; he then put to the vote the second question of allowing Bonaparte to name his successor, which was adopted by the majority. No votes were actually given against it, but five members abstained from voting (namely, Emmery, Dessolle, Berlier, Béranger, and Thibaudeau).

*Cambacérès*: "There are several matters of detail to be settled which, though apparently only questions of form, go to the root of the matter. For instance, ought the First Consul in his official capacity to take any active share in a matter which concerns himself?"

*Regnault*: "The *Senatus Consultum* has been sent by the Senate to the *Corps Législatif* and the *Tribunat*. It is known everywhere. We ought to lose no time, if we are to prevent public opinion from going astray. Although it is contrary to our usual procedure, I think we ought on this occasion to express our views in the form of an Opinion on the *Senatus Consultum*, and on the reply of the First Consul. We might suggest to the three branches of the Legislature that it would add to the weight of our Opinion if they would join us by endorsing it."

*Portalis*: "We must act promptly."

*Cambacérès*: "The Consul Lebrun thinks so also. I shall therefore proceed to appoint a Committee to draw up immediately a formal Opinion on the questions at issue, and to report to us before we break up our present sitting."

The Committee was composed of Roederer, Portalis, Dubois, Regnault, Bigot de Préameneu, Muraire, and the Minister of Justice (A. J. Abrial), with Lebrun as President. They retired at once, and in less than an hour returned, when Roederer read the draft of the Opinion and of an Order in Council on the nomination for life, and the appointment of his successor by the First Consul.

Cambacérès asked whether any member of the Council wished to speak, and, receiving no reply, put the Order to the vote. A few members declined to vote, but no votes were given against the Order, which was accordingly carried, and the sitting came to an end. All these proceedings passed without

any enthusiasm; the majority of the Council did not glory overmuch in their victory, while the minority did not care to express their regret for their defeat.

The Order appeared next morning (11th May 1802) in the *Journal Officiel* (with no mention of the question of Bonaparte's power to appoint a successor).

"The Consuls of the Republic, considering that the Resolution of the First Consul is a striking instance of homage to the Sovereignty of the People, and that the People when consulted on a question of supreme interest to themselves should be able to vote with perfect freedom, decrees—

"I. The will of the French People shall be taken on the question, Shall Napoléon Bonaparte be Consul for Life?

"II. In each Commune registers shall be opened for the votes of the People.

"III. These registers shall be open at all Government Offices and Law Courts, as well as at the Offices of all Mayors and Notaries.

"IV. The voting shall take place during the three weeks following the day when the Order reaches the Prefect of each Department, and seven days from the date when the Order reaches each Commune."

On the same day the Council assembled under the presidency of Cambacérès. Maret, the Secretary of State, read the Order in Council.

*Cambacérès*: "The Consuls and Ministers met yesterday evening after your sitting. I am charged with the duty of explaining to you the reasons for the important change made in the wording of the Order in Council after it left your hands. The First Consul, while deeply sensible of the unanimous desire which the Council expressed, is of opinion

"(1) That the right of nominating his successor should rest with the nation.

"(2) That after refusing to accept the extension of his term of office without first knowing the will of the people, the First Consul finds it improper to accept a lesser mandate than that of the nation.

“(3) That one of two conditions must be anticipated. Either, as he sees ground to hope, a long period of peace and prosperity, or a series of crises such as we have too frequently witnessed. In the first case, there need be no haste in nominating his successor; in the second, all precautions taken in advance might prove useless. For these reasons the First Consul formally declares that he cannot accept the duty of nominating his successor. As there was no time to summon the Council and apprise them of this alteration, the Consuls acted on their own responsibility.”

The explanation was received without comment.

Thus the First Consul alone took the initiative in convoking the people to vote his nomination for life against the desire of the Legislature; above all, of the Senate, which had formally rejected the proposal.

The following message was addressed to the Senate—

“Senators, the Consuls of the Republic place before you the Order in Council, which submits to the French People the proposition to extend the First Consul’s term of office. They take the opportunity of expressing their gratitude for the terms of the *Senatus Consultum* of the 18th, and for the tone of the preceding debate. Their constant choice is to preserve the esteem of the highest authority of the State (the Senate), and to merit the approval of the Nation.”

The Government at the same time laid before the *Corps Législatif* and the *Tribunat*, the *Senatus Consultum* of the 18th and the Order in Council of the 20th. The *Corps Législatif*, after listening to speeches by Rabaut, their President, and Vaublanc, in praise of the respect shown by the First Consul to the Sovereignty of the People, decreed that a deputation consisting of one deputy from each Department should convey to the Consuls their expressions of gratitude for this high mark of respect paid by them to the Will of the Nation.

In the *Tribunat* Siméon and Chabot spoke in the same terms, and a similar Deputation was formed. The First Consul received both deputations together. Vaublanc, in the name of the *Corps Législatif*, spoke thus: “Citizen Consuls, the *Corps*

Législatif were compelled by the nature of their functions to await the initiative of the Senate and Tribunat in expressing the gratitude of the Nation. The Order which the Government has transmitted to us is a striking proof of the homage paid by the First Consul to the Sovereignty of the People. The Corps Législatif sees in this appeal to a free people the only worthy means of proclaiming a recompense worthy of his noble achievements, and it sees also the duty of the whole nation to reward the first years of a Magistracy so full of glory by a vote which not only confers an honour upon the illustrious Magistrate himself, but is essential to the welfare of the Republic and of Europe. Citizen First Consul, when the Genius of France confided her destinies to you, you promised to give us Peace. This solemn promise has remained dear to our hearts. To-day it is accomplished. France has not a single enemy left. We anticipate that your guidance will soon raise her to the highest prosperity to which a nation can aspire by means of civil and religious liberty, agriculture, commerce, and the arts. Your principles and your talents are our security. From the obstacles which still confront us we are able to appeal to the magnanimity of your designs and the constancy of your labours. Thus there ever remains between the People and yourself a noble bond of confidence which assures your efforts for our welfare and our hopes of your success. In a short time the gratitude of the Nation will find worthy expression in rewarding your labours in a manner worthy of the exalted position to which you have raised your country and yourself."

The First Consul replied: "The sentiments which you have expressed form a valuable proof of the esteem in which the Corps Législatif holds the Government. The circumstances under which I was called upon to accept the position of Supreme Magistrate did not allow sufficient time for calm consideration. At that date the Republic was rent asunder by civil commotion, the enemy threatened our frontiers; neither executive Government was to be found nor personal security. In the midst of such a crisis the choice of the nation might well seem to be the sudden result of panic. To-day everything

is changed. We are at peace with Europe; our condition at home is that of a united family, and the people have had time to test by actual experience the results of their choice. It is but justice, therefore, that they should affirm their decision. Whatever that decision may be, assuredly it shall be obeyed. Whether as Consul or as private citizen, I live only for the greatness and the welfare of France."

Chabot, on behalf of the Tribunat, then said: "Citizen Consuls, we come to place in the hands of the Government the individual votes of the Tribunes on the question submitted to the people: shall Napoléon Bonaparte remain First Consul for life?"

"The Tribunat was the first to propose this measure, and it is right that it should be the first to vote in its favour.<sup>1</sup> In a short time the entire nation will have expressed its supreme judgment. I do not for a moment doubt that it will eagerly embrace the opportunity of securing by the most durable bonds the life-long services of the hero whose genius and valour have already worked such prodigies, the hero who, ever victorious in war, has in civil government shown such wonderful traits of magnanimity and foresight; who has preserved the liberty of the People, has ended the most sanguinary of wars by a glorious peace, has restored morality and religion, and who now consents to consecrate his whole life-time to the welfare of his fellow-citizens. The French People are now called upon to give their suffrages in a cause of the utmost political and social moment to themselves and to the world. They will not fail to consider that to elect the First Consul for the term of his life will ensure the peace and repose of which they stand so much in need, will give to the Government that stability which alone is needed to enable it to carry out the crying needs of the nation, to dissipate the last hope of the Pretender to the Throne, to eliminate party spirit, and to put a final end to the Revolution. We desire to offer one further consideration of the highest importance to all true friends of liberty. Too often during the course of the Revolution appeals have been made to

<sup>1</sup> In voting on the Consulate for Life the only dissentient was Lazare Carnot.

the Sovereign People to sanction acts which have been destructive of their own inherent rights. To-day the demand that the People should decide on his terms of office is made by the First Magistrate himself. So striking an act of homage to the Sovereign People cannot be proclaimed with too great solemnity.

“If anyone should ask why Bonaparte should think it necessary to demand such a guarantee as this, we reply that it is because his mind is too great and too generous ever to lose its reverence for the liberal principles which form the basis of the Revolution and of the Republic. He is too ardent a lover of true glory not to look with scorn on any attempt to abuse the immortal fame which he has acquired.

“The nation which summons him is free and generous; he assured that he will respect its liberties, and will do nothing unworthy of its greatness.

“He will choose for his Councillors the best friends of France, rejecting flatterers and courtiers; he will be surrounded by those who have made the Revolution, and whose interest it is to uphold it. Above all, he will perceive that it is to his own interest to preserve those charged to act in concert with himself in forming the laws of the State in all the dignity, authority, and independence which the legislators of a great country ought to enjoy. His sole ambition will be to leave behind him as a legacy for all future ages his glorious memory. It will never be said of Bonaparte that he lived an hour too long.”

Bonaparte replied: “This evidence of the attachment of the Tribunat is of invaluable service to the Government. The union of all the bodies of the State is the best guarantee of stability and prosperity we could ask for. The first consideration of the Government shall be the interests of the People from whom they derive all their authority.” Bonaparte’s reply to the Corps Législatif was in writing; that to the Tribunat verbal.

When the Deputations had withdrawn Bonaparte burst out laughing at the solemn manner in which Chabot, President of the Tribunat, had spoken; “As though,” he said, “he wanted us

to believe that he was quite affected by his own words." Fouché, with his customary cynicism, replied: "Chabot, honest man, believes it is his duty to use these fine phrases for the benefit of his constituents, and to soothe his own conscience."

Following the example of these exalted bodies, all the civil and military authorities delivered addresses congratulating the First Consul on taking the initiative in prolonging his power for his lifetime. His replies showed clearly enough that he was meditating further radical changes in the Constitution.

On the 6 Prairial (26th May 1802) the Councillor of State N. went to Malmaison, where he found Bonaparte alone in his study looking through a pile of newspapers. After settling the business which had brought him, Bonaparte began a conversation which lasted for about an hour, the substance of which was as follows—

*Bonaparte*: "Well, what news do you bring from Paris?"

*N.*: "Nothing that you do not know already."

*Bonaparte*: "What are they talking about?"

*N.*: "Oh! chiefly about the *Senatus Consultum*."

*Bonaparte*: "Ah ha! what do they say about it?"

*N.*: "Oh, various things, for and against it."

*Bonaparte*: "And you, what do you think?"

*N.*: "What is the use of saying; it is over and settled?"

*Bonaparte*: "And lost, eh?"

*N.*: "It is easy for you to divine what I think."

*Bonaparte*: "I am not over anxious to do that. You are an honest man, but, *mon cher*, you should rid yourself of dreams. We could not go on as we were. France will not be one whit the less free; she will still be the supreme power, after all that has been said and done. Don't you see that the *Senatus Consultum* and the votes of the nation are good securities without which the Consulate could not have stood much longer? Even if they seem to you weak security for the Government at home, you must allow that they are excellent guarantees for our foreign policy. At this moment I am on a level with foreign sovereigns, —they, like me, are rulers for their lifetime only. They and their



Ministers will have a much higher respect for me now. The power of the man who turns all the business of Europe round his fingers should not be, or seem to be, based on a precarious foundation."

*N.*: "The opinion of foreigners is of much less importance than that of Frenchmen."

*Bonaparte*: "Except for a few semi-lunatics who care for nothing but anarchy, and a few honest men who dream of a Spartan Republic, the whole nation is crying out for a strong and stable Government."

*N.*: "Yes, but the dreamers are more in number than you think, and what they want is not a Spartan but a French Republic. The impression of the Revolution is still too fresh, and this transition too abrupt."

*Bonaparte*: "The Men of the Revolution have nothing to fear. I myself am their guarantee."

*N.*: "But what will become of the Men of the Revolution when the Revolution itself has come to an end. To my thinking, the whole affair has been badly managed. It would have been much better if the Senate had taken the initiative in proposing the prolongation of your office for life. That would have given it a stronger legal sanction."

*Bonaparte*: "I quite agree. The Committee of the Senate were quite wrong not to consult me. If the President had brought me the Resolution instead of sending it straight on to the Corps Législatif and the Tribunat, I should have made observations on it which would have led to quite a different course. But you know what such bodies are, and how impossible it is to keep them always straight. Besides, if they had originated this measure I should have been always dependent upon them; for obviously those who elect can dismiss. The appeal to the people, on the other hand, has the double advantage of legalising my extension of office and of placing it on the highest possible basis.

"Had I taken any other course it would always have been open to question. I have, in fact, done exactly what you Men of the Convention did after your decrees of the 5 and 13

Fructidor, which gave you so much trouble.”<sup>1</sup> Passing to the question of nominating his successor, Bonaparte proceeded: “I am glad that you had more courage than the rest of the Council, and frankly voted against it.”

*N.*: “You know that there were five of us who abstained from voting. We held the measure to be a denial of the Sovereignty of the People.”

*Bonaparte* (interrupting me with warmth): “It is Roederer who was so officious as to make this proposal. I myself knew nothing about it. I charged Cambacérès to summon the Council to deliberate upon my succession for life, not at all upon the other. When they brought me the result I was entirely of your opinion. I said to them: ‘Who on earth would you have me nominate?—One of my brothers?’ The people are quite willing to be ruled by me, because I have become famous and done good service, but they would at once decline to accept my entire family. Shall it be Cambacérès? Has he the courage requisite for such a task? It is not enough to have the right to name a successor; the difficulty would be to find the right one. Personally, I know no one who has the necessary qualifications and would also be acceptable to the nation! The other members of the Government were as much at a loss as I was. People believe that it is Joseph who has been pushing me on to name a successor.”

*N.*: “No, not Joseph but Lucien; the idea has caused a good deal of alarm.”

*Bonaparte*: “My brothers have made a good deal of money, and all they want is to enjoy themselves in peace.”

*N.*: “There is a good deal of tension in the air, which causes a general restlessness and inquietude.”

*Bonaparte*: “What would you have? Things cannot well stop at this point. Certainly, there is a demand for more

<sup>1</sup> An allusion to the Decrees of the 22nd and 30th August 1795, by which the Convention enacted that two-thirds of its members must remain in the Corps Législatif during the first year, and one-third during the second year of its existence. It is perhaps unnecessary to add that these Decrees led to the Insurrection of the 13th Vendémiaire (5th October 1795), and formed one of the principal causes of the failure of the Constitution of the year III.

stability. There is an idea afloat of creating bodies of great proprietors appointed for life, and possibly making these posts hereditary. I have heard people talking about it, so have you, I suppose; everything is talked about in Paris."

*N.*: "What! another Constitution; that will make the fourth within twelve years. When are we going to stop? Even if we could improve matters in some ways, this instability is in itself a serious evil. If we do not place some limit to the mania for innovation people will lose confidence in everything."

*Bonaparte*: "Very true. It would be much better to strengthen the existing Constitution. I am inclined to say to these constitution-mongers: 'Your new idea is like all the rest. Its success would depend not on its intrinsic merits, but on the men who work it; and as there is nothing in the world so uncertain as the opinions and passions of men, the system which you think so admirable might become detestable in six months, especially in such a country as France. In England the parliamentary majority remains the same throughout each session; in France it varies from day to day. Consider the character of the three hundred men who would compose your new body, and think how many of them would be of any use. The most important would be the men of 1791,—Roederer, Monnier, and the other survivors of the old Constituent Assembly. Then there are others like Lafayette and Latour-Maubourg. Would you believe it, both of these have written to tell me that they are willing to vote in favour of my being Consul for life, on the condition that I will re-establish complete liberty of the press?'"

"Judge what we can hope from such men as these, perpetually mounted on the old metaphysical hobby-horse of 1789. The Liberty of the Press! I have only to re-establish that, to have thirty royalist and half a dozen Jacobin journalists everlastingly howling at me. In a short time I should have to govern as the head of a party, and a party in a minority, and begin the Revolution all over again. I whose one effort has been to get rid of parties and govern as the head of the whole nation. Then again, there would be the large proprietors, all of whom have suffered under the Revolution, and who hold everything

connected with it in holy horror. I hear this sort of thing every day. Look at this Memoir from six sugar refiners. Well, *à propos* of sugar, if you please, they send me a diatribe against the Revolution and in favour of reaction, and think they are flattering me. Suppose that I was to propose to this proposed Assembly of Proprietors a new scheme of conscription or some new scheme of taxation, they would resist to a man and talk about the interests of the people; suppose I found it necessary to take some strong measures under difficult circumstances, they would throw me over from sheer cowardice. To deal with an opposition friendly to the Revolution is easy enough. I should have the people on my side, but a counter-revolutionary opposition would be backed by the majority of the nation. No, the Government must rely on the Men of the Revolution, who are its only natural support. The proposed Assembly would be always denouncing one or other of the Ministers, and I should not be free, as I am now, to let them talk while I go my own way. There is no necessity for the Government to act tyrannically, nor could it do so with safety even if it wished to do so; but there are times when it is impossible to avoid arbitrary action. For instance, I have two hundred Chouans at this moment under lock and key; if I were to bring them to trial to-morrow they would be acquitted to a man."

N.: "You will readily believe that I am of your opinion as to the men you have been speaking of. But I assure you that I am absolutely convinced that both the interests of the nation and your own will be best served by the Men of the Revolution. I do not care to pronounce judgment on this or that individual of the Constituent Assembly or the Convention. In every epoch there are good and bad; but take them in the bulk and you will find that they alone can defend their own handiwork, and the vast changes which that work has produced in the ideas of France and of all Europe. They are your true friends, because you yourself are one of them, and because you are their best guarantee.

"As for the privileged classes, they are irreconcilable. They will take all the places they can get; they ask for nothing

better ; they will be friendly, supple, fawning, that is their line ; but if a catastrophe comes they will hark back on their old ideas, and sacrifice you to their ancient idols. They will never look on you as belonging to their own set."

*Bonaparte* : " I know well enough that both they and the foreign Cabinets hate me worse than Robespierre."

*N.* : " As for national guarantees, I don't see what more you can want. I know nothing better than a good representative system in which the needs and opinions of the people can be expressed without upsetting the Government or damaging its action. Little by little our institutions are conforming themselves to our needs. Our present Constitution is not perfect ; no Constitution is, but with time we can make it an excellent working machine. Violent shocks are always regrettable."

*Bonaparte* : " Sieyès made this muddle. I was weak enough to let him organise the Corps Législatif. Fortunately I took the Executive into my own hands. He wanted his Grand Elector, living at Versailles, with six million francs a year. I said to him : ' Do you think the nation will look on with satisfaction while a fat pig revels in that style, doing nothing for his money ? ' And his two Consuls, one for Foreign Affairs and one for the Home Government. About that I said : ' If I were Grand Elector, with the right to appoint and dismiss your Consuls, do you suppose either of them would dare to move a finger without my leave ? ' The Senate is a failure ; it has not enough to do. Frenchmen have no fancy for well-paid people who do nothing beyond making a few bad appointments.

" Regnault was one of those who were loudest in declaring that the Senate would be the strongest institution we had. But he was wrong ; to form a really powerful body, the business of the Senate should have been quite different."

*N.* : " That defect can be remedied by making the Senate a real power in the Representative System."

*Bonaparte* : " Do you want to make them an Upper House ?"

*N.* : " Better that than nothing, and as things stand the Senate is nothing."

*Bonaparte* : " Very well ; you agree that we cannot leave

things as they are. It is better to put our house into thorough repair at once than to wait until it tumbles about our ears."

*N.*: "If you think so it will be done. The only thing is to know how."

*Bonaparte*: "Yes, that is the question. What are your ideas about it?"

*N.*: "I must ask for some days to think the matter over."

*Bonaparte*: "Then you will let me know?"

*N.*: "I must ask your permission to speak quite freely."

*Bonaparte*: "That goes without saying."

On leaving Bonaparte's study, *N.* met Madame Bonaparte in company with Bourrienne. As soon as she saw him she left Bourrienne and led him into the Park. Then she sought out a retired shrubbery, and after looking around with obvious suspicion, and making him promise to keep her secret, she said: "You do not know what is going on; Lucien is constantly here, holding long conversations with Bonaparte. Yesterday he was closeted with him for four hours. He is advocating an hereditary system. He is working in favour of it with Roederer, Talleyrand, Regnault, and Fontanes. When he left Bonaparte yesterday he said to me: 'You should go to the waters: one must go there to have a child.' I exclaimed: 'How can you speak like that to your brother's wife!' 'Yes,' he replied, 'I do speak so, an heir is absolutely necessary by fair means or foul; if you can't or won't give him one, you will have to let Bonaparte have one by another woman, and adopt it as your own. I am speaking in his interest as much as in ours or your own. We must assure heredity.' 'I would rather,' I said, 'go away and work for my living than lend myself to such an infamy; and do you believe that the nation would stand a bastard as his heir? You can have very little respect for France to propose such a thing. You will end by ruining your brother.' Lucien persisted, and we parted.<sup>1</sup> I am certain that Talleyrand has presented a plan

<sup>1</sup> Thibaudeau's note.—Las Cases makes Napoleon say that when Josephine gave up all hope of having a child, she herself often hinted at this unsavoury arrangement, and ultimately urged it upon him in plain terms. This conversation proves that it was not she who proposed this fraudulent child, but that, on the contrary, she indignantly repudiated the suggestion.

for a new constitution to Bonaparte, of which an hereditary succession forms part. This morning I had a long talk with Bonaparte on the subject. He acknowledged that Lucien had made the same proposition to him as to me. I said to him: 'But how can you put any confidence in Lucien. Have you not told me that you yourself had read a letter which he wrote to your Uncle (Fesch) in which he threatened your life? Have you not said to me that he should never be anything so long as you were First Consul? and yet after all you listen to his advice.' Bonaparte is convinced of the truth of all this; he said to me: 'I know all about the characters of these people, and all about their intrigues.' I replied: 'But if you listen to them they will draw you into their clutches.' 'Keep clear of them yourself,' said Bonaparte. 'Oh yes,' I replied, 'but when I see that they are trying to ruin you I cannot keep silent. These people may do what they like with me, but I shall never cease to warn you against their intrigues.'"

N. then repeated to Madame Bonaparte the conversation he had just had with the First Consul. "You have done well," she said; "his flatterers will wreck his fortunes. What he said about naming his successor was not the whole truth. There have been dinners and long discussions here between him and Laplace, Lacépède, Jacqueminot, and the rest, and everything was arranged, but the consternation with which the proposal was received by the Council of State made him give it up. They boast of having gained over Bourrienne, but I find it hard to believe that. I wish you would sound him. They want to get rid of Chaptal and Fouché. Fouché irritates them by telling Bonaparte the truth; if he consents to his dismissal he is a ruined man. They tell him that an hereditary succession is called for by public opinion, and they are trying to get the Prefects to send him reports to that effect; then they tell him that foreign capitalists refuse to invest their money in France because of the instability of the Government. There are no bounds to their lies. In all this Lucien is working only for himself, Roederer for Lucien, Talleyrand for heaven knows whom. With him one can never be sure of anything.

So far as I can see, Bonaparte does not incline towards their plans, but he listens to them, and as no one puts the other side to him he may end in agreeing with them. I say to him again and again, 'The two things that ruin men are weakness and ambition.' I don't say this on my own account. I have no pretensions, but it is a crying shame to see a young man with such claims to the homage of his own age and of future generations, spoiled by flatterers. In all his talks with me over his projects for ensuring stability he says: 'I am acting in your interest and in that of your children, for if I were to die they would soon make an end of you.' I answer: 'I am quite content, I ask for nothing more for my children or myself, and I have no fear for the future. I have not made myself rich at the expense of the nation. As to money, I was quite as well off before I married as I am now. I never have any money, because I never can refuse twenty-five louis to anyone who wants them. In fact, I am richer in debts than I am in anything else. My diamonds were given me by the Pope and the Cisalpine Republic. I have never wanted my son to receive a step in the army which he has not earned. Ah, mon cher, those people are capable of anything to gain their ends. How often I envy the peace of mind of the wife of an obscure workman. They ought to be shown up in the newspapers. Nothing else affects Bonaparte. But he is keenly sensitive to what they say of him in the English newspapers. You should hear him declaim against literary men and lawyers. All the same, I believe his father was an avocat. And Lucien, who used to rejoice in being called Brutus, and to-day calmly contemplates a marriage with a royal princess, I wonder he did not marry an Infanta while he was in Spain. Isn't it all ridiculous?"

In the course of this conversation N. did his best to console Madame Bonaparte, by suggestions dictated by his own dislike of the hereditary system and his regard for herself.

He advised her to be more guarded in speaking to those among her own people who were likely to betray her confidence, to avoid any sort of intrigue, and to confine herself to saying



frankly to her husband all she could think of in opposition to the projects which were being urged upon him. He explained that as a member of the Council he could neither speak nor write against the First Consul; that she was greatly mistaken in supposing that such a man as Bonaparte was influenced by newspaper articles, and that for his own part he preferred taking advantage of the permission he had received to write freely, than to have recourse to any sort of underhand dealing.

Two days later N. sent to the First Consul a memorandum setting forth his views on the organisation of a really representative Government, and on the institutions best calculated to guarantee the liberty of the nation.

Roederer, in his capacity of Councillor of State in charge of Public Instruction, despatched several circulars to the Prefects; he did this apparently on his own account, but probably with the connivance of the First Consul. These circulars gave rise to a good deal of commotion and uneasiness in the provinces, while in Paris they were generally supposed to be an attempt to gain votes for the hereditary system. In point of fact, the first of these circulars, dated the 25 Floreal (15th May 1802), was devoted to urging the Prefects to obtain all the votes they could for the Consulate for life. In a second circular (3rd June) Roederer suggested that the best way to learn the state of public opinion was to obtain some definite information on the condition of the largest owners of property, who were in a condition to influence the opinions of their fellow-citizens by their example, voice, and expenditure. He asked the Prefects, as a preliminary measure, to furnish him with the names of the largest tax-payers of each district, and with the names of the sixty most prominent citizens in each Department, together with any statistical details they could obtain about each of them. He wound up the circular with the words, "Although the information which the Government desires to obtain does not bear upon the opinions or actions of any individual, but merely aims at a knowledge of the state of private property throughout the country, it would be well that any information

which you obtain should remain strictly private and confidential. After all the shocks from which France has suffered, people are easily excited, and malevolent rumours are too lightly set afloat."

There was a general desire among his colleagues to find out the purport of these circulars of Roederer, and copies were obtained confidentially by some of them from Lapparent, Prefect of the Vienne, and Doulcet-Pontécoulant, Prefect of the Dyle (Brussels).

The two Prefects sent copies of the circulars to a friend in Paris. Doulcet wrote that but for the presence of the Senator Leconteux, who had spent twenty-four hours in Brussels, he would have known nothing about the circular of the 3rd June, and that he was by no means sure that he knew the whole of it. He also expressed his dislike of ambition and innovation.

Lapparent wrote that he had received nothing relative to heredity, except that in a few instances votes given for the Consulate for life had been accompanied by a printed form demanding heredity.

More than twenty Prefects wrote to Chaptal, the Minister of the Interior, that rumours of these private circulars having been sent out had caused a good deal of inquietude and a general belief that serious changes were at hand. Chaptal, who regarded them as encroachments on his Ministerial responsibility, complained to the First Consul, who told him that he had never authorised Roederer to send any circulars of the sort, and that his doing so greatly displeased him. Chaptal, who was opposed to all these schemes and even disapproved of the First Consulate for life, said to his friends: "These people don't know what they want. They are heading straight towards a restoration of the old régime without counting the consequences. The worst of it is, they will involve us all in their own downfall." He was referring chiefly to Roederer and to Beugnot, Prefect at Rouen, who was a warm advocate of heredity, and for whose promotion to the Ministry of the Interior Lucien was constantly intriguing.

## CHAPTER XIII

### THE CONSULATE FOR LIFE—REFORM OF THE CONSTITUTION

JUNE—OCTOBER 1802

**I**N addition to numberless addresses in favour of the Consulate for life the country was flooded with pamphlets, mostly in the same strain, many of them hinting at further steps in the same direction. When the First Consul was spoken to on the subject he replied: "Oh, they are mere nonsense and talk."

There were, however, a few authors who still dared to bring forward the rights of the nation. One of these, Camille Jordan,<sup>1</sup> published a remarkable pamphlet entitled "The True Meaning of the National Vote on the Consulate for Life." In this work he pronounced his own intention of voting in favour of the Consulate for life, but that his own vote, and as he hoped the

<sup>1</sup> Camille Jordan, born January 1771, was one of the promoters of the revolt of Lyons in 1793. After the capture of the city by the troops of the Convention he escaped to Switzerland and afterwards to England. Returning to Lyons in 1796, he was elected in April 1797 to the Corps Législatif. Here he distinguished himself by several speeches in defence of freedom of worship, and of the use of church bells. Thibaudeau, always anti-clerical, speaks of these speeches as "ridiculous," but to my thinking they are among the most eloquent and lucid orations of the Revolution. After writing the present pamphlet he took no further part in politics until the Restoration. In October 1816 he was elected as deputy for the Ain, for which Department he was re-elected in 1818 and 1819. He died in 1821. The Duc de Broglie says of him: "His mind was candid and elevated, his disposition affectionate and modest, his memory filled with recollections of past events, his persuasive and tender eloquence tempered by a deep vein of irony. He used to be called the Angry Sheep." Another witness, describing the Chamber of Deputies in 1820, says: "When you see advancing with leisurely steps towards the Tribune, an elderly man of tall but bent figure, with crisp powdered hair, expressive eyes, and a kindly, gentle smile, and when his words begin to flow with an eloquence at once noble, modest, and assured, collect your thoughts, summon all your attention, keep religiously silent—Camille Jordan is beginning his speech."

votes of the nation, would be conditional on fresh guarantees being granted to the people, such as the cessation of arbitrary imprisonment, the responsibility of police agents, the independence of the judges, and the restoration of the freedom of the press.

The following passage furnishes the key to the author's meaning: "What we want is deliverance from that vague, indefinite power of the police which is the main resource of despotic Governments. In fact, we want all that the existing Constitution promised us; and if that Constitution is to be amended by so important an addition as the First Consulate for life, now is the time when we have the right to demand such reforms as, a free municipal suffrage; a National Representation consisting of a freely elected Chamber representing the people at large, and a Second Chamber representing the rights of property; a new organisation of the army such as will no longer be a menace to our civil liberties, an army directed by, but not absolutely at the disposal of the Executive, with a militia formed of the owners of the land, the whole to be organised on a basis securing the pre-eminence of the civil over the military authorities; a final settlement of the manner of appointing the First Magistrate. As to this, in my opinion election is preferable to hereditary succession, since no hereditary ruler can inherit the prestige of the ancient monarchy. We no longer enjoy the same illusions. If heredity is adopted, at least let it be accompanied by the reforms I have indicated, and let us make sure that our charter is secure. The French nation must make a reply such as that of the deputies of the Cortes. To take the title of Emperor of the Gauls would be to return to barbarism. Such a title may be fit for the country of the Grand Mogul or for Morocco. Our ruler should be President, Protector, Consul, even King."

The author was accused of being a Royalist. It is true that he had once been of that party, but it was said that the First Consul had converted him by the friendly reception he had given him at Lyons. In any case, such a Royalist was less to be feared than those revolutionists who, without stipulating for any guarantees for the liberty of the nation, were lending a hand to the

restoration of the monarchy. Duchesne, son of the Tribune, who had sent the book to the printers, was arrested. At first he refused to give the name of the author, and only at last revealed it on the condition that no harm should befall him. Camille Jordan defended himself before the Minister of Police, on the ground that his work was an apology for Bonaparte. Fouché replied that the Government needed no apology, and desired only fair criticism.

On the 10 Thermidor (29th July 1802) the Consuls transmitted to the Senate, in a message signed by Cambacérès, the result of the voting throughout France.<sup>1</sup> There were in all 3,577,885 votes given, of which 3,368,259 were in favour of the Consulate for life. Nevertheless the First Consul continued his work on constitutional reform. His plans were now ripening, and no more mystery was made of them. Lucien said to Truguet: "Everything that Bonaparte does will be disinterested and generous." Two days later Madame Bonaparte said to N.: "Everything goes well. There will be some further changes made in the Constitution. The Second and Third Consuls will be appointed for life, but there will be neither an hereditary succession nor the appointment of a successor. The Senate will keep the right to appoint the First Consul in case of a vacancy. I said to Bonaparte a few days ago, 'Well, when are you going to make me Empress of the Gauls?' He replied, 'What, my little Josephine an Empress,' so I quoted the line,<sup>2</sup> 'The First King was a fortunate soldier,' and this soldier's wife shared her husband's rank. He laughed at what I said as absurd."

N.: "The First Consul deceives you; he deceives us all."

*Madame Bonaparte*: "I assure you that Bonaparte sees everything in the right light; he is a man of honour. He may be misled sometimes, for who could resist the flattery which is poured upon him, but his good sense always brings him back to the right path."

<sup>1</sup> I give the figures as stated by Thibaudeau; but they are incorrect.

The total number of votes as given by the *Senatus Consultum* of the 14 Thermidor, an. X. (2nd August 1802) was 3,577,259, of which 3,568,885 were in favour of the Consulate for life, and 8374 against it.

<sup>2</sup> "Le premier qui fut Roi, fut un soldat hereux."—Voltaire, *Mélope*, Act III. Scene I.

The same day Defermon entertained at dinner several Councillors of State and Senators. There was a good deal of confidential talk over the impending changes, which were generally mistrusted, though no one exactly knew what they were to be. Lanjuinais expressed his indignation at the part which the Senate was made to play. "They want us to give both France and ourselves a Master," he said, "but there is nothing more to be done. Only the Army could interfere successfully as things are now. The only course possible is to remain silent, as I do."

On the 14 Thermidor (2nd August) Madame Bonaparte, meeting N. again at Malmaison, said to him—

"I believe that important changes are to be expected at once; to-morrow, perhaps even to-day. There was a meeting here yesterday of the Consuls and several Senators, who sat from mid-day until 5 o'clock. They talked about nominating the two other Consuls for life, of reducing the number of Tribunes and augmenting the Senate, and of giving Bonaparte the right to present to the Senate the names of three candidates for the succession. I have been told all this on the best authority. I do not mean by Bonaparte, he has told me nothing, but he only denied it very feebly when I taxed him with it. If he names anyone as his successor it will be Joseph; he will send his name followed by two nobodies to the Senate. Cambacérès said to me, 'People are saying that you are against either title, King or Emperor,' and I replied, 'They are wrong if they accuse me of saying so, but quite right if they say that I think so'; well, we must await the result of all these great doings."

The next day (3rd August) solved the mystery. This was the day reserved for the reception of the Diplomatic Corps, and everything was so arranged as to allow the representatives of the European Sovereigns to witness the elevation of Bonaparte to the position of First Consul for life.

The reception, which was very numerously attended, had just begun when the Senate was announced.

The audience was suspended, and the Senate introduced.

Barthélemy,<sup>1</sup> the President, opened the proceedings with these words: "The French people, in remembrance of the immense services you have rendered, have expressed their will that the chief Magistracy shall remain in your hands so long as you live. In thus securing your services for your lifetime the people have endorsed the desire expressed by the Senate in their *Senatus Consultum* of the 18 Floreal (8th May 1802), and have by this solemn act of recognition bestowed upon you the mission of consolidating our institutions.

"A new career thus opens before the First Consul. After prodigies of valour and military talent he has brought the war to a close, and has obtained for us the most honourable conditions of peace. Under his auspices the French nation has risen to a glorious position in Europe. He is at once the Pacificator of nations and the Restorer of the greatness of France. During the three years of his administration we have almost forgotten the days of anarchy and calamity which seemed to strike at the roots of public prosperity. There still remain, indeed, some ills to redress and fears to dissipate. The French, after astounding the world by warlike exploits, expect from you, Citizen First Consul, the benefits of the peace which you have obtained for them. If there still linger among us the seeds of discord, the proclamation of Bonaparte as First Consul for life will annihilate them.

"The whole of France has rallied around him ; his power and his genius are our security. He breathes only for the prosperity

<sup>1</sup> François Barthélemy, born in October 1747, acted from 1791 to 1797 as Minister to Switzerland, when he succeeded in the difficult task of keeping peace between the two countries. In June 1797 he was elected a Director. On the 18 Fructidor (4th September 1797) he was arrested and transported to Sinamary, in French Guiana. His valet, named Letellier, refusing to be separated from him, accompanied him ; an instance of devotion honouring both master and servant. After enduring deprivations and sufferings, Barthélemy, with Pichegru and six others, made their escape in an open boat. Letellier died in the boat, but the others were rescued by an English ship, and conveyed to England. After the 18 Brumaire, Barthélemy returned to France, was appointed a Senator in January 1800, and created a Count in April 1808. He presided over the session of the Senate which proclaimed the deposition of the Emperor in 1814. During the first restoration he was created a Peer, and after the return of Louis XVIII. he was raised to the rank of Minister of State and Marquis. He died at the age of 83 in April 1830.

and happiness of France; never shall we receive from him any other impulse than such as make for natural glory and greatness. What nation has ever better deserved to be happy; is not their esteem and affection better worth having than that of any other people? The Senate is prepared to join with heart and soul in the generous designs which the Government will propose. It will second with all its power all measures which aim at saving us from the nature of the ills which have worked such harm, and at securing the benefits which we already owe to him. It is indeed a pleasant duty thus to unite in carrying out the will of a people which has just given us so striking a proof of its zeal and discernment. The *Senatus Consultum* which the Senate has come to place in your hands, Citizen First Consul, contains the expression of its own gratitude towards you. As you will see it has felt it to be its duty to summon the aid of art to perpetuate this memorable event."

The *Senatus Consultum* of the 14 Thermidor (2nd August 1802) was then read. After a preamble setting forth the number of those who had voted for or against the Consulate for life, followed

"Art. I. The French people nominates and the Senate proclaims Napoléon Bonaparte First Consul for life.

"II. A Statue of Peace, holding in one hand the laurel of victory and in the other this Decree of the Senate, will attest to posterity the gratitude of the nation.

"III. The Senate conveys to the First Consul the Nation's confidence, affection, and admiration."

Bonaparte replied: "The life of every citizen belongs to his country. The French people wills that the whole of my life should be consecrated to its welfare. I obey its will. In giving me a new and permanent proof of its confidence, the people imposes upon me the duty of building up its constitutional laws on a stable basis. By my efforts and with your assistance, together with that of all the authorities, and with the confidence and goodwill of this great nation, the liberty, equality, and prosperity of France shall be secured against the caprices of fate and the uncertainties of the future.

"The best and greatest of nations shall be the happiest, and



its happiness will contribute to the well-being of Europe. I have been summoned by the command of the people, from whom all authority emanates, to restore universal justice, order, and equality. I am content with this mandate, and I shall meet my last hour without regret and without fearing the judgment of posterity. Accept then, Senators, my expressions of gratitude for your confidence. The Senate has thereby shared in the will of the nation, and has expressed its own desire to associate itself with all that remains to be done to secure their welfare. I welcome the assurances of your distinguished President."

The First Consul at once called together the Presidents of the several Sections of the Council of State, and communicated to them the constitutional reforms which he designed to enact. At the reception that evening at the Tuileries, these reforms constituted the principal subject of conversation. Cambacérès said: "Those who believed that the monarchy was going to be restored, and those who have been working for that object, will have an uncomfortable surprise when they find how democratic these reforms are. The First Consul has clearly perceived that if he were to restore the old institutions the restoration of their former master would be a logical necessity.

"In that case all the world would say, truly enough, that the Men of the Revolution had themselves to thank for such a restoration. If anything, the First Consul has gone too far in the direction of popular government. He must have firm faith in his own power to take such chances. At the same time, it should be said that he has taken all proper precautions to prevent the abuse of those principles. Reforms are necessary, because the whole system at present rests on one single man, and it is indispensable to have some supports to fall back on in case of his death.

"Every detail has been arranged and systematised by the First Consul himself."

On the 16 Thermidor (4th August) an extraordinary session of the Council was held, at which were present the three Consuls, the Ministers, and Joseph Bonaparte. The First

Consul opened the meeting by saying that there were many gaps in the Constitution which required to be filled in, and other parts which needed amplification, while in still other parts the literal wording was contrary to the real intention. He then ordered the Secretary of State to read the projected *Senatus Consultum*, which had already been printed.

Then Bonaparte<sup>1</sup> entered upon an explanation of his reasons for the reforms he proposed to make, taking each article *seriatim*.

Speaking first of titles I., II., and III. (relating to Electoral Law), he said: "All the authorities of the State are in the air; they rest on no common basis. The Constitution omitted to establish their common relations with one another and with the people. The lists of Notables have not answered their purpose. We have found it very difficult to remodel this portion of the Constitution so as to make it work. If the Notables are elected for life, they will form the most powerful aristocracy that ever existed; if for a term of years, their re-election will keep up a constant and purposeless agitation. To make the people appreciate its own sovereignty we must let it make a real, tangible use of it. In the present system of Notables, the people whose business it is to elect five thousand candidates for office cannot flatter themselves into the belief that they have any real share in securing the appointment of the officials in whom they have most confidence. To secure the stability of the Government, we must allow the people to take a more real part in the elections, and see that they are genuinely represented. If we do so they will become really attached to the Constitution, instead of being hostile or at best indifferent. The communal lists of Notables may be kept as they are until the time comes for their renewal. They are the work of the people, and the result of a great popular movement which must not be left fruitless; moreover, they contain a large number of names.

"The old provincial assemblies satisfied the provinces, but how can we hope that the new municipal and departmental

<sup>1</sup> For a summary of these changes in the Constitution, *see* the Introduction.

Councils will take an interest in their work, or do it properly, if they have no direct relations with their fellow-citizens.

“They will be composed of better men, and will do their duty with more zeal, when they are directly elected by the people. Nor will there be any inconvenience in this, since the administrative officials will be appointed by the Government. As to the Electoral Colleges, they form a link between the higher powers and the people; they are, in fact, a bridge between the two as well as a classification of our citizenship, an organisation of the nation. We must combine in these bodies the opposing interests of both capitalists and workmen, so as not to place too much power in the hands of either class. We must have men of property in the Electoral Colleges, because property is the fundamental basis of all political power. We must have men without property, to secure an open field for talent and ability. Nor can we allow the Electoral Colleges to elect only candidates from among themselves. We must impose upon them the obligation of selecting one-half from outside their own body.”

On Title IV. (the Consuls) Bonaparte said: “We have done our best to solve the most difficult problem connected with the Consulate, that is, to provide against the public danger which the election of the First Consul might cause.”

Having finished this explanation, the First Consul added: “The English Constitution has been proposed as the best pattern for our own. I wish to explain the reasons why I do not agree with this view.

“In the English Constitution there is a House of Lords, composed partly of great landed proprietors and partly of nobles of ancient descent. These two circumstances have a two-fold effect: they give this House a great influence over the people, while at the same time they make the members in their own interests give a steady support to the Government. In France the materials out of which such a House could be formed are non-existent. Do you think it desirable to create them?

“If we made such a Chamber out of the Men of the Revolu-

tion we should have to place in their hands a large proportion of the landed property of France, which is, of course, quite impracticable. If we made it out of the old noblesse we should at once cause a counter-revolution. For that matter in any case such an institution would of itself be counter-revolutionary as regards property, and would soon lead to the same result as regards men. Moreover, the character of the two nations is entirely different. The Englishman is brutal; the Frenchman vain, polite, and volatile.

“The Englishman will gorge himself, and get drunk for forty days at a time at the expense of the noblemen;<sup>1</sup> no Frenchman would be capable of such an orgy. Before everything the Frenchman loves equality. You may object that inequality lasted for fourteen hundred years, but if you read French history from the time of the Gauls to the present day you will find that all along, through every change and revolution, the people have been struggling for equality. I think, therefore, that the English Constitution is quite inapplicable to France. I say this to give the members of the Council an opportunity of repeating and enlarging on my views on any occasion that may offer.”

This dissertation seemed to be chiefly for the benefit of Roederer, who snatched up a pen and wrote busily as soon as

<sup>1</sup> Bonaparte here alludes to English parliamentary elections. Before the Reform Act of 1832 there was no limit, except the length of a candidate's purse, to the time during which the poll could be kept open. As a rule the voting did not continue for more than a few days, but there were many exceptions, such as the following:—

In 1784, at the famous Westminster election, the poll was open for forty working days, from 1st April to 17th May.

In 1768 three wealthy noblemen, the Earl of Halifax, Northampton, and Spencer, each put up a candidate of their own to represent Northamptonshire. The poll was kept open for a fortnight, during which time the electors and non-electors of the county drank the whole of the Earl of Halifax's cellar of port, and obliged him to broach his casks of claret, by doing which he lost many voters, who declared that they would never vote for a man who gave them sour port to drink.

A few years after Bonaparte's words were spoken, William Wilberforce was opposed by the whole strength of the pro-slavery party, and the poll in the Yorkshire election of 1807 was open for seventeen days. This election was said, probably with some exaggeration, to have cost Wilberforce's opponents half a million of money.

Bonaparte began to speak. Maret, the Secretary of State, then read the projected changes, title by title, and each was debated in turn.

Titles I. and II. (on Cantonal Assemblies).

Cambacérès asserted that the proposed reform was highly democratic, and that the Government, while most generous in making such concessions to the people, ought to be sure of its own power before doing so.

*Bonaparte*: "This measure is to apply only to towns with a population of 5000 or upwards,—because in such places there will be found a sufficient number of educated people who know something of their rights, and will use them in the interest of their community. In country districts the people would almost always elect their former Seigneur. By and by we may be able to extend this franchise to villages and country districts, but not at present."

On Article II., Réal said: "I propose that one-quarter of the members of the Municipal Councils shall be elected without any tax-paying qualification."

*Bonaparte*: "Those who pay the heaviest taxation will be the first to see that the commune is managed economically. They will not throw away the additional centimes, and they will be on the lookout for fresh sources of revenue. However, I consent to the amendment."

This amendment was rejected by the majority of the Council, who showed themselves less inclined to liberal measures than the First Consul himself.

Title III. (on Electoral Colleges).

*Regnault*: "These articles favour the smaller Departments much more than the larger ones. The Department of the Basses Alpes will have an Electoral College of 200 voters, while Paris will have no more than 300."

*Bonaparte*: "Quite true, and that is the very merit of the Article. The number of voters is based not on the population alone, but also on the amount of land in each Department. The thinly populated Departments are generally the largest in extent. Irrespective of the number of voters, the main

point is to secure the representative of each portion of the Department. I have been told that an Electoral Assembly of 300 is too large."

*Truguet*: "It would be better to elect the members of the Electoral Colleges for a term of years, not for life."

*Bonaparte*: "Well, well! Citizen Truguet's idea would exactly upset the end he is aiming at.

"To-day a large proportion of those elected would be the Men of the Revolution; as time goes on there will be fewer and fewer each year. It is high time to come to a permanent settlement. Every measure which has been called a Constitution up to now has been the very opposite of a settlement of any kind. Citizen Truguet, who is a sailor, will understand my meaning when I say that nothing can be more truly compared with a constitution than a ship. Let your ship drift under sail before the wind and you will never get to port, your course will vary with every change of the wind; but use your rudder properly and you will sail safe to Martinique although the wind is fair only for San Domingo. What has become of the Men of the Revolution; once out of office they are clean forgotten? They have no other resource, no haven of refuge. Look at Barras, Rewbell, and the others. What has happened to them will happen to all of us unless we take proper precautions. That is why I made the Legion of Honour. We must have intermediaries between the People and the Government; without this, nothing can be accomplished. In every country, whether it is a Republic or not, there exist different classes of society. We cannot fight against the doctrine of equality, but we have succeeded for the first time in forming intermediate bodies on the basis of equality. Property must be represented, and a career must be opened for civilians.

"At present the only organised body in the State is the army. Soldiers enjoy the prestige and glory of military achievement, while civil services are less obvious, less brilliant, more debateable. Except the few, who are becoming rarer every day, who have the chance of playing their part on the

great stage of the world by negotiating a peace or something of that kind, civil servants remain isolated and obscure.

“This is an important gap which must be filled up. The camp must be made to yield place to the State. What was the secret of the immense power of the Convention?

“It drew its strength from the General Councils of the Departments, the democratic corporations of towns, the electoral bodies; in fact, it had an organisation at its command. The men who composed these bodies were the fathers of our soldiers;—they gave the Government points of contact with the people, and means of preserving an equilibrium which have ceased to exist, and which must be restored. If the members of the Electoral Colleges are constantly liable to re-election they will lose their influence and cease to be respected.”

Title IV. (The Consuls).

*Petiet*: “The person nominated by the Will of the First Consul should succeed by right.”

*Bonaparte*: “He will succeed if the Senate chooses to accept him; if the Senate does not choose him, no regard will be paid to the Will.”

*Roederer*. “I insist upon the proposition of Citizen Petiet.”

*Petiet*: “The question is one of great importance. The First Consul knows better than anyone else who is the person best fitted to succeed him. Moreover, the people desire him to choose. One hundred thousand votes were given in favour of his doing so when the Consulate for life was voted. If the First Consul does not make his choice, the Senate may elect a successor in whose choice the First Consul will have no share.”

*Bonaparte*: “The First Consul might nominate his successor during his own lifetime, and no doubt with the influence he will possess over the Senate, he could name anyone he chose, and could endow him with prestige and respect; but no one likes to name his successor while he himself is alive,—it is a thankless task, in face of the jealousies and factions which such a nomination would cause.

“Or if he nominated him in his Will, he would certainly give him all the chance that one man can bequeath to another, but there is no denying that a man once dead is nothing, and a strong candidate might carry the day against another who was supported only by a memory. When a great man, even one who has rendered the highest service to his country, is once dead, the first feeling of everyone is relief at having done with him. It is a weight lifted off the shoulders of mankind; it sets all ambitions free again. A year later perhaps, when the country is torn by discordant factions, his loss may be bitterly regretted, but in the first moments of relief the world will feel neither regret nor respect for his last wishes.

“A Will is only a sheet of paper. The belief that a sheet of paper can be of any value unless it is supported by force has been one of the cardinal mistakes of the Revolution.”

*Cambacérès*: “The First Consul might nominate three candidates in his Will.”

*Bonaparte*: “The difficulty would be exactly the same. If the Senate did not want any of the three, it would reject them all.”

*Regnault*: “The successor nominated by the Will would, nevertheless, have a good legal title, which he could successfully support if he were a man of strong character.”

*Bonaparte*: “If he forced the hand of the Senate he would be obliged to upset everything, while the country at large would feel that by adopting the Senate’s nominee the nation would be saved from internal commotion, and the authorities would remain united.”

Regnault still insisted on his point.

Dumas believed that the Will of the First Consul would be scrupulously obeyed.

Bonaparte repeated his arguments, and added some remarks on hereditary succession. “It is,” he said, “absurd, for even if it would secure the stability of the State, it is impossible nowadays in France. True, it remained established for ages, but that was because it was supported by a whole range of institutions, which rendered it practicable. But these institutions have all



been swept away and no one would dream of setting them up again. The hereditary principle is derived from the civil law. It presupposes private property, and assures its transmission. But how can the heredity of the First Magistrate be reconciled with the doctrine of the Sovereignty of the People? How can you make out that this magistracy is private|property? When the Crown was hereditary, numbers of magistracies were so also. Heredity was an almost universal law, but not a trace of it has survived the Revolution. Let us pass on to Title V., on the Senate." Here a whispered colloquy took place between Bonaparte and Cambacérès.

*Truguet*: "Who will take the First Consul's place in case of illness?"

*Bonaparte*: "No one; or they will always be saying that I am ill."

*Regnault*: "What should be the limit of age of the First Consul's successor—Twenty-one?"

*Bonaparte*: "Why look ahead so far? What seems best under the circumstances will be done when the time comes?"

Title VI. (The Council of State.)

*Petiet*: "Each projected *Senatus Consultum* ought to be drawn up and debated in the Council of State."

*Bonaparte*: "A *Senatus Consultum* of the kind intended would relate to matters demanding secrecy, and it is impossible to keep secret a matter which has been discussed in a Council composed of twenty or thirty members."

*Marmont*: "Nevertheless the Council has hitherto kept all its secrets admirably."

Bonaparte at once saw the bad effects which this Article had produced on the Council, and showed signs of embarrassment.

Regnault entered on a detailed statement of the powers, which the *Senatus Consultum* took from the Council of State and transferred to the Senate.

"These matters," he said, "will not be carried through so entirely in the interest of the Government as they have been by the Council. Moreover, the creation of a Privy Council will

deprive the Council of State of its importance; it will no longer be respected.<sup>1</sup> The First Consul is free, of course, to constitute a Privy Council if he chooses to do so, but by doing so he will inflict a heavy blow upon the Council."

*Bonaparte*: "If I were to communicate beforehand to the Council of State a measure which I was going to bring before the Privy Council, it would open a preliminary discussion which might last for two or three days, by the end of which time it would no longer be a secret at all. A Privy Council is necessary. The Ministers, who will not utter a syllable in the Council of State, because they are unaccustomed to speaking there, will talk freely in the Privy Council, and I shall be able to call in experts if I want them."

Cambacérès proposed some modifications in the wording of the Article, which contained polite references to the Council of State without altering its real significance. It was then passed.

Titles VI.-X. (The Corps Législatif, Tribunat, Law Courts, and the Right of granting Pardons.)

*Bonaparte*: "Citizen Regnault, what do you think of a reduction in the number of members of the Tribunat?"

*Regnault*: "I think well of it, and the assimilation of the Tribunat with the Council of State will bring it additional prestige."

Muraire and the Minister of Justice also approved of the drawing up of these Titles. Deferron spoke against conferring the right of pardon on the First Consul, which was defended by Cambacérès. The sitting ended at six in the afternoon.

The proposed *Senatus Consultum* had been brought before the Council of State from motives of courtesy rather than for serious debate. In fact, while it was before the Council the Senators were also discussing it, and held in their hands copies, which had been typed. Everyone in the Council was well

<sup>1</sup> Whatever loss of power or prestige the Council of State may have lost by the creation of the Privy Council, it was at least saved from participation in the great crime of the Consulate, the murder of the Duc d'Enghien. Bonaparte's intention was communicated only to the Privy Council, where there can be little doubt that he was supported by Talleyrand, and no doubt whatever that he was opposed, with more energy than he showed on any other occasion, by Cambacérès.

aware that it was useless to object to any of the main principles of the proposed reforms, which had been actually drawn up by Bonaparte himself, and we therefore confined our remarks to matters of mere detail.

None the less, when he returned home, Bonaparte showed considerable annoyance at the coldness with which several members of the Council had received his proposals.

The Bill was immediately presented to the Senate by the Orators of the Government, and passed without debate by 48 against 3 votes (4th August). The text of this *Senatus Consultum* was published in the *Moniteur* of the 18 Thermidor (6th August 1802), prefaced by the following article:—

“This organic *Senatus Consultum* is the third which has been presented to the Senate.

“By the first, on the 22 Ventose (13th March 1802) the Senate supplemented the absence of precise directions in the Constitution by determining the manner in which members of the Corps Législatif should retire. This may be called the supplementary *Senatus Consultum*.

“The second, on the 6 Floreal (26 April 1802), explained Article 93 of the Constitution, relating to the *Émigrés*. This decision, which reconciled the letter of the Constitution with its spirit, may be called the interpretative *Senatus Consultum*.

“The third, on the 16 Thermidor (4th August 1802) combines the character of both those which preceded it. It is fourfold in its objects.

“First, it connects more closely the Authorities of the Nation with the people from whom all their power is derived.

“It achieves this purpose by substituting for the lists of Notables, which have been an acknowledged failure, Cantonal Assemblies, and District and Departmental Electoral Colleges.

“Secondly, it defines and develops the Article of the Constitution which confers the power of appointing the Consuls on the Senate.

“Thirdly, it gives the Senate the power necessary to enable it to fulfil its main duty, that of preserving the Constitution.

“Fourthly, it regulates the hierarchy of the Judicial Bench so

as to enable it to exert to the full its powerful influence over the maintenance of property and the welfare of the citizens of France."

On the 27th (15th August) all the authorities and officials came to present their congratulations to the First Consul, who held at the same time a reception for the Foreign Ambassadors and foreigners who wished to be presented. The illuminations and fireworks on this occasion surpassed any previous exhibition in Paris. In the centre of a large stand, thirty feet in diameter, erected forty feet above one of the towers of Notre Dame, were the signs of the zodiac and the date 15th August, the birthday of the First Consul. The façade of the Hotel de Ville was also illuminated, as on former great occasions. Fireworks composed of more than twelve thousand rockets were set off, and bands were stationed in different quarters to encourage the people to dance.

Addresses poured in from all sides, and all the Bishops issued Episcopal Orders for the *Te Deum* to be sung throughout their dioceses.<sup>1</sup> On the 3 Fructidor (21st August) the First

<sup>1</sup> Note by Thibaudeau.—Dubelloy, Archbishop of Paris. "At what epoch of our history has God more plentifully showered upon the French people the treasures of His merciful pity? We summon you to the altar to pray fervently for the preservation of the life of our First Consul, so that in the Holy of Holies you, like the Jews of old, may inscribe 'Vivat Solomon.'"

De Boisgelin, Bishop of Tours. "Let others proclaim the glorious victories which have so extended the borders of our land, have caused the nations to obey in silence the voice of the Great Consul, and have raised his name to the first position in Europe. For ourselves, we recall the memory of Constantine raising the standard of Christianity on the day of his glorious victory, and restoring the ministers of the Church to the Sanctuary."

De Noé, Bishop of Troyes. "Let the Ministers of the Altar sound the sacred trumpet to call together the faithful to give thanks to God, who has inspired our Senators with wisdom. Let us pray to Him long to preserve the life of our First Consul, and to raise him hereafter to a place among the blessed of Heaven."

Cambacérés, Archbishop of Rouen. "From the mass of ruins which religion has silently contemplated for so long arises a settled order. Reason, the Sacred Writings, the tradition of the Church, and the solemn decision of the Sovereign Pontiff, all combine to teach us that the new Government succeeds to all the rights of that which has ceased to exist and that it is for us to render to it the same submission, obedience, and deference. Such is incontestably our duty, a duty both sweet and facile when it is demanded by a Government which is repairing, so far as it is able, all past injustices, giving peace to Europe, and reinstating and protecting the holy religion of which we are the ministers."

All the other Bishops followed these examples.

Consul went for the first time to preside over the Senate. On this occasion he displayed in public all the pomp of a Supreme Ruler. Early in the morning the bridges and streets by which the procession was to pass were lined by troops formed in double rank all the way from the Tuileries to the Luxembourg. The First Consul's carriage was drawn by eight horses, and was followed by six other state-carriages conveying the Second and Third Consuls, the Ministers, and the Orators of the Council of State. The First Consul was accompanied by a strong and splendid escort of the Aides-de-camp, Generals, officers of the Guard, and Inspectors of the different arms. A deputation of ten Senators received him at the foot of the stairs. The Orators of the Council of State presented to the Senate five projected *Senatus Consulta* which had been drawn up by the Privy Council. These related—1st, To theittings of the Senate and the Ceremonial to be used on great occasions. 2nd, To the procedure to be used during the next four years in replacing the retiring members of the *Corps Législatif*. 3rd, To the procedure in case of a dissolution of the *Corps Législatif* and *Tribunat*. 4th, To the selection of fourteen large towns whose Mayors should be invited to be present when the successor of the First Consul should take the oaths of office. 5th, To the annexation of the Isle of Elba by the Republic. The Minister of Foreign Affairs then read a report on the indemnities to be paid to Princes and States mediatised by the terms of the Peace of Lunéville. The First and Third Consuls then returned to the Tuileries, leaving the Second Consul to preside over the sitting of the Senate.

They came at once to join the Council of State. Bonaparte was in high good-humour, and laughingly said that the Consuls had gone to take possession of the Presidency of the Senate, that it was by his own desire that the Bills (described above) were presented by members of the Council of State, although they had not been present when they were drawn up by the Privy Council, and that he hoped that this procedure would be agreeable to the Council of State. He was alluding to what had passed on the 16th (4th August). His words were designed to console us for the losses which the Council had suffered

from the new arrangements. Up to this time the Council of State had been the most influential of the governing bodies; it formed, so to say, at once the Council, the household, and the family of the First Consul. The Councillors of State attended him on all ceremonial occasions; they were freely admitted to his own rooms, joined him at meals, and talked to him with perfect freedom and familiarity.

All measures to be laid before the Legislature, as well as most of the Orders in Council, were discussed by it. The First Consul habitually presided at its meetings, in which everyone expressed his opinion frankly; the First Consul usually opening the discussions, and taking a very active part in them, acting, in fact, as the President of the body and as the first among equals.

At the audience given on the 15 Fructidor (2nd September) to the Diplomatic Body the etiquette was altered. The Senate was first summoned, and the Senators placed themselves on the right of the First Consul; then the Councillors of State entered and took their places on his left, whereas up to this time they had grouped themselves on both sides in front of the Senators. The change had been carefully planned out beforehand, but it occasioned much grumbling among the Councillors, Roederer in particular exhibiting his annoyance quite openly.

N. went to call on Madame Bonaparte, and she repeated to him: "You may be sure that the hereditary idea has by no means been abandoned. They still say that Bonaparte must have a child somehow, and want me to adopt one, because they are well aware that Bonaparte would injure his reputation if he got rid of the wife whom he married when he was nobody, and whose daughter he has given in marriage to his brother. But I have told them quite plainly that under no circumstances will I lend myself to such an infamy. Besides, they must be blind if they cannot see that the nation would never accept a bastard. My impression is that as soon as he succeeds in establishing the hereditary principle, Lucien will bring forward his own claim. They are beginning by doing all they possibly can to estrange Bonaparte from me. They talk about giving me a handsome pension if I will consent to a divorce, but I tell them that under

such circumstances I would not take a sou. I should sell my diamonds and buy a house in the country where I could live happily, if only they would leave me in peace. For several days past my poor Hortense has been feeling her time coming on.

“Although she is now in the ninth month of her marriage, I tremble for her accouchement on account of the infamous rumours which have been circulated about her. I spoke to Bonaparte, and he replied: ‘These rumours have only been accepted because the nation is so anxious that I should have a child.’ I told him that he was quite wrong if he attributed these scandals to such a motive; it was not his well-wishers or partisans who spread them abroad, but his enemies. But this reply of his will give you some idea of the plans he is forming, and of how his ambitious schemes are blinding him. He is weaker and more easily influenced than people think, otherwise he could not allow Lucien to persuade him as he does. He knows every word that Lucien has said and written against him, and yet he lets himself be guided by him. Those who see his domestic life would say that he is a thoroughly good man, and so he is.

“Happily he is naturally just-minded, or they would make him commit all sorts of bad actions. One day he said to me: ‘What are my defects?’ and I replied, ‘I know only two, weakness and indiscretion; you allow yourself to be influenced by people whose only wish is for your downfall, and you are so fond of argument that you let your secret thoughts escape you.’ ‘Quite true,’ he said, and took me in his arms. Yesterday he asked what I thought of Regnier’s promotion.<sup>1</sup> I said: ‘He is an honest man, but too much of a flatterer,’ and I told him that I had said to Regnier himself, ‘The First Consul has done well in choosing you; he might possibly have made a choice as good, but he could have found none better. Let me only advise you always to tell the strict truth and not yield to flattery.’ Bonaparte is always affectionate, but he never talks to me about political affairs. His brothers treat me with an overstrained affectation of brotherly love, but I am not duped by them.

<sup>1</sup> Regnier was appointed “Grand Judge,” 14th September 1802.

“Bonaparte complained to me one day that he had no friends. ‘It is quite true,’ I said; ‘you have only admirers. To gain real friends you must give more of your real self to them than you do, and study how to keep them.’ I am on very good terms with Bourrienne;<sup>1</sup> it is from him that I get the most piquant extracts from the English newspapers: he belongs to no party, but to obtain Bonaparte’s forgiveness for that money affair he lets him do as he chooses without a word. Bonaparte ought to have men about him who have nothing to reproach themselves with.”

Centralisation was now so entirely in vogue that if his supporters had dared, or if the First Consul himself had wished it, he could have assumed openly all the powers which in reality were vested in his own person. The system-mongers did their best to suppress every vestige of popular government, the idea being to concentrate in individuals all authority from the top to the bottom of the State, from the Mayor of a village to the First Consul, leaving the mass of the people without interest or share in the Government. They even planned the reduction of the number of Communes, Prefectures, and local law courts. The former Intendants and the Local Parlements were quoted by them as excellent examples; in fact, there was not a single discredited institution of the old régime which they did not habitually extol to the skies.

In a discussion on the insufficiency of the “additional centimes” to support the expenses of the communes, Bonaparte said: “We ought to reduce the municipalities to 20,000, to fix a maximum and a minimum sum for the budget of each Department, and to make the ‘Conseils généraux’ responsible

<sup>1</sup> Louis Antoine Fauvelet de Bourrienne, born July 1769, served as Secretary to Bonaparte from 1797 to 1804. He was more than once involved in money troubles, which culminated in the bankruptcy of the Banking House of Coulon, which led to some discreditable revelations of his money dealings.

In consequence of these Bonaparte dismissed him from his personal service, and appointed him Minister Plenipotentiary to the city of Hamburg, where he remained until 1813. After the Restoration he became a somewhat ultra-royalist, and was returned to the Chamber of Deputies in 1820 and 1824. The Revolution of 1830 deprived him of his position, his means, and his reason. He died insane in 1834, at the age of 65.



for the expenditure." The Corps Législatif had already been despoiled to add to the centralisation of the Senate, the greater part of the duties of the Council of State had been transferred to the Privy Council.

It was now the turn of the Ministry. It was generally believed that all the great departments of State were about to be concentrated in three great Ministries,—Finance under Talleyrand, the Interior of Justice under Lucien, and Foreign Affairs and the Navy under Joseph, while Louis was to replace Duroc, who was to be sent as Ambassador to Berlin.

On the 4 Vendemiaire, an. XI (26th September 1802), Madame Bonaparte related to N. a conversation with the First Consul, in which she complained that he never told her anything. "Well," he asked, "what is it you want to know?" "They say," she replied, "that you are going to create three principal Portfolios, and to bestow them upon your brother and Talleyrand." "What nonsense," said Bonaparte. "I am more inclined to increase the number of Ministries than to cut them down. I can't help it if people choose to talk such stuff, but I am not mad enough to put myself into the hands of my enemies. Every day I hear complaints of Lucien; I have just received fresh news from Madrid."

Nevertheless these rumours became so general that Bonaparte found it necessary to contradict them in the *Moniteur* of the 10 Vendemiaire (2nd October 1802), in these terms: "The Departments are agitated by statements that it is proposed to unite several of them in one. This is entirely untrue, and the Departments need have no fear of any such changes. Rumours are also being circulated that the existing Ministries are to be merged in four new Ministries of State; this rumour has no more foundation than the other."

A day or two later Bonaparte held a conversation of quite half an hour's duration with N., the substance of which was as follows:

*Bonaparte*: "So this last Senatus Consultum is not to your taste?"

*N.*: "I cannot say that it is; indeed, I have already put my

ideas before you quite frankly. My fear is that all that has been done is steadily drawing us further and further from the aims and objects of the Revolution, and nearer to the old régime."

*Bonaparte*: "On the contrary, our object is to prevent any return to the old state of things. If I were to show you all the plans for amending the Constitution which have been sent to me during the past months, you would see that it is the enemies of the Revolution who have been the warmest advocates of political liberty; men like Malouet<sup>1</sup> and Talon.<sup>2</sup> I do not believe that these people, particularly Talon, put any real faith in these appeals for liberty. They have too much sense. The whole thing is a standing conspiracy. They want to deal with me as they did with the King in 1789; to re-establish the primary Assemblies and all the other ideas of these days. If they could induce me to make a false step all would be lost. But I just let them talk and go my own way. These gentlemen aim at nothing but inducing me to take up the men of the counter-revolution; they know well enough that if I do that, the counter-revolution itself will soon follow. The Men of the Revolution can easily grasp that fact.

"My system is quite simple and intelligible: I have thought it necessary to centralise and increase the authority of the

<sup>1</sup> Pierre Victor Malouet, born in February 1740, was one of the ablest and most courageous defenders of the Constitutional Monarchy and of Louis XVI. in the Constituent Assembly. After the 10th August 1792 he emigrated to England, whence he wrote to the Convention to offer himself as one of the King's Advocates at his trial. In reply a decree of the Convention placed him "hors la loi" as an Émigré. In 1800 he returned to France, and was placed by Bonaparte in the Ministry of the Marine, in which he had served before the Revolution. In 1803 he was appointed Commissioner-General of the Marine at Antwerp, and was made a Councillor of State. In 1820 he was created a Baron, but two years later he was accused of being a partizan of the Bourbons and was ordered to reside in Lorraine. Louis XVIII., on his restoration in 1814, appointed him Minister of Marine, but he died soon after taking office in September 1814, at the age of 74. Malouet left behind him no fortune whatever; his funeral expenses were paid by the King.

<sup>2</sup> Antoine Omer Talon was an important member of the Right of the Constituent Assembly. After the 10th August 1792 he escaped to the United States, whence he returned in the last days of the Directory. Suspected of complicity in Royalist plots, he was imprisoned for some years in the Île St. Marguerite. He was released in a state of imbecility in 1807, and died two years later.

Government in order to weld the nation more firmly together. I am the constitutional authority, and therefore it was my duty to propose the recent *Senatus Consultum*.

"We must now await the result of the working of the Electoral Colleges, to see whether the institutions which I have inaugurated are going to be a success. If the Electoral Colleges are well composed and animated by a proper spirit they will work out a proper organisation for the *Corps Législatif*. These deaf and dumb legislators, invented by Sieyès, are simply ridiculous. The only reasonable system is to have two chambers, one of which, the Senate, is already in working order."

*N.*: "I am so little versed in intrigue that I cannot tell what ulterior views the Malouets and Talons may have for defending public liberty, but whatever these views may be, they do not seem to me to justify the annihilation of freedom. Malouet has become Fouché's friend and ally. I believe him to be a man of honour, and had you consulted him, I think he would have given you sound advice.

"I persist in my belief that this system of centralisation is bringing us nearer to the old régime than to a well-organised representative Government. You agree that the present *Corps Législatif* is ridiculous; why then do you not alter it?"

*Bonaparte*: "The right moment to do that has not yet come."

*N.*: "A Legislature nominated by a Senate can never be more than the shadow of a representative body. Everything is arranged by a clique. A candidate who has any self-respect would disdain to go about begging for votes among the Senators, and the choice falls on the worst men. This is the infallible result of elections made in the dark. Nothing but publicity can give us good deputies."

*Bonaparte*: "And blunderers."

*N.* (laughing): "Very possibly, every class should be represented. Nevertheless, the people, on the whole, choose the best men. In a large gathering of individuals openly elected a spirit of genuine patriotism will be found. On the other hand, an Assembly composed of candidates appointed by the Senate will take little interest in public affairs, and if the Senate nominates

no notorious imbeciles it is sure to select a majority of nobodies. Besides, what man of sense wants to belong to a Corps Législatif in which no one can utter a syllable?"

*Bonaparte*: "All our misfortunes have come from your speakers."

*N.*: "And all our benefits. It is the speakers who made the Revolution, electrified the nation; created our armies."

*Bonaparte*: "But we have no more need of these electrifying forces. Our business is to keep what we have won."

*N.*: "Who can answer for the future? You are here, and everything smiles on us just now, but things may change."

*Bonaparte*: "We have plenty of time before us. We cannot do everything at once. The essential point is to make the present secure. We must see how the Electoral Colleges act."

*N.*: "Anyhow I wish that the Prefects could get more satisfactory instructions from the Government. They are exceedingly embarrassed. They hear of nothing but centralisation, the great proprietors, and so forth. Most of them believe they are acting in accordance with your wish in thwarting the Electoral Colleges and paying court to the old nobility."

*Bonaparte*: "True; I will see that they have fresh instructions. The incoherent way in which they are acting is due to the contradictory orders they get from Fouché and Chaptal. Fouché's violent instructions have had a bad effect upon them. Regnier is more sober, and his ideas are more matured. In any case, the Government has the means of influencing the Electoral Colleges by appointing the Presidents and a certain proportion of the members. If the Colleges fail we must find some substitute for them."

*N.*: "Well, since the whole matter is settled, there is nothing more to be said."

*Bonaparte*: "All the same, it is always a pleasure to me to hear what an honest man has to say."

When Bonaparte, as Commander-in-Chief of the Army of Italy, was deputed to negotiate the Treaty of Campo Formio (October 1796), the Directory by a unanimous vote commissioned him to demand the release of Lafayette, Latour-Maubourg, and

Bureau de Pusy, who had been imprisoned since 1792 in the fortress of Olmutz. Bonaparte put all his energy and force of character into this undertaking.

He often stated afterwards that of all the demands he had to make, this was the most difficult and the most obstinately contested. At the end of five months the three prisoners were released, but their refusal to give their approval to the Coup d'État of the 18 Fructidor (4th September 1797) compelled them to seek a refuge on neutral territory until after the 18 Brumaire (November 1799), when they were able to return to France.

General Lafayette did not meet Bonaparte until his return from the campaign of Marengo, when he spent some days with him at Morfontaine, the home of Joseph Bonaparte, on the occasion of the Fête given to the Americans after the Treaty with the United States, signed on the 8th September 1800. Bonaparte offered Lafayette a seat in the Senate, but this he declined, preferring to receive the retired pay of his military rank. They remained on friendly terms until the question of the Consulate for life arose, when Lafayette wrote the following letter to Bonaparte :—

“LAGRANGE, 1 *Prairial*  
“An. 10 (21st May 1802)

“General,—When a man who owes you so heavy a debt of gratitude, and who is himself so sensible of the value of fame as to be able fully to appreciate yours, feels himself obliged to withhold his vote from you, his motives must be strong ones, especially since no one would rejoice more than he to see you in the position of Chief Magistrate for life of a free Republic.

“The 18 Brumaire saved France, and I was myself recalled from exile by the liberal assurance to which you pledged your honour. Since that day we have seen in the Consular Government a recuperative dictatorship which under the inspiration of your genius has worked wonders. Not such wonders, however, as the restoration of liberty would have achieved. It is impossible that you, General, the foremost in the ranks of those great men who are but rarely found throughout the ages, should desire that such a Revolution as ours, so many victims, so much bloodshed, such misfortunes, such prodigies, should terminate

in the establishment of an arbitrary rule. The French nation has learned its rights too thoroughly ever to forget them. It is to-day in a better mood to enjoy them than when its blood and temper were hotter. And you, who by force of character, superiority of talents, fortune and power, are best able at once to control and to reinstate liberty, should better than anyone else know how to achieve so glorious a task.

“ I wish you all success in establishing your power as First Magistrate for life, but in accordance with the principles and the actions of my whole lifetime I cannot raise my voice in favour of such a step, unless it is founded on a basis worthy of the nation and of yourself.

“ I trust, General, that you will recognise in this instance, as on former occasions, that while I must maintain my political creed, I am not wanting in sincere desire for your welfare and in a deeply rooted sense of gratitude.—Salutation, and respect.

“LAFAYETTE”

To this note was appended the vote which Lafayette had given on the question, “ Shall Napoléon Bonaparte be First Consul for life ? ” “ I cannot vote in favour of such a Magistracy until political liberty is firmly secured. Then I will give my vote for Napoléon Bonaparte.”

## CHAPTER XIV

### BONAPARTE'S SETTLEMENT OF SWITZERLAND—THE ACT OF MEDIATION

SEPTEMBER 1802—FEBRUARY 1803

[*EDITOR'S NOTE.*—DURING the earlier years of the Revolution there was much ferment in Switzerland, promoted and fostered by the Helvetic Club in Paris, the leading spirits of which were César de la Harpe, formerly tutor of the Empress Catharine's grandchildren, who was possessed by a passionate desire for the freedom of the Vaud from servitude to the Canton of Berne, and Peter Ochs, of Basel, a turbulent democrat of the Jacobin pattern. Yet in spite of some annexations and encroachments by France, some interference, especially in the Grisons, by Austria, and many difficulties about refugee Émigrés and Priests, Switzerland was saved from invasion chiefly by the influence of the French Minister, Barthélemy, until after the Coup d'État of 18 Fructidor (4th September 1797). The first to suggest an invasion of Switzerland was Bonaparte himself, who, on his way to the Congress of Rastadt in November 1797, encouraged Ochs and other Swiss revolutionists, and on his return to Paris urged on the Directors the necessity of either annexing Switzerland or of establishing over it such an ascendancy as would secure its alliance, in case of a renewal of the European war. The Directors, and especially Rewbell, whose predatory instincts were easily aroused, and who had personal grounds for hating the Bernese aristocracy, eagerly accepted the counsel thus offered, and prepared for the invasion of Switzerland, partly in agreement with Bonaparte's plans, but mainly in accordance with a design of their own to secure the contents of the Treasury of Berne, the riches of which had been greatly exaggerated. They hoped thus to secure sufficient plunder to supply the wants of their own bankrupt treasury and to get rid of Bonaparte, whose presence in Paris caused them constant apprehension, by providing him with the means of equipping an expedition to England or, when that project was abandoned in March 1798, to Egypt. A pretext was easily found in the agitation in the Vaud for release from

Berne, and on the 5th March 1798 Berne was taken by General Brune, the Treasury was duly ransacked, and a sum estimated at nearly £1,000,000 was sent to Paris and Toulon.

Geneva and Mülhausen were annexed to France; the Confederacy was dissolved, and a Helvetic Republic, one and indivisible, was established and endowed with a correct copy of the government of the French Directory. Generals and Commissaries, the most notorious of whom was a relative of Rewbell, bearing the ominous name of Rapinat, were let loose upon the unfortunate country, and robbed and stole from cities, churches, cantonal treasuries, and individuals; dividing their plunder between the Army of Occupation, the outfit of the Egyptian Expedition, the Directors, and themselves.

The democratic or Forest Cantons, under the leadership of Aloys Reding and others, rose against their liberators, and after several times defeating the French were pretty nearly exterminated at the Massacre of Stanz, 9th September 1798. In 1799 the armies of the Archduke Charles and Suvóroff invaded Switzerland, and after the decisive defeat of the latter by Massena at Zurich, 26th September 1799, further exactions were wrung from the impoverished country.

During the years 1799-1802 five Coups d'État took place, one of which, under the guidance of Rapinat, nominated Ochs and Dolder as Directors; a second substituted La Harpe for Dolder, and a third dismissed both Ochs and La Harpe and abolished the Directory altogether, 8th January 1800.

The result of all these confused risings went to prove that the general sentiment of the country was opposed to a unified Republic, and deeply attached to the old cantonal governments. In July 1802, after the conclusion of the Peace of Amiens, Bonaparte withdrew his troops, and during the following months an internecine civil war, generally known as the *Sticklikrieg*, or war of the club-sticks, raged throughout the country. Under the title of the "Swiss Brotherhood" twelve cantons formed a league against the "Centralists," who formed the Helvetic Government, and who were powerless without the support of the French. Their troops were beaten by the peasants of Unterwalden, and the Government compelled to retreat from Berne to Lausanne. Here they were again beaten by the forces raised by the Brotherhood, and were on the point of seeking a refuge in Savoy when General Rapp, with a French Army Corps which was quartered on the revolting districts, brought Bonaparte's proclamation and conveyed the Helvetic Government back to Berne.

A few Federalists, including Aloys Reding, who refused to obey Bonaparte's order to come to Paris, were imprisoned at Aarberg.



The rest of the story is given in the following pages.

In his intervention between the political parties of Switzerland, Bonaparte, as he himself several times repeated, was mainly moved by the necessity of keeping Switzerland under French protection, and preventing the interference of Austria, England, or any other Power, and to this extent his action may possibly deserve the stigma which has been cast upon it of being a "masterpiece of Machiavellian policy."

But he requires a cold heart and a muddy understanding who can read Bonaparte's words without being struck by the wisdom, the justice, and the profound historical statesmanship which they reveal. That they also measure the cynical contrast between the just and noble sanity of the First Consul of 1802 and the delirium of the Emperor of 1812 is undeniable. Among those who listened to his words with respect and admiration, how many could foresee that within ten years the Swiss people would be decimated and the country ruined by the same Bonaparte's harsh demands for more and always more food for powder during the wild course of his mad ambition and his downfall.]

**S**ITUATED in the middle of the belligerent Powers, Switzerland had failed to preserve her inviolability, which for so many centuries had been universally respected; nor had she been able to avoid the internal troubles which the Revolution had spread throughout Europe. After serving as the theatre of a long series of political intrigues, she had been subjected to a French invasion, and had suffered greatly from the exactions of the soldiers. After their withdrawal she remained a prey to her internal dissensions.

Bonaparte, when in Italy, had pressed an invasion of Switzerland upon the Directory; at a later period he admitted as much, though he maintained that the plan which he had proposed was widely different from that which was actually carried out. It was while in Italy that he said: "The Swiss of to-day are no longer the men of the fourteenth century. They are bold only when they are treated too gently. Directly you make them feel that you do not want their help, they become humble and servile." Times had, indeed, changed in this ancient Republic, as elsewhere. Public spirit had become less active; the Constitution had fallen out of harmony with the spirit of the age; the democracy and the aristocracy were growing more openly

hostile to each other. Both parties appealed to foreign Powers for aid. The democracy found their natural protectors in France; the aristocracy in the Powers at war with the French nation. Ephemeral constitutions, the work of one faction or the other, could neither satisfy nor silence the strife of parties, both of which were arming for civil war.

Bonaparte, having organised the Italian States, resolved to pacify Switzerland, and offered himself as arbitrator and mediator between the contending factions.

He notified the European Powers of his intentions, and gave his assurance that nothing was designed against the independence of Switzerland.

With this view he instructed Talleyrand to write the following letter to Monsieur Cetto, Minister of Bavaria in Paris: "The First Consul can never consent to abandon a country which stands in such need of the good offices of France, and which without her assistance must fall into anarchy, and ultimately fall again under the yoke from which she has escaped.

"Helvetia has now an opportunity of organising herself with the aid of the benevolent policy of the French Republic. The First Consul desires to enable her to do so, and to prevent a handful of *Émigrés* and deserters from foreign armies from depriving the rest of their fellow-citizens of their rights. The Treaty of Lunéville cannot be invoked by these men. The First Consul, who has guaranteed the execution of the Treaty, repudiates any suspicion of his object. He has not the slightest intention of reducing the Helvetic Republic to any such relations as exist between the Italian Republics and France. Such an idea is as foreign to his foresight as it is opposed to his conviction. On the contrary, it is his intention to assist Switzerland to organise itself in such a manner as to ensure its absolute and permanent independence."

In September 1802 Colonel Rapp was sent to Switzerland as Bonaparte's envoy to arrange the preliminaries of the proposed arbitration, while an army was mobilised under General Ney, in case force should be necessary to carry out the First Consul's mediation. Rapp took with him the following pro-

clamation, drawn up by Bonaparte himself, which was published at Berne immediately after his arrival—

“For two years you have presented a piteous spectacle. Opposing factions have successively gained possession of power, and have abused it by a system at once partial, weak, and incompetent. In the course of the year X. your Government has repeatedly requested that the small French force still remaining in Helvetia should be withdrawn. The French Government acquiesced in your desire for independence, but immediately afterwards your different factions again broke out, and Swiss blood was again shed by Swiss soldiers. For three years you have been at strife; neither party content to come to terms with the other. If you are left much longer to your own devices you will go on killing one another for three years to come. Your history shows clearly that your internal commotions have never been terminated without the intervention of France. It is true that I had made up my mind not to interfere with your internal affairs.

“I have seen your different Governments, one after another, asking my advice and neglecting to follow it, using instead my name in accordance with their own interests or passions. But I neither can nor ought to remain longer insensible to the evils to which your country is a prey. I have therefore altered my resolution, and I am now ready to mediate between your parties. But my mediation must be effectively carried out, with the respect due to the great nations (the French and Italian Republics) in whose name I speak. Five days after this proclamation is published the Senate will meet at Berne.

“Every Magistracy and Executive Office which has been set up at Berne since the Capitulation (18th September 1802) shall be dissolved, and shall cease to exercise any authority.

“The Prefects shall remain at their posts.

“All Cantonal authorities shall cease to meet or act.

“All armed bodies must disperse.

“The first and second Helvetic half-brigades shall constitute the garrison of Berne.

“Only those troops which have been embodied for more

than six months shall continue under arms. All officers and soldiers who are on furlough from the belligerent forces, and who have retained their arms, shall deliver them to the Municipality of their native commune.

“The Senate shall send three deputies to Paris, and each Canton shall send one.

“All citizens who during the past three years have acted as Landammans or Senators, or have held office in the central Government, are free to come to Paris to give information on the best means of restoring union and peace and conciliating the different parties. For my own part, I have the right to expect that no town, commune, or body will act in any way contrary to the directions contained in this Proclamation.

“Inhabitants of Helvetia, revive your hopes. Your country is on the edge of a precipice, but it shall be saved; all well-intentioned Swiss will second this generous project. But if, as I cannot believe, there are among you any large number of persons who are so wanting in patriotism that they will not sacrifice their passions and prejudices to the good of their country; in that case, men of Helvetia, you will indeed have degenerated from the quality of your ancestors. There is no sensible man who does not perceive that the mediation which I am undertaking is, for Helvetia, a blessing of that Providence which in the midst of so many disorders and disasters has always watched over the independence of your nation, and that this mediation is the sole remaining means of saving your country.

“It is high time that you should understand that whereas your Republic was founded by the union and patriotism of your ancestors, the present factions and parties will inevitably destroy it. It would indeed be a melancholy reflection that the age which has seen the rise of so many new republics should witness the downfall of one of the most ancient.”

The democratic party accepted Bonaparte's mediation with joy and gratitude. The aristocrats did all they could to gain time and help from Austria and England; but despairing of assistance from either country, and pressed by the French

troops, they ended by disarming, and contented themselves by protesting against the violence done to the independence of their country, and declaring that they yielded only to force.

As soon as the fifty-six deputies arrived in Paris, the First Consul informed them of his intentions by the following letter:—

“Citizen deputies of the eighteen Cantons of the Helvetic Republic, the situation of your country is critical. It can be saved only by moderation, prudence, and the sacrifice of your passions.

“I have pledged myself in the face of Europe to make my mediation effective. I shall fulfil the duties imposed on me by this august mission; a task which would be difficult without your concurrence, but will be simple if I have your assistance and your influence.

“Switzerland differs from all other countries in the series of catastrophes which have befallen her of late years, in her geographical position, her different languages, her different religions, and the extreme divergence of customs in her different Cantons. Nature herself has made your country a federation, and no wise man would wish to change it. Circumstances and the spirit of past ages divided you into sovereign and subject peoples; more recent circumstances and the spirit of the present age, more in accord with justice and reason, have established legal equality throughout your land. Many of your Cantons have for centuries been absolutely democratic.

“In others, certain families have obtained an ascendancy, and divided the inhabitants into rulers and subjects. The influence and spirit of the surrounding countries, Italy, Savoy, France, and Alsace, have essentially contributed to this state of things in these last-named portions of your land. The renunciation of all privileges is at once the desire and the interest of your people.

“Both you yourselves and the countries which surround you wish for, and are interested in, the following reforms:—

“1. The equal rights of each of the eighteen Cantons.

“2. A sincere and voluntary renunciation of their privileges by the patrician families.

“3. A Federal Constitution, within the limits of which each Canton shall be organised in accord with its language, religion, customs, interests, and opinions.

“The most important point is to complete this organisation of the Cantons. It will then remain to determine their relations with each other and with the central government, the latter being much less important than the Cantonal Governments.

“In your country nothing can be uniform; neither your finances, nor your army, nor your administration. You have never supported a regular, paid army; you cannot afford a financial system on a large scale; you have never had permanent diplomatic agents at foreign Courts. Situated on the height of the mountain ranges which separate France, Germany, and Italy, you share some of the spirit of each of these nations. The neutrality of your country, the prosperity of your commerce, and a homely system of administration are your only requisites. Such is the language which I have consistently held to your countrymen when they have consulted me on their affairs. It seems to me so reasonable, that I hope that it will require no extraordinary effort to convince you of the good sense of my words. But many of those who have seemed thoroughly to realise their truth have held no less tenaciously to the system of privilege and family, and have shown a constant tendency to oppose France and to seek for alliances and support among her enemies.

“No organisation which is opposed to the welfare and goodwill of France can be to your own highest interest. Having addressed you in terms becoming a Swiss citizen, I am bound, as the Chief Magistrate of two great countries, to tell you in the plainest terms, that neither France nor the Italian Republic will allow any system of Government which would be in favour of their enemies, to be established in your country. The peace and welfare of 40,000,000 of people, your neighbours, without whom you could find no means of existence either as a State or as individuals, weigh heavily in the scale of international justice. You must be in harmony with them, and, as in past times, your first interest, your first policy, your first duty, must be to allow

nothing to be done within your territory which is directly or indirectly injurious to the interest, the honour, or the welfare of the French people.

“Had not your own interests and the necessity of putting an end to your quarrels been sufficient to make me intervene, the interests of France and Italy would have made it my duty to do so. In point of fact, your insurgents have been led by those who were making war upon us, and the proceedings of all their Committees have been in favour of privilege, against equality, and manifestly insulting to the French people. Neither of your parties will be permitted to have its own way, least of all the beaten party. A counter-revolution is out of the question. I am glad to meet you; I shall frequently repeat what I am now saying, because until your citizens have thoroughly grasped my meaning you can never effect a reconciliation and restore peace and happiness to your country. The policy of Switzerland has always been considered throughout Europe as forming part of the policy of France, Savoy, and the Milanese dominions, because the very existence of Switzerland is bound up with the welfare of these countries. The first and most essential duty of the French Government will always be to guard against your adoption of a system hostile to France, and to prevent our enemies from placing themselves at the head of your affairs. Not only must we secure ourselves against any dangers which might threaten that portion of our territory which marches with yours, and which is open to your attack, but we must further ensure, in case of your neutrality being violated, that your own interests and the goodwill of your Government should lead you to range yourselves on the side of France and not on that of her enemies. I shall give careful attention to all that you may wish to represent to me, whether collectively, individually, or by your Cantonal deputations. The Senators Barthélemy, Fouché, Roederer, and Desmeunier, whom I have charged to deal directly with you, to study your interests and to formulate your views, will acquaint me with all that you desire to lay before me.”

The quasi-Helvetic Congress thus summoned enjoyed absolute liberty in its discussions. Its debates were long and

animated, but they produced no result, since they could arrive at no agreement on the main question, the political formation of the Federal Government.

Bonaparte therefore determined to summon to a personal conference five Deputies from each of the two parties,—those who desired a central unified Government, and those in favour of a Federation.

The first party selected Stapfer, Sprecher, Von Flue, Monod, and Usteri; the second sent Affry, Jauch, Reinhard, Glutz, and Wattenwyl de Montbenay. The conference of these ten Deputies with Bonaparte took place on the 28th January 1803.

They sat from one until eight p.m. What passed was as follows :

*Bonaparte*: "The work before us is serious. It is to settle the differences between the two parties which are rending Switzerland. I am told that the principal points on which you are divided are the liquidation of the debt and several articles of the Cantonal constitution. Let us begin with the latter."

*Democratic Cantons (Schwyz, Appenzell, Glarus, Uri, Unterwalden, and Zug)*.

In these Cantons the reforms asked for were that admission to the *Landesgemeinden*<sup>1</sup> should be restricted to persons over twenty years of age and possessed of property to the value of 200 francs or upwards; that to the *Landrath* should be assigned the sole power of introducing Laws, and that a new judicial organisation should be drawn up by the Landrath and sanctioned by the Diet.

*Bonaparte*: "The best way by far will be to return to the old order in the Democratic Cantons. Their form of government distinguishes them from all the rest of the world, and interests all Europe. Without these democracies you would have no local

<sup>1</sup> The *Landesgemeinden* are open-air Assemblies of all those possessing votes, held in the spring of each year. At these meetings the Landamman of the Canton seats himself at a table, and the people stand or sit around him. Laws are freely debated and voted, and the officials for the coming year appointed. The *Landesgemeinden* still exist in Uri, Unterwalden and Glarus. They were abolished in Schwyz and Zug in 1845. Some Cantons possess also a *Landrath*, a representative body which prepares measures to be laid before the *Landesgemeinde*, and can convoke an extraordinary session of the latter at any time.



colour to distinguish you from all other countries. Think carefully over the importance of these characteristic traits, but for which other States might take you to be simply part of themselves, and incorporate you in their own territories.

“I know perfectly well that these democracies have many inconveniences, and will not bear a moment's criticism from the point of view of pure reason ; but they have been in existence for ages ; they originated in the natures, needs, and habits of a primitive people ; they adapt themselves precisely to the *Genius Loci*, and necessity easily outweighs pure reason.

The Constitutions of these small Cantons may not be reasonable, but they are sanctioned by local usage, and when custom and reason are opposed to each other, custom must carry the day. You want to abolish or reform the Landesgemeinden, and yet you sing the praises of democracies and republics. Free people have never allowed themselves to be deprived of the direct exercise of their sovereignty. They neither understand nor admire these modern inventions of a representative power so constructed as to destroy the essential qualities of a Republic. The only reform which legislators should allow themselves to make, is to give a proportionate influence to education and property, without seeming in any way to detract from the direct sovereignty of the people. In Rome they did this by voting by classes, the lowest of which comprised all the proletariat, while the two higher ones consisted of a few hundred illustrious or opulent citizens. But the people allowed themselves to be perfectly contented, amusing themselves by casting their own votes, which all told, did not outweigh those of a few nobles and rich men. Moreover, why should you want to deprive these poor herdsmen of the only event of their lives. With their monotonous existence and with plenty of spare time on their hands, it is natural that they should like to manage their own affairs. To deprive these pastoral people of the prerogative of which they are so proud, which is the habit of their race and which does no harm to anyone, would be a piece of wanton cruelty.

“If at any future time they indulged in persecution or in explosions of rage the Diet would suppress them offhand

However, if you insist upon it, and if it is not contrary to their ancient usage, there would be no objection to limiting the Landsgemeinden to debating only laws or orders initiated by the Council (Landrath), or to excluding young men under twenty. This would prevent a young lieutenant on his summer furlough bringing forward incendiary motions or trying to overturn the Government.<sup>1</sup>

“As for criminal laws, they belong to the Landsgemeinden. These small Cantons have the power of ostracising or of confiscating the goods of a citizen who is supposed to be too rich. These are strange laws, no doubt, but they belong to the nature of a pure democracy. In Athens the whole mass of the people acted as judges. One thing must be done. It must be made clear in the Federal Constitution that no one is to be prosecuted for his political action in the past, and that any citizen who does not find himself safe in his own Canton, may settle himself in another. This freedom of residence, and liberty to everyone to carry out his business wherever he chooses must be general laws for the whole of Switzerland. I hear that the small Cantons object to this, but who would choose to settle in their villages in the midst of the mountains?

“They are good enough for those who are born there, but certainly no one else would be tempted to try them. Up to the time of the Revolution these small Cantons have always been attached to France. If they have been disposed in recent years to incline towards Austria, that is only a passing phase. They cannot be envious of the fate of the Tyrol. In a short time we shall have restored our old relations of fifteen years ago; we shall again take their regiments into our service, and so revive a pecuniary resource for these impoverished peasants.

“This we shall do, not because we have need of these troops; I can raise as many soldiers as I need in France itself by issuing a single order, but because it is to our interest to attract these democracies to us. It is they who form the real Switzerland

<sup>1</sup> Twice in the course of this conversation Bonaparte alludes to young revolutionary subaltern officers. He is no doubt alluding to his own proceedings in Corsica in 1791 and 1792.

to which the plains were added at a much later date. The Swiss democrats are naturally more friendly to France than the aristocrats. I warn these aristocratic partisans that they will come to utter ruin if they continue blind to the important fact that the only hope for Swiss prosperity lies in her attachment to France. All your history proves this. You are an aggregation of small democracies and free imperial cities leagued with each other by common dangers and cemented together by French influence. Since the Revolution you have been obstinately bent on finding salvation outside France. It is not to be found. Your history and your good sense should teach you that.

“It is in the interest of self-defence that France allies herself to Switzerland; it is for purposes of attack that other Powers wish your alliance. The former is a permanent interest, the latter depends on passing moods and events.

“Switzerland can never defend her own lowlands without French assistance. France is open to attack throughout her Swiss frontier. Austria is in no such danger. I would have gone to war and sacrificed a hundred thousand lives rather than allow Switzerland to remain in the power of the leaders of your last insurrection;<sup>1</sup> so great is the importance of your country to France. The interests of other countries in yours is infinitely less. England might be prepared to pay you a few millions, but that is no permanent support. Austria has no money, while she has plenty of men. Neither England nor Austria is ready to enrol Swiss regiments in their service; but France is. I declare that since I found myself at the head of the Government no foreign Power has shown the slightest interest in the fate of Switzerland. The King of Prussia and the Emperor have reported to me all the movement of Aloys Reding. Which of the Powers would sustain you against France? It was I who secured the recognition of the Helvetic Republic at Lunéville. Austria took no interest whatever in it. At Amiens again I wished to do the same; it was England that refused to recognise you, but England has no business in Switzerland. If she had expressed her fear of my becoming your Landamman I would

<sup>1</sup> Reding, Rudolf von Erlach, and the other leaders of the “Swiss Brotherhood.”

myself have been your Landamman then and there. I am told that England interested herself in your last insurrection; if the English had taken any diplomatic steps in that direction, or if I had found a word about it in the *London Gazette*, I should have annexed you. I repeat, if the aristocrats continue to seek foreign aid they will ruin themselves, and France will end the difficulty by turning them out of the country.

“That is what ruined Reding and Mulinen; for that matter, it is the aristocratic party that has ruined Switzerland. And what (turning to the Deputies of the Aristocratic party) do you complain of? In saying you, of course, you understand that I mean your party, not yourselves. You say you have thwarted the Revolution to save your own lives and properties.

“The Republicans did you no harm. Even in the worst crisis, in the time of La Harpe, they shed none of your blood. They were guilty of neither violence nor persecution. They did not even abolish the tithes or the cens (land-tax).

“If they had done away with the cens the people would have rallied to them. It was precisely because they refused to abolish the tithes and the cens without any indemnity, and would not consent to popular elections, that the party in favour of a unified Republic lost their hold on the people; but in doing so they furnished ample proof of being no revolutionists, while you, the moment you regained your power you began arresting and persecuting, at Lucerne, at Zurich, at Aarau. You have nowhere shown the moderation of the Republican party.

“There has been a tremendous outcry against the bombardment of Zurich,<sup>1</sup> much more outcry than the matter deserved. After all, it was only a rebellious town. If any of my Departments refused to obey my orders I should treat it in the same way. And you yourselves, did you not bombard Fribourg and Berne? It was not violence of which the Unified Republicans were guilty, but weakness. They ought to have held Berne, and known how to die, not to have run away like a pack of cowards from Wattenwyl and his few hundred men (in September 1802).

<sup>1</sup> Zurich was besieged and bombarded by General Andermatt, commanding the forces of the Central Government, in September 1802.

“Look at the disgraceful conduct of Dolder, letting himself be taken in his own room.<sup>1</sup> A man who chooses to play the part of ruler should know how to take his life in his hands, and be prepared for assassination at any time. I have heard a good many criticisms on Monod's Proclamations.<sup>2</sup> For my part, I heartily approve of them. I admire and esteem energy, and he has shown plenty of it. But your Central Government has been contemptible since Reding's time. Reding himself showed neither intelligence nor good sense.<sup>3</sup>

“He came here (April 1802), which was running no small risk, but he might have got some advantage out of it had he not kept on harping upon the Valais and the Vaud, although I told him that the sun would go round the wrong way before the Vaud was given back to Berne. Finally, he committed the folly of sending Diesbach to Vienna after we had refused to receive him here.”

#### *The Grisons*

Addressing Sprecker, Bonaparte said: “You would like to have the Valtellina,<sup>4</sup> but you deserved to lose it, and I can hold

<sup>1</sup> In July 1802, Dolder, who held the post of Landamman in the Government of the Centralised party in 1802, was kidnapped and carried into the country by some young men of his own party, who thought him too weak to be at the head of the Government. After two days' confinement in a country ch  let he escaped and returned to Berne.

<sup>2</sup> Henri Monod, a member of the Centralised Government, issued a proclamation, in July 1802, forbidding the meetings of the “Swiss Brotherhood,” and declaring their conduct treasonable.

<sup>3</sup> Reding's visit to Paris was in April 1802, while he still occupied the post of Landamman in the Federalist Government, which was replaced by the Centralised party in June 1802.

<sup>4</sup> The Valtellina became subject to the Grisons in the sixteenth century. The refusal of the Grison people to give the valley the rights of citizenship led to many revolts, notably that of July 1620, known as the “St. Bartholomew of the Valtellina.” The Grisons being in the main Protestant and the Valtellina Roman Catholic by no means lessened the hardship of the valley as a dependency. When Bonaparte formed Lombardy into the Cisalpine Republic the inhabitants of the Valtellina petitioned to be annexed to it. It was on this occasion that Bonaparte uttered the famous political maxim, “No people can be subject to another people against their will without violating the laws of nature.” The annexation of the Valtellina to the Cisalpine Republic was ratified by the Treaty of Campo Formio, 17th October 1797.

out no hope of your recovering it. There were some properties sequestered in the Valtellina which really belonged to the Grisons, some of which have not been sold. Anyhow, I have forwarded your Memorandum to Milan. In reply to one of the Deputies, who pointed out that if the Valtellina belonged to Switzerland it would prevent the Austrians from using it as a highway to Italy, Bonaparte replied that as part of the Italian Republic, the Valtellina would be more useful to France for purposes of attack.

*The Aristocratic Cantons (Berne, Fribourg, Soleure, Basle, Zurich, Lucerne, and others).*

*Bonaparte:* "In the Aristocratic Cantons your chief objections are to the conditions of eligibility for election, to the Grabeau,<sup>1</sup> and to the duration of office. The Grabeau seems to me an absolute necessity in these aristocratic Governments. All aristocracies tend to form themselves into bodies independent of the governed classes, and indifferent to their wishes and opinions, until they become at last incompetent to govern and hateful to the people.

"The only cure for these evils, or at least the only way of checking their growth and of saving the aristocratic Governments from anarchical insurrections, is the Grabeau. All aristocracies have had some such machinery. In fact, it is absolutely necessary. The Censors of Rome, the Grand Inquisitors of Venice, always anxious to maintain the respect and esteem of the public, never dared to defy public opinion, and found themselves obliged to get rid of Senators who had been either contemptible or unpopular. All the obligations of the ancient world had their Grabeau in one form or another. We can prevent the abuse of this system by regulations. It had better be abolished as regards

<sup>1</sup> Thibaudeau's note.—"The Grabeau is a verbal examination to which each member of the Government (both administrative and judicial officials) in these Cantons had to submit in turn at Easter. At the end of this examination a vote was taken on the re-election of the member whose acts had been inquired into. The whole business had degenerated into a form, but it was always possible, if the colleagues of the magistrate who was undergoing this description of trial desired it, to turn it into a reality, which might lead to his suspension, or to a legal process. The institution is still preserved in some Cantons."

the lesser Council, one-third of which is renewable every alternate year, but the posts in the Great Council, which are for life, make it absolutely necessary, though it need only be brought into use every second year. These life appointments are necessary to give stability and dignity to the Government. New aristocracies are bound to arise and if they are to be stable, firm, and orderly they must have some immovable centralised power to serve as a fixed point around which men can rally in periods of transition. As to the pecuniary qualifications, they should not be fixed too low, for the sake of the country districts. If the country members of the Great Council are too poor, they will bring contempt on their constituencies and on the whole Council by the meanness of their households in towns where well-to-do tradesmen will be spending much more than they can afford. Direct elections are preferable to Electoral Colleges, which are especially liable to intrigues and cabals. That has been our experience in France throughout the Revolution, and you" (turning to the Deputies of the Aristocratic Cantons) "will gain by the direct method. The people themselves are more likely to be influenced by the prestige of a man of rank or wealth than an Electoral Assembly. The present qualification of 1000 francs might be halved, so as to make it necessary for voters to have not less than 500 francs and the citizenship of the Canton. In poorer districts, like the Oberland, a smaller minimum may be fixed upon. Marriage or widowhood has hitherto been an essential qualification for the electorate, but this had better be so far modified as to allow votes to unmarried men when they reach the age of thirty. I fix this age because it is important to prevent some young soldier who has no family to bind him to his country, and who only lives at home for a few months or a year, from giving you a lot of trouble."

In reply to an observation that it would be an advantage to renew a large proportion of the Grand Council, Bonaparte replied that it would be better to wait for some years, at the end of which period there would be a good many new members required. He acquiesced in a demand that the voters should

have the power to nominate candidates in the other divisions of the Canton, not in their own. He observed that this would certainly be an advantage to the towns, which offered a far larger choice of candidates than the country districts. All the Deputies of the Aristocratic party approved of this, with the exception of Reinhard of Zurich.

“What is the reason,” asked Bonaparte, “of the animosity between town and country in your Canton?” “It is due,” replied Reinhard, “to several causes, physical and moral,—above all, to the fact that the peasants are rich.”

*New Cantons (St. Gall, Thurgau, Vaud, Aargau, Grisons, Ticino).*

It was agreed that in the new Cantons the Grabeau should be dispensed with, since election to the Grand Council was not for life. An alteration in the Article on the Judicial Organisation, to allow of the establishment of juries, was demanded. Bonaparte replied—

“This Article should be drawn up in the most general terms. A Constitution should never go too much into detail; it should simply determine how laws are to be made. If it goes beyond this, and actually makes laws which cannot be altered, it is certain that the Constitution itself will be violated in consequence. As to juries, we find great difficulties in working them in France. Juries are too often influenced, in giving their judgments, by political passion. It may be that as these passions calm down we shall derive more advantage from them than we do at present.

“We have come in France to realise that judges should be appointed for life, and that they should be chosen from the legal profession. When this is the case they do not merely work from a sense of duty, but take an interest and pride in their profession.”

*The Federal Bond. The United Republic.*

*Bonaparte:* “You might have had a Unified Republic if your social life, your history, and your relations with foreign Powers had tended in that direction, but all these powerful influences have naturally led you to a federal system. No form of



Government which is not the result of a long series of events, the misfortunes, efforts, enterprises of a nation, can ever strike deep roots in a country. Passing circumstances, the interests of the moment, may seem to render an opposite system advisable, and may even cause its adoption, but it will never be lasting or stable.

"Take our own case. We have had our federalists, as Marseilles and Bordeaux know only too well. The habits of the French people, and the part which France is obliged by its position and by the character of its people to play in Europe, made it impossible for it to submit to being parcelled out in a manner contrary to its customs and its greatness. But you are in a condition entirely different. Peace and obscurity are best suited to your welfare. In an age when your neighbours were not more powerful than yourselves you could play a part in history, but to-day what have you to oppose to the great Powers of Europe if they choose to attack you? You would need at least six thousand men to support your Centralised Government, and how could you raise or pay such an army. Neither your finances nor your population permit you to play a great part. You would always be weak and your Centralised Government would inspire no respect abroad.

"On the contrary, as an example of a federation, Switzerland has always enjoyed the sympathy of Europe, and will do so in future. Rather than have a Centralised Government you would do well to become Frenchmen. The French are a people who can always hold their heads in the air."

A Deputy observed that Switzerland would never be able to bear the taxation of France.

*Bonaparte*: "Of course not. It would not suit you at all. No one seriously thinks of such a thing. I never myself believed for a moment that you could be formed into a Republic, one and indivisible. When I was passing through Switzerland (November 1797) on my way to Rastadt it seemed to me that your affairs could easily be arranged. The Directors at that time consulted me, and I expressed my opinion that it would be well to take advantage of your then condition to

bind you more closely to France. I suggested the separation of the Vaud from Berne, and its formation into a separate Canton. That would have been an advantage to France in many ways. Also I wished to quadruple the number of ruling families in Berne and the other aristocratic Cantons, so as to secure a majority friendly to France, but I never had any desire to see a Swiss Revolution. The idea of mediating between you has caused a great deal of embarrassment, and I hesitated for a long time before I made up my mind. But at last I was sure that it must be done. I find it exceedingly difficult to dictate constitutions for countries of which I have only a very imperfect knowledge. If I fail I shall be hissed, a thing for which I have no liking."

The question was raised of the withdrawal of the French troops.

*Bonaparte*: "They must remain until your new Constitution is put into working order, but as soon as the arrangements are completed here you will cease to pay for them. It has not been from impecuniosity—I have plenty of money at present—that I have made you pay for them hitherto, but to punish the Diet at Schwyz,<sup>1</sup> which behaved so badly as to make me send troops.

"It should either have put down its arms or have fought, but it did neither. You said (addressing the Deputies of the Aristocratic party) that you wanted to see the French Grenadiers. Very well, you have seen them. All Europe is waiting to see France settle the affairs of Switzerland. It is everywhere recognised that Italy and Holland as well as Switzerland are at the disposal of France."

The Deputy from Berne (Herr Wattenwyl) observed that the Swiss Aristocratic party had never been hostile to France itself, but only to the revolutionary and insurrectionary spirit of the Directory.

*Bonaparte*: "But, Monsieur Wattenwyl, does not your party even to-day disapprove of your coming to Paris?"

*Wattenwyl*: "Only some five or six individuals."

<sup>1</sup> Which formed the Swiss Brotherhood. See Introductory note.

*Bonaparte*: "Oh! very well."

The Aristocratic party demanded that each Canton should have, as formerly, a single vote in the National Diet; the Republican party contested this point.<sup>1</sup> Bonaparte inclined towards leaving the question to be decided by the will of the People.

As to the convents, after learning how many there were in each Canton, and what the Deputies of each Canton desired, Bonaparte said: "They are public monuments; a sort of opera houses for the mountain people."

A long discussion followed on the liquidation of the debts of the Helvetic Republic. Bonaparte closed it with the words: "The question is not yet quite ripe." He then dictated the following decisions to Roederer, as representing the propositions made by the Aristocratic party:—

1. The property of each Canton shall be restored to it.
2. Each Canton shall buy the property belonging to the capital as communal property.
3. The property of convents and corporations shall be restored.
4. Each Canton shall pay the debts it contracted before the Revolution.
5. The debt of the Helvetic Republic shall be shared by the Cantons, in proportion to the property handed over to each.
6. The debts of the Cantons carved out of the Canton of Berne shall be paid out of the property given back to them by Berne.

7. The National Diet shall be charged with the liquidation.

A demand was made for a permanent settlement of the National Government in one Canton.<sup>2</sup>

*Bonaparte*: "This would be a return towards a centralised

<sup>1</sup> The question was settled by granting to the Cantons containing 100,000 inhabitants or upwards two votes in the Diet, and those with less than 100,000 one vote.

<sup>2</sup> It was ultimately decided that the seat of Government should alternate between Fribourg, Berne, Soleure, Basle, Zurich, and Lucerne, each being the capital in turn for one year, during which the burgomeister should be Landamman of the Federation.

Government. The Landamman, if he came from another Canton, would not find the necessary respect and consideration; he might fall under the dominating influence of a municipality, say of Berne. It would be better that the National Diet should fix each year the place where it would sit during the following year. In case of an insurrection in any Canton the Landamman should be empowered by either the greater or the lesser Council to send troops against it. Each Canton may coin its own money, but the coins must be of the same type and value." To the request of one of the Deputies of the Aristocratic party for the release of the prisoners at Aarberg,<sup>1</sup> and the restitution of their arms, Bonaparte made no reply, but turned his back and spoke of other subjects.

The Act of Mediation was accepted, and was published on the 30 Pluviose (19th February 1803), preceded by the following preamble addressed to the Swiss nation. " Helvetia, rent in two by internal dissension, was on the brink of dissolution, and was unable to find at home, any means of saving herself. The ancient affection of the French for this estimable people, whom she has recently defended by her arms, and obtained recognition of as a nation by her diplomacy; the interests of France and of the Italian Republic, whose frontiers march with those of Switzerland; the demand of the Senate and of the democratic Cantons; the desire of the whole Swiss nation; all these weighty considerations made it our duty to offer our mediation between your opposing parties. The Senators Barthélemy, Roederer, Fouché, and Desmeunier have been charged by us to confer with fifty-six Deputies of the Helvetic Senate and of the cantons and towns. The matters to be determined were: whether Switzerland, which nature has formed to be a Federation, could be compelled otherwise than by main force to remain a Centralised Republic; to decide on the constitutional forms most in accordance with the wishes of each Canton; to discover what would most faithfully fulfil the ideas which the new Cantons have formed of their liberties and welfare; to con-

<sup>1</sup> Reding and others.

ciate, in the old Cantons, institutions consecrated by time with the rights now restored to the mass of the citizens. The importance and difficulty of solving such questions determined us to summon the Deputies nominated by each party, namely, the Citizens d'Affry, Glutz, Jauch, Monod, Reinhaud, Sprecher, Stapfer, Usteri, Wattenwyl, and von Flue, to meet and discuss with us each point in dispute. We have compared the result of this discussion with the different projects presented by the cantonal deputations, and with the results of the debates of these deputations and the Senators; thus employing every means in our power to understand the interests and wishes of the Swiss people.

“With no other desire than the welfare of the people upon whose interests we have been called upon to pronounce, and without wishing in any way to injure the independence of Switzerland, we, in our capacity of Mediator, now decree as follows.”

The Act of Mediation was transmitted in a public audience by the First Consul to Barthélemy, who handed it to Citizen d'Affry,<sup>1</sup> appointed Landamman of Switzerland.

Two days later the Swiss Deputies took leave of Bonaparte, when Affry made a speech expressive of the gratitude of his country. All the Cantonal Governments subsequently repeated these expressions in addresses to the First Consul.

<sup>1</sup> Count d'Affry, the first Landamman of Switzerland under Bonaparte's settlement, was a member of a distinguished family of the Canton of Fribourg, whose ancestors had for several generations served in the Swiss Guards of the Kings of France. His father had been colonel of the Swiss Guard of Louis XVI., and was one of the few officers of that regiment who escaped after the 10th August.

D'Affry himself had risen to the rank of Lieut.-Colonel of the French Guards, and later of Lieut.-General. He was dismissed with all the Swiss officers in the French service in 1792. After his year of office as Landamman he continued to play a considerable and statesmanlike part in Swiss politics until his death in 1810.

## CHAPTER XV

### DISCONTENT IN THE ARMY—CHANGES IN THE MINISTRY—FOUNDATION OF THE EMPIRE

1802—1804

EVERYTHING seemed to smile on the First Consul. So far as one could see there was no open opposition left. All the civilian element of the Republican party was either in favour of the Consulate for life or remained silent.

The Army as a whole was devoted or submissive, but there still remained some military chiefs who, relying on their services or their swords, still offered some resistance to the progress of Bonaparte towards that supreme power to which all the rest of the nation was yielding. Among these, were some who really regretted their lost liberties, while others were moved by jealousy of a brother officer whose equals they considered themselves to be. In the Army, Moreau and Bernadotte were looked upon as the last of the Romans, and it was around them that the malcontents rallied.

Bernadotte, brother-in-law of Joseph Bonaparte, spent his life in alternately quarrelling and seeking reconciliation with the First Consul.<sup>1</sup> He had now lost the command of the Army of the West, and was living in some disgrace in Paris. In his army there had been circulated pamphlets against the nomination for life, and a certain number of negative votes had been cast, among others by the majority of the 82nd half-brigade at Rennes. This was attributed on solid grounds to Bernadotte's

<sup>1</sup> After the discovery of the conspiracy of the officers of his staff, Bernadotte in 1801 resigned his command of the Army of the West on the pretext of ill-health. He remained without employment until 1804, when he was appointed a Marshal of the Empire.

influence. Several officers of his staff, among them Simon and Marbot, had been arrested. Two other officers, Colonel Fournier and Adjutant-General Donadieu, were more or less openly accused of having conspired against the life of Bonaparte.

Moreau met the pomp of the new Court by a somewhat overstrained simplicity. Among the brilliant uniforms which surrounded him, he appeared always in plain civilian clothes. His excessive modesty came to be looked upon as excessive pride.

One day the First Consul, having invited him to a great ceremonial dinner, he declined, saying that he preferred small dinner parties. Another time Moreau came to Malmaison at the moment when Bonaparte was starting for a review, which was to be followed by a large dinner party. Bonaparte invited him to mount on horseback and accompany him, but Moreau refused, and absented himself from both review and dinner.

Again he was invited with all the other Generals to the *Te Deum* for the Concordat, and to the other festivities on this occasion, but he never came, and soon afterwards laughed at the whole proceedings in the presence of a number of officers of rank who dined with him.

At a subsequent dinner at the Tuileries someone expressed surprise that Moreau was not present, and Bonaparte took the opportunity to say that he was tired of asking him and should do so no more. Naturally, these trifling incidents and many others of the same kind served to increase the coldness between the two, which rapidly passed into open enmity.

Madame Hulot, Moreau's mother-in-law, objected to being kept waiting for a few minutes when she and her daughter called on Madame Bonaparte. She declared that it was not becoming that the wife of General Moreau should have to dance attendance in the ante-chamber of the wife of General Bonaparte, and in fact she did all that she could do to embitter the hostility between the two Generals.

Things came to such a pass that Moreau wrote to Petiet: "As I am not in a position to ask a favour or help a brother officer, I beg of you to recommend N. to the First Consul."

The English newspapers fanned the flame by magnifying the

misunderstanding, and extolling the high merits of Moreau in opposition to Bonaparte. All these quarrels and misunderstandings, which formed the small-talk of the drawing-rooms and cafés of Paris, were not so much as heard of in the provinces.

After his nomination for life the First Consul made several changes in the Government, the most remarkable of which was the suppression of the Ministry of Police and the nomination of Fouché to the Senate.

Fouché<sup>1</sup> was of plebeian origin, and had been an ardent Revolutionist. His family, his friends, and his connections

<sup>1</sup> With the exception of Napoleon himself, no individual of the Consulate and Empire presents so interesting or enigmatical a character as Fouché, but space will not permit here more than the briefest possible skeleton of his career. Joseph Fouché, born in May 1763, began life as an Oratorian, but had taken only Minor Orders when the Revolution reversed his career, and turned the Oratorian schoolmaster into a member of the Convention. It is interesting to note how large a number of members of this Order became Revolutionists of an extreme type. Two at least—Joseph Le Bon and Billaud Varennes—were, like Fouché, among the grimmest of the Terrorists. It is one of the many paradoxes of Fouché's character that while in the days of the Terror he behaved with exceptional ferocity towards churches and clergy, he preserved a certain regard for his brother Oratorians, whom in the years of his greatness he never failed to assist or employ. As is well known, he was one of the most infamous of the Terrorist Proconsuls, but the curious point about this portion of his life is that he was looked upon with nothing but contempt, even by the members of his own party. Thus Robespierre (who had been his personal friend at Arras in 1788) denounced him to the Jacobin Club (11th June 1794) as "a vile and despicable impostor whose hands are full of stolen plunder." After Robespierre's fall the Thermidorians—Tallien, Fréron, Legendre, and the rest—declined to accept him as a colleague. When, denounced in the Convention on the 9th August 1795, he succeeded in obtaining their half-hearted protection, Boissy d'Anglas exclaimed: "Fouché had nothing to do with the 9 Thermidor; that day is too glorious to have been dishonoured by the help of such a man." Worst of all, he was one of the few—the very dregs of the Convention—who failed to obtain re-election to the Corps Législatif either from his own constituents or from his colleagues, who adopted a sufficient number of rejected members to compose two-thirds of the new Legislature. After this apparently complete débâcle he fell into complete obscurity, from which he was rescued by Barras, who, after sending him on Embassies to the Cisalpine Republic and to Holland, appointed him Minister of Police 20th July 1799. From this date Fouché had found his career, and it is certain that never again did any man treat him with contempt. The strange influence which he exercised over the mind of Bonaparte is noticed by Bourrienne, Pasquier, and many others, while Josephine considered him (until he deserted her cause and advocated her divorce in 1810) as one of her most devoted friends.

In September 1802 he was dismissed from his Ministry, and entered for the time into dignified and well-pensioned retirement as a Senator, but though holding no





FOUCHÉ



bound him to the revolutionary cause, his education to the cause of equality, his principles to that of liberty, his vote for the death of the King to the Republic, and his Missions under the Convention to Nevers and Lyons to the Terror. He was a man of loose morals and ill-bred manners. Although better fitted for a demagogue than a courtier, he was devoted by his private interests to the Consulate, but his devotion was never servile, and he was no flatterer. His conscience was elastic. He carried out his orders, but he argued and disputed over

office he was constantly consulted by Bonaparte. The judicial murder of the Duc d'Enghien, on the 21st March 1804, drew from him the famous judgment: "It is worse than a crime; it is a blunder." On the 10th July of the same year he was restored to the reconstituted Ministry of Police, which he held singly or in conjunction with the Ministry of the Interior for eight years. In December 1808 he entered into an alliance sinister in its presage of the Emperor's fortunes, with his former rival Talleyrand, one month before the violent scenes of the 23rd January, in which in the course of a few minutes Napoleon made of Talleyrand an irreconcilable enemy. In August 1809 he was created Duc d'Otranto. On the 3rd June he was for a second time dismissed, but his dismissal was softened by the bestowal upon him of the title of Governor of the Roman States and Minister of State. Shortly afterwards he found it well to leave France. He went to Florence, and remained there until June 1811, when he was permitted to return to his French estate of Pont-Carré. In 1812 he endeavoured to persuade the Emperor to abandon the Russian Expedition. In 1813 he was sent to King Murat in Italy, whence he returned to Paris on the 10th April 1814, two days after the Count d'Artois had entered the city. He remained in private life until Napoleon returned in March 1815, when Louis XVIII. asked his counsel and assistance. The Ministry of Police is said to have been offered to and refused by him, on the ground that it was too late for anything but flight. On the evening of the 21st March, Napoleon arrived at the Tuileries, and an hour or two later Fouché became for the third time Minister of Police. After Waterloo he assumed the lead of the Provisional Government, and was mainly instrumental in securing the flight of Napoleon and the peaceful restoration of Louis XVIII., which he followed up by the Ordinance of the 24th July, proscribing, as Talleyrand said, "all his oldest and most intimate friends." The King, conscious both of Fouché's power and of his own obligations to him, endeavoured to retain his services as Minister, but this grew impossible after the election of the new Chambers; more royalist than the King. On the 19th September Fouché therefore resigned the Ministry of Police, accepted the post of Ambassador to Saxony, and set off for Dresden. But the Law of the 12th January 1816, which deprived of office and exiled all who had both voted the death of Louis XVI. and joined Napoleon during the Hundred Days, put an end to Fouché's active career.

He retired to Prague, where he died at the age of 57, on the 25th December 1820, leaving a fortune somewhat under three-quarters of a million sterling.

In 1824 a work published under the title *Mémoires de Fouché* was declared by a French Court to be spurious, but it has been generally held that the compiler, A. de Beauchamp, worked from the actual papers of Fouché.

them. With the aid of his ubiquitous police he knew everything about the affairs of the State, the Court, and the Bonaparte family. The future drew him towards the men of the old régime, while the past kept him on terms with the revolutionists. Though he had many times, notably in the affair of the Infernal Machine (24th December 1801), sacrificed his old friends against his convictions, his predilections were still in their favour. His aim was to stand well with all parties, to use each of them for his own purposes, and to be regarded by each as a protector. Honours and fortunes had not affected the simplicity of his manners, but he had no doubt acquired a taste for power. Habituated to arbitrary methods, while he kept within the limits of legal justice, he disdained its formulas.

With little experience or knowledge of the management of public affairs, he made up for his deficiencies in this respect by quick insight, activity, and promptitude. He treated the most serious matters with a light hand, disdained distractions and pleasures, and loved money not to spend but to save. His Ministry was a gold mine and the profit he made out of the control of gaming-houses was enormous. He spoke little in public, much in private; indeed, he found his best means of gaining police information in conversation.

He and Talleyrand served as biographical dictionaries to the First Consul,—Talleyrand knowing everything about the men of the old régime, and Fouché about those of the Revolution. Fouché, however, was not content with being useful to Bonaparte, he aimed at becoming indispensable, but he was often indiscreet in representing himself in the character of a mediator between the mistakes or errors of the supreme power and the people, and the enemies of the Revolution often sang the praises of the Minister at the expense of the head of the State. The First Consul attached great importance to the police; indeed, he himself employed police of all sorts.

It was not for the sake of promoting morality or liberty that Bonaparte determined to suppress the Ministry of Police. In point of fact, he looked on Fouché's police as an institution

which might become a serious danger to the Government, and this opinion was strengthened by the fears with which the character of Fouché himself inspired him.

He had often resented the independent and arrogant tone which Fouché assumed, and had many times revenged himself by making violent attacks upon him in public ; as, for instance, on the attempt of December 1800, the Newspapers, the Drama, the Clergy, the Émigrés, and Theophilanthropists. Fouché made a point of never replying to these public attacks, for fear of divulging his secrets while defending himself. He preferred to appear for the moment in the wrong, and to postpone his explanations for a private interview. This silence irritated Bonaparte, even though he knew its cause, and gave Fouché's enemies, of whom there were plenty, the opportunity to whisper to the First Consul : " He wants time to make up some story for your ear."

Chief among his enemies was Talleyrand ; he and Fouché hated each other cordially, while Dubois, Prefect of Police,<sup>1</sup> was also at open war with his official superior.

Determined as he was, Bonaparte hesitated for a long time before dismissing him. There were some men who seemed to exercise a curious influence over his mind, and among these was certainly Fouché. Many times he threw out hints of his dismissal, but went no further than talking to him of the suppression of his Ministry being a popular measure calculated to bring credit to

<sup>1</sup> Louis Nicolas Pierre Joseph Dubois, born in January 1758, was appointed Prefect of Police in December 1799, and remained at that post until the 14th October 1810. Pasquier, who was his successor, speaks of him as an ill-educated and vulgar man, and attributes his long term of office to the fact that he was the bitter enemy of Fouché, and that Bonaparte, " whose dread of Fouché was notorious, found it useful to have about him a man who was in a position to spy upon him." When Pasquier received his appointment he states that the Emperor said : " You will find much to reform and set right ; I want you to cleanse the police. I won't insult you by telling you to avoid the abominable corruption by which M. Dubois has made himself a rich man ; when you have a chief like that what can you expect from his subordinates. You will have to look very closely after them."

Notwithstanding his low opinion of Dubois, Bonaparte created him a Count in 1808, and allowed him to continue his membership of the Council of State until the fall of the Empire. He was a member of the Chamber of the Hundred Days, after which period he retired to Vitry-sur-Seine, where he died at the age of 87 in July 1845.

the Government. It was agreed between them that this suppression should take place in or about 1804. The Minister was not blind to his danger; he knew that sooner or later the storm would come, but he by no means believed it was to break so soon. The final resolution was taken on the 26 Fructidor (13th September 1802), while Bonaparte was staying at Morfontaine (Joseph Bonaparte's house). The next day he even worked with Fouché, and not caring to break the news himself, he commissioned Cambacérés to do so. No one else was informed beforehand; even Madame Bonaparte, who was genuinely attached to Fouché, only heard of his dismissal after it had taken place, when the news was brought to her by Dubois, who looked upon it as a personal triumph. The police were placed under the Ministry of Justice, which was taken from Abrial<sup>1</sup> and bestowed on Regnier.<sup>2</sup> Both were enlightened men, lawyers rather than statesmen; Abrial had the dry manner of a consultant, Regnier the exuberance of a special pleader, which Bonaparte, usually an excellent judge of character, took for dignity and depth of thought. It would not be fair to assert that Regnier was unfit for his post as the head of the law, but he was certainly never intended for police duties, a disability which reflects no discredit on him.

The nomination of Fouché to the Senate was worded thus, "Appointed to the Ministry of the Police under critical circumstances, he has fulfilled with ability, activity, and fidelity to the Government, all that was required of him. If at any future time,

<sup>1</sup> André Joseph Abrial, born March 1750, an Avocat by profession, acted as Commissary of the Government before the Supreme Court (Cour de Cassation) from 1791 to 1799, holding this high office through all the changes of the Revolution. In December 1799 he was appointed to the Ministry of Justice, and on his removal in 1802 received a seat in the Senate. He was created a Count in 1808, and in 1814 he was raised by Louis XVIII. to a seat in the House of Peers. He died in November 1828 at the age of 78.

<sup>2</sup> Claude Ambroise Regnier, born November 1746, an Avocat, sat in the Constituent Assembly and in the Corps Législatif as a member of the Anciens. In the latter capacity he took an active part in the Coup d'État of the 18 Brumaire, and was rewarded by a Seat in the Senate and in the Council of State. In September 1802 he was appointed to the newly created dignity of "Grand Judge" and Minister of Justice, a post which he held until November 1813. In 1809 he was created Duc de Massa. He died at the age of 68 in June 1814.

circumstances should necessitate the reconstitution of a Ministry of Police, the Government could never find a Minister more deserving of its confidence than Senator Fouché." (Message to the Senate, 26 Fructidor, 13th September 1802.)

On the 28th (15th September) he went to Malmaison to pay his respects to Madame Bonaparte. He found her in a melancholy mood, and she asked him to return in a day or two. Abrial and Regnier were both there, paying each other mutual compliments.

Abrial, like Fouché when nominated to the Senate, affected content with his retirement from power; while Regnier, on his promotion, assumed a modest air.

N. returned to Malmaison on the 30th (17th September). Madame Bonaparte said: "I have just seen Fouché, and I could not help crying"; the tears rose to her eyes as she spoke. "I am really alarmed lest his dismissal should be followed by untoward events. I told Bonaparte so when he asked whether Fouché was content. His enemies have had their way at last; they hated him because he spoke the truth and flattered no one. They are trying to detach all the Men of the Revolution from Bonaparte. This was all arranged with his brothers at Morfontaine, and Talleyrand had a good deal to do with it. Nobody knew anything about it, not even Cambacérès, who assured me that when Bonaparte sent for him on the 27th he actually found him here, working with Fouché. Bonaparte did not dare to tell him face to face. Of course, I knew nothing at all. I pity Bonaparte more than Fouché. What will become of the police? Will Duroc's, Junot's, Davoust's, or Moncey's men discover the conspiracies of his enemies. They are not police at all, only vile spies. There is not one of them, even Savary, who does not employ these spies."

Regnault de Saint Jean d'Angély<sup>1</sup> was appointed President of the Section of the Interior in the Council in place of

<sup>1</sup> Michel Louis Étienne Regnault de Saint Jean d'Angély, born December 1761, was elected to the Constituent Assembly, when he sat and voted as a moderate reformer, a member of what is now known as the Left Centre. He wrote also in André Chenier's paper, the *Journal de Paris*, and in the *Ami des Patriotes*, a journal which was subventioned by the Civil List. After undergoing a year's

Roederer. Regnault understood the practical management of affairs better than his predecessor. He had plenty of wit and judgment united to extreme facility. A robust constitution enabled him at the same time to devote himself energetically to his pleasures, his private concerns, and his official duties. The First Consul always liked men who, instead of complaining of overwork, bore their burdens lightly, and were always ready to obey his demands on their time with a smiling face.

Regnault was a man of violent temper, and yet an excellent comrade, obliging almost to a fault. He was absolutely devoted to the First Consul, but courtier as he was, he had a certain brusque and familiar manner which gave him an air of dignity and independence.

There had long been open war between Roederer and Chaptal. The office of the former, that of Councillor of State charged with the superintendence of Public Instruction, was in reality a branch of the Ministry of the Interior; but Roederer would never consent to work in concert with Chaptal, but insisted on dealing with the First Consul direct. Consequently, when any question connected with Public Instruction was put to Chaptal, he would reply: "Ask Citizen Roederer; he gives me no information." In fact he, with Regnault and Fourcroy, all subordinates of the Minister of the Interior, formed a sort of standing cabal against their chief. This annoyed Bonaparte, and set him at enmity with Roederer.

Roederer was certainly a man of talent and learning, and imprisonment during the Terror he was appointed Administrator of the Army Hospitals in Italy in 1796. Here he made the acquaintance of Bonaparte, whom he accompanied on his expedition to Egypt as far as Malta, where he was taken so ill as to be forced to return to France. In December 1800 he was appointed to the Council of State, and shortly afterwards was elected to the Institute. In 1807 he became Secretary of State to the Imperial Family, and in the next year was created a Count. From this date he lived in close intimacy with the Emperor, who held him in high esteem. In 1815 he accompanied the Empress Marie Louise to Blois. During the Hundred Days he was elected to the Chambers of Deputies and resumed his functions as Secretary to the Emperor. Proscribed by the Ordinance of the 24th July, he obtained from Fouché passports and emigrated to the United States. He returned during the next year and settled at Liège. In March 1819 he received permission to return to Paris, where he died on the evening of his arrival.



possessed powers of analysis of the highest order; he had worked energetically towards the stability of the new dynasty, but he did not always walk in Bonaparte's footsteps; for instance, he had failed altogether in his "lists of Notables."

Arrogant and obstinate, he had more than once wounded the *amour-propre* of the First Consul. His intimate relations with Bonaparte's brothers made him suspected of favouring their intrigues; he was, in fact, too much disposed to meddle with delicate matters.

He too often indulged his cynicism with bitter gibes upon his rivals, and he now began to add to the disfavour with which he was regarded by assuming the airs of a disgraced official and uttering complaints of the ingratitude shown towards him. For several months Bonaparte treated him with marked coldness, and turned a deaf ear to all his suggestions. On the 3rd Messidor (22nd June 1802), when the Presidents of the Sections and some other members of the Council of State were at Malmaison, Roederer gave vent to his anger against Bonaparte. "One can do nothing," he said, "with this man. I do my duty in making proposals to him; if he does not choose to accept them I wash my hands of them." Yet Bonaparte had a real regard for Roederer, and he begged the Consul Lebrun to reconcile him with Chaptal. Both protested their unwillingness to meet, but Lebrun brought them together on the 27 Fructidor (14th September 1802). Roederer persisted in saying that as Councillor of State charged with Public Instruction he could not be expected to work with the Minister, but that if it was decided to establish a Council of Education as part of the Ministry of the Interior he would be willing to take part in its work. Chaptal consented to this arrangement. In the course of the conversation Roederer again burst into complaints, repeating: "I am a disgraced courtier; for six months no one in power has given me so much as a look. Ten times I have written to Bonaparte asking for an audience, and he has not even answered my letters. I asked him verbally for the same favour, and he turned his back on me.

"I do not even know whether he would give me a place in the Senate, although I might have been a Senator when the Senate was first created had I not chosen the Council of State as the post where I could best serve Bonaparte." "You did well," said Lebrun. "Your services in the Council have been of more use than they would have been in the Senate."

Lebrun reported this conversation to Bonaparte in writing. When he read the proposal to form a Council of Education, Bonaparte said, "That will never do; no half measures for me," and when he had finished reading he said: "Ah, ha, he wants to be a Senator; very well," and he drew up the order for his nomination on the spot, in these words: "Destined for the Senate at its original formation, Citizen Roederer has consistently distinguished himself in the Council of State. His talents and patriotism will be of still more eminent service to the State as a member of the highest body of the Republic." Roederer declared afterwards that he had never asked for this post, which had been given him only as a means of getting rid of him. Bonaparte said to N.: "Roederer has asked to be appointed a Senator. First he wrote to thank me, and later to say that he was offended with my offer. His refusal to work with the Minister of the Interior was ridiculous; he was appointed to superintend Public Instruction on condition that he should do so. If it had been imposed upon him afterwards, he might have had something to complain of."

Boulay de la Meurthe obtained the Superintendence of the National Domain which Regnier had previously held. The First Consul, who had promised to give N.<sup>1</sup> a Department of State, said to him: "I originally intended to offer you the National Domain, because I want a man of safe principles for that place, on the maintenance of which the Revolution so greatly depends. Boulay<sup>2</sup> is systematic, though he is inclined

<sup>1</sup> N. is certainly Thibaudeau.

<sup>2</sup> Antoine Jacques Boulay, known as Boulay de la Meurthe, born in January 1761, by profession an Avocat, entered public life as a Member of the Council of Five

to jump over the traces. I was anxious also to give him this sign of recognition for his services, both because he has made many enemies by his report against the Noblesse, and as an acknowledgment for his assistance on the 18 Brumaire.

"I must find some other post for you." The First Consul was quite right, he certainly owed some personal reward to Boulay, who was well fitted for the post, which he had thoroughly earned by his services to Bonaparte.

His appointment rendered the Presidency of the Section of Legislation of the Council of State vacant. If the choice of his colleagues counted for anything, Emmercy would have succeeded him.<sup>1</sup> He deserved it on account of his seniority, his acquire-

Hundred in November 1795. He and his colleague Bailleul, who was one of those eliminated from the Tribunat in March 1802, played a prominent and evil part in the Coup d'État of the 18 Fructidor, drawing up the so-called Law of the 19 Fructidor, (5th September 1797), and the list of those sentenced to arbitrary transportation to Cayenne, and constituting themselves official apologists and advocates for the then triumphant Directors. Thibaudeau was, however, under great personal obligations to Boulay, who eliminated his name from the list, and thus saved him from misery and probably from death by the "dry guillotine," the name by which these transportations came to be known. In the winter of 1797 Boulay brought forward a motion, for which he was not so much responsible as was its originator Sieyès, for "ostracising" all ex-nobles or persons who had held office under the Monarchy. This scheme, which would have expelled from France, and ruined, many thousands of persons, a large proportion of whom were partisans of the Republic, created such universal consternation that it was promptly withdrawn. Boulay subsequently deserted the Directors, and materially assisted Bonaparte in the Coup d'État of Brumaire. In return he was given a seat in the Council of State, and subsequently the Superintendence of the National Domain, in managing which Bonaparte directed him to behave, "As indulgently as possible with regard to individuals, and as sternly as possible with regard to property." He was created a Count in 1808. Deprived of his office in 1814, he was reinstated during the Hundred Days, and promoted to the rank of Minister of State.

After the second restoration he was exiled, and spent some years in Germany. In 1820 he was permitted to return to France, where he lived in retirement until his death, at the age of 79, in February 1840.

<sup>1</sup> Jean Louis Claude Emmercy, born in April 1742, was descended from a Jewish family who had been Christians for two generations. Emmercy began life as an Avocat at Metz. Elected to the Constituent Assembly in 1789, he sat and voted with the Constitutional Reformers (*i.e.* the Left Centre). In 1791 he was elected a Judge of the Supreme Court (Cour de Cassation), but was removed and imprisoned as a "Suspect" in 1793.

He escaped death during the Terror, and was again practising as an Avocat when he was elected to the Corps Législatif in the spring of 1796. He sat in the Council of

ments, his principles, and noble character. But he was a quiet independent man who devoted his whole time to the Council of State and other work, and neglected the Court and Parisian society. The First Consul passed him over, and gave the post to Bigot de Préameneu, a man of high merit and learned in the law, but one who as a disciple of Cambacérès was over zealous for the aggrandisement of Bonaparte's personal power.

Fourcroy succeeded Roederer as Director of Public Instruction. A name so eminent in the world of science made an excellent figurehead for the Education Department, but like most savants he was a very indifferent administrator.

According to the Constitution of the year VIII., Senators were ineligible for appointment to any other public function; the idea being to place them outside the influence of the Government and keep them permanently independent. The *Senatus Consultum* of the 16 Thermidor, an. X. (4th August 1802) did away with this exemption and permitted Senators to become Consuls, Ministers, Members of the Legion of Honour, Inspectors of Public Instruction, or to be employed on temporary or extraordinary missions. The *Senatus Consultum* of the 14 Nivose, an. XI. (4th January 1803), formed an appanage for the Senate, and each Senator on taking his seat was presented with a life-interest in the endowment of his post. Thus the Senate was legally rendered liable to every form of seduction.

The First Consul came less frequently to the Council of State, and frequently left Cambacérès to preside over its sittings. Political affairs were now usually brought before the Senate. As soon as this body had decided a question by issuing a *Senatus Consultum*, it passed out of the region of legislation, and became a matter to be carried out by the Executive Government. On one occasion it was proposed to issue an

Five Hundred, where he became a close political ally and personal friend of Thibaudeau. He was fortunate enough to escape proscription in Fructidor, an. V. (September 1797), gave in his adhesion to the *Coup d'État* of Brumaire, and was given a seat in the Council of State. In August 1803 he entered the Senate, and was created a Count in 1808. In 1814 he was raised by Louis XVIII. to the House of Peers, and, taking no part in the Hundred Days, continued to sit as a Peer until his death at the age of 81, in July 1823.

Order in Council affecting a Law on Mortgage to be applied to the Departments of Piedmont. An objection was raised to doing this by an Order in Council, and it was pleaded that a Law was necessary. Cambacérès replied that the Government held it to be their prerogative to take the necessary means for the execution of a *Senatus Consultum*. Consequently, that Piedmont, having been annexed to France by a *Senatus Consultum*, the Government had the right to settle all legislative matters in that portion of France by Orders in Council.

The Senate he declared to be the political Council of the Nation. It is easy to see to what lengths such a doctrine could be carried. Any matter which could be called or styled private or urgent was henceforth laid before the Privy Council.

In many cases the First Consul, without consulting the Council of State, issued, on the report of a Minister, Orders or Regulations on general or administrative questions, such, for instance, as the regulation of Public Instruction or the creation of Chambers of Commerce. Little by little the Council of State was reduced to the condition of a Court of Appeal for administrative disputes, a Court before which the Ministers and the Departmental Councillors disdained to appear. It was a small matter that the Council gradually lost its high position in the State; it was of more importance that it ceased by degrees to serve even as the shadow of a check upon the growth of the absolutism of the First Consul.

Séguir, Member of the *Corps Législatif*, was promoted to the Council of State (25th December 1802). He was a man of considerable intellect, better fitted, perhaps, for public affairs than for literary pursuits. His opinions were liberal, but his long familiarity with Courts had taught him to suit his tastes and opinions to the exigencies of the hour. No man possessed more flexibility of character or knew better how to combine dignity with politeness, and gravity with trifles. He was a great acquisition to the new Court. Bonaparte found in him a member of the old Noblesse (a class on which he set so high a value) who had never been in arms against the Republic, but whose

preference was for a Monarchy. Ségur had formerly been in the Diplomatic Service, and had acquired a high reputation when accredited to Catherine II., and most people imagined that he would shortly be appointed to the Ministry of Foreign Affairs, and that Talleyrand would fall into disgrace. Ségur's nomination to the Council of State raised the number of Councillors above the limit of fifty fixed by the *Senatus Consultum*; but this trifling difficulty was surmounted by a decision that Councillors of State appointed for extraordinary services might be added, even though they raised the number above the constitutional limit. By this means the number of Councillors became practically unlimited.

Orders in Council were issued regulating the costumes of the bar and bench. The "Simarre" (a long and full judicial robe) was to be worn by the Grand Judge, the red robe by the other judges, and a black robe by *Avocats* and *Procureurs*, the latter being the costume so often satirised by Molière and thrown aside so readily during the Revolution.

It was now seriously asserted that this paraphernalia, by embarrassing the movements of judges and *avocats*, would add to their dignity and inspire the lay mind with a higher respect for the majesty of the law. Certainly it satisfied the vanity of its wearers, and did not add an ounce to the burden of wrong judgments.

The Grand Judge presided over the first sitting of the Court of Appeal (*Tribunal de Cassation*), at which the members appeared in their new costumes. The red mass was also celebrated in the *Sainte Chapelle*, the Archbishop acting as celebrant. Cambacérès was a warm advocate of these petty imitations of the old régime, which delighted the old fogies of the Law Courts, who began to dream of a return of the *Parlements*. As a natural consequence there followed a tendency to appoint men bearing the historical names of the Noblesse of the robe; without much consideration as to whether they were capable of sustaining the reputation of their families. Naturally also, the bearers of such names felt few scruples in accepting appointments at once dignified, well salaried, and costumed so as to flatter their ancestral vanity.

Treillard,<sup>1</sup> President of the Court of Appeal of Paris, was appointed to the Council of State, and was replaced on the bench by Citizen Séguier,<sup>2</sup> an émigré who returned after the 18 Brumaire, and had since served as Government Commissioner of the Court of First Instance. Treillard, like some other members of the bench, had been raised from the bar as a reward for merit and long service, but the name of Séguier and his relationship to Cambacérès were his passports to fortune. In his inaugural oration the new Judge had the good taste to acknowledge that his appointment was due to his name and his ancestry. Mourre, the Government Commissioner, in reply gave a short résumé of the history of the Séguiers,—“but,” he added in a tone intended to be stern, “in recalling the virtues of these illustrious men I have no intention of flattering their descendant.

“To be respected on account of one’s ancestry is an exploded

<sup>1</sup> Jean Baptiste Treillard, born January 1742, before the Revolution an Avocat in Paris, was a member of the Constituent Assembly, the Convention (where he voted for the death of the King), and the Council of Five Hundred. In May 1798 he was elected a Director, but by the Coup d’État of Prairial, an. VII. (June 1799), in which the Corps Législatif turned the tables on the Directors, his election was annulled as unconstitutional.

In January 1802, he was appointed President of the Court of Appeal of the Department of the Seine, and a Member of the Council of State. On the 8th December of the same year he was superseded in his office as judge by Séguier, but kept his seat in the Council, and in 1808 was created a Count, and obtained the Presidency of the Section of Legislation. In 1809 he obtained the rank of Minister of State. Treillard died, at the age of 68, in December 1810.

<sup>2</sup> Jean Antoine Mathieu Séguier, born September 1768, came of a family long distinguished as successive Councillors and Judges of the Parlement of Paris. He was admitted as an Avocat in 1789, emigrated in 1791, but returning to Paris after the fall of Robespierre, was practising as an Avocat when he was appointed Commissary of the Government before the Court of Appeal of the Department of the Seine. In 1802 he succeeded Treillard as President of the same Court. Created a Baron in January 1809, he figured for some time as an enthusiastic admirer of the Emperor, whom he described in 1809 as being “a being above all who have figured in the history of mankind.” In 1814 he, like the rest of his colleagues, had modified his opinion so far as to propose to the Court of Appeal to “remember the heroic efforts which had at last delivered France from the yoke of the tyrant, and to join in declaring his deposition.” Exiled by the Emperor’s order during the Hundred Days, he was restored to his judgeship and created a Peer by Louis XVIII. after his second restoration. He died, still in possession of his Presidency, in August 1848, at the age of 80.

prejudice of the days of tyranny. It is only as models that I bring these names before Citizen Séguier."

During the discussions on the Consulate for life Bonaparte said in the Council of State that "heredity was ridiculous, irreconcilable with the principles of the Sovereignty of the People, and impossible in France."

Only eighteen months elapsed between the day when he uttered these memorable words and the day when he mounted the throne, established hereditary succession in his own family, and founded a new dynasty.

Each time that the question of securing the power of the Executive was mooted, the word heredity came to the front, and for the last six months it had been openly talked about in society. Every day people wondered when the First Consul was going to complete the "stability" of his Government. The discovery of the conspiracy of Georges and Pichegru furnished an excellent pretext to carry out the execution of a plan which had been maturing for the last three years. In an address on the conspiracy the Senate, inspired by the First Consul, gave the signal by petitioning him to defer no longer the completion of his labours (27th March 1804). A month later the First Consul replied by inviting the Senate to tell him all that was in the minds of its members. These preconcerted communications were of a private and confidential character; it was decided that the new stroke should be begun in the Tribunat, and the chief actors were informed of the parts they were to play.

All Paris talked about it, including the Bonaparte family, who were obviously engaged in preparing, or discovering, the opinion of the public on the scheme. Joseph Bonaparte, at any rate when in the society of Republicans, professed himself opposed to the hereditary principle. It was not necessary to the success of the plan to employ the Council of State, but it was judged advisable not to leave that body altogether outside the movement. In a sitting of the Council held towards the close of Germinal, Cambacérès, who presided, announced that the First Consul desired to know the opinion of each member on





NAPOLEON IN CORONATION ROBES  
BY LEFÈVRE



a question which for some time past had absorbed his entire attention, and which would be fully explained to them by Regnault de Saint Jean d'Angély.

"The First Consul," added Cambacères, "wishes you to discuss this question, not in the formal manner of your usual deliberations, but as a private meeting of citizens whose wisdom and prudence he well knows how to appreciate. I shall now retire, and I recommend you to choose the place where you can most conveniently meet, either here or elsewhere." Cambacères and the Secretary of the Council, Locré, then retired, and a few minutes later the Councillors adjourned to the apartment occupied by the Section of the Interior.

All these preliminaries, designed apparently to allow of the utmost freedom of expression on our part, clearly foretold what was to follow, and no one was surprised, when Regnault brought forward the subject for our consideration, to find that it was in the form of the question: "Is it desirable to base the Government of France on the hereditary principle?" Regnault proceeded to speak at length in favour of the proposed change. According to him, an hereditary Government formed the only hope of preserving France from the disorders which an elective Government must bring upon the country. It was equally necessary, he said, to the success of our foreign relations; it was, in fact, the one thing which France required, and for which every patriotic citizen yearned. Fourcroy, who followed, agreed entirely with this view, and proposed that the Council should draw up an address expressing their approval of the principle. A prolonged silence followed this proposition, which was broken at last by Berlier, who, hearing some of his colleagues ask that the question should be put to the vote, spoke.

He began with a short preamble stating that his conscience imposed upon him the painful duty of combating with all his powers a measure which was approved by many enlightened and able men. He then said: "Title 4 of the *Senatus Consultum* of the 16 Thermidor, an. X., seems to me to have provided against any dangers which may arise from changes in the Consulate. Nothing has happened in the course of the last

eighteen months to make us consider insufficient a measure which was then regarded as eminently fitted to conciliate public peace with the other needs of society. If the hereditary system is now to be adopted, not a trace will remain of that Republic for whose establishment and preservation France has sacrificed untold treasure and millions of human lives. I do not myself believe that the French people are prepared to renounce what remains of an advantage so dearly purchased. The arguments deduced from our foreign relations do not seem to me to apply at all to a State the head of which has a life-tenure of his office, and the power to designate his successor under the sole condition of the approbation of the Senate. Such an executive offers better guarantees for the stability of its foreign relations than most other countries."

Berlier had not, in fact, been in favour of the Consulate for life, but in the present state of affairs he was content to entrench himself behind that measure to ward off further changes. He laid special stress upon the false position in which an hereditary and monarchical system would place all those who had contributed in any degree to the success of the Revolution; a large and important class who were now to be used in reconstructing, amid the jeering contempt of their enemies, the very edifice which they had demolished.

This reflection was met by Regnault, who said: "Have no fear on that point. The man who governs France has an arm strong enough to protect one party from triumphing over another. He is himself the child of the Revolution." Regnault then proceeded to repeat in varying terms his former arguments. Replying to the deductions drawn from the former *Senatus Consultum*, he described this act of the Senate as the erection of the base of a monument which it was considered prudent at the time to leave unfinished, but which was now ready for completion. The simile of the monument gave a new tone to the discussion, and Berlier found some supporters who, while they were not prepared to go so far as he did, and absolutely reject the hereditary principle, at least wished to adjourn its consideration. Réal, Boulay, Béranger, and some others, putting aside

the *Senatus Consultum* of the 16 Thermidor, set themselves to examine whether the present was a well-chosen epoch to raise the question, and expressed their opinion that it was by no means the right time to do so.

The principal considerations which they urged were these: France is at present in the most prosperous condition; no danger threatens her at home or abroad. The First Consul is in the full flower of his age and health. He has attained under his present title a degree of power which can receive no accession from an hereditary title. The name of the First Consul is dear to France and to the Army. Let those who consider this further change necessary at least wait until the need for it is more generally experienced. At the present moment the world at large will see in it ambition rather than patriotism. It is both ill-timed and premature.

To these considerations the partisans of the hereditary system replied that a period of calm was the best possible time to prepare for storm, and to give France the best constitution possible. The debate became highly animated. The situation of France herself, that of foreign countries, examples drawn from history, one after another, were presented with the colouring which each speaker thought best suited to his theme. And so a question which it was thought would be settled in the course of an hour's conversation lasted for more than six hours, in four sittings which were held after the ordinary business was disposed of. Finally, the adoption of heredity was passed by 20 votes against 7 for rejection or adjournment.

There then arose a minor but awkward difficulty about the manner of presenting the opinion of the Council. Regnault, having drawn up an address expressive of the views of the majority, proposed that it should be unanimously signed, but the seven dissentients objected to this.

They pointed out the fact that these were not official sittings of the Council of State, but only private meetings of members who were invited to express their individual opinions.

They therefore considered that if the majority signed Regnault's address, the minority would have no option but to

sign a counter-address. When the First Consul heard this, he expressed his wish to have the opinion of each member separately. This was done, and the twenty-seven opinions, each on separate sheets of paper, were taken to Bonaparte, who was then at Saint Cloud, by the Presidents of the different Sections of the Council. As it happened, Berlier was obliged on this occasion to represent the President of the Section of Legislation, Bigot de Prémeneu being absent on a mission in Italy.

The First Consul received the Deputation most graciously, and showed no sign of resentment on account of the absence of unanimity in the Council. He declared that he desired his elevation to the throne only because he believed it would be the best thing for the country.

Among other things, he observed: "Our citizens will not become 'my subjects,' nor will the French people become 'my people.'"

The position of the seven opponents in the Council of State became somewhat embarrassing after the *Senatus Consultum* constituting the Empire had been passed, and the Council of State was called upon to pass from confidential advice to a formal vote. When the register was presented for the signatures of the Council, the Empire was actually an accomplished fact. Under these circumstances it would have been futile to offer any further resistance, consequently the signatures were given with unanimity in favour of an accomplished fact.

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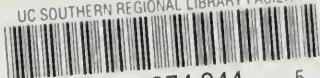
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