

The sovereign legislator: the Swiss people : to act - to react

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ropean Community. There is no difference between the two in this respect.

And the same is also the case with respect to the right to demand a referendum – which may be described as the brake pedal of our democratic vehicle. Here too the people would no longer have the right of veto in any matter which had been given over to supranational jurisdiction. Today the sovereign – and in Switzerland the sovereign is the people – must be consulted in all cases which involve a change in the federal constitution. In addition, 50,000 citizens entitled to vote, or eight cantonal governments, have the right to demand a referendum on any federal law which has general validity. This is what is

known as the institution of the optional referendum.

The same restrictions would apply to those last vestiges of direct democracy as operated in a number of the smaller cantons and half-cantons in German-speaking Switzerland, the famous "Landsgemeinden" – or public assemblies in which all citizens entitled to vote come together in the town square or other public place – to debate matters relating to the public domain and to exercise their democratic rights at the cantonal level. Such "Landsgemeinden" still take place in the cantons and half-cantons of Glarus, Appenzell (both Rhodes) and Unterwalden (Upper and Lower).

Federalism may be defined as the principle by which the decision-making process is as near to the individual citizen as is humanly possible (the gearbox of the democratic vehicle) – and this principle has traditionally been exercised at three levels – the municipal, the cantonal and the federal. The truth is, however, that with European integration federalism is about to be given – and possibly enriched by – a new level, the European level. This way of putting in a nutshell the developments which we may expect in the next few years is the idea of Olivier Jacot-Guillarmot, deputy head of the Federal Office of Justice, who is the author of two wide-ranging reports on the consequences which

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To act – To react

Swiss democracy is distinguished from other forms of democracy by the fact that the people not only take part in elections but make direct decisions on specific practical matters.

Less than a quarter of all the countries in the world give their people rights of the type which they have in Switzerland – the rights to introduce popular initiatives and to demand referendums. In most other democracies the people have the right merely to elect their representatives, but in Switzerland they can also decide on matters of practical concern.

The initiative

The popular initiative permits any citizen to propose a partial or total revision of the federal constitution. Such a proposal may be formulated in either general or concrete terms.

As soon as the text of an initiative is published in the Official Federal Gazette, its originators have 18 months to collect a minimum of 100,000 valid signatures of Swiss citizens entitled to vote.

In 1990 a committee was established in order to gain support for a draft proposal 'For a work-free National Day'. If it is accepted, the federal constitution will include an additional article making August 1 an official holiday.

If the signatures are obtained in the time allowed and officially handed in, the initiative is then presented to the Federal Council and to Parliament. If the initiative is couched only in general terms, the National Council and the Council of States must work out a precise draft text.

The Federal Council and Parliament may react to a popular initiative in three different ways: they may either recommend the voters to accept or reject the initiative, or they may propose their own counter-initiative.

The initiative or the counter-initiative is deemed to be accepted if the majority of the people and of the cantons vote in favour.

The referendum

● At the federal level referendums are *compulsory* for any change in the constitution, and the same is true for other important decisions, such as membership of international or supra-national organisations, e.g. the UNO and the EC. This means that any decision on such matters made by Parliament must be submitted to the people for their acceptance or rejection.

In these cases also, a majority of the

total vote, as well as a majority of the cantons, is required for acceptance.

● The Swiss federal constitution does not contain a provision by which any change in the law must be subject to a compulsory referendum. However, all federal laws, changes in federal laws and some types of international treaty are subject to the *optional* referendum. In such cases a referendum takes place only provided that 50,000 citizens entitled to vote sign a petition to this effect within 90 days after publication of the text in question in the Official Federal Gazette.

A proposal is deemed to be accepted provided that the majority of the people is in favour, and in this case the majority of the cantons is not required.

Anne Gueissaz

The professional association, the Union of Swiss Small Power stations, has succeeded in its demand for a referendum against the Revision of the Federal Law on Watercourses which is intended to protect the integrity of free-flowing streams. The vote was on May 17, 1992.



Graphic: Hugo Bossard