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THE SWISS ABROAD AND THE REVISION OF THE FEDERAL CONSTITUTION

A specially abridged version of the famous "Wahlen Questionnaire" was sent to the Swiss Abroad last year. This questionnaire was debated in England at the Nouvelle Société Helvétique and at the Manchester Swiss Club. In the following article Mrs. Marianne Meier surveys these replies in detail and gives us an encouraging insight into the live interest shared by the Swiss across the world for their motherland and the rules by which it is governed.

The proposed total revision of the Swiss Federal Constitution was discussed at the last Assembly of the Swiss Abroad at Zofingen at the end of August, 1970. The "Swiss Observer" reported on the Assembly and published a resumé of the speech on the subject by the former Federal Councillor Prof. Dr. F. T. Wahlen, Chairman of the committee entrusted by the Government with studying the desirability of a total revision. The report of 2,200 pages has been available for some time in four thick volumes. It contains the evaluation of the answers to the questionnaire ("Wahlen Catalogue") sent to the Cantons, Parties and Universities.

At the same time, the Secretariat of the Swiss Abroad in Berne worked out a questionnaire and sent it to the Swiss Abroad. The results were given by the Director of the Secretariat, Mr. M. Ney, at Zofingen.

Outcome of the Enquiry

The questionnaire was sent to 560 Swiss societies in April, 1970, and 214 of them sent back their answers, a little over 38%. In addition, 140 individual replies were received, especially from Madagascar, Nepal, Liechtenstein and France, as well as from the Youth Camp organised by the Youth Service of the Organisation of the Swiss Abroad. Thus there were 354 questionnaires at the disposal of the Secretariat, coming from 45 countries on all continents. Generally speaking, this is a much better response than is usual for such an inquiry. Those who took the trouble to answer sent in replies of a

particularly high standard, and it showed clearly how much lively interest exists amongst the Swiss abroad and how responsible they feel on the whole. That was evident, too, from accompanying letters from men and women with different social backgrounds. The Swiss farmer in New Zealand answered as judiciously as the housewife in Germany, the chemist in Great Britain as earnestly as the voluntary worker in Katmandu, the geologist in Arizona as painstakingly as the nurse in Madagascar, and the doctor in Chile as assiduously as the wholesaler in Thailand.

There was unanimity that the Swiss State should be maintained as the carrier of a true and active democracy with its guarantee of real freedom.

Naturally, in spite of so much agreement regarding fundamentals, there were some marked differences in details, particularly between the Swiss in Britain and those in Germanic and Latin countries, and for instance between Europe and overseas.

Very few answers advocated a limitation to present frequency of voting in Switzerland, and practically 100% supported women's suffrage. The majority were in favour of leaving the voting age at 20 (at the age of military service).

According to Mr. Ney's report, the vote for the Swiss abroad in federal matters has been advocated nearly everywhere, although there is awareness of the difficulties, such as the right of reciprocity concerning other countries. When Swiss from abroad are on military service during a federal plebiscite, they should be given the vote.

The Swiss abroad have been unanimous in their answers as to compulsory military service for men, and the large majority are against such a service for women, except possibly civil defence. In one or two cases, some kind of voluntary service instead of military duties was proposed.

Military exemption tax has been rejected, although some sort of alternative levy has been mentioned as a possibility.

It was noted with some surprise that most replies were in favour of the

three-tier tax system (Confederation, Canton and Commune) thus showing appreciation of something fundamentally important in the country's structure.

There has been well-nigh unanimity with regard to a special regulation for Swiss abroad in the present withholding tax system (*Verrechnungssteuer — taxe anticipée*).

Nearly three-quarter of the replies wanted increased responsibilities for the Confederation, especially in education and—in accordance with the special Constitutional Article for the Swiss Abroad—for social welfare.

The Two-Chamber system has been advocated throughout, thus assuring the principle of fair representation of minorities.

The great surprise was that three-fifths of the answers were in favour of direct representation in Parliament, though no specific suggestions have been made, bar that of a National Councillor, for every 22,000 Swiss abroad. It has been stressed in some replies, however, that the Swiss abroad were very well represented and their interests well taken care of in the Commission of the Swiss Abroad, often called their Parliament.

Most answers have been in favour of increasing the number of Federal Councillors, occasionally even to 22 — one per Canton! Direct election of the Government by the people has been rejected.

The idea of an Economic Council was only just accepted, although not in countries where similar institutions exist. The ombudsman has been approved by five-eighth of the answers.

Neutrality as one of the mainstays of Switzerland was accepted by a very considerable majority, although in some cases the opinion was voiced that one should not commit a country permanently in a Constitution. Should Switzerland join United Nations? There was very little support for this, even less overseas than in Europe.

On the whole, the special Article in the Constitution referring to the Swiss Abroad was accepted without any alterations, although the old criticism has

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come up again that the Confederation shall and not may legislate in favour of the Swiss abroad.

More than one-third of the answers wanted a partial revision of the Constitution only, and even many of those in favour of a total revision agreed that they would be satisfied with partial alterations—it is easy to destroy, but difficult to reconstruct.

How the Swiss in Great Britain responded

It is fair to say that apart from the Swiss Club Manchester, whose activities were joined by those in Yorkshire and Edinburgh, and, of course, the Nouvelle Société Helvétique in London, the societies took very little interest. There were quite a few individual answers, but for the purpose of this report, we shall confine ourselves to the questionnaires available from the NSH and the *Swiss Club Manchester*. The latter gave the answers which were the result of a full discussion evening, in percentages. It is interesting to see that 80% were against limiting the voting powers of the Swiss electorate and 84% for (16% against) women's suffrage. Equally, the voting age should

remain at 20 as expressed by 73%. As regards the vote for the Swiss abroad, Manchester had 49% for and 49% against. 47% were for civic rights during a temporary stay in Switzerland, 35% against. Also 47% were against polling at Swiss Embassies and Consulates; 42% in favour.

As regards the protection of minorities, 71% were in favour of the new Constitution having special provisions for language groups, but only 55% for religious minorities. 78% were in favour of keeping compulsory military service, 71% against compulsory service for women. 28% want the military exemption tax replaced by some other levy, 47% said no. 60% were in favour of dropping it, whilst 31% were for adhering to it. As regards the *Steuerhoheit* of the Cantons and Communes, 42% were in favour of keeping it, 29% each against or of no opinion. It is interesting to note that whilst 78% were of the opinion that special provisions should be made for the Swiss abroad with regard to the withholding tax, only 4% were against any change, the rest held no firm view.

Concerning more tasks for the Confederation, 45% were in favour (35% against), although no proposals were made. On the other hand, 63% were against passing on any of the tasks to the Cantons.

84% were for keeping to the two-Chamber system. 37% were for parliamentary representation of the Swiss abroad, 49% against. In such a case, 55% were in favour of giving a mandate to Swiss nationals only, but not to dual nationals. 36% held no particular opinion.

33% were in favour of increasing the number of Federal Councillors, 47% against, but no definite number was given. As regards popular election of the Government, 28% were in favour, 63% against.

An Economic Council was advocated by 42% and rejected by 31%, whilst the ombudsman found favour with 63%, with 28% against.

The question of whether Swiss neutrality should be anchored in the Constitution was answered with yes by 53% and with no by 31%. 45% were not in favour of Switzerland's partici-

pation in UNO to be put into the Constitution, whilst as many as 41% were for it.

There were no proposals under miscellaneous. 45% were in favour of leaving the special Constitutional Article as it is, and 27% were in favour of changing it, though no proposals were made. Finally, 28% were for a total revision and 36% each against and of no specific opinion. 41% would be satisfied with partial revisions and 23% against.

The *Nouvelle Société Helvétique's* President also sent in replies to the questionnaire, but unlike Manchester each answer was in form of detailed comments reflecting the general view of the very well-attended and lively discussion evening to which other societies and their presidents had been invited. With regard to the limitation of voting rights, the answer again was qualified: on regional and local levels such a limitation might be desirable. Support for women's suffrage was unanimous. A small minority only was for reducing voting age to below military service age. A similarly small number were in favour of having representation in Parliament. The majority were of the opinion that we Swiss abroad had what amounted to consultative status in the Commission of the Swiss Abroad. It would be wrong to be able to vote on matters for which we do not have to pay by way of taxes. Opinions were divided with regard to voting rights in federal plebiscites. Political strife would not be welcome in the colonies and should be prevented. Practically unanimously, the meeting was against voting at Embassies and Consulates.

As regards protection of minorities, it need be put into the Constitution merely as a matter of principle as regards languages, but that the religious exemption Article should disappear. There was a proposal by a small minority for protection of dual nationals.

There was a decided yes with regard to compulsory military service, and an equally determined no concerning the same service for women. Regarding military exemption tax, the principle was established as being desirable, although it was felt the whole

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system was too costly. The attitude was mixed, though not really against.

Taxes: It was felt that we were not in a position to decide, though as a question of principle, the tax sovereignty of the Cantons and their freedom of action were important in all spheres. There was agreement that the withholding tax was unpleasant, but that we had no moral justification to oppose it. There was a suggestion that it should be refunded in old age, as a kind of nest egg. The Commission in Berne should go on studying the question.

Schooling and social welfare should be the task of the Canton, but the Confederation should establish certain minimum standards and demand similar conditions in all the Cantons. Civil and penal law should be under the Confederation. The same should apply to foreign capital investment in Switzerland and the limitation of property purchase in Switzerland by foreigners.

The two-Chamber system was accepted unanimously. A possible upper age limit was mentioned. There was no favour for representation of the Swiss abroad in Parliament, mainly since representatives would be most difficult to elect. Our Parliament was the Commission of the Swiss Abroad. The meeting felt no competent to decide on the number of Federal Councillors. In order to relieve members of the Government, an increase in their number might be desirable. A small minority was for popular election of the Federal Council, the majority against. With regard to imitation of office for Federal Judges, the view was expressed as at other times, one should not change anything which functions well. An Economic Council was deprecated—there was already too much talking. On the other hand, one could banish the biggest talkers into such a body! On no account must it become a third Chamber. An ombudsman would be desirable, but in order to be effective, he would have to be given extensive powers.

It was felt that it would be dangerous to have neutrality put on the Constitution for ever. Nor should a possible Swiss entry into UNO be anchored there—that was only a question of policy and did not belong in a Constitution.

The meeting proposed better protection of the individual, especially that the accused must be assumed innocent until proved guilty as in Great Britain. In this respect the attitude of the Swiss Press was condemned. On the other hand, radio and TV should be free from official interference.

There was no proposal to change the Article of the Swiss Abroad. The majority felt that total revision was not necessary, though desirable. A "beauty course" by partial revisions would suffice. There was a definite feeling that one should not alter in a time of radical change something which had served well.

A Swiss from Great Britain takes part in the round table discussion

As a result of the questionnaire sent in by the London Group of the Nouvelle Société Helvétique, the delegate to the Commission (Great Britain South), Mrs. Marianne Meier, was invited to take part in the round table discussion at Zofingen, ably led by the Bernese lawyer and member of the Commission, Mr. Ph. Garraux. He introduced the seven participants and began with *Mr. R. Isele* from Sydney whose main concern was more responsibility for the Confederation. He said the Swiss in Australia were for Switzerland's neutrality, but it should be more flexible, as must be Switzerland's attitude in the new Europe.

Next, Mr. Garraux turned to *Mr. Cl. Ochsenbein, Chargé d'Affaires* in Madagascar, who had sent the questionnaire to all registered Swiss there, numbering 300 (including children). The return of 85 was a very high percentage. Mr. Ochsenbein described the Swiss community consisting in the main of technical aid experts and missionaries. Voting rights for the Swiss abroad were important, though one was aware of the difficulties. The lack of sufficient information was criticised. A regular information sheet transmitted by the Embassies would give the necessary documentation wanted by the Swiss abroad.

Mr. Garraux then referred to *Mrs. M. Meier* as representing the women as well as Great Britain at the discussion. He asked her to tell about British Constitutional Right which she shortly described in its development for the Magna Carta through the centuries (Habeas Corpus Statute, Bill of Rights, Reform Act and Representation of the People Act, etc.). She referred to jurisdiction in general and case law. She said the Swiss in Great Britain appreciated the great value of Direct Democracy in Switzerland with its sovereignty of the people. Whilst the Opposition in Westminster and the Upper House had very little influence, there were certain liberties which the individual enjoys such as the protection against libel and slander, the *audi alteram partem*, the impartiality of the judges, which must not only be supposed, but which must be seen, etc. Mr. Garraux said that one of the British fundamental rights, namely that the accused is innocent until found guilty by a court of law, was of great importance, and Mrs. Meier mentioned the British custom of according the benefit of the doubt, something often sorely lacking in the Swiss Press. She added that the British Police talked about "a man helping with enquiries" rather than implying he was a suspect, or even mentioning a name.

Mr. Garraux then asked the speaker whether she wanted to say anything more about the status of women. She declined, but hoped the Swiss abroad would not get the vote—politics in the Swiss communities would be abhorrent

to her. She was very much for the vote for women, but against that of the Swiss abroad.

Mr. Th. Nagel, from Sweden, was asked to talk about the history and duties of the ombudsman, and the parliamentary system in Sweden which had recently done away with the Second Chamber. The Swiss in Sweden believe that Switzerland must keep the two Chambers and that there was really no need for an ombudsman. The relief needed by the Federal Councils could be given as in Sweden by Secretaries of State.

Mr. J. Jacot, President of the "Union Suisse de Lyons", in France, spoke of the real need for the vote to be given to the Swiss abroad, followed by parliamentary representation (say eight National Councillors and two Councillors of States).

Mr. E. Sollberger spoke for the Swiss in Germany who are in favour of the vote for Swiss abroad when in Switzerland (*Aufenthalterstimmrecht*). From long experience, he said that the Commission of the Swiss Abroad had more influence than a numerically weak representation in Parliament, although the Organisation of the Swiss Abroad needed consolidating. He also elaborated on the Constitutional Tribunal which might be desirable in Switzerland.

Mr. W. Gilléron (Genova) represented the young generation. He spoke for some sort of civic service for those against military duties, although he had done Swiss military service in order to get to know the country. He advocated the vote for women, but would hate to see them in uniform! *Mr. Gilléron* thought that the young Swiss abroad would welcome a modernisation of the Constitution.

That concluded the actual discussion which was then summed up by *Federal Councillor Wahlen*. He expressed pleasure that, on the whole, there was unanimity between the Swiss abroad and those at home. In his few remarks referring to each of the speakers, *Prof. Wahlen* dealt briefly, but pertinently with the salient points. With regard to Great Britain, he had praise for the old-established constitutional rights which had existed long before the French Revolution. There was much that the free world had to thank the Anglo-Saxons for. Whether protection of the individual and his reputation should be a matter of constitutional provision or legislation, had not yet been studied in connection with the total revision of the Federal Constitution, but it would most certainly have to be dealt with.

The former Federal Councillor said that the discussion would deserve more study and interpretation; if only other "teach-in"s could be made as interesting, stimulating and constructive.

Conclusion

The Swiss abroad have shown a great interest in the proposed total revision, and whilst their contributions will not influence any decisions greatly, the discussions due to the questionnaire have helped to stimulate their general awareness of what happens in Switzerland. They may be gratified that at their Assembly at Zofingen last summer, one of the most eminent Swiss personalities, the man who was entrusted by the Government to study the complex question, former Federal Councillor *Wahlen*, honoured them by his presence, his address and his personal interest in their opinions. If one or the other of their suggestions were ever to be given any weight at all, it would be through *Prof. Wahlen's* influence; he has at all times shown and demonstrated a real interest in the "Fifth Switzerland". We shall follow future developments with keenness.

(MM)

COMMENT

THE REFERENDUM OF THE DECADE

Swiss women have been given the right of vote in federal matters by the overwhelming majority of their men. With this historical vote disappears one of the last great causes worth fighting for in Switzerland. An institution which was our country's signature and which had after all secured peace and prosperity for centuries has been abolished! Now Switzerland, deprived of one of the signs of her unique identity, must sullenly become like every other country! The referendum of 7th February will go down in the history books as something as important as the abolishment of slavery in America, and indeed it was something very important from the point of view of constitutional history. Practically, however, it won't much change the course of events in Switzerland and there is little ground for hoping that the dwindling attendance at most polling week-ends will suddenly increase. Few women felt actually starved of political rights, but most rightfully objected to a practise which after all tended to express that they were not clever enough to have a share of political life. Women might join political parties and, who knows, the Radicals, the Christian Democrats, the Migros Party or some other movement might gain power and prestige from a sudden intake of female recruits.

With the results of February 7th, the historical issue of voting rights for women in Switzerland can virtually be considered settled. True, 8 cantons said "no" to the legitimate aspirations of their women, but with the present

national consensus it is only a matter of time before their stubborn resistance will crumble. Not surprisingly, all the "landsgemeinde cantons" except Nidwalden repelled the submitted constitutional amendment. These retrograde cantons were Uri, Schwyz, Obwalden, Glarus, Appenzell outer Rhodes, Appenzell inner Rhodes, St. Gall and Thurgau. Appenzell inner Rhodes was the most pronounced in its anti-suffragism with 71.19 per cent of "no's". The town of Zurich on the other hand has made marked progress. Four years ago its citizens rejected by the local right of vote for women by a majority of 14,000 votes. They made a brilliant about-turn in November, and now the whole canton has followed up by voting in favour of the federal responsibilities of its women. Geneva had the highest percentage of "yes" voters with 91 per cent. For the Genevese the matter was as good as cleared up a long time ago. Vaud has an 84 per cent of "yes" ballots, followed by Basle Town with 82 per cent.

The ultimate goal of a universal female suffrage has however not yet been achieved. It is only in 13 out of the 25 cantonal "constituencies" that women can vote on the communal, cantonal and federal levels. It should however be noted that the 13 cantons in question contain over three quarters of the country's population. Four of them could be entered on the list after February 7th. They were Fribourg, Zug, Schaffhausen and Aargau. Seven further cantons give various degrees of communal suffrage to the women, but in the cantons of Appenzell (inner and outer), St. Gall, Thurgau and Schwyz, the women will henceforth be entitled to elect their national councillors but not their cantonal and communal representatives. These cantons will continue to be ruled by men for an unpredictable future, and women will continue to be forbidden entry to the *Landsgemeinden* of Schwyz and Appenzell. It will be interesting to see how many more votes will be conducted in these cantons before they fall into line. There have been no less than 80 cantonal referenda on this central issue during the past 50 years.

The mood in the Federal Palace was of "*Freude und Genugtuung*" and the Federal Council saw a rejoicing sign of the vitality of our democracy in the results of the vote. *Mr. Ludwig Von Moos* said that he was pleased with the turn-up at the polls of 57 per cent, and the national result of 66 per cent of positive ballots. The event actually caught the fleeting interest of the British information media. The news was broadcast on the BBC's nine o'clock news on Sunday, 9th February, and appeared on the front page of many national dailies the following day. It is a long time since such a thing has happened.

(PMB)