Americans and the Swiss Constitution of 1848

Of Switzerland furnished models for American revolutionary leaders, the institutional consummation of the American Revolution, the Constitution of 1787, furnished a reciprocal model for Swiss statesmen.

The Swiss followed the course of the American Revolution with attention. Not everyone was as well acquainted with the personalities of the Revolution as the poet Johann Jakob Bodmer who claimed in 1778 that his plays "were completely in Samuel Adams' style of thought,"[1] but most literate Swiss were aware of what was happening across the Atlantic. Their newspapers were "full of America"[2] and books about the Revolution found a ready audience.

Sympathy for the American cause was far from universal in Switzerland. Though more scholarship is needed to establish the point, it appears that the Swiss divided along class lines in their reaction to the American Revolution. The secretary to the British Embassy in Bern reported to his superiors in 1780 that Swiss elites wanted to see the rebellion crushed,[3] apparently because the subversion of authority being achieved by the Americans might prove contagious among restive populations in various Swiss cantons. Their fears were evidently well founded, for scholars have claimed that the American Revolution was the model (Vorbild) for two of the most striking episodes of popular unrest in eighteenth century Swiss history: the peasant revolt led by Nicolas Chenaux against the government of Fribourg in 1781 and the Stäfa affair in the canton of Zurich in 1795–96.

Chenaux's efforts to mobilize the peasants and bourgeoisie of Fribourg to overthrow an entrenched government ended disastrously in May 1781—Chenaux himself was killed and posthumously

beheaded, drawn, and quartered. According to an observer, Baron Marie-François d'Alt, the Fribourg rebels were "struck with the great courage of the Americans . . . and made plans strongly resembling theirs."[4] The distinguished historian of Swiss-American relations, William Rappard, contended that the Stäfa Reformers, whose efforts to democratize the government of Zurich were no more successful than Chenaux's ill-fated endeavors, were also inspired by the American Revolution, although other authorities believe they were influenced principally by the French Revolution.[5]

There is no doubt that the turmoil created by the French Revolution focused the attention of many Swiss on the American Constitution of 1787 as a model for their own government. In 1798 French troops invaded Switzerland, rapidly conquered it, and imposed the "One and Indivisible Helvetic Republic." The Helvetic Republic was an example of what the American Antifederalists called a "consolidated" government. The sovereignty and independence of the cantons were abolished and all power was exercised by a five-man directory. The Helvetic Republic did take some "progressive" steps—the abolition of feudal tenures, the establishment of various civil rights—but it was despised by the Swiss as the creation of a conqueror. Few were sorry when it collapsed in 1803.

Many Swiss who opposed the Helvetic Republic did not want to revert to the politics of the old confederation in which cantonal sovereignty had frustrated the achievement of worthy national objectives. What was needed, they believed, was a stronger central government that permitted, as the Helvetic Republic did not, a measure of autonomy in the constituent units. What was needed, in other words, was a federal system such as the framers of the American Constitution had established in 1787. The trauma of the Helvetic Republic made the United States "very fashionable with us," a Swiss commentator noted in 1800.[6] Politicians, academics, and clergymen began extolling the American Constitution as a model for Switzerland. Imitate the Americans, a Lausanne minister advised in February 1800, because they have found it "useful to entrust some legislative and executive power to one national authority [and] no less useful to maintain separate local administrations and to subject to a uniform and central rule only those matters for which that was absolutely necessary in the interests of general prosperity and the defense of the Confederation."[7] The Bürgermeister of Basel, Johann Karl Wieland, was no less enthusiastic about following the Americans. "I know very well that the unitary system does not suit our people," he wrote on 11 September 1802, and "I shall certainly miss no opportunity to endeavor to modify our constitution so as to render it as similar as possible to that of

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Ignaz Paul Vital Troxler (1780–1866)

Engraving

Courtesy of the Swiss National Library

A medical doctor and professor of philosophy, Troxler in writings published in the 1830s and 1840s campaigned for the adoption by the Swiss of an American-style federal republic. According to one authority, Troxler "more than any other single person" was "responsible for the adoption of the American bicameral system in Switzerland."

Die Verfassung

der

Vereinigten Staaten Nordamerika's

als Musterbild

der

Schweizerischen Bundesreform.

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Mit Vorwort und Erläuterungen

von

Dr. Troxler,

Professor der Philosophie an der Hochschule Bern.

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Zum Neujahr 1848.

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Schaffhausen.
Verlag der Gredtmann'schen Buchhandlung.

Ignaz Paul Vital Troxler, *Die Verfassung der Vereinigten Staaten Nordamerika's als Musterbild der Schweizerischen Bundesreform* (Schaffhausen, 1848).

Pamphlet

Courtesy of the Swiss National Library

Professor Hans R. Guggisberg has recently noted that in January 1848 Troxler presented this pamphlet, whose title means *The Constitution of the United States of North America as a Model for Swiss Federal Reform*, to the committee of the Swiss Diet employed in drafting the new federal constitution and that the committee "accepted Troxler's advice on March 22, 1848."

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the United States."[8] For the next four decades the discussion of the revision of the structure of Swiss government seldom occurred without the advisability of copying the American constitutional model being considered.

After the collapse of the Helvetic Confederacy in 1803 the Swiss political pendulum swung back in the direction of the old confederation. Under the so-called Mediation of 1803 and the Federal Pact of 1815 the sovereignty of the cantons was restored as was the power of the aristocratic oligarchies that had long governed in many of them. Although it is an exaggeration to say that the Swiss were now "intent on scrambling back into the Middle Ages,"[9] the abolition of many recently granted rights, the imposition of press censorship, and the reintroduction of torture in legal proceedings revealed the cause of liberty to be in retreat.

An abrupt change occurred in 1830. The Revolution in Paris in that year encouraged Swiss liberals to oust the aristocratic leadership in many of the most important cantons and to establish new governments that were based, as was Jacksonian Democracy in the United States, on popular sovereignty. The Swiss liberals were not prepared to open the door of political participation quite as wide as the Jacksonians were—restrictions, for example, were retained on the suffrage and on office holding—but they secured a broad range of rights to their fellow citizens and were committed to the institutionalization of democratic reform.

The liberals and their allies on the left, the radicals, realized that, to secure these reforms in the cantons, the government of the Confederation must be revised and strengthened to counteract conservative efforts from within and without Switzerland to restore the old order.[10] Consequently, in 1832 the liberals persuaded the national Diet to consider changing the national government. The ensuing debates roused advocates of American-style federalism to lobby vigorously for their favorite project. Foremost among the "Americanists" was Ignaz Paul Vital Troxler, a medical doctor turned philosopher, who "more than any other single person [was] responsible for the adoption of the American bicameral system in Switzerland."[11] A prolific writer of pamphlets, Troxler advised his countrymen that after "long and earnest reflections" on Switzerland's problems "a brilliant and happy example of its solution in historical reality loomed up before my eyes. It was the federal system of North America. . . . The constitution of the United States of America is a great work of art which the human mind created according to the eternal laws of its divine nature. . . . It is a model and pattern" for Switzerland and all other republics.[12]

Another pro-American writer, "very widely read all over Switzerland," was the political pastor Thomas Bornhauser of Canton

Thurgau whose pamphlet, *Schweizerbart und Treuherz*, published in 1834, contained the following declaration by the author's protagonist Treuherz: "Even our aldermen here seem to look upon a federal state in which the cantonal and national spheres would be harmonized one with another as a Utopian ideal. Well, the problem has been solved. The United States of North America have founded a federal state in which the freedom of each individual canton stands in perfect harmony with the unity of the nation."[13]

That the American system had captured the imagination of the Swiss public was attested to by James Fenimore Cooper who in his *Excursions in Switzerland* (1836) reported that, although most Swiss were "opposed to consolidation . . . they desire a Union like our own."[14] Further evidence of the popularity of the American system was furnished by a German traveller, Theodor Mundt, who reported that at a political rally of eight thousand Swiss at Langenthal in 1838 he was told by several participants that they had "taken as a model North American constitutional institutions and had especially before their eyes the bicameral system of Congress."[15]

Attractive though the American model appears to have been to many sections of the Swiss public, Swiss politicians were in no hurry to adopt it as the foundation of a new constitutional order. Events conspired in the 1840s, however, to make constitutional revision possible and, in the eyes of many, mandatory. In 1841 the radical government of Aargau suppressed the canton's Catholic convents, which it blamed for obstructing reform. The spark produced by the Aargau incident kindled a civil war six years later. The leading Catholic canton, Luzern, in what appeared to many to be a deliberate provocation, voted on 24 October 1844, to give the Jesuits control over the canton's schools. Assaults by marauding radicals followed and on 11 December 1845, the Catholic cantons of Luzern, Uri, Schwyz, Unterwalden, Zug, Fribourg, and Valais concluded a defensive pact called the Sonderbund, with the avowed purpose of protecting themselves and their religion from outside intervention. To the liberals and radicals the Sonderbund appeared in the same light as the Confederate States of America did in 1861 to Lincoln and his supporters: a secessionist movement designed to support a reactionary institution which must be brought to heel lest the nation perish. As a result, the Diet ordered the Sonderbund dissolved, 20 July 1847, and on 4 November 1847 it sent troops into the field to suppress it. By the end of the month the Sonderbund had been defeated militarily at a surprisingly modest loss in men and material.

In the midst of preparations for war the Diet voted, 16 August 1847, to appoint a committee to revise the constitution. The absence of the Sonderbund delegates in 1847 and their support of

Battle of Gislikon, 23 November 1847

Lithograph by Jules Sulzer de Winterthour

Courtesy of the Swiss National Library

The decisive battle of the Swiss Civil War of 1847 (the Sonderbundkrieg) was fought at Gislikon, 23 November 1847. The victory of the confederate forces led to the adoption of the Constitution of 1848, which was patterned in significant ways after the United States Constitution of 1787.

reform when they reappeared in 1848 guaranteed that the process of drafting the constitution would be controlled by liberal and radical deputies. A constitution was prepared in the winter of 1848, speedily ratified, and put into effect, 12 September 1848. Scholars agree that the constitution, which was voluminous by American standards—114 articles and 7 "transitory provisions"—was, nevertheless, drafted "in conscious and deliberate imitation of the American model,"[16] specifically, in regard to bicameralism and federalism. First, bicameralism: a Council of States, comparable to the American Senate, was established in which each canton had two votes; paired with the Council of States was the National Council, comparable to the American House of Representatives, which was elected by the people at large. To colleagues who were not enthusiastic about bicameralism, the Swiss drafting committee pointed out that "as the task of governing that vast [American] federation is much more complicated and difficult than that of governing the Swiss Confederation, the success made of the experiment of two chambers in that part of the world for more than sixty years past allows us *a fortiori* to hope that it will also prove suitable to our country."[17]

As for federalism, the Swiss Constitution of 1848, like the American Constitution of 1787, converted a league of sovereign states into a federal state in which power was divided between different levels of government: the central government was granted supreme power in some areas, the cantonal governments retained it in others, creating a system that Americans called "dual sovereignty" federalism. The Swiss appeared to imitate the separation of powers written into the American Constitution, although upon closer inspection substantial differences emerge between the operations of the systems in the two countries. The Swiss Constitution of 1848 did, to be sure, establish separate legislative, judicial, and executive departments, but by permitting the legislature to appoint both of its coordinate branches, it deprived them of the independence Americans considered essential for their proper functioning.

The Swiss executive was radically different from its American counterpart. Early in the Constitutional Convention of 1787 the American Framers rejected as impractical a proposal for a three-member executive, representing northern, middle, and southern sections of the country. A single executive, they believed, was indispensable for the success of republican government. The Swiss constitution, however, established a seven-member executive, called the Federal Council, which was, in American eyes, a political heresy of the most egregious sort. The Swiss High Court, the Federal Tribunal, also differed from the American Supreme Court in lacking the power to review laws passed by the national legislative (a power, it is true, not explicitly granted in the American Constitution).

Another difference between the Swiss and American Constitutions was the extent of power given to the central government. Although many of the same powers were granted in both countries—Swiss and American framers, for example, insisted on arming their national governments with control over commerce so that they could promote economic growth—the Swiss were willing to trust their legislature with certain powers—constructing public works, establishing a university—which the American framers specifically withheld in 1787. Finally, the forces which created the American and Swiss Constitutions were strikingly different. Current scholarship in the United States holds that conservative—some would say, aristocratic—elements created the Constitution to thwart democratic movements in the states. In Switzerland, precisely the opposite occurred; democratic forces sought a strong central government to overcome aristocracies in the cantons.

Despite these differences—and it would be possible to mention more—the important fact to remember in assessing the ties between the Sister Republics is that the major institutional features of the Swiss Constitution of 1848—bicameralism and federalism—were copied from the American Constitution of 1787. As a Swiss scholar has recently asserted, one "could almost speak of a plagiary."[18]

NOTES

1. Horst Dippel, *Germany and the American Revolution 1770–1800* (Chapel Hill, 1977), 131.
2. *Ibid.*, 22.
3. *Ibid.*, 221.
4. Georges Andrey, "Recherches sur la Littérature Politique relative aux Troubles de Fribourg durant les Années 1780," in Jean-Daniel Cadaux and Bernard Lescaze, eds., *Cinq Siècles D'Imprimerie Genevoise* (Geneva, 1981), 140.
5. Dippel, op. cit., 338–9.
6. William E. Rappard, "Pennsylvania and Switzerland: The American Origins of the Swiss Constitution," *Studies in Political Science and Sociology* (Philadelphia, 1941), 56.
7. *Ibid.*, 61.
8. *Ibid.*, 64.
9. William Martin, *Switzerland from Roman times to the present* (New York, 1971), 169.
10. Edgar Bonjour, Hilary S. Offler, George Richard Potter, *A Short History of Switzerland* (Westport, 1985), 254.
11. Rappard, "Pennsylvania and Switzerland," 91.
12. *Ibid.*, 93.
13. *Ibid.*, 100.

14. *Ibid.*, 68.
15. *Ibid.*, 107.
16. *Ibid.*, 50.
17. *Ibid.*, 115.
18. Jean-François Aubert, "The United States Constitution and Switzerland," unpublished paper in the author's possession. One similarity between the framers of the Swiss Constitution of 1848 and their American counterparts in 1787 which has escaped the notice of commentators is the "relative youth" of both groups. About the Swiss framers Rappard wrote:

> Ce qui surprend le plus, lorsqu'on évoque le riche passé de la plupart des membres de la commission, c'est leur jeunesse relative. Quatre commissaires, y compris son président, Ochsenbein, et son benjamin, Michel d'Obwald, avaient moins de quarante ans. La grande majorité étaient quadragénaires. Six seulement avaient dépassé la cinquantaine et son doyen d'âge, Abys, n'avait que cinquante-huit ans.
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> *La Constitution Fédérale de la Suisse*
> (Neuchâtel, 1948), 111.

In a widely-read article, published in 1961, Stanley Elkins and Eric McKitrick argued that the distinctive feature of the American framers and the source of much of their creativity was their youth. See "The Founding Fathers: young men of the Revolution," *Political Science Quarterly*, 76 (1961), 181–216.