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THE CENTRAL GOVERNMENT OF YUGOSLAVIA

THE supreme law of Yugoslavia at present is the Constitution of the Federal People's Republic of Yugoslavia adopted on January 31, 1946. The embodiment of the many arduous achievements of the struggle for national liberation begun in 1941, this constitution marks the end of the first great stage in the development of the Yugoslav Republic. When the Constituent Assembly met in Belgrade on January 31, 1946 to adopt a constitution, it merely registered its unanimous approval of the actual Yugoslav government as it had developed since 1941. A review of that development and of the conditions under which it took place is necessary to an understanding of the present form of government in Yugoslavia.

I

The earliest Partisan organization took the form of a Military Committee secretly organized by the Communists as early as the autumn of 1940 nearly six months before the German attack on Yugoslavia. According to official Partisan accounts, "This Committee was charged with the task of fostering a spirit of resistance among soldiers and officers of the Yugoslav Army in case of foreign attack and with taking over military leadership if the country should surrender."¹ It was not until the German attack on the Soviet Union on June 22, 1941, two months after the fall of Yugoslavia, that this Military Committee went into action after transforming itself into the General Headquarters for the Guerrilla Detachments of Yugoslavia. This nuclear organization of the Partisans made no distinction between political and military matters. By the

¹ Josip Broz-Tito, "Borba naroda porobljene Jugoslavije" ("The Struggle of the Peoples of Enslaved Yugoslavia"), *Borba za oslobodjenje Jugoslavije, 1941-1944* (*The Struggle for the Liberation of Yugoslavia, 1941-1944*) (Belgrade, 1944), p. 192.

latter part of 1942, however, as the Partisans were temporarily successful in liberating parts of Yugoslavia, a division between military and political functions was necessitated.

The first national civil authority within the National Liberation Movement was established on November 26, 1942 when over two hundred Partisan representatives of various parties, organizations, and ethnic or religious groups met in the Bosnian stronghold of Bihać to form themselves into a Yugoslav Anti-Fascist Council of National Liberation, known by its initials as AVNOJ (*Antifašističko Veće Narodnog Oslobođenja Jugoslavije*). A smaller operating unit known as the Executive Committee was also organized with Dr. Ivan Ribar as president. At that time no claim was advanced by this body for recognition as a legal government. Its leaders frankly recognized that such pretensions were premature.² A central government was created, nevertheless, with the force necessary to render it effective in all areas under the control of the Partisan army.

The Bihać Declaration promulgated by AVNOJ on November 26, 1942 may be considered the first predecessor of the present Yugoslav constitution as it established the organization and the fundamental principles of the National Liberation Movement in its first stage. In brief, this program declared (1) that the liberation of Yugoslavia from its oppressors together with the winning of democratic rights for all the peoples of Yugoslavia was the principal aim of the National Liberation Movement; (2) that the right of private property, individual initiative and economic enterprise would be preserved; (3) that no radical social changes would be effected except to replace reactionary local authorities and gendarmes with popularly elected representatives; (4) that the National Liberation Movement renounced coercion or lawlessness; (5) that officers who joined the National Liberation Army would receive ranks commensurate with their experience; and (6) that the national rights of all the peoples of Yugoslavia would be respected and achieved.

² Tito, "Govor na prvom zasjedanju AVNOJ-a" ("Address to the First Session of AVNOJ"), *ibid.*, p. 101.

It is noteworthy that this Bihać Declaration is generally ignored in Yugoslavia today, partly because it marks the nadir of Partisan political power and prestige. It seems understandable why the powerful Communist leaders of the present Yugoslav Republic should prefer to forget the tactics of darker days when they felt constrained to issue declarations of capitalist bourgeois rights to attract adherents. The Bihać Declaration has been violated by its framers since its inception in a planned attempt to realize the far more radical program of the Communist core of the movement.

The second historic document which precedes the present constitution, the Jajce Declaration of November 29, 1943, certainly indicates that as the Partisans became stronger, their program grew increasingly radical. A year following the first session of AVNOJ at Bihać, a second plenary session met in Jajce, the new Bosnian headquarters of the National Liberation Army. The principal purpose of this second session was clearly stated in the report of the supreme commander of the National Liberation Army, the still little-known Josip Broz-Tito: "Today the time has come to create an executive organ in the form of a provisional government capable of conducting all of the affairs which a real national government must direct."³ A formal declaration was adopted by the second session of AVNOJ which ended with the following resolutions:

1. That the Anti-Fascist Council of National Liberation of Yugoslavia be constituted as the supreme legislative and executive representative body of Yugoslavia as the supreme representative of the sovereignty of the peoples and of the State of Yugoslavia as a whole, and that a National Committee of Liberation of Yugoslavia be established as an organ with all of the features of a national government, through which the Anti-Fascist Council of National Liberation of Yugoslavia will realize its executive functions;

³ Tito, "Razvitak oslobodilačke borbe naroda Jugoslavije u vezi s međunarodnim događajima" ("Development of the Liberation Struggle of the Peoples of Yugoslavia in Connection with International Events"), *Drugo zasjedanje Anti-fašističkog Vijeća Narodnog Oslobođenja Jugoslavije (Second Session of the Anti-Fascist Council of National Liberation of Yugoslavia)* (Zagreb, 1945), p. 13.

2. That the traitorous "government" in exile be deprived of all rights as the legal government of Yugoslavia, particularly of the right to represent the peoples of Yugoslavia anywhere or before anyone;

3. That all international treaties and obligations concluded abroad in the name of Yugoslavia by the "government" in exile be reviewed with a view to their invalidation or renewal or approval, and that all international treaties and obligations which the so-called "government" in exile may eventually conclude abroad in the future receive no recognition;

4. That Yugoslavia be established on a democratic federal principle as a state of equal peoples;

5. That all these resolutions be formulated in separate decisions by AVNOJ.⁴

The second session of AVNOJ accordingly passed six decrees and the Presidium of AVNOJ passed four decisions which together comprised the actual constitution of Yugoslavia as the country gradually fell under the control of the National Liberation Movement. The first series of six decrees passed by the entire AVNOJ established the Yugoslav Anti-Fascist Council of National Liberation as the supreme legislative and executive representative body in Yugoslavia, and the National Committee of Liberation as a provisional cabinet; it deprived the royal government-in-exile of its legality and forbade King Peter II to return to Yugoslavia against the will of the people; it adopted the federal principle as a basis of government; it approved the work of the Executive Committee of AVNOJ and the General Staff of the National Liberation Army since the first session at Bihać; it gave a vote of thanks to the Army; and, finally, it introduced the title of Marshal of Yugoslavia.

In a second series of four decrees, the newly established Presidium of AVNOJ conferred the title of Marshal upon Tito. On November 30, 1943 the Presidium appointed a National Committee to act as the executive arm of AVNOJ. Marshal

⁴ "Deklaracija drugog zasjedanja Antifašističkog Veća Narodnog Oslobođenja Jugoslavije (29-XI-1943)" ("Declaration of the Second Session of the Anti-Fascist Council of National Liberation of Yugoslavia [29-XI-1943]"), *Službeni List (Official Gazette)*, No. 1, February 1, 1945.

Tito was made president or acting premier as well as acting minister of national defense. Three vice-presidents and thirteen acting ministers were also appointed, holding nineteen portfolios in all.

From November 29, 1943 to the adoption of the Constitution of the Federal People's Republic of Yugoslavia on January 31, 1946, this pattern constituted the fundamental law by which all territories of Yugoslavia were governed as they were liberated by the Partisans.

II

The position of Tito's government was considerably strengthened by an agreement reached on June 16, 1944 on the liberated Adriatic island of Vis between the Marshal and Dr. Ivan Šubašić, then premier of the royal government-in-exile. At the behest of the British, Premier Šubašić promised Tito to organize a more progressive cabinet which would cooperate with the National Committee. In exchange, Tito offered to postpone the question of the future of the monarchy for the duration of the war if the royal government in London would publicly order all Yugoslavs to join forces with Tito's army.⁵

In realization of the need to preserve the forms of legal continuity of the new state, particularly for purposes of international recognition, a second Tito-Šubašić agreement was concluded in Belgrade on November 1, 1944, less than a week following the liberation of the Yugoslav capital.⁶ As a result, several basic changes were made in the central government of Yugoslavia.

On January 29, 1945 King Peter II issued a decree from London transferring his royal powers to a regency until a final

⁵ "Sporazum Nacionalnog Komiteta Oslobodjenja Jugoslavije i Kraljevske Jugoslovenske Vlade od 16 juna 1944 godine" ("Agreement between the National Liberation Committee of Yugoslavia and the Royal Yugoslav Government of June 16, 1944"), *Službeni List (Official Gazette)*, No. 133, March 9, 1945.

⁶ "Sporazum Nacionalnog Komiteta Oslobodjenja Jugoslavije i Kraljevske Jugoslovenske Vlade od 1 novembra 1944 godine" ("Agreement between the National Liberation Committee of Yugoslavia and the Royal Yugoslav Government of November 1, 1944"), *Službeni List (Official Gazette)*, No. 134, March 9, 1945.

decision by a constituent assembly be made regarding the monarchy.⁷ A temporary deadlock caused by the inability of the royal government and the National Committee to agree on details and personalities was broken by the "recommendation" of Roosevelt, Churchill and Stalin at Yalta on February 11, 1945 to Marshal Tito and Premier Šubašić "that the agreement between them should be put into effect immediately and that a new government should be formed on the basis of that agreement."⁸ As the result of negotiation with Tito, King Peter, by a decree of March 2, 1945, named three regents—a Serb, a Croat and a Slovene—to represent the monarchy in Yugoslavia.⁹ Three days later Premier Šubašić formally submitted his government's resignation to the regents according to plan.¹⁰ Marshal Tito likewise submitted the resignation of the National Committee to the Presidium of AVNOJ.¹¹ On March 7, 1945 the National Committee was dissolved as a government agency and a new council of ministers was appointed by the regents on the recommendation of the Presidium of AVNOJ. Headed by Marshal Tito, the new cabinet consisted of twenty-eight ministers of whom only five were not Partisans.¹²

This compromise resulted in a certain dualism in the government under which the National Liberation Movement enjoyed a much stronger position than did the king as represented by a completely ineffectual regency. Though the compromise stemmed from the desire to maintain the legal continuity of the Yugoslav state, neither the royal constitution nor the Partisan government operated in its original form. Despite the existence of a royal regency, the Tito government continued to use the revolutionary name "Democratic Federal Yugoslavia". The Tito Šubašić agreements, in the final analysis,

⁷ *Službeni List (Official Gazette)*, No. 135.

⁸ Joint Communiqué on Crimea Conference, February 12, 1945.

⁹ *Službeni List (Official Gazette)*, No. 136, March 9, 1945.

¹⁰ *Ibid.*, No. 137.

¹¹ *Ibid.*, No. 138.

¹² *Ibid.*, No. 139.

served only to strengthen Tito's hand by giving him virtually full control over the now only legal government of Yugoslavia in exchange for the mere promise to postpone the question of the monarchy until after the war.

In addition to the above basic changes, several additional institutions became a part of the Yugoslav central government after the liberation of Belgrade on October 20, 1944. By a decree of December 14, 1944 the National Committee established under its jurisdiction an Economic Council consisting of the economic ministries and the ministry of national defense. This Economic Council has since become a permanent agency coördinating all the economic functions of the government through its decisions. A decree of February 3, 1945 (effective February 13) issued by the Presidium of AVNOJ established a Supreme Court and the office of Public Prosecutor, both on the Soviet model. A decree of April 2, 1945 (effective April 10) established a Legislative Council consisting of the minister for the constituent assembly, the minister of justice, and the ministers of state for the six federal units (Serbia, Croatia, Slovenia, Bosnia-Herzegovina, Montenegro and Macedonia) with the task of formulating and interpreting the ordinances and decrees of the council of ministers. These agencies have likewise become permanent parts of the government.

This, in brief, constituted the central government of Yugoslavia, with one major exception, until the proclamation of the Federal People's Republic of Yugoslavia on November 29, 1945 and the adoption of the present constitution. Meanwhile, Yugoslavia had still another "recommendation" of the Big Three at Yalta to fulfill. Besides urging the formation of a new Yugoslav government, the joint communiqué of the Crimean Conference further declared the following with respect to Yugoslavia:

- (1) The anti-Fascist Assembly of National Liberation (AVNOJ) should be extended to include members of the last Yugoslav Parliament (*Skupšćina*) who have not compromised themselves by collaboration with the enemy, thus forming a body to be known as a temporary Parliament; and,

(2) Legislative acts passed by the anti-Fascist Assembly of National Liberation will be subject to subsequent ratification by a constituent assembly.¹³

One may presume that the intent of this proposal was to democratize AVNOJ by increasing the number and validity of its representatives. An investigation of the proposal, however, leads to the conclusion that its authors were badly advised. To begin with, the Stojadinović *Skupština* of 1939 was elected under the notorious electoral laws of 1931 and 1933 passed during the personal dictatorship of the late King Alexander I. These laws were so framed and weighted that government candidates with only fifteen votes sometimes succeeded in defeating opposition candidates who received as many as twelve thousand votes. The law of 1931, for example, gave the party winning only a relative majority two thirds of the seats in parliament, and then allowed that same party to take a proportional share of the remaining third! Besides, the elections were carried out with more than the usual amount of Balkan terrorism and corruption under the régime of Axis-courting Milan Stojadinović. The resulting parliament was, therefore, so unrepresentative of the country at large that Stojadinović's successor, Dragiša Cvetković, was forced to dissolve it at Maček's request of August 26, 1939. From that time until the fall of Yugoslavia in April 1941, there was no parliament at all. The impossibility of following the Yalta stipulations to the letter resulted in a compromise.

On August 7, 1945, twenty months after the second session of AVNOJ at Jajce and three months following the end of the war, the Anti-Fascist Council of National Liberation met in Belgrade for its third plenary session. One of its first acts was unanimously to adopt the proposal of the council of ministers to enlarge AVNOJ by the coöptation of additional members. The result of two months of investigation and negotiation with the leaders of various parties, this proposal recommended that AVNOJ coöpt thirty-nine members of the 1938 parliament. As this number constituted only one tenth of that parliament,

¹³ Joint Communiqué on Crimea Conference, February 12, 1945.

the proposal further offered the names of sixty-nine representatives of six political parties with six additional seats held in reserve for future appointments. In addition to the above groups, a third category of thirteen individuals with some distinction in public life was added, thus making a total of 121 additions to AVNOJ with six seats held in reserve. Presumably none of these additional members was Communist, although some were Partisans. Though the letter of the Yalta recommendation was not fulfilled, an impressive gesture had been made by AVNOJ which only served as a further testimonial of its strength.

On August 9, the third day of the third session of AVNOJ, a Presidium consisting of a president, six vice-presidents (one for each of the federal units), two secretaries and sixty-nine members was elected in accord with an already established pattern. On the following day the representatives of AVNOJ unanimously adopted the resolution of their president that the Anti-Fascist Council of National Liberation be henceforth known as the National Provisional Parliament.

III

Until its adjournment on August 26, 1945, the National Provisional Parliament passed a series of laws the most important of which, with regard to the development of the organization of the central government, were the following: the Law on Electoral Lists, August 10; the Law on the Constituent Assembly, August 21; and the Law on the Election of People's Representatives, August 22. Not only did this triad of laws provide for the election and organization of the Constituent Assembly, but it thereby laid the groundwork for permanent government forms and procedures.

The Law on Electoral Lists was passed first in order to provide immediate machinery for local elections being held in various places throughout the country. The immediate purpose of the law was to establish an official register of citizens eligible to vote or to be elected to the Constituent Assembly or to other national and local agencies of the government.

Among the innovations which this law introduced in Yugoslav practice were woman suffrage, universal active and passive electoral rights for all citizens over eighteen years of age, the participation of the army as the "armed people" in all elections, and the eligibility of minors of any age to vote if they had been soldiers in the National Liberation Army or Partisan Detachments of Yugoslavia. On the other hand, eight categories of those considered to have betrayed the people were deprived of electoral rights. Thus, although the law disfranchised 253,108 persons or 3.06 per cent of the electorate, it more than doubled the number of voters by enfranchising women, citizens between eighteen and twenty-one years, and certain minors.¹⁴

The Law on the Constituent Assembly passed on August 21, 1945 provided for the following in its first article:

That the peoples of new Yugoslavia might express their sovereign will regarding the basic question of form of government, they will elect at free elections, by direct and secret ballot, representatives to a Constituent Assembly, the supreme representative body of Democratic, Federal Yugoslavia. The Constituent Assembly will establish the Constitution of New Yugoslavia, laws in connection with the Constitution, and decisions on all business concluded by the Anti-Fascist Council of National Liberation of Yugoslavia and its Presidium or the National Provisional Parliament of Democratic, Federal Yugoslavia.¹⁵

It was generally assumed when the Law on the Constituent Assembly was passed that the forms established for that body would become a permanent feature of the People's Assembly which it was to establish.

The Law on the Election of People's Representatives passed on the following day was a complex and detailed statute which specified the procedure for the election of representatives to the Constituent Assembly.¹⁶ The first article of this law guar-

¹⁴ *Borba*, Organ of the Communist Party of Yugoslavia, Belgrade, October 11, 1945, p. 1, Official statistics of the Federal Electoral Commission.

¹⁵ *Službeni List (Official Gazette)*, No. 594, August 24, 1945.

¹⁶ *Ibid.*, No. 595.

anteed free, universal, equal and direct electoral rights and the secret ballot. In general, electoral districts were to coincide with administrative districts whenever possible. The law also provided for federal, regional, district, county and municipal electoral commissions, each under the supervision of the next higher body. As for election tickets, the law stipulated that any group, political or otherwise, of one hundred citizens could submit a federal list of candidates within ten days of the election decrees. For local tickets in district elections, one hundred and fifty citizens were required to present a list; at least twenty of this number had to represent half of the electoral wards within that district. Candidates for the Assembly of Nationalities could be nominated only within the federal unit in which they resided. Tickets were differentiated by the names of "bearers of lists" whose names appeared first.

The election procedure perpetuated the primitive system of ballots in the form of rubber balls which have been traditional in east European countries such as Yugoslavia, where the rate of illiteracy is high. Sealed wooden boxes were provided for each ticket for both houses of the Constituent Assembly. Each voter was required to present himself at the polls before the local electoral commission, state his name, profession and residence, and identify himself as an eligible voter. Upon verifying his eligibility, the president of the local commission then explained the procedure for voting and gave the voter a ball for each house of the Constituent Assembly. Taking a ball at a time, the voter then inserted his right hand into each of several boxes and silently dropped the ball into the box of his choice so as to safeguard the secrecy of his choice.¹⁷ In the case of illiterates, a member of the electoral commission was required to read the designations and names of candidates on each box upon request. The law forbade political agitation on voting premises. In general, the Law on the Election of People's Representatives for the Constituent Assembly promised

¹⁷ Ostensibly because of the scarcity of materials, wooden balls and plain, unlined wooden boxes were used in many polls, thus making silence difficult. On the other hand, not a few voters chose to disregard secrecy by demonstratively inserting their hand in only the government box.

in theory, at least, elections which could be expected to show the true will of the people. In practice, however, several important considerations militated against this expectation.

Although not capable of measurement, the psychological make-up of the Yugoslav people could be considered the principal hindrance to fair elections. A tradition of corrupt elections held under duress during the monarchy, coupled with a profound fear of the new régime's secret police, convinced most citizens that the coming elections would differ little from previous ones. The highly threatening tone of many campaign speeches of the government's Popular Front, slogans such as "Ballots for Tito, Bullets for Grol" (leader of the Democratic party), and the unmistakable impression that all who voted against the government would be considered traitors only helped to create an atmosphere of widespread fear. To this was added a powerful undercurrent of fatalism and defeatism engendered by extreme war-weariness, disappointment in the western allies, and almost complete dependence on the existing government for a livelihood, thanks largely to UNRRA. A general respect for the exploits of the National Liberation Army and the impression that the Tito government was being supported by the Soviet Union involved a traditional admiration for heroism and solidarity with Mother Russia in some quarters. Finally, a hidden but very real fear of a bloody civil war of retribution, particularly between the Serbs and the Croats, inspired many to vote for the Popular Front which supported a vigorous policy of reconciliation between these two Yugoslav peoples.

Probably the most material obstacle to an election which would truly demonstrate the general will was the abstinence of the opposition parties from the electoral contest. The pitiful disunity of these parties was manifested by their inability to agree on the most essential points of a common program and electoral ticket in the eleventh hour, though their leaders must have been aware that their disunity would lead to liquidation. The realization of opposition leaders that they could not hope to defeat the Popular Front under prevailing conditions and

their hope that their abstinence from the elections would invalidate the results and thus justify foreign intervention appear to have inspired their decision not to participate. Such incidents as the ban on both opposition newspapers—*Demokratija* in Belgrade, and *Narodni Glas* in Zagreb—during the first week of the election month of November only served to confirm the opposition's fears. Following the resignation on August 18 of Vice-Premier Milan Grol from the cabinet, Communist-instigated attacks on the leader of the Democratic party reached such a high pitch that many of his followers were intimidated and molested. Meanwhile, Foreign Minister Ivan Šubašić, ranking member of the Croatian Peasant party in the government, had been held incommunicado since September 10, 1945, officially for reasons of health. Thus the leader of the most powerful opposition group in Yugoslavia was completely prevented from directing his opposition for a good part of the pre-election period. There is no doubt that Dr. Šubašić was a sick man, though the extent of his illness is questionable; what appeared strange, however, was the extreme zeal with which the government guarded him from any visitors for some time. Finally on September 20, 1945, the opposition parties of Serbia issued a communiqué declaring the abstinence of the Democrats, Radicals and Agrarians from the elections. The decision of the powerful Croatian Peasant party to abstain was accompanied by the resignation on October 8 of both ranking leaders of that party in the cabinet, Dr. Ivan Šubašić and Dr. Juraj Šutej.

Meanwhile, preparations for the coming elections were being carried out by the government and the Popular Front. At its meeting of September 11 the Federal Electoral Commission formally confirmed the ticket of the Popular Front of Yugoslavia headed by Marshal Tito and signed by nearly all the members of the cabinet, the central committee of the Anti-Fascist Women (AFŽ) and the United Alliance of Anti-Fascist Youth of Yugoslavia (USAOJ), officials of the National Provisional Parliament, the Public Prosecutor, the General Staff of the Army, and three more newspaper columns of names representing corresponding organizations in all the federal units. Of

great significance is the fact that the list of candidates bore no separate party designations. All Popular Front candidates ran, not as the representatives of their own parties or groups within the Front, but in the name of the Popular Front itself. This procedure naturally precluded the possibility of testing the real strength of the various parties within the Front at the polls and generally favored the Communists. On the following day Marshal Tito delivered a campaign speech over Radio Belgrade in which he summarized the achievements of the National Liberation Movement and excoriated the opposition as traitors who sought to create a crisis in Yugoslavia through foreign intervention.¹⁸

Countering the opposition's attempt to invalidate the elections by their abstinence, Vice-Premier Edvard Kardelj proposed on October 26 that a special ballot box be established at all polls to register the choice of voters who did not care to cast their ballot for the Popular Front ticket. This was an effective reply to any attempt to discredit the elections through boycott. This motion was unanimously carried by the National Provisional Parliament as an amendment to the Law on the Election of People's Representatives to the Constituent Assembly.¹⁹ This box became popularly known as "the widow" since it belonged to no party.

Following a vigorous Popular Front campaign in which a spirit of competition was conspicuously lacking, the national elections were held on November 11, 1945 in exemplary order despite the holiday mood which prevailed throughout the country. To the Western observer, the sight of whole columns of voters and even regiments of soldiers being marched to the polls amid flag-waving and cheering was startling. As conspicuous as the enthusiasm was, it was by no means universal. Of special interest was the zeal with which citizens were reminded in a variety of ways, including door-to-door canvassing, of their duty to vote. Even invalids were transported to the polls, while veiled Moslem women left the seclusion of their

¹⁸ *Borba*, September 12, 1945, p. 2.

¹⁹ *Politika*, Belgrade, October 27, 1945, p. 2.

homes to vote for the first time in Yugoslav history. Not many dared to abstain from voting.

Immediately following the elections, the press began to report partial returns district for district. For some unstated reason, however, this practice was suddenly discontinued. Not until November 24, thirteen days after the elections, were the final results tabulated. According to the official bulletin of the Federal Electoral Commission published in the daily press of that day, of the total number of 8,383,455 registered voters, 7,413,214 voters or 88.43 per cent participated in the elections. Of the total ballots cast, the Popular Front received 88.69 per cent in the elections for the Assembly of Nationalities and 90.48 per cent in the elections for the Federal Assembly. It must be pointed out that no opposition members were present at the counting of votes. Supporters of the new Yugoslavia hailed the results as a victory for the forces of popular democracy. More sober observers only found in these legally correct elections another indication that constitutionalism is not in itself a guaranty of free expression.

IV

The newly elected Constituent Assembly convened in Belgrade on November 29, 1945, exactly two years after the historic second session of AVNOJ in Jajce, to vote by acclamation for the proclamation of a republic. The declaration, which enumerated the past wrongs of the monarchy and which condemned King Peter for his support of collaborationists during the war, ended as follows:

I. Democratic Federal Yugoslavia is proclaimed a people's republic under the name of the Federal People's Republic of Yugoslavia.

The Federal People's Republic of Yugoslavia is a federal people's state republican in form, a community of equal peoples who have freely expressed their will to remain united within Yugoslavia.

II. With this resolution the monarchy in Yugoslavia is finally disestablished in the name of all the peoples of Yugoslavia, while Peter II Karadjordjević with the whole Karadjordje dynasty is divested of all rights appertaining to him and the Karadjordje dynasty.²⁰

²⁰ *Politika*, November 30, 1945, p. 1.

The Kingdom of Yugoslavia was now the Federal People's Republic of Yugoslavia (*Federativna narodna republika Jugoslavije*).

A second joint session of the Constituent Assembly reconvened on the morning of December 1 to reject the formal resignation of Marshal Tito's provisional government and to authorize its continued existence with a vote of confidence. The Assembly then approved the work of the Presidium since the second session of AVNOJ held in Jajce on November 29, 1943. Finally a Law on the Presidium of the Constituent Assembly was passed and officers were elected. As before, the newly elected Presidium was headed by Dr. Ivan Ribar, six vice-presidents represented the federal units, and twenty-five members were elected including Marshal Tito.

On December 2, 1945 a discussion of a new constitution began with a report by Edvard Kardelj, Minister for the Constituent Assembly and Vice-Premier, on a proposed draft which had been accepted in principle by the council of ministers. In his report Vice-Premier Kardelj explained the principles underlying the draft as follows:

First, the whole draft has been worked out on the assumption that a constitution is not and should not be a program and a declaration, nor a prophecy of what should be or shall be in the future. A constitution is basically a legal record of the social, economic and political actualities within a state. . . .²¹

Second, none can deny that fundamental changes have occurred within our state organism in the relations among our peoples Thus the draft of the constitution legally confirms the new state as a voluntary community of equal peoples in which the nationalities question has been completely solved on the basis of the free self-determination of our peoples. . . .

Third, in the draft are to be found legally expressed fundamental principles of economic and social life. In this our constitutional draft differs from the majority of existing constitutions which generally deal only with the political and legal order. . . .

Fourth, the relationship between people and government in new Yugoslavia has so changed that there is no longer conflict between them, but political and organizational unity. . . .

²¹ Cf. Stalin's report of November 25, 1936 before the Extraordinary Eighth Congress of Soviets on the draft of the 1936 Soviet Constitution.

Fifth, the basic principle of state organization is the principle of unity of government. . . . This unified government is made possible by the realization of an economic and political alliance among the basic popular masses—the workers, peasants, progressive intelligentsia and working middle-class—in the life of the people of new Yugoslavia. . . .

Sixth, our constitutional draft is distinguished by a series of new and significant institutions . . . the republican form of government . . . the separation of church and state . . . basic civil rights, not only individual and political, but social and cultural . . . all organs of state authority are to be subordinate to the constitution and the law . . . courts are elective. . . .

Seventh, finally, a vital characteristic of the draft of the constitution of the FPRY is the assured right and freedom for the constitutions of our people's republics to work out their own organization within the framework of their own sovereignty and jurisdiction, to suit the special conditions of individual peoples and people's republics.²²

On December 6 both chambers of the Constituent Assembly elected constitutional committees which, four days later, began a study of the proposed draft. Meanwhile, literally the entire population of Yugoslavia was likewise engaged in a discussion of the constitution reminiscent of the popular campaign which swept the Soviet Union when the Stalin Constitution was adopted in 1936. Public meetings, political lectures, editorials and radio talks by members of the government inspired thousands of Yugoslav citizens to submit their approval or criticism of the draft. On December 13 the constitutional committee approved the draft in principle and took up the task of emendation on January 2. In mid-January the Constituent Assembly as a whole began a discussion of the draft which resulted in a unanimous vote of approval in principle on January 24. Five days later the discussion on details came to a close, and on January 30 a joint session of both houses of the Constituent Assembly resolved "that the Constitution of the Federal People's Republic of Yugoslavia, enacted by the Federal Assembly and the Assembly of Nationalities, be promulgated and proclaimed

²² *Politika*, December 3, 1945, p. 1.

to the peoples and citizens of the Federal People's Republic of Yugoslavia."²³

The Constituent Assembly thereupon approved a motion to transform itself into the People's Assembly of the FPRY. The first extraordinary session accepted the resignation of Marshal Tito's government, a necessary formality, and entrusted him with the formation of a new cabinet. The following day Marshal Tito proposed a new council of ministers of twenty-one men of whom one more than half were Communists while the remaining ten, nearly all obedient fellow travelers, owed nominal allegiance to six various parties. On February 2 the People's Assembly named Marshal Tito commander-in-chief of the Yugoslav Army. Finally both the Federal Council and the Council of Nationalities elected their own committees on legislation, economic planning and finance, credentials and immunities, administration, and petitions and appeals.

The Yugoslavs were now to live under their third constitution since the First World War. For the Serbian part of the population, the relative majority, it was their tenth constitution in 111 years. Few Yugoslavs felt that the new constitution would outlast the ten-year average set by tradition. While the opponents of the new régime prayed for deliverance by the West, even if in the form of a third world war, the Communist rulers of Yugoslavia were already planning their next gigantic strike forward to the "higher democracy of the Soviet Union."

V

The framers of the present Yugoslav constitution regard it as a record of three basic revolutionary achievements of the struggle for national liberation: the republic, the federation, and popular sovereignty. It is these changes which they seek to perpetuate by insisting on the use of the full official title of their new state—the Federal People's Republic of Yugoslavia. The first article of the new constitution proclaims: "The Federal People's Republic of Yugoslavia is a federal people's state, republican in form, a community of peoples equal in rights

²³ *Constitution of the Federal People's Republic of Yugoslavia*, Embassy of the FPRY, Washington, D. C., 1946, p. 3.

who, on the basis of the right to self-determination, including the right of separation, have expressed their will to live together in a federative state."

There can be no doubt, of course, that Yugoslavia is no longer a monarchy. How much of a republic it is, however, is a doubtful matter for many Yugoslavs used to the ways of monarchy as well as for many Westerners who find little in Yugoslav republicanism to remind them of their own. Tito is more glorified than any Yugoslav ruler before him. The magnificence of his receptions in the White Palace, the luxurious home of the exiled Prince Paul, the extravagance of Tito's gaudy wardrobe, and the cult of the little father (*Stari*, literally "the old man") built about him quite successfully compete with the royal trappings of the Karadjordje dynasty. Of course, this cult of the glorified leader is in itself but an indication of more fundamental limitations on Yugoslav republicanism.

The present constitution of Yugoslavia places considerable stress on "the people" as the ultimate repository of all power. Although this proposition is a highly questionable one, and perhaps for that very reason, the rulers of Yugoslavia constantly exert themselves to show that their government enjoys mass approval and participation. The word "people" has become a magic formula used by the new régime to buttress its every act. Those who oppose the government soon find themselves in the most uncomfortable position of "enemies of the people" and are treated according to the slogan "No freedom for the enemies of freedom". Not content with formulating the sovereignty of the people in its political abstract sense, the new régime has encouraged elaborate and amazingly frequent mass "conferences", congresses, "manifestations" and "demonstrations" in support of its policies. When Tito returns from Moscow after having signed a treaty of amity and collaboration, thousands of Yugoslavs are to be found at the railroad station welcoming his return. If a law against economic sabotage and speculation is passed, mobs of "patriotic citizens" pillage the shops of unfortunate suspects. Whenever an opposi-

tion newspaper appeared on the newstands, "spontaneous" groups of irate citizens were soon on the spot to make bonfires of the issue. Since the November 1945 elections, no real opposition paper has appeared. The number of Yugoslavs elected or appointed as local committee members, "street secretaries", trade-union delegates, deputies of the Public Prosecutor, lay judges, and so on, defies calculation. It is this myth of popular genesis and mass participation which the present constitution establishes in the following article:

Article 6. All authority in the Federal People's Republic of Yugoslavia derives from the people and belongs to the people. The people exercise their authority through freely elected representative organs of state authority, the people's committees, which, from local people's committees up to the assemblies of the people's republics and the People's Assembly of the FPRY, originated and developed during the struggle for national liberation against Fascism and reaction, and are the fundamental achievements of that struggle.

To what extent the above provisions are observed in practice has been partially seen in the manner in which the elections for the Constituent Assembly were conducted.

Finally, the third achievement of the struggle for national liberation, the federation of six republics, must also undergo critical analysis. Although the problems of Yugoslav federalism cannot be dealt with in greater detail here, it is sufficient to point out that the six republics of Yugoslavia are, in all matters of consequence, under the complete control of the omnipotent central government. The government in Belgrade is exercising its powers in such a manner as to make political local autonomy practically meaningless in Yugoslavia.

The highest legislative authority in Yugoslavia is vested by the constitution in the People's Assembly (*Narodna skupština*) which consists of the Federal Council (*Savezno veće*) and the Council of Nationalities (*Veće naroda*). Representatives to the Federal Council are elected at a ratio of one representative for each fifty thousand inhabitants. If the last Yugoslav census, that of 1931, be used, as it was for the elections to the

Constituent Assembly, this would give the Federal Council about 275 representatives for somewhat less than a population of fourteen millions. As the Federal Assembly of the Constituent Assembly, which transformed itself into the present Federal Council, had 348 members elected at a ratio of one representative for every forty thousand inhabitants according to the 1931 census, the constitutional ratio will not go into effect until a new People's Assembly is elected.

It is in the Council of Nationalities that the principle of federation is observed by apportioning to each of the six republics—Serbia, Croatia, Slovenia, Bosnia-Herzegovina, Macedonia and Montenegro—thirty representatives. The autonomous province of Vojvodina and the autonomous region of Kosovo-Metohija, both a part of the Serbian republic, send twenty and fifteen representatives respectively. Thus the Council of Nationalities includes 215 representatives. Both houses are elected for four years. They sit separately and enjoy equal rights, no distinction being made, for example, as to the right to initiate or to consider certain kinds of bills. Joint sessions are held on special state occasions or to fulfill certain constitutional functions such as the election of a Presidium or the adoption of an amendment to the constitution. Although extraordinary sessions may be convened whenever the Presidium, one of the republics, or one third of either chamber requests it, the People's Assembly meets regularly only on April 15 and on October 15 of each year. The main work of the People's Assembly at these times is to review the work of the Presidium and the cabinet as well as to approve a new budget. A study of the work of the People's Assembly thus far indicates an ever-growing degree of unanimity on even the most vital questions of policy as presented by the Presidium or the cabinet for its approval. This unanimity is all the more remarkable inasmuch as it involves nearly five hundred individual minds. Because the People's Assembly meets so rarely and for only short sessions, and as it has demonstrated that its main rôle is that of a rubber stamp, one must look elsewhere for the real source of political power in the new Yugoslavia.

Of far greater importance as a lawmaking body is the Presidium of the People's Assembly. The constitution specifies that, with each change of the People's Assembly, a joint session of the two councils must elect a Presidium from among its own members. This Presidium includes a president, six vice-presidents (traditionally one for each of the republics), a secretary and not more than thirty members. This Presidium is, in effect, the collegiate ruler of Yugoslavia, and its president, Dr. Ivan Ribar, is considered the president of the country. His functions, however, are practically limited to presiding at meetings and conferring decorations. His unimportance in the present Yugoslav scheme is indicated by the fact that he is not even a Communist although a veteran Partisan. Though the Presidium ostensibly includes all the various political groups represented in the Assembly, such as there are, there is no doubt that it is controlled by the Communist party, most of whose ranking leaders, including Tito, are members of the Presidium. In general, the Presidium is invested with the powers and functions of the People's Assembly while that body is not in session. It may appoint or relieve members of the cabinet, thus asserting the supreme sovereignty of the People's Assembly over all the other branches of the government. Of great interest is the Presidium's monopoly over the right of judicial review which, according to American practice, would belong to the Supreme Court. In Yugoslavia, however, as in most European countries, only the supreme legislative body can theoretically declare its own laws unconstitutional. The Presidium of the FPRY also reviews the constitutions of the six constituent republics and issues binding interpretations of federal laws. Above all, the Presidium necessarily issues the main bulk of legislation, subject to the approval of the People's Assembly. As this approval is almost certain, it may be asserted that the Presidium is the actual lawmaking body of Yugoslavia. It is by no means the only federal lawmaking organ in the central government. Even here it must share its prerogatives with the most powerful government organ in the country—the cabinet.

The highest executive and administrative body in Yugoslavia is the cabinet or the council of ministers, officially known as

the "government" (*vlada*). Consisting of a premier, two vice-premiers and about twenty ministers, the cabinet is appointed or dismissed by the Presidium. When the People's Assembly is not in session, the cabinet is responsible for its work to the Presidium. The constitution grants such vast powers to the cabinet that there are hardly any functions which it may not assume. Its federal ministries—those concerned with foreign affairs, national defense, communications, shipping, posts, and foreign trade—directly control these activities throughout the country. Its federal-republican ministries—those dealing with finance, the interior, justice, industry, mines, commerce and supplies, agriculture and forestry, labor, and public works—control these phases of activity indirectly through the corresponding ministries of the six republics. Through such agencies as the Federal Planning Commission, the Federal Control Commission, and committees on education, religious affairs, social welfare, culture and art, and similar agencies, the cabinet wields complete control over the entire life of the country. As the executive branch of the government, the cabinet is charged with enforcing the legislation of the People's Assembly or its Presidium. Of great significance is the fact that, besides being able to initiate legislation in the People's Assembly, it also issues a great deal of legislation of its own in the form of ordinances and decrees. Although this legislation is theoretically subject to the final approval of the People's Assembly, practice shows that this provision offers no real limitation on the power of the cabinet.

While the constitution stipulates that the cabinet shall be responsible to the Presidium, this apparent check on the executive is nullified in actual practice by the existence of an "interlocking directorate" in all branches of the government. The principal fact of Yugoslav political life is that a Communist party, relatively small in numbers but extremely powerful, dominates the entire government through the strategic placement of its personnel. The preponderance of Communists and fellow travelers in the People's Assembly assures Communist power in both the Presidium and the cabinet. The present

cabinet, for example, includes some six parties beside the Communist. Yet many of these parties are hardly more than nominal entities or rump groups. The docility or impotence of the disunited non-Communists in the cabinet sharply contrasts with the numerical and political superiority of the Communist members. But the Communist party is evidently not content with numerical superiority. A tradition of extreme discipline and cohesion in the party has given rise to the skillful establishment of an interlocking directorate which binds all the branches of the government under the direct control of the Yugoslav Communist party. For example, Josip Broz-Tito is not only premier of Yugoslavia but minister of national defense, commander-in-chief of the Yugoslav Army, Marshal of Yugoslavia, representative to the People's Assembly, member of the Presidium, as well as the head of the Popular Front of Yugoslavia and chief of the Communist party. His Communist comrades are similarly distributed in proportionally subordinate positions in all of these and other organizations. Thus, in a country so completely dominated by a single party, a Communist-controlled cabinet can hardly expect, nor does it receive, any opposition from a Communist-dominated Presidium elected by a Communist-dominated People's Assembly consisting of representatives of a Communist-dominated Popular Front. There is little doubt that the cabinet's real power is derived not so much from the constitution as from the strength of the Communist party. Thus it is the cabinet, headed by Tito, which governs Yugoslavia, and it is the Politburo of the Yugoslav Communist party, again headed by Tito, which rules the cabinet as well as all the other branches of the government.

Few organizations illustrate the complete centralism of the Yugoslav government as the Federal Planning Commission and the Federal Control Commission. Through these two agencies the cabinet is able to direct and to control the entire life of the country. A further source of control by the central government is the office of Public Prosecutor (*Javni tužilac*), borrowed from the Soviet Union, whose network of agents constitutes "the eyes and ears of the people". Still another weapon of

centralism is the Supreme Court which is appointed by a joint meeting of the People's Assembly to review all lower court decisions, for the purpose of ascertaining their conformity with federal law. It does not, however, have the right to declare federal laws unconstitutional. Thus a system of "checks and balances" in the American sense does not operate in Yugoslavia, where the watchers watch themselves.

VI

It is apparent from this brief survey of the central government in the new Yugoslavia that its origins and development are not so much the result of improvisation as of planning. The debt of the leaders of the Yugoslav revolution to the leaders of the Russian revolution is indisputable. If the Yugoslav leaders were able to establish a full-fledged government in a remarkably short time, it is because they had the Soviet government as a model. In matters of administration the present Yugoslav constitution is but a paraphrase of the Stalin Constitution of 1936. It may be maintained that, were it necessary, Yugoslavia could today become a part of the Soviet Union administratively without any but the most minor changes in its government. The People's Assembly of the FPRY corresponds in both theoretical importance and practical insignificance to the Supreme Soviet of the USSR. The Yugoslav Federal Council and Council of Nationalities are but smaller counterparts of the Soviet Council of the Union and the Council of Nationalities. The Presidium is a complete innovation in Yugoslavia whose Soviet origin is unmistakable. President Ribar is much the same type of façade that the late Soviet President Kalinin was. The unquestionable supremacy of the cabinet and its complete domination by the Politburo of the Communist party are common to both Tito's Yugoslavia and Stalin's Soviet Union. Even the division of the ministries into federal and federal-republican is an imitation of Soviet practice. The Federal Planning Commission, the Federal Control Commission, and the Public Prosecutor are also innovations in Yugoslav administration which hail directly from Moscow.

Yugoslav imitation of the Soviet Union does not, however, confine itself to administration. The similarities of the two governments in more basic considerations are even more striking. There can be no doubt that the fundamental principles which underlie the existing order in Yugoslavia are Marxist in their Soviet interpretation. This observation naturally provokes the question: Why is not Yugoslavia a "soviet democracy" instead of just a "people's democracy"? Perhaps the answer is to be found in the word *tempo*. A great lesson taught by the Russian Revolution is that haste is costly. Yugoslav Communists have by no means demonstrated any reluctance to use brute force whenever essential plans called for it. They evidently realize, however, that some processes cannot be hurried. This refers not only to the tedious physical reconstruction of a war-torn country, but to the political education of a bewildered and apathetic peasant people. The Communists of Yugoslavia can now afford literally to take their own time in this task, for their control of the country is indisputable. Thus, for example, they can even share their power to an unimportant degree with certain select political parties. In fact, it is to their advantage to divide the allegiance of the opposition by keeping alive insignificant parties while liquidating the important historic parties. Considerations of foreign policy also make such a move desirable for the moment. Current indications suggest, however, that, as the government becomes increasingly entrenched, it will dispense with this strategy.

Perhaps the decisive reason for not instituting Soviet democracy in Yugoslavia immediately is economic. Marxist doctrine makes political democracy dependent on economic democracy. As there are still classes in Yugoslavia, and as the constitution recognizes the right of private property, the state does not yet exert complete control over all sectors of its economy. In a country eighty per cent of which consists of traditionally land-owning peasants, the present régime cannot yet afford to undertake collectivization at one stroke. At present the peasantry is politically inert, being almost exclusively concerned with making a living off its own land. Suddenly to dispossess this class

of proprietors would court almost certain violent opposition. A more gradual process, however, requires a special form of transitional government which approximates the Soviet government in every way except the abolition of classes. How much the new Yugoslav régime will continue to pattern itself on the Soviet model and how much it will seek to adapt its techniques to those circumstances peculiar to Yugoslavia remain to be seen.

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