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Report Part Title: Switzerland Is Founded on Sovereign Cantons, not on Nationalities

Report Title: Switzerland — A Model for Solving Nationality Conflicts?

Report Author(s): Bruno Schoch

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and was married to a woman from the Bismarck family. The fears were not unfounded: the general not only moved in Germanophile circles within the military-political élite; he also fantasized about abandoning neutrality and entering the war on the side of the German Reich.[110]

In March 1915, serious riots broke out in protest at German Swiss circles sympathetic to, or believed to be sympathetic to, Germany. At the start of 1916, it was the so-called "Colonel Affair" that triggered a bout of unrest. Two Germanophile general-staff officers had passed information to the Central Powers and had been only mildly reprimanded for their actions; this provoked protests in the French part of Switzerland, and these, in their turn, elicited counter-demonstrations in the German part.[111] In June 1917, the foreign minister, Federal Councillor Hoffmann, tried, with the help of the radical social-democrat politician Robert Grimm, to persuade Russia to conclude a separate peace, and this fact became known to the public. Western Switzerland, which, like France, feared that this might free up Germany on the eastern front, indignantly denounced Hoffmann's initiative as a violation of neutrality. Only the resignation of Hoffmann and the election of the Genevan Gustav Ador, president of the Red Cross, as his successor were deemed sufficient proof of national reconciliation, and somewhat tempered the divide.

In the Second World War, Switzerland was better prepared. The military threat, it is true, was infinitely greater, and the real balance of power obliged little Switzerland to tread an extremely precarious path between self-assertion, co-operation, and complicity – a path that is currently causing unprecedented controversy. But in contrast to what had happened in the First World War, the political-cum-intellectual demarcation did not pose any major problems. Sympathies with Fascism and Nazism were of limited extent in Switzerland. And the so-called intellectual defence of the country could mesh in seamlessly with the defensive constructions and moral hyperbole of the late nineteenth century.[112]

4.   Switzerland Is Founded on Sovereign Cantons, not on Nationalities

4.1   "Peoples and Sovereign Cantons"

The Swiss confederation of *Landsgemeindekantone* and city-republics is centuries older than modern nationalism, which only emerged hand in hand with democratization. The Swiss cantons, formerly known as *Stände* (estates) or *Orte* (localities), are fundamentally

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110   This is documented in the pamphlet by Niklaus Meienberg, *Die Welt als Wille und Wahn. Elemente zur Naturgeschichte eines Clans* (Zurich: Limmat, 1987).

111   See Ruchti, *Geschichte der* Schweiz (fn. 107 above), pp. 157–95.

112   de Rougemont , for example (in *Aufgabe oder Selbstaufgabe der Schweiz* (fn. 82 above), pp. 57 ff.), sought to transfigure Switzerland in a dark period of history, marrying together neutrality and multilingualism in a kind of secularized doctrine of predestination and depicting them as the basis of Swiss inviolability: 'Switzerland is truly inviolable only because it is the living witness, the promise of a confederate Europe, the reality of which it demonstrates by uniting the three great civilizations – the Germanic, the Italian, and the French – in a *single* state.'

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different from the straightforward administrative districts of France. The thirteen ancient *Orte* were not alone in affirming their sovereignty and peculiarities; the later confederates or *Zugewandte Orte* were also self-governing polities with highly individual traditions. The Republic of Geneva, which had no more than a defensive alliance with Bern but was for a long time both the largest city in Switzerland and – as the "Protestant Rome" – the most influential culturally, is a case in point; but so are Valais and Graubünden, strategic masters of the major Alpine passes to Italy, and both products of alliances of their own.

An old joke relates how a Swiss schoolchild, being asked where babies come from, replies: "Das isch vo Kanton zo Kanton verschide" – "It varies from canton to canton." Whatever the truth of the matter, this witticism nicely sums up the diversity of the political systems and peculiarities in the twenty-six cantons and half-cantons.[113] Despite the great increases in mobility, the cantons continue, even today, to be the prime political entity to which most Swiss relate. That said, cantons are neither administrative sub-units of a centralized authority, nor – as a widespread misconception would have it – linguistic-cum-ethnic constructions. Most of them are, rather, independently operating political entities, formed during the Middle Ages, which entered into alliances with one another of their own accord. Significantly, the body representing the cantons – the *Ständerat* – is known as the *Conseil des Etats* and *Consiglio degli Stati* in the Romance languages. The cantons have therefore also been called *Stäätchen*[114] ("little states") or *Miniaturvaterländer*[115] ("miniature fatherlands"). The federal state created in 1848, which was based on the American model, took account of this evolution by achieving a ticklish balance of power between the confederation and the cantons. This involved, amongst other things, violating the straightforward majority-principle: any change to the constitution requires a double majority, namely the numerical majority of the people and the majority of the states – in other words, of the cantons. The small cantons thus carry a disproportionate weight politically. What, in practice, acts as a form of minority protection for such cantons is also one of the causes of the inertness of the Swiss political system.

In its first article, the federal constitution, using an interesting turn of phrase, lists the individual "*peoples* [*Völkerschaften*] of the twenty-three *sovereign cantons*" (my emphases).[*] At cantonal level, the right to self-determination, in the sense of a democratic "right to self-constitution",[116] does indeed go hand in hand with individual cantonal

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113   The most well-informed study on this is still that of Fritz René Allemann, *25 mal die Schweiz* (fn. 1 above),. It does not deal with Switzerland as a separate entity, instead allowing to disappear entirely behind its constituent elements.

114   Ibid. p. 9.

115   Lüthy, *Die Schweiz als Antithese* (fn. 62 above), p. 8.

*   This sentence has been deleted in the revision of the Federal Constitution, voted on April 18, 1999. The revised version now says: "the Swiss people and the cantons".

116   The use of this term was repeatedly suggested by Federal Councillor Anton Philipp von Segesser, as a way of ensuring that the difference between the democratic and national connotation of the right to self-determination did not become blurred: see Hunziker, *Die Schweiz und das Nationalitätsprinzip* (fn. 99 above), p. 79. See also my article 'Selbstbestimmung und Sezession als Herausforderung für

constitutions, a collective memory, and distinct institutional forms, all of which have quite definitely assumed some of the characteristics of a quasi-ethnic demarcation, in the sense that a "feeling of community" exists. The *demos* of cantonal popular sovereignty does therefore have at least elements of a specific *ethnos*[117] corresponding to it – and in German-speaking Switzerland these would include dialectal nuance. The term *Völkerschaften* signifies what used to be known as "historical-cum-political individualities" in the Austro-Hungarian Empire. These too had roots going back to the Middle Ages. Of course, there is also a difference here, given that under the Habsburgs, the sovereign always meant the monarch. The Liberal Adolph Fischhof, whose 1869 book *Österreich und die Bürgschaften seines Bestandes* proposed one of the first of many programmes seeking to reform and rescue the Habsburg monarchy following the flare-up of the nationality conflicts in 1848–9, had a fine nose for this *differentia specifica*:

> "What essentially attracts the Austrian politician about Switzerland is the fact that *thanks to its self-government*, national dissension and linguistic conflicts are phenomena entirely unknown to [it]. The different nationalities live in brotherly harmony there, because none of them claims priority for itself or its language, because each of them independently safeguards its material and cultural interests and looks to its national development undistracted by its neighbours. If one were to give Switzerland institutions that ran counter to its political nature, if one were to impose a centralist constitution on it, it would soon become the scene of political and national struggles which, in their bitterness and state-imperilling vehemence, would be not one whit inferior to our own. For, in so far as it is the object of modern representative constitutions to safeguard the right of peoples to self-determination, there can hardly be any more flagrant violation of the constitutional principle than to transplant a centralist constitution from a nation-state into the soil of a multinational one; because in such a soil, a centralized constitution does not enable each nation to determine its own fate; instead, it hands over to one single nation the right to determine the fate of all the others."[118]

With the exception of Sankt Gallen – "an artificial entity dreamed up in the ivory towers of Paris"[119] – those cantons that did not achieve independence until after 1803 also had their own individual historical bases. The crucial factor, for our purposes, is that the cantons,

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die internationale Staatengemeinschaft', *Blätter für deutsche und internationale Politik*, 11/1994, pp. 1355–67.

117 That there is no historical *demos* without an *ethnos* is an idea examined systematically by Dan Diner: 'Gedächtnis und Institution. Über zweierlei Ethnos', in id., *Kreisläufe. Nationalsozialismus und Gedächtnis* (Berlin: Berlin Verlag, 1995), pp. 115–21.

118 Adolph Fischof, *Österreich und die Bürgschaften seines politischen Bestandes* (Vienna: Wallishauffer'sche Buchhandlung, 1869), pp. 100 ff. (my emphases). On this, see also the outstandingly well-informed study by Robert A. Kann, *Das Nationalitätenproblem der Habsburgermonarchie. Geschichte und Ideengehalt der nationalen Bestrebungen vom Vormärz bis zur Auflösung des Reiches im Jahre 1918*, 2nd ed., 2 vols. (Graz-Köln: Böhlau, 1964).

119 Allemann, *25 mal die Schweiz* (fn. 1 above), p. 261.

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whilst being individual part-states and "peoples" in the sense described above, are not ethnic-cum-linguistic entities in the sense of modern nationalities. Switzerland consists, not of four cantons, cultural nations, or nationalities, as is still claimed even in the recent literature,[120] but of twenty-six cantons. The borders of these do not coincide with the linguistic borders. For one thing, the linguistic areas consist of very different, contrasting cantons. For another, there are five multilingual cantons. One author who investigated the Swiss model in the 1930s dubbed this aspect – one that has always been very difficult to comprehend in Germany, where there is an objective concept of nation – *Unterländerung der Volksgruppen*, "geo-spersal of ethnic groups". Notwithstanding the strange terminology, his description of the phenomenon is very apt:

> "But even much-lauded Switzerland, which is greatly overrated in regard to the legal institutions it has created to deal with nationality matters, is *not a multinational state* but a federation of *numerous small nations* that maintains national peace to a large extent by geo-spersing its ethnic groups and thus largely localizing tensions between different nationalities. As a result of cantonal division, the individual ethnic groups in Switzerland have a peculiarly fragmented appearance, the reason being that even this paradise of multinational harmony is not founded on nationalities, though it gives them much more scope than they actually use for their own distinctive existence. If we are looking for an exact definition of the situation: Switzerland is a poly-ethnic state that displays a unique combination of *étatisme* and weak national traditions; it is not a true multinational state."[121]

My aim here is not to give a thumbnail sketch of the diversity of the twenty-six cantons and their peculiar political traits. What I do wish to do is to illustrate the non-congruence of the linguistic borders or nationalities and the cantonal divisions, by reference, first, to the motley French-speaking area, and, secondly, to the multilingual cantons.

4.2   Multifarious Romandie

You will not understand anything of French-speaking Switzerland – Romandie – if you look at it solely through the prism of common language. Its six cantons (Vaud, Genève, Neuchâtel, Jura, and bilingual Fribourg and Valais) are much too heterogeneous for this, despite their common cultural-cum-linguistic orientation towards Paris – and this is one of the reasons why talk of Romandie provokes such ambivalent feelings there.[122] Romandie has no centre, nor does it constitute a single administrative or topographical entity. Politically speaking, a much more decisive factor than any contrast between town and

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120   e.g. in Peter Alter, *Nationalismus* (Frankfurt/M.: Suhrkamp, 1985), p. 21.

121   M. H. Boehm, *Das eigenständige Volk* (1932), as quoted by Schieder in Dann and Wehler (eds.), *Nationalismus und Nationalstaat* (fn. 12 above), p. 324: n. 55 (my emphases).

122   "'Ne dites plus jamais Romandie!" Gewissensbisse bei der Bezeichnung eines Landesteils', *NZZ*, 2 Aug. 1996; similarly Maurice Chappaz, 'La Suisse Romande: Die Welschschweiz', *Merian* 1/28 (Jan. 1975), 'Die Schweiz', p. 67.

country or mountain and valley is the fact that three French Swiss cantons are Protestant. Language and religion thus lie athwart one another. This fact was highlighted by the French political scientist André Siegfried, in a perspicacious little book on Switzerland:

> "By a piece of good fortune whose beneficent effects cannot be praised enough, the linguistic borders do not coincide with the religious ones, nor do either of them coincide with those of the cantons: both German and French Switzerland contain Protestants and Catholics, such that there could never even be cause for the emergence of an alliance of language and religion centred on a particular area."[123]

The highly centralized *Canton de Vaud*, created by the Vaudois Jacobins of the *République Helvétique*, remains the most French of all the cantons. Communal autonomy plays no part here, in contrast to the situation in Valais, where it is all. Prefects are appointed by the government. At the same time, however, Vaud is Protestant and sees itself as "the leading force in, and heart of, Romandie…the geographical and intellectual link that binds French Switzerland together".[124]

Protestantism and revolutionary traditions are also hallmarks of Neuchâtel, which, as a Prussian-cum-Helvetic hybrid, was long considered a curiosity: though allied to the confederates from the sixteenth century, it remained in the possession of the House of Orléans-Longueville, passing to Prussia when the latter died out. The monarch was far away, and the divided sovereignty presented no problem within the confederation. But this division could no longer be reconciled with the confederation created in 1848. This led, in 1857, to the "Neuchâtel Crisis" which I have already mentioned.

Then comes the ancient and proud city-republic of Geneva. Previously territorially unconnected to Switzerland, it now shares a four-kilometre border with it, being otherwise completely surrounded by France. With Bern's help, Geneva managed, from the fifteenth century, to assert its independence from both Savoy and France. Economically and culturally it was at least on a par with the confederate city-republics. It was from here that Calvinism set forth and changed the world, and Geneva became a refuge for the Protestants of France. Religious disputes in early sixteenth-century Geneva led to the latter being named "Huguenots". Whether the name is a corruption of "eidgenots" (*Eidgenossen* – confederates) or whether it derives from Besançon Hugues, the spokesman of the confederate anti-Savoy party, is a matter of dispute.[125] In 1602, Savoy tried one last time to reconquer the city. Since the American Calvinist and democrat Woodrow Wilson designated the city of Calvin, Rousseau, and Dunant the headquarters of the League of Nations, Geneva has developed into the most cosmopolitan of the Swiss cantons. Just how deeply the particularism of the *Völkerschaften* runs, even in French Switzerland, is demonstrated by the fact that Geneva, once annexed by France, celebrates the Restoration

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123 André Siegfried, *Die Schweiz. Eine Verwirklichung der Demokratie* (Zurich: S. Hirzel, 1949), pp. 115 ff.

124 Allemann, *25 mal die Schweiz* (fn. 1 above), p. 408.

125 Ibid. p. 447.

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as an act of liberation, whereas in neighbouring Vaud it is the Revolution that is honoured as such.[126]

French-speaking Jura (see Section 4.4.) and the bilingual cantons of Fribourg and Valais have, for their part, remained Catholic. Notwithstanding its Francophone unity – which dates only from the mid-nineteenth century, when French Swiss *patois* gave way to literary French – French Switzerland is almost predestined, by its religious and political diversity, to be the pioneer of particularism and cantonal sovereignty within the confederation. The French Swiss speak of *la fédération* rather than of the nation. Hence, a concept of nation prevails here which demarcates itself no less resolutely from the French *nation une et indivisible* than does the German Swiss concept from the pre-political, objective German nation. Internally centralist Vaud, for example, conducts itself externally as a bulwark of Swiss federalism. And whilst the French Swiss cantons are unanimous in their rejection of German Swiss efforts at homogenization, the ethnic-cum-linguistic line there is broken by multi-layered cross-cutting coalitions of interests.

4.3   The Multilingual Cantons

The misconception that the Swiss cantons are ethnic entities has world-wide currency. It even surfaces in the UN's proposals for creating two cantons on Cyprus. One of the factors that tells against it is the existence of the multilingual cantons.

Staunchly Catholic Fribourg is culturally and intellectually much more strongly oriented to Paris than are the other French-speaking cantons. Two-thirds of its inhabitants have French as their mother-tongue, and one third German; the language-divide runs right down the middle of the cantonal capital. Interestingly, linguistic policy in Fribourg has tended, at various turning-points in the city's history, to follow political opportunity. When the city was accepted into the old confederation, the authorities encouraged the advance of the confederation's official language and suppressed French. When, in the midst of a Reformed environment, Fribourg later developed into the bastion of the Counter-Reformation, the patriciate promoted re-Latinization, prefixing a stylish "de" to many a name that had previously been Germanized. Since the constitution of 1857, which put an end to the liberal party-dictatorship at the point of the confederate bayonets of the Sonderbund war, the canton has been officially bilingual. The Catholic university, founded in 1889, also regarded itself from the outset as the intellectual heart of European Catholicism and was bilingual. And yet, for a long time Fribourg appeared a purely French-speaking city. Fritz René Allemann observed that no other multilingual canton "[took] less account of its minority than this same city of Fribourg which, in its patrician past, had tried so desperately hard to emphasize its German character". One would look in vain here, said Allemann, for that "typical Swiss tradition of having regard for minorities – indeed, of actually granting them something of a privileged position precisely because of their numerical disadvantage".[127] Of course, there are two factors to take into consider-

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126   Schwander, *Schweiz* (fn. 46), p. 111.

127   Allemann, *25 mal die Schweiz* (fn. 1 above), pp. 372 and 374.

ation here. In addition to Fribourg's isolated position as a French-speaking *Sonderbund* canton, there was the fact that it straddled a linguistic border. For a long time, the Francophones exploited their majority position within the canton, for fear of being drawn into the slipstream of the Alemannic territories around them. Since then, the minority has managed, through tough negotiations, to secure equal status for itself: in 1990, the two official languages were set on an equal footing in the cantonal constitution, under strict observance of the territoriality principle; and in 1991, names of streets began to be indicated in both languages.[128]

Without the impetus which Bern lent to the process of state formation, there would be no French-speaking Switzerland – as has already been observed. And yet in 1815, very little of this remained in Bern's possession; since the secession of the northern Jura in 1978, the canton of Bern has had only a small Francophone minority, in the southern Jura. Its members make up 7.8 per cent of Bern's inhabitants (1990 figures), and, despite their opting to remain in the old canton, they see themselves less as Bernese than as southern Jurassiens. Whereas the three Bernese Jura-districts of Moutier, Courtelary, and La Neuveville are French-speaking, Biel/Bienne – which has been allied to Bern since the Middle Ages – is the bilingual Swiss city *par excellence*.

Wallis/Valais is also bilingual. Whereas German (24.9 per cent) is spoken in the upper part, southern Valais is French-speaking (59.7 per cent). In the former bishopric of Sion/Sitten, the use of Latin until the eighteenth century, the prevalence of Catholicism, and the history of this Alp-enclosed mountain-valley, which could literally be sealed off by the turn of a key at the Saint-Maurice gate,[129] all combined to bridge the language-divide – and still do so. Although the Germans of upper Valais prided themselves on the fact that the bishop of Sitten had renounced his rights over them as early as 1631, and had to acknowledge them as "freye Landslüt…ein frey demokratisches Volk" ["as free inhabitants, as a free democratic people"],[130] they themselves continued to hold sway over southern Valais until the invasion of the French. Following the return of the *Département du Simplon* annexed by Napoleon, there was heavy fighting as the population of upper Valais attempted to reassert their former rule. Here, the dividing-line between former subjects and erstwhile rulers more or less coincided with the linguistic divide, and this lent the political quarrels in Valais a particular vehemence. The possibility of the canton's being split along the linguistic divide seemed, more than once, to be on the cards.[131] Finally, however, the feeling of being *one* people prevailed – though it was only after 1847 that Valais became a modern state based on popular sovereignty. Despite all the dissension, French and German were both acknowledged as official languages in the nineteenth century. At the turn of the century, new linguistic conflicts arose, because German-speaking Swiss from upper Valais began migrating in greater number to fertile

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128 Marcel Schwander, *Fondue und Röschti. Grenzgänge zwischen Deutsch- und Welschschweiz* (Zurich: Vontobel Stiftung, 1993), p. 15.

129 Heinrich Zschokke, *Die klassischen Stellen der Schweiz und deren Hauptorte in Originalansichten dargestellt* (Karlsruhe-Leipzig, 1942; repr. Dortmund: Harenberg Kommunikation), p. 235.

130 Weilenmann, *Die vielsprachige Schweiz* (fn. 47 above), p. 145.

131 Im Hof, 'Die Viersprachigkeit der Schweiz' (fn. 68), p. 59.

southern Valais. The erstwhile masters laboured under what amounted to an obsession with their minority status, until the constitution of 1907 introduced linguistic safeguards for the German minority. The construction of the Simplon Tunnel in 1906 and the Lötschberg Tunnel in 1913 were seen as bringing deliverance to upper Valais, creating as they did the conditions needed for the development of industry and tourism.

What is by far the largest canton, Graubünden – a veritable labyrinth of mountains and high-lying valleys – is the only one with three official languages. 65.3 per cent of its resident population have German as their mother-tongue, 17.1 per cent Raeto-Romansch, and 11 per cent Italian (1990 figures). Another 6.1 per cent have a mother-tongue other than one of these. The linguistic landscape is that of a sort of Switzerland-within-Switzerland, and the same is true of Graubünden's history. The traditions of the Holy Roman Empire persisted longer here than elsewhere – as witnessed by the Raeto-Romansch language. The bishopric of Chur preserved ancient continuities and maintained a certain cohesion when Chur Raetia was partially Germanized, both upriver along the Rhine and by the Valaisans from upper Valais. The alliance of leagues that made up Graubünden was put to the test in the Swabian War of 1499, and shortly afterwards it conquered Valtellina, the strategic barrier between Austria and Milan. Unlike the confederation, Graubünden's 49 free *Gerichtsgemeinden* ("jurisdictional communes") combined the idea of federation with the democratic majority-principle. Linguistically, it was "the only multilingual state within the old confederation in which power was not held exclusively by Germans.…In the three Raetian leagues, the communes of all four linguistic groups asserted their independence from the overall league even more visibly than was the case in Valais".[132] The equality of status was a product of practical circumstance: Latin had long been the compulsory language of written documents, alongside German as the official language of the alliance. The alliance transcended the linguistic diversity. It also proved stronger than the religious divide, which had set the Catholic Grey League (around Disentis) against the two mainly Reformed Raetian leagues and had drawn Graubünden into passionate and bloody involvement in the Thirty Years War. Here too, ethnic-cum-linguistic and religious differences were not congruent, but cut across one another. The Reformation found supporters in all three language-groups. As one expert has commented dryly, the linguistic situation in Graubünden "sometimes seems too complex even to the champions of diversity".[133] And the reasons for the decline of Raeto-Romansch go back an extremely long way. When the city of Chur was Germanized during the fifteenth century, the Raetian mountain-valley dwellers lost their focal point. Although their language were given a boost during the seventeenth century, as a result of various translations of the Bible, it had to contend with the opinion of a number of Graubünden enthusiasts of the Enlightenment, who believed that Romansch stood in the way of the general improvement of popular education.[134]

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132 Weilenmann, *Die vielsprachige Schweiz* (fn. 47 above), p. 153.

133 Iso Camartin, 'Die Beziehungen zwischen den schweizerischen Sprachregionen', in : Schläpfer (ed.), *Die viersprachige Schweiz* (fn. 48 above), p. 343. The author was professor of Raeto-Romansch at the ETH in Zurich.

134 On this, see Jachen C. Arquint, 'Stationen der Standardisierung', ibid. pp. 173 ff.

Gemeinden (communes) and *Kreise* (districts) play a much more important role in Graubünden than in the other cantons. Most importantly, each commune decides independently in what language early schooling will be delivered. If a commune decides to change to another language, the canton cannot interfere with this. The most frequent change-over has been to German. Whereas in the middle of the last century, half of all the communes still spoke mainly Romansch, today the figure is less than a quarter. The extent of communal freedom – remarkable even for Switzerland – is therefore no cause for idealization. Indeed, this freedom has been a factor (one of several) in the disappearance of Raeto-Romansch. Of course, it was others that ultimately tipped the scales. For one thing, it has economic causes: Graubünden's mountain valleys number amongst the major areas of emigration of the last two hundred years; and when the construction of the Brenner and Sankt Gotthard railways drastically reduced the economic importance of Graubünden's mountain passes over the Alps, the area became almost totally depopulated. Tourism provided only a partial substitute, and, what was more, in the economic boom that came after 1945, it increased the pressure exerted by the German language. Secondly, Raeto-Romansch is hampered by its own extreme fragmentation – in more than just the topographical sense. In point of fact, there is no such thing as *Raeto-Romansch per se*. This, the smallest of all the Swiss national languages, comprises a large number of spoken languages and several written variants. The most important are Ladino (in the Engadin) and Surselva (in the Vorder Rhine valley). All the written forms of Raeto-Romansch are recognized as cantonal languages in Graubünden. This very plurality, and the lack of a shared written language, helped ensure the dominance of German. The various Raeto-Romansch idioms are sometimes so far removed from one another – not only geographically, but also linguistically – that their speakers are only too pleased to switch into German, which all of them know. (German is the universal foreign language in later schooling.)[135]

All attempts made so far to unify Raeto-Romansch have failed. Its promotion to the status of a national language in 1938 was followed by the publication of the *Dicziunari Rumantsch Grischun*. In addition, the confederation subsidized the various Raeto-Romansch language-books and school-books, which are published not by the canton of Graubünden, but by the *Lia Rumantscha* – the umbrella organization for all Raeto-Romansch associations. Since the gradual fraying of Raeto-Romansch was undoubtedly one of the major causes of its dramatic decline over previous decades, a new phase of unifying standardization was initiated: in 1982, the Zurich Romance specialist Heinrich Schmid unveiled a new language – *Romansch Grischun* – constructed, in collaboration with the *Lia Rumantscha*, out of all the various Raeto-Romansch idioms. To begin with, it did not get a very good reception from those concerned. The belated standardization is certainly a ticklish enterprise, given that, realistically speaking, any attempt to preserve the language must be prepared for "the risky undertaking of existing in a bilingual world" and of preserving the mother tongue *alongside* the German language. The precarious situation of Raeto-Romansch speakers, so the specialist Iso Camartin judges, "will not permit of any experiments with unification that might unthinkingly put at risk their intimate colloquial

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135   Florentin Lutz and Jachen C. Arquint, 'Die rätoromanische Schweiz', ibid. pp. 259 ff.

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relationship with their regional language. For it is precisely this relationship which confers the greatest immunity to any temptation to exchange the language of childhood for the language of the working environment."[136]

Of the four Italian-speaking valleys of Graubünden (Val Mesolcina/Misox, Val Calanca, Poschiavo/Puschlav, and Bregaglia/Bergell), Bergell had espoused the Reformation, whereas in Puschlav an arrangement based on parity had been agreed upon. The Engadin was recruited to Calvinism from bases in Bergell and Puschlav, and it soon became a fanatical adherent (mention has already been made of the Bible translations). This in itself shows that the Italian-speaking valleys of Graubünden, which had never been under confederation rule as the Ticinese had been, were not mere appendages. Although Graubünden lost Valtellina again in 1815, Italian irredentism never aroused much response in its four Italian-speaking valleys. Under the Chur government, from which they were cut off by the Alps, they enjoyed considerable freedom. During this century, the four valleys came together to form the umbrella-organization Pro Grigioni Italiano, which, together with the Lia Rumantscha, secured federal subsidies for language-promotion. Of course, Graubünden's smallest language-group – unlike the Raeto-Romansch group – can look directly to a major cultural region for support.

The widespread habit of referring to Ticino as *Svizzera italiana* – Italian Switzerland – leaves out of account not only Graubünden's four *valli*, but also the fact that Italian is the mother-tongue of many of the foreigners who have settled in Switzerland, and is thus spoken all over the country. Reference has been made to the thumbs-down given to the Cisalpine Republic; but Ticino's integration during the nineteenth century was not always an easy process. Tensions arose not only from the *Kulturkampf* – the struggle between Church and State – but also from the impoverished Ticinese economy. The mass depopulation of Ticino's mountain-valleys, and the migration of its inhabitants to work as chimney-sweeps, grooms, coachmen, masons, and chestnut-vendors, was notorious. Despite this, irredentist calls for annexation – a recurrent phenomenon in Italy from 1859 – fell on deaf ears. Ticinese radicals who had supported the *Risorgimento* as volunteer mercenaries turned away in disappointment when the unification of Italy assumed a monarchical hue.[137] It was only after the construction of the St Gotthard Tunnel in 1882 that jobs began to be created. The tourist industry too – no insignificant factor – also got off the ground at this time. The expansion of this, combined with the mass purchase of holiday homes by German-speaking Swiss and by Germans, aroused fears of a loss of cultural-cum-linguistic identity amongst the Ticinese. As early as the 1930s, the Swiss Federal Court explicitly granted the canton the power to take measures to safeguard its traditional language, even in cases where the language upon which restrictions are imposed is another national language.[138]

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136   Camartin, 'Die Beziehungen zwischen den schweizerischen Sprachregionen', ibid. pp. 345 f.

137   For an informative account of this, see Hunziker, *Die Schweiz und das Nationalitätsprinzip* (fn. 99 above).

138   *Zustand und Zukunft* (fn. 29 above), p. 223; Schieder (see fn. 12 above), pp. 328 and 320) – saw this judgement as the key to 'a model of conservationist language-policy, which takes the principle of

In 1990, 9.8 per cent of the Ticinese population stated that their mother-tongue was German. Given that, for the majority of these individuals, Ticino is a place of retirement, linguistic integration is minimal, and the canton's linguistic homogeneity is therefore being eroded. This gives rise to constant complaints. Another contributory factor here, besides tourism and mass immigration, is the fact that Italian, though a national language on an equal footing with the others, has in practice taken a back seat. In addition, it has lacked the kind of cultural and intellectual aura which gave French its prestige for such a long time. Since the start of labour-based immigration in the second half of the last century, Italian has been regarded – and continues to be regarded – as the language of the *Gastarbeiter*. The expert group appointed by the Swiss government came to the conclusion that, although not in danger of extinction, the Italian language in Ticino did merit increased support from the confederation.

4.4   The Canton of the Jura: A Difficult Birth

The canton of the Jura, the product of a scission from Bern, is scarcely twenty years old. Because the federal constitution guarantees the cantons territorial integrity and does not provide any mechanism for reconfiguring Swiss territory, the secession of the Jura raised complex constitutional problems. Only with the help of third-party mediation did it prove possible, in an arduous process, to balance the opposing interests. Since there is a clear analogy between this birth and many other secessionist movements, I shall deal with the individual steps that led to the creation of a canton of Jura in greater detail than is called for by the language question *per se*.

Historically, the dispute arose from the fact that, at the Vienna Congress in 1815, French-speaking Jura had been annexed to Bern as compensation for the loss of Aargau and Vaud. Besides being entirely pre-democratic in character, this transaction could not be justified in terms of the legitimacy principle either: the Jura had been part of the prince-bishopric of Basel since 999 but, following the latter's destruction in the upheavals of the revolution, had been left without a master. It is not surprising that opposition to the alien regime soon began to stir in the Jura; since then, tensions have erupted on a regular basis. The official language of Bern was German, but historical and linguistic tensions were mixed with religious ones here – and this, according to Eric Hobsbawm, is what often turns nationalism into an explosive "cocktail".[139] An autonomist tendency began to make its presence felt as early as 1830. And in 1836, when the Große Rat (cantonal parliament) in Bern ratified an anti-clerical concordat, the Jura fell into a state of turmoil. When a reinvigorated Catholicism declared war on the modern age with the publication of the *Syllabus errorum* in 1864 and of the dogma of papal infallibility in 1870, the Swiss liberals responded, in the so-called *Kulturkampf*, by repeatedly defying "Jesuits" and "ultramontanes", and this rekindled the Jura conflict. Bern persecuted and suppressed dozens of priests faithful to Rome; the church law of 1874 prohibited all public processions

territorial autonomy and develops it into a form of protection for linguistic and cultural areas that is elevated to the status of a right of settlement'.

139   Eric J. Hobsbawm, *Das imperiale Zeitalter 1875–1914* (Frankfurt/M.: 1989), p. 205.

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and made clerics subject to election by the commune – an affront to Catholic canon law: "During this period, the northern Jura suffered psychological wounds that took years to heal; for the violation of religious feelings is something that persists in the memory for generations."[140]

During the First World War, the Jurassiens mobilized their defensive reflex against the threat of "Germanization", but the separatist movement soon fizzled out. The economic depression of the 1930s hit the region particularly hard and reactivated old fears. In 1947, the conflict flared up again, when the cantonal parliament in Bern refused a councillor from the Jura jurisdiction over the planning department – a post to which he was entitled on grounds of seniority – because he spoke French. This provoked bitter protests. Bern rewrote its constitution; its first article now stated that Bern comprised "the people of the old part of the canton and that of the Jura", and that political power rested "upon the totality of the people in the old part of the canton and in the Jura". The Jurassiens thus first achieved recognition as an independent people in 1950; they were even allowed their own flag. This was a one-off phenomenon: no other canton is based on more than one people, not even the multilingual ones.[141]

However, as is almost always the case in these kinds of conflicts, the term "people of the Jura" concealed numerous pitfalls. Despite their recourse to language, the separatists underpinned their demand for independence with historical arguments – only in this way could they lay claim to German-speaking districts as well. Because their desire for secession was driven by the notion that, after eight centuries of affiliation to an autonomous prince-bishopric, it was impossible ever to become truly Bernese, Fritz René Allemann has claimed to see in this conflict "something typically Swiss".[142] But as well as the historical and ethnic unity of the Jura, there is its historical and ethnic fragmentation: the region falls into two parts – not just geographically. The prince-bishopric of Basel was a comparatively loose political entity, and the southern part had followed Bern in espousing the Reformation. Whereas this part had been incorporated into the Swiss system of defence, the north stuck constitutionally to the empire and was repeatedly caught up in the latter's turmoils from the time of the Thirty Years War. It was only with the advent of the French, who, in 1792, first declared a *République rauracienne* and then proceeded to annexe this, that the Jura achieved unity (temporarily), in the form of the *Département du Mont Terrible*. But the centrifugal forces of history then took effect once again, reinforced by industrialization. Whilst the Catholic parts of the region went into economic stagnation, Biel and the districts of Saint Imier and Moutier rose to become centres of the Swiss clock- and watchmaking industry. They attracted immigrants on a mass scale; these settled in the southern Jura, strengthening the latter's ties with Bern. Hence, on closer inspection, it can

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140   Hans von Greyerz, *Nation und Geschichte im bernischen Denken. Vom Beitrag Berns zum schweizerischen Geschichts- und Nationalbewußtsein* (Bern: Staatlicher Lehrmittelverlag, 1953), p. 240.

141   Daniel Thürer, *Das Selbstbestimmungsrecht der Völker. Mit einem Exkurs zur Jurafrage* (Bern: Stämpfli, 1976), pp. 209 ff.

142   Allemann, *25 mal die Schweiz* (fn. 1 above), p. 479. It says a lot about the author's political nous that despite the title of his 1965 book, he devotes a separate chapter in it to the Jura

be seen that the oft-evoked *peuple jurassien un et indivisible* and its *unité ethnique* crumbled into a Francophone Catholic north, a Francophone but Reformed south, and a German-speaking Catholic Laufental.

Only in the north, in the three *Bezirke* or districts of Porrentruy, Saignelégier, and Delémont, did the agitation of the separatist *Rassemblement jurassien* fall on fertile ground. With their own flag, their annual *Fête du peuple jurassien* in Delémont, their weekly newspaper *Jura libre*, and their militant youth-organization *Les Béliers* (literally "rams", but also an allusion to the medieval battering-ram), the separatists possessed effective vehicles for publicizing their political aspirations. In 1959, a widely supported petition or "popular initiative" (*Volksinitiative*) resulted in a referendum on the separation of the Jura. As expected, the electorate of Bern rejected the proposal by an overwhelming majority. But no one had reckoned on the initiative also being narrowly defeated in the Jura itself. Once again, the old opposition between north and south had proved stronger than language: even the French-speaking south (the districts of La Neuveville, Courtelary, and Moutier) had voted no. That said, the slogan of the Bernese anti-separatists – "Votez non, et on n'en parlera plus!" ("Vote no, and we'll say no more about it!") – turned out to be a pipe-dream. In the 1960s, some of the separatist Jurassiens graduated to direct action and bomb attacks. Roland Béguelin, one of the powerfully eloquent leaders of the *Rassemblement jurassien*, sought to secure the solidarity of French-speaking Switzerland and of the *ethnie française*, and, in his most extreme utterances, distanced himself from Switzerland.

This dangerous escalation prompted a series of attempts at mediation. A reconsideration by the Bern government, combined with proposals from a "Commission of Good Offices" initiated by the Federal Council, eventually resulted in a plan providing not only for an autonomy statute for the Jura but also for further referendums. In March 1970, an "Addendum to the Constitution of the Canton of Bern on the matter of the Jura Region" was adopted by an overwhelming majority. It acknowledged the right of the population of the Jura to self-determination. That population was now to go to the polls to decide "whether the whole area or individual parts thereof wished to form a new canton, join another canton, or continue to form part of the canton of Bern".[143] In order to take account of the unequal interests, and in order to avoid the pitfall usually associated with these kinds of referendums – that of one minority problem being replaced by another – a territorially differentiated three-stage procedure was adopted. Petitions (*Volksinitiativen*) were used to request: first, a vote on the question of the formation of a new *canton*; then, in *districts* where the no-voters had been outnumbered, the option of a further referendum about staying in, or breaking away from, Bern; and, finally, in case of secession, the option, in a third round of voting, for *border communes* to decide whether to join the new canton or Bern. In the case of Laufental, the option of joining another canton was also provided for. The right to self-determination was meant, in this way, to be decided upon "in units of the smallest possible size", via a "cascade-style series of plebiscites".[144]

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143   Text in Thürer, *Das Selbstbestimmungsrecht der Völker* (fn. 141 above), pp. 241–3.

144   Ibid. p. 217.

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This differentiation made it possible for an independent canton to be created even where the majority in the Jura as a whole remained loyal to Bern. At first, the *Rassemblement jurassien* was reluctant to take part in the plebiscites. It demanded that the right to vote be restricted to "autochthonous" Jurassiens – which would have been against the constitution. It also had doubts about the propriety with which the polls would be conducted. These were allayed when the confederation undertook to monitor the voting.[145] The "cascade" could now begin. It confirmed the north–south divide. However, in 1974 a narrow majority of the residents of the Jura as a whole now voted for an independent canton; predictably, agreement ranged from 74 per cent in the northern district of Freiberge to 24 per cent in southern Courtelary. In Alemannic Laufental, three-quarters of the voters said no. Once a majority had been achieved in the Jura as a whole, the separatists began vociferously calling for unity, but the procedure that had been opted for allowed countervailing interests to be taken into account. The northern Jura formed itself into a canton, and the secession was given an overwhelming seal of approval in a national referendum conducted in 1978. Since then, the Swiss constitution has talked of "the peoples of the *twenty-three* sovereign cantons".

This complicated birth did not solve all the problems, but it did ease tensions in regard to the Jura question. The *Rassemblement jurassien* has continued to call for the incorporation of the south, or at least for a half-canton to be created. In 1990, the Swiss Federal Court declared the *Unir* initiative, which sought to pledge the government and parliament of the Jura canton to do what it could to promote unification, inadmissible; despite this, the canton has passed legislation obliging its government to work towards this goal. Meanwhile, the majority in the southern Jura have remained resistant to these siren-songs. This situation is unlikely to change at least "as long as the 'barricade-fighting' generation continues to set the tone in the plebiscites. The wounds which the separatists have inflicted on their opponents in this passionate struggle are too deep for that."[146]

When, in 1984–5, it became known that the Bern government had given lavish financial support to the pro-Bernese referendum committee, this added fuel to the Jurassian fire. In the Laufental, the scandal tipped the scales: having narrowly voted for Bern in 1983, the district was now ordered by the Federal Court to re-stage the poll. This time, Laufental voted to join Basel, to which it has belonged since 1994. The commune of Vellerat, the last to vote, opted to go over from Bern to the canton of Jura. The national referendum required for this took place in 1996.

According to one specialist with an intimate knowledge of the Jura question, its ultimate solution was due, on the one hand, to the persistent and experienced political leadership of the separatists, and, on the other, to the "generous readiness of the Bernese government and people to concede the right of self-determination to the Jurassiens". As regards the overall Swiss situation, however, he highlights a different aspect: "The fact that the Jura question did not turn into a powder-keg in the midst of quadrilingual Switzerland is due primarily to

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145   Kurt Müller, 'Kanton Jura: Differenzierte Lösung eines komplexen Problems', in: id. (ed.), *Minderheiten im Konflikt. Fakten, Erfahrungen, Lösungskonzepte* (Zurich: Verlag NZZ, 1993), p. 142.

146   Ibid. p. 144.

French-speaking Switzerland, which, despite its sympathies for the Jurassiens, toiling under the heavy hand of Bern, remained alert to anti-Helvetic endeavours to bring about a united dissenting Romandie."[147]

5.   The Laborious Revision of the "Language Clause"

5.1   Linguistic Freedom versus the Territoriality Principle

The Bundi motion of 1985, which urged the confederation to make a stand against the demise of Raeto-Romansch, then in its death-throes, prompted the Federal Council to appoint an expert commission. This was to undertake a detailed examination of all problems relating to language, given that, in the view of the government, the "marked increase in indifference towards quadrilingualism" was a threat not only to the linguistic minorities, but to "the national identity of the country as a whole".[148] In 1989 the working group submitted a report that was tantamount to an encyclopaedia of Swiss linguistic problems, at the same time proposing two versions of an amendment to the constitution. This triggered a wide public debate and a series of parliamentary consultations that went on for several years,[149] leading ultimately to a change to the constitution in March 1996.

The report – *Zustand und Zukunft der viersprachigen Schweiz* ("Present State and Future Prospects of Quadrilingual Switzerland") – laid the blame for the growing disquiet on the "marked increase in indifference to quadrilingualism", the "general debasement of multilingualism", and the increasing "competition from English". From the point of view of Switzerland as a whole, the core problem, said the report, was the *Mundartwelle* – that is to say, the "trend towards the elimination of the so-called diglossia typical of German-speaking Switzerland", meaning the co-existence of dialect and standard German. The growth of dialect, said the report, lessened the incentive for Romance-speakers to learn German and at the same time eroded the ability of German-speaking Swiss to communicate with speakers of other languages at home and abroad and with German-speakers from other countries. The report concluded by asking trenchantly whether a shift was under way towards a "two-and-a-half-language Switzerland". This could, it said, be taken as referring not only to the national decline of Italian, but also to the advance of English to the status of second language, and to the fact that the Swiss were now only half-able to communicate in the other national languages.[150]   Of course, when it came to reflecting on what was to be done, the experts got tangled up in contradictions.

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147   Ibid.

148   Message to chambers (fn. 27 above), p. 2.

149   On this, see, *inter alia*, the supplement to the *NZZ* of 16 Apr. 1991 *Die viersprachige Schweiz* and the Presseschau Bundesverfassung Sprachenartikel (PS 728), Bern 31 Dec. 1995.

150   *Zustand und Zukunft* (fn. 29 above), pp. I–XIII.