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**Parliamentary Innovation and Experimentation in the
Legislative Councils of the Directory**

Luke Burgess

Supervisors: Dr Philip Boobbyer & Dr Ambrogio Caiani

*A Thesis for the Degree of Masters of Arts (Research) in
History at the University of Kent*

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Table of Contents

<i>Introduction</i>	p. 4
<i>Chapter 1: Regression or Innovation? The revolutionary debates over the introduction of bicameralism</i>	p. 13
<i>Chapter 2: Relations Between the Legislative Councils and the Executive Directory</i>	p. 30
<i>Chapter 3: Bicameralism in Action: Relations Between the Council of Five-Hundred and the Council of Elders</i>	p. 51
<i>Chapter 4: The Role of Commissions in the Legislative Councils of the Directory</i>	p. 66
<i>Conclusion</i>	p. 91
<i>Bibliography</i>	p. 93

Introduction

On 2 November 1795 (or 11 Brumaire year III, as it was styled in the French revolutionary calendar), the Directory was instituted as the new governing regime of France. In contrast to many of the famous moments of the French Revolution which had preceded it, the inauguration of what would turn out to be the Revolution's longest-lasting regime was a muted affair: on a dreary autumn day, the five men of the executive Directory (the body which gave its name to both the regime and the period it reigned, 1795 to 1799) met in the sparsely furnished Luxembourg Palace, and began the work of ending the Revolution and restoring order to a nation riven by six years of political and social upheaval.¹ This unexceptional beginning stands in stark contrast to the dramatic and bloody days of the Thermidorian Reaction, which had ended the Terror by bringing down Robespierre and his fellow Jacobins, and which signalled the beginning of the end for the previous regime, the National Convention. Martyn Lyons paints a vivid picture of Paris at that moment, with the "Place de Grève littered with the human debris of the Revolutionary Government," and the Parisian crowd out in force.² Some 15 months later, the Directory was installed with no fanfare and with scant optimism outside its own ranks.

Yet what began in such inauspicious conditions was not just the most tenacious of the revolutionary regimes, but one which introduced entirely new institutions and practices that would remain fixtures of French politics well into the nineteenth century. The novelties of the Directory were both numerous and significant, yet the period has long suffered a tarnished reputation. It is thus rare to find a facet of the Revolution about which historians of all times and paradigms are in consensus, but the Directory has received nearly universal condemnation and dismissal in the past two centuries. The victim of partisan historians seeking alternately to justify or discredit Napoleon's imperial regime, or of others arguing over whether the Jacobin republic was the apex or nadir of the Revolution, the Directory has found itself employed as ammunition in debates over the apparently more exciting periods on either side of it. Assessments of the regime on its own have been few, an alarming fact

¹ M. Lyons, *France Under the Directory*, (Cambridge: Cambridge University Press, 1975), p. 23.

² *ibid.*, p. 8.

given that it was the longest-lived of the decade. It is noteworthy that the explosion of work on the Revolution that marked its 1989 bicentenary almost entirely ignored 1795 and beyond, and despite Malcolm Crook's hopes in 1994 the Directory's own bicentenary did not seem to bring any new enthusiasm for the maligned period.³

This neglect is curious, but nevertheless well-entrenched in the historiography of the Revolution. In fact, the abuse of the Directory's legacy arguably began before the regime had even been toppled. As Abbé Sieyès, Napoleon and his brother Lucien, and their fellow conspirators were preparing their meticulous plans for the coup of 18-19 Brumaire Year VIII (9-10 November 1799) they were well aware of the need to discredit the existing constitutional arrangement as inherently broken, and its leaders as corrupt, self-serving, and ineffective. Several of these conspirators (notably Sieyès and Napoleon) were already well-versed in the art of winning popular sentiment, and sympathetic reports of the coup appeared almost instantaneously. The Brumaire Coup represented the moment of Napoleon's political ascendancy, and thus its perceived legitimacy remained crucial to Bonapartists for (at least) a century to come. French historians who grew up in the light of Napoleon's triumphs, such as Albert Vandal, were often eager to justify his seizure of power by discrediting the democratic experiments of the 1790s. Under their guidance, the narrative of a crumbling, morally bankrupt regime run by bureaucrats who had betrayed the principles of the Revolution in order to preserve their own power became a compelling one, especially when contrasted with the glory (not to mention the eventual internal stability) of the Consulate and the First Empire.

The arrival of the twentieth century brought little relief to the beleaguered legacy of the Directory. As the Marxist, or structural, interpretation of the French Revolution emerged as a dominant explanatory force, historians found new reasons to condemn, dismiss, or simply ignore the Directory. Compared to the explosive class conflicts these historians found in the Jacobin republic, the so-called 'bourgeois republic' of the Directory was a period of regrettable reversals at best (at least from the perspective of interesting historical study) and boring bourgeois inaction at worst. For these historians, the Revolution proper died with Robespierre, the next five years representing but a shadow of the radical aspirations and bold

³ M. Crook, *Napoleon Comes to Power*, (Cardiff: University of Wales Press, 1998), p. ix.

popular actions of 1789-1794.⁴ The Revolution had devoured its greatest figures, leaving the lame ducks to limp along until being put out of their misery by Napoleon. The preponderance of books from this era which end at Thermidor Year IV, or which lump the Directory together with the Consulate in slim books that feel more like appendices than scholarly tomes (such as Soboul's *Le Directoire et le Consulat* in 1972), belies the continuing lack of serious consideration given to the second half of the revolutionary decade.

Despite this general disdain for or indifference towards the Directory, the Marxist tradition did give us some of the first attempts to present the regime on its own terms. A key example is Denis Woronoff's *La République bourgeoise de Thermidor à Brumaire, 1794-1799* (translated into English as *The Thermidorean Regime and the Directory, 1794-1799* in 1984).⁵ As the French title suggests, Woronoff espouses the argument that the Directory primarily represented the appropriation of the Revolution by the moderate middle-class, who brought an end to the radical populism and revolutionary drive of the Jacobin republic. Yet he was still unable to resist the allure of the surrounding periods. Much of the book is dedicated either to contrasting the 'bourgeois' nature of the Directory with the popular democracy of the Convention, or to the emergence of the Napoleonic legend on the battlefields of Italy and Egypt. Thus the Directory, though drawn more clearly than in previous works that , remains tarred as both the antithesis of revolutionary democracy and the political nonentity that Bonaparte so easily swept aside when the time was right.

The emergence of revisionist historiography of the Revolution in the second half of the twentieth century brought some glimpses of hope for a rehabilitation of the Directory. Several historians pointed out the poor state of historiography on the period, and laments to that effect (not dissimilar to this very essay) became commonplace in book introductions. Martyn Lyons, writing shortly after Woronoff (who, in fairness, also began his book with the observation that the Directory had been poorly treated by historians, though did not do much to redress those perceived wrongs), was among the earliest to call for a reappraisal in his

⁴ See, for instance, G. Lefebvre, *Quatre-Vingt-Neuf*, (Paris: la Maison du livre français, 1939), or A. Soboul, *La Révolution Française*, (Paris: P.U.F., 1965), both of which give scant but critical attention to 1795-1799. It ought to be mentioned, however, that Lefebvre did give a course on the Directory which was later edited and published by two of his students, Soboul and J.-R. Suratteau: *La France Sous le Directoire*, (Paris: Éditions sociales, 1977), which critiques at length the Directorial regime.

⁵ D. Woronoff, *La République bourgeoise de Thermidor à Brumaire, 1795-1799*, (Paris: Seuil, 1972).

France Under the Directory.⁶ This work was conceived mainly as a means of bringing together and summarising the contemporary studies of the Directory for the English reader but Lyons nevertheless made a foray into cultural history and presented a more sympathetic view of the Directory than had really been seen to that point. He made an explicit attempt to assess the period on its own terms as a revolutionary regime. While acknowledging the importance of the Terror and the Thermidorian Reaction to the development of the new constitution and as a touchstone in the minds of both 'the people' and their leaders, Lyons considers the 4-year-long period as more than just a response to the earlier regime, emphasising its achievements as well as its failures. His analysis of changes within Directorial society is particularly interesting, as it problematizes the simplistic view, propagated by Marxists, of post-*sans culottes* France becoming dominated by a reactionary bourgeoisie.

This theme of political culture was one which garnered immense attention over the Revolution's bicentennial, perhaps most notably in the collaborative efforts of many of the leading figures, both anglophone and francophone, in the history of the Revolution *The French Revolution and the Creation of Modern Political Culture*.⁷ These revisionists were largely critical of the Revolution as a whole, seeing it as defined more by circumstance and violence than by democratic ideals and arguing against the view that the Revolution contained the seeds for European democracy. However as influential as these arguments have been, virtually all of these studies focused on the period 1789-1794, ending with the fall of Robespierre in 1794 and neglecting the Directory almost entirely. Indeed, even those few articles that explicitly address the Directory seem to downplay its relevance and its uniqueness, either by linking it directly to the Terror or by characterising it as a period of stagnation marked by the occasional interesting event (such as the Babeuf plot).

This neglect has begun to be redressed however, largely driven by investigations into the political culture of the Revolution. Two important studies of the electoral systems of the Revolution as a whole, one francophone and the other in English, each emphasised the uniqueness of the Directorial regime in that area, reasserting its credentials both as a revolutionary regime (rather than a reactionary placeholder) and as a 'democratic

⁶ M. Lyons, *France Under the Directory*.

⁷ K. Baker, C. Lucas, F. Furet, M. Ozouf (eds.), *The French Revolution and the Creation of Modern Political Culture*, 4 Vols, (Oxford & New York: Pergamon Press, 1987-1994).

apprenticeship'.⁸ The importance of the Directory to an understanding of the origins of modern European democracy has been further emphasised in the 21st century through the works of James Livesey and Howard Brown. In *Making Democracy in the French Revolution* Livesey agrees with Gueniffey and Crook that the Directory was a period of democratic experimentation, clearly linked to both the revolutionary programs of the early 1790s and the much later development of popular democracy in the 1800s.⁹ He thus simultaneously re-establishes the Directory within the revolutionary decade and restores the tattered democratic legacy of the Revolution.

Brown's *Ending the French Revolution* agrees that the Directory has much to say about modern democracy, but is far more critical of the regime and its methods.¹⁰ Where Livesey sees the attempts by the men of the Directory to answer political, social, and economic questions with new democratic principles as the fundamental link between the Revolution and the development of modern democracy, Brown points instead to the development of 'state violence' during the regime: the preservation of the 'democratic' system by institutionalised repression. The failure of the Constitution of 1795 to restore order meant that the Directory was forced to confront persistent political violence, which it did by forsaking the liberal democratic dreams of 1789 in favour of 'illiberal democracy'. They thereby produced the template for the modern 'security state'. Brown's arguments are reminiscent of the old anti-Bonapartists who accused the Directory of crushing the people's hopes for a liberal democratic settlement by creating, or at least institutionalising, the mechanisms of state repression wielded with such efficacy by Napoleon. While Brown makes these arguments with nuance and extensive research, they are far from unassailable. Why, for instance, should we accept his critique of earlier analyses of Directorial democracy (such as that of Livesey) for their focus on institutions and averred principles rather than political violence? While the latter is no doubt important, Brown's insistence that it should be considered supremely so has failed to be thoroughly convincing. Nevertheless, his work

⁸ P. Gueniffey, *Le Nombre et la Raison: La Révolution française et les élections*, (Paris: École des Hautes Études en Sciences Sociales, 1993), and M. Crook, *Elections in the French Revolution*, (Cambridge: Cambridge University Press, 1996).

⁹ J. Livesey, *Making Democracy in the French Revolution*, (Harvard: Harvard University Press, 2001).

¹⁰ H. Brown, *Ending the French Revolution: Violence, Justice, and Repression from the Terror to Napoleon*, (Charlottesville & London: University of Virginia Press, 2006).

makes a fascinating counterpoint to Livesey, and the debate raised by these two books is indicative of the fertility of the field of post-Jacobin democracy.

One specific area within this field that has thus far avoided any particular attention, however, is the parliamentary system that was established in 1795. This remains a curious omission given the attention other parliamentary systems during the Revolution have received. There are some comparative or at least general reference works whose scope includes the entirety of the revolutionary decade and so touch on the Directory. Jacques Godechot's *Les Institutions de la France sous la Révolution et l'Empire*, for example, provides a very brief summary of the two Councils created by the Constitution of 1795 but contains minimal analysis.¹¹ As a comparative reference it is useful in highlighting differences between the various regimes, but fails to answer some of the more specific questions. Why, for instance, did France suddenly adopt a bicameral system? Godechot acknowledges the change but brushes off its significance, opting simply to stick with his Marxist roots and emphasise the 'bourgeois' nature of the new regime.

However, most historians who have concerned themselves with parliamentary democracy have chosen to focus on specific assemblies. Some of the notable works in this category are the *dictionnaires* of deputies to those various assemblies. The late Edna Hindie Lemay's studies of the Constituent and Legislative Assemblies are relatively recent examples of such works.¹² However, no such study has been done on the men of the Directory since Auguste Kuscinski's *Les Députés au Corps Législatif* (comprising the Conseil des Cinq-Cents and the Conseil des Anciens) in 1905, yet more evidence of the lack of interest the Directory has suffered and adding to the challenge of getting a grasp on who 'the men of the Directory' actually were.¹³

Besides the *dictionnaires* there have been several brilliant studies on the assemblies as political entities beyond the personalities they contained. Timothy Tackett, for instance, has tackled the National Constituent Assembly which emerged out of the Estates General, with a particular focus on the individual experiences and political development of the deputies as

¹¹ J. Godechot, *Les Institutions de la France sous la Révolution et l'Empire*, (Paris: P.U.F, 1951).

¹² E. H. Lemay (ed.), *Dictionnaire des Constituants: 1789-1791*, (Paris: Universitas, 1991), and E. H. Lemay (ed.), *Dictionnaire des législateurs: 1791-1792*, (Fernay-Voltaire: Centre internationale d'étude du XVIII siècle, 2007).

¹³ A. Kuscinski, *Les Députés au Corps Législatif, Conseil des Cinq-Cents, Conseil des Anciens, de l'an IV à l'an VII*, (Paris: Société de l'histoire de la Révolution française, 1905).

recorded in their personal letters.¹⁴ The Legislative Assembly of 1791 was explored by C.J. Mitchell, who was especially critical of existing methods of defining political divisions within the Assembly.¹⁵ As for the Convention, Alison Patrick's *The Men of the First French Republic*¹⁶ provides an excellent examination of the deputies who constituted (at least initially) that assembly, in addition to elucidating the manner of its functioning and some of the key issues and divisions that served to shape the course of the Revolution in the first, fraught years of French republicanism.

However, when it comes to the Directory there is nothing of this kind. The glaring absence of such a study is all the more surprising given the unique aspects of the Directory's parliamentary system. It was both the first bicameral system seen in France and the first republican model to establish a clear executive outside of the legislature, in contrast to the committee-based system of the Convention. The themes and questions raised in each of the above works are just as applicable to the next parliamentary arrangement in the sequence, and can serve as a useful basis for commencing an investigation into its complexities.

The question of location, for example, is a seemingly mundane one, yet it reveals the depth of the practical challenges facing the deputies. Establishing a parliamentary culture was made all the more difficult by the lack of the purpose-built meeting sites of today. The challenges created by this absence of an appropriate location were emphasised by both Tackett and Mitchell, the latter of whom even entitled the opening chapter of his book 'The Riding School', after the Manège of the Tuileries in which the Legislative Assembly met after moving to Paris. While at first glance a minor issue, the consequences of venue decisions could be immensely influential. Poor acoustics made it difficult for many deputies to be heard, and (especially in the case of the hot, smelly riding school) conditions in these ad hoc meeting chambers were often far from conducive to extended periods of concentration. The agenda thus moved out of the hands of eloquent writers and into the mouths of exciting orators. Those with voices powerful enough to grab attention (and wit or brevity enough to hold it) became the new stars of the Revolution as politics increasingly became a matter of public

¹⁴ T. Tackett, *Becoming a Revolutionary: The Deputies of the French National Assembly and the emergence of a political culture (1789-1790)*, (Princeton: Princeton University Press, 1996).

¹⁵ C.J. Mitchell, *The French Legislative Assembly of 1791*, (Leiden: E.J. Brill, 1988).

¹⁶ A. Patrick, *The Men of the First French Republic: Political Alignments in the National Convention of 1792*, (Baltimore & London: The John Hopkins University Press, 1972).

performance, a fact observed of the Constituent Assembly by Lemay.¹⁷ The question of place was amplified under the Directory given that two Councils now had to be accommodated. Should they meet in the same location, or would the constitutional separation of the Councils be better complemented by a geographical separation? They initially opted for the former, with both Councils remaining in the Manège, but by 1798 the Conseil des Cinq-Cents had shifted across the river to the Palais Bourbon (site of the present-day Assemblée Nationale), which had been renovated over the previous three years in order to house the new legislature in more distinguished surroundings.¹⁸ The question of location became crucial at the end of the Directory, too, as a key element of the conspirators of the coup of 18 Brumaire was to convince the Council of Elders that the threat of insurrection in Paris warranted the extraordinary step of moving the *Corps Législatif* from the heart of the city to the palace of Saint Cloud, on its very limits, thus ensuring that Napoleon and his troops would have the time and space to carry out their plan.¹⁹

Another crucial question to consider concerns the internal structures each Council established. Tackett demonstrated that the emergence of the committee system in the Constituent Assembly was largely an organic process, a reaction to contingent concerns rather than a clearly-conceived administrative plan.²⁰ Despite this haphazard start, committees became central to parliamentary assemblies throughout the Revolution, to the point that at the height of the Terror executive power was effectively in the hands of powerful committees dominated by Jacobins. The dominance of the entire assembly by a handful of committee members was then a major concern to the Thermidorians who had ousted the Jacobins and were trying to create a new system that would not fall to the same threats that had plagued the preceding regime. How, then, would they reconcile their fear of committees with the fact that committees lay at the very heart of how French parliamentary democracy functioned?

Despite admirable progress towards rectifying the unfairly maligned reputation of the Directory in recent years, the period continues to be a dark, indistinct blur in the

¹⁷ E. H. Lemay & A. Patrick, *Revolutionaries at Work: The Constituent Assembly, 1789-1791*, (Oxford: Voltaire Foundation, 1996), pp. 5-7.

¹⁸ A.N. C//429/144, 'Message du Directoire Exécutif au Conseil des Cinq-Cents au sujet de l'inauguration de la nouvelle salle de ce conseil', 1er Pluviôse an VI (20 January 1798).

¹⁹ Lyons, *France Under the Directory*, pp. 233-234.

²⁰ Tackett, *Becoming a Revolutionary*, pp. 220-222.

historiography of the French Revolution. Much remains to be done to bring clarity and focus to our understanding of a period significant in its longevity and its position at the close of France's first experiment with democracy. In particular, the parliamentary system of 1795-1799 requires extensive analysis in order to bring it to a state comparable to that of the Constituent and Legislative Assemblies and the Convention. Without a clear image of how that system functioned (and, on occasion, how it failed to function) our verdict on the democratic legacy of the French Revolution will remain flawed. This thesis endeavours to illuminate, at least in part, the innovations of Directorial parliamentarianism, from the radical novelties of the Constitution of 1795 to the internal practices the deputies developed. It will thus add to the growing body of works contesting the Directory's grim legacy by demonstrating the boldness and ingenuity that marked this period of democratic experimentation.

Regression or Innovation? The revolutionary debates over the introduction of bicameralism

Much like the Directorial regime it established, the Constitution of 1795 (also known as the Constitution of Year III, or the Constitution of 5 fructidor) has faced heavy criticism from historians of all colours in the past two centuries.¹ It has often been considered the antithesis of the radical popular democracy exalted by the Constitution of 1793, a regression into conservative, limited democracy where property, not equality, was the prime principle.² For a variety of reasons a comparison of these two constitutions is natural. Their respective authorships, for example, are clearly linked: the former being the product of triumphant Montagnards and Jacobins in the wake of the fall of the Girondins in the Convention, while the second was created by the Thermidorians who overthrew those Jacobins and sought to distance themselves from the Terror of the Jacobin years. Created by a commission within the Thermidorian Convention, the Constitution of 1795 “is situated first and foremost within the republican continuity,” and is thus rightly contrasted with the preceding document.³ Yet it is the ruptures in that continuity that are most attractive to historians of France’s constitutional history. The re-introduction of financial qualifications on citizenship (harkening back to the contentious ‘active’ and ‘passive’ categories of citizens in the Constitution of 1791),⁴ the addition of a list of the duties to the declaration of the rights (which were themselves notably restricted in comparison to those listed in 1793) of man and citizen, and the establishment of an oligarchic executive have all been highlighted for their relative parts in the continuity with or digression from the constitutional projects of the Revolution.

¹ R. Rémond, ‘Repenser l’an III’, in R. Dupuy & M. Morabito (eds), *1795: Pour une République sans Révolution*, (Rennes: Presses Universitaires de Rennes, 1996), pp. 11-12.

² See, for example, M. Deslandres, *Histoire Constitutionnelle de la France de 1789 à 1870*, t. 1, (Paris: Armand Colin, 1932), p. 293.

³ J.-P. Machelon, ‘La Constitution du 5 fructidor an III (22 août 1795): archaïsme ou modernité?’, in G. Conac & J.-P. Machelon (eds), *La Constitution de l’an III*, (Paris: PUF, 1999), pp. 31-32.

⁴ For more on this topic see W. H. Sewell, ‘Le citoyen/la citoyenne: Activity, Passivity, and the Revolutionary Concept of Citizenship’, in C. Lucas (ed.), *The French Revolution and the Creation of Modern Political Culture*, vol. 2, (Oxford: Oxford University Press, 1988), pp. 105-123; and M. Crook, ‘The New Regime: Political Institutions and Democratic Practices under the Constitutional Monarchy, 1789-91’, in D. Andress (ed.), *The Oxford Handbook of the French Revolution*, (Oxford: Oxford University Press, 2015), pp. 222-225.

Of all the innovations of the Constitution of 1795, the introduction of bicameralism is perhaps the most radical, yet also among the least studied. The division of the legislature into two Councils has often been seen as a novelty in the negative sense: a curious but ultimately unimportant feature which played little part in the story of the Directory or of France's modern political culture. Martyn Lyons, for instance, includes bicameralism among the aspects of the Constitution of 1795 that made it "a millstone" around the neck of the Directory.⁵ By contrast, Denis Woronoff attempts to hold off on a decisive judgement, preferring to end his very brief assessment of the introduction of bicameralism with a question: "Were the nation's imagination and reason each found in their respective chamber, as Thibaudeau claimed?" Nevertheless, the reader is left with little doubt that Woronoff's own take is a negative one.⁶

That such treatment has not yet been sufficiently rectified is particularly surprising in the wake of the renewed interest in the Constitution of 1795 which accompanied its bicentennial, now twenty years past. In the many papers presented on the topic in the second half of the 1990s⁷ bicameralism is sometimes cited as an area which deserves greater attention yet that call has remained largely unanswered. In a notable example, Marcel Morabito presented bicameralism as one of two key "previously unseen accomplishments" of the constitution, along with the reform, or "rehabilitation", of the structures of executive power.⁸ Similarly Michel Troper identified "the division of the legislative power" as an ingenious solution to a critical problem faced by the framers of the Constitution of 1795 regarding the separation of powers,⁹ while Jean-Pierre Machelon described bicameralism as "the first ..., the most evident ..., perhaps to become the richest" of the innovations of the Thermidorians.¹⁰

⁵ M. Lyons, *France Under the Directory*, (Cambridge: Cambridge University Press, 1975), pp. 18-20.

⁶ D. Woronoff, *La République bourgeoise*, (Paris: Editions de Seuil, 1972), pp. 41-42.

⁷ See, for example, Conac & Machelon (eds.), *La Constitution de l'an III*; M. Vovelle (ed.), *Le tournant de l'an III*, (Paris: Editions du CTHS, 1997); and Dupuy & Morabito (eds.), *1795: Pour une République sans Révolution*, which resulted from an international conference on the Constitution of 1795 held in Rennes in June-July 1995.

⁸ M. Morabito, 'Les nouveautés constitutionnelles de l'an III', in Dupuy & Morabito (eds), *1795: Pour une République sans Révolution*, pp. 167-177. Equally interesting is the subsequent 'Débat' (pp. 211-215), in which Morabito's ideas about Directorial bicameralism are briefly critiqued and elaborated upon.

⁹ M. Troper, 'L'introuvable séparation des pouvoirs', *Terminer la Révolution: La Constitution de 1795*, (Paris: Fayard, 2006), pp. 129-146.

¹⁰ Machelon, 'La Constitution du 5 fructidor an III', p. 32.

That promise of future richness has yet to be fulfilled. The present chapter will build on the ideas of the historians listed above and their colleagues by examining the theory of bicameralism that emerged from the constitutional debates of the Thermidorian Convention, both in the *Commission des Onze*, the parliamentary commission charged with creating a new constitution; and in the plenary sessions from the summer of 1795, when discussion of the Commission's proposals began. The subsequent chapters will then assess how that theory played out in the political reality of the Directory by investigating various facets of the new system, such as the working relationship between the two councils, and the dynamics between the councils and the executive Directory.

Before we can make sense of Directorial bicameralism, it is imperative that we understand the ideas that led to its introduction. In general histories of the Directory this innovation is often contrasted with the rejection of a two-chambered legislature during the constitutional debates of 1789.¹¹ The comparison is certainly warranted. In 1789 the main advocates for bicameralism were the members of a group which became known (mainly pejoratively, by their political opponents in the National Assembly) as the *monarchiens*.¹² As the name suggests, the *monarchiens* were of a royalist bent, supporting the idea of a powerful monarch armed with an absolute veto maintaining dominance over a legislature weakened through division into two chambers. Such a system, they argued, would bring two major benefits. Firstly, it would ensure the swift and efficient resolution of any tension between these two branches of government. Secondly, it served the dual purpose of allowing the executive to act swiftly and authoritatively while ensuring that the legislative process was slowed and characterised by reason, stability, and steadiness. One the key *monarchiens*, Lally-Tollendal, expressed the danger of a single chamber in a particularly prescient analysis: "A single Assembly perpetually runs the danger of being led astray by eloquence, seduced by sophistry, confused by intrigues, enflamed by the passions that someone makes it feel, carried away by sudden movements it hears of, gripped by the terrors someone inspires in it, by a type of public outcry that surrounds it, and against which it does not dare to resist alone."¹³

¹¹ See for example Woronoff, *La République bourgeoise*, pp. 41-42; and Lyons, *France Under the Directory*, pp. 18-19.

¹² R. H. Griffiths, *Le Centre Perdu: Malouet et les "monarchiens" dans la Révolution française*, (Grenoble: Presses Universitaires de Grenoble, 1988), pp. 55-56.

¹³ *Archives Parlementaires (AP)*, vol. 8, p. 516, Séance du 31 août 1789.

In formulating this conception of a bicameral system, the *monarchiens* took inspiration from France's long-time enemy and rival, Great Britain. This inspiration is apparent in their speeches during the early constitutional debates in the National Assembly, in which several *monarchiens* played lead roles as members of the first constitutional committee tasked with drawing up articles for discussion.¹⁴ When Lally-Tollendal, for example, introduced the question of the royal veto with the declaration that, "the division of legislative power, [and] the centralisation of executive power are two political axioms that reason and experience have placed beyond all contest", it was primarily the experience of England to which he referred.¹⁵ This bold statement was followed by an overly elaborate reflection on the constitutional theory of the separation of powers, making frequent reference to English history and proclaiming that, "since the reestablishment of the throne and of the two Houses of Parliament, ... after the Revolution of 1688, no country has enjoyed in its interior a more complete tranquillity than that enjoyed in England. Nowhere is property more sacred; nowhere is individual liberty more intact; nowhere are the rights of humanity and political equality more respected."¹⁶

Whether the *monarchiens'* anglophile inclinations specifically counted against them in these debates is unclear, but evidently they did not help. As the debates went on a division became increasingly clear between the *monarchiens* committed to an English model and those deputies committed to the philosophy of Rousseau regarding the principles of national sovereignty and the General Will.¹⁷ In an impassioned speech Mounier, one of the key leaders of the *monarchiens*, decried these Rousseauian opponents on 4 September, rebuking those who "blindly invoke the maxims of a philosopher who believed that the English were only free when they chose their representatives, who considered representation as a kind of servitude," and imploring them not "to cast a look of contempt on the Constitution of England" but to take inspiration from it in order to create a constitution superior still.¹⁸ However, the Assembly was unmoved by Mounier's pleas. After ten days of heated debate,

¹⁴ K. M. Baker, 'Fixing the French Constitution', in K. M. Baker, *Inventing the French Revolution*, (Cambridge: Cambridge University Press, 1990), p. 273. Baker's chapter provides a succinct and insightful overview of the 1789 constitutional debates and the power struggles between the *monarchiens* and their opponents.

¹⁵ *AP*, vol. 8, p. 514, Séance du 31 août 1789.

¹⁶ *ibid.*, pp. 514-515.

¹⁷ Baker, 'Fixing the French Constitution', p. 275.

¹⁸ *AP*, vol. 8, p. 563, Séance du 4 septembre 1789.

the questions of a royal veto and a bicameral legislature were decided by the Assembly and the entire *monarchien* programme was roundly defeated. A royal veto was adopted, but only as a suspensive power rather than the absolute veto favoured by the *monarchiens*, and far more devastating to their aspirations was the 849-to-89 landslide in favour of a unicameral legislature.¹⁹

The primary reasons for this were twofold. Firstly, it was feared that a bicameral legislature would lead to the establishment of an aristocratic chamber, such as that of Westminster's House of Lords. In his response to the *monarchien* Mounier's proposal of a divided legislature on 4 September 1789, Rabaut de Saint-Étienne repeatedly argued that the English system was not suitable to France's situation.²⁰ While he agreed that England's House of Lords did have the effect, so desired by the *monarchiens*, of "slowing the precipitous pace of the people's representatives," he argued that this was an unforeseen consequence rather than the founding principle of Westminster's bicameral system, "a discovery and not an invention."²¹ Rather than being envisaged as a buffer between the "dangerous efforts of the Commons against the King," it had simply been created as an accommodation of the aristocracy's interests.²²

In the wake of the abolition of feudalism, accomplished only a month previously, and of the disintegration of the hierarchy of social orders, the idea of emulating a system that reinforced such social divisions must have seemed to many deputies an almost outrageous prospect. Many deputies had already been suspicious of the *monarchiens'* aristocratic heritage (such as Lally-Tollendal) and leanings: even in May 1789 Robespierre wrote of Malouet, another prominent *monarchien*, that he was "the most suspect, the most odious of all the patriots," using every kind of intrigue to ensure that the aristocratic party prevailed at the Estates General.²³ Their advocacy for a form of legislature so clearly tied to the sort of hierarchy of social orders from which France was slowly trying to extricate itself was thus easily interpreted by many as a scheme to reintroduce privileges, not least by their more

¹⁹ J. Egret, *La Révolution des Notables*, 2nd Edition, (Paris: Armand Colin, 1989), p. 152.

²⁰ *AP*, vol. 8, pp. 567-572, Séance du 4 septembre 1789.

²¹ *ibid.*, p. 568.

²² *ibid.*

²³ Robespierre à Buissart (24 Mai, 1789), in G. Michon (ed.), *Œuvres de Maximilien Robespierre*, vol. 3: 'Correspondances', (Paris: Phénix Éditions, 2000), p. 41.

popularly-minded opponents in the National Assembly who saw the defeat of the *monarchien* project as a means of gaining control of the assembly.²⁴

Notable among these opponents was the Abbé Sieyès, who had foreseen the attraction, especially for the privileged orders, of a constitution based on the English model in his popular pamphlet *Qu'est-ce que le Tiers État? (What is the Third Estate?)*.²⁵ He devoted an entire section of the treatise to critiquing the English constitution, pointing out that there was “a real difference between England and France” which rendered the former’s constitution impracticable in France: “How could you with materials so dissimilar hope to construct in France the same political structure as in England?”²⁶ One of Sieyès’ chief aims was to abolish the distinction between the privileged orders and the Third Estate, and a parliamentary system that would enshrine privileges in the form of an upper chamber from which the Third Estate would be excluded was incompatible with such a goal since a privileged chamber would always, in his view, be filled “with people who have an interest so contrary to the common interest.”²⁷ Interestingly however, Sieyès would later propose, or at least accept as a possibility, the formation of “not two or three Chambers, but two or three *sections* of the same Chamber.”²⁸ Such a division, presumably made by lot rather than any qualitative distinctions, would allow deputies to discuss the same issues simultaneously but separately before reuniting to vote. Sieyès reminded his fellow deputies that while the National Assembly had been declared “One and Indivisible”, the thing that establishes “the unity and indivisibility of an Assembly is *unity of decision*, not unity of *discussion*.”²⁹ This explanation may appear to verge on being verbal gymnastics, Sieyès contorting definitions with the skill of a talented politician, however it was not a model without precedent: after all, the National Assembly had been dividing itself into small *bureaux* for separate discussions. Indeed, while the proposal was never given much attention in 1789, it prefigured an attitude towards bicameralism that would re-emerge in the constitutional debates of 1795.³⁰

²⁴ Griffiths, *Le centre perdu*, pp. 69-72.

²⁵ E-J. Sieyès, *Qu'est-ce que le Tiers État?*, (Paris: Flammarion, 1988), especially Chapter IV, §VI ‘On propose d’imiter la Constitution anglaise’, pp. 106-113.

²⁶ *ibid.*, p. 109.

²⁷ *ibid.*, 106.

²⁸ *AP*, vol. 8, p. 597, Séance du 7 septembre 1789.

²⁹ *ibid.*

³⁰ Morabito, ‘Les nouveautés constitutionnelles de l’an III’, p. 170.

The *monarchiens* were aware of their reputation and took pains to assuage the fears of deputies concerned by the threat of an aristocratic chamber. Lally-Tollendal addressed the question directly: “Would it [the Senate, or upper chamber] be formed of those presently called the nobility and clergy? Certainly not; that would perpetuate the separation of orders, the corporate spirit, which is the greatest enemy of the public spirit, and which a universal patriotism today strives to extinguish.”³¹ However by this point the question of whether the specific mechanisms of the proposed upper house would inevitably lead to its domination by the nobility or clergy was unimportant: the very notion of an upper chamber was a danger that the vast majority of deputies were simply unwilling to take.

The second major objection to bicameralism in 1789 was grounded in the theory of sovereignty and of representative government that had been developing through the course of the Estates-General and the subsequent National Assembly. Maurice Cranston identifies three theories of sovereignty that had emerged during the eighteenth century and were particularly influential among the deputies at the Estates General.³² Firstly, there was the enlightened absolutism of Voltaire, according to which sovereignty resided solely in the person of the monarch. Montesquieu had advocated a division of sovereignty between the monarch and constitutional institutions, whether existing bodies, such as the *parlements*, or new ones created specifically for the purpose, such as a parliamentary assembly. Finally, the republicanism espoused by Rousseau insisted that sovereignty be unified, yet should not pertain to a single person or body. Instead, it was the totality of the people that was to be sovereign. All three of these streams of thought were represented at the Estates General, and it was only over the course of that doomed body and the subsequent National Assembly that a clear theory of sovereignty became dominant. Initially it seems that Montesquieu’s was the favoured outline. Michael Fitzsimmons points out that although Sieyès, in *Qu’est-ce que le Tiers État?*, had pushed for the abolition of orders and the appropriation of sovereignty by the Third Estate on the basis that it was by itself “a complete nation”,³³ the “prevailing hope among the Third Estate was a ‘union of orders’,” from which could be derived the blueprint

³¹ AP, vol. 8, p. 519, Séance du 31 août 1789.

³² M. Cranston, ‘The Sovereignty of the Nation’, in Lucas (ed.), *The French Revolution & the Creation of Modern Political Culture*, vol. 2, pp. 97-98.

³³ Sieyès, *Qu’est-ce que le Tiers État?*, p. 33.

for a constitution.³⁴ Sovereignty was thus envisaged as belonging jointly to the king and whatever institutions might be established from this union of orders.

However, the inability of the Estates General to reach a consensus on any sort of programme³⁵ had led the deputies of the Third Estate to declare themselves the National Assembly on 17 June,³⁶ followed three days later by the Tennis Court Oath in which the deputies asserted that they had been “called to set the Constitution of the kingdom” and vowed not to disband until they had done so.³⁷ Even so, the nascent National Assembly had no clear plan of action or agenda, nor even any real consensus beyond the necessity of a constitution.³⁸ It was not until the eventful evening session of 4 August, when the manifold institution of feudal privilege was abolished, that the path towards a new constitution seemed to take shape.³⁹

According to Fitzsimmons, the most significant effect of 4 August in regards to the constitution was “the appropriation of sovereignty by the National Assembly.”⁴⁰ By eliminating the legal distinctions between the estates, the National Assembly had achieved in August what Sieyès had called for in January. The totality of the population of France was now conceived of as a nation, a unified people governed by a monarch whose powers would be determined by an elected assembly through the creation of a constitution. It was thus the representatives in the National Assembly who truly exercised sovereignty, rather than the individuals who made up the people of France. This is the basis of the theory of ‘national sovereignty’, according to which sovereignty resides not in an agglomeration of individuals but in their unity as ‘a nation’, an abstract body which can only be given real power through a system of representative democracy.⁴¹ This was precisely what Sieyès meant when he

³⁴ M. P. Fitzsimmons, ‘Sovereignty and Constitutional Power’, in Andress (ed.), *The Oxford Handbook of the French Revolution*, p. 206.

³⁵ M. P. Fitzsimmons, *The Night the Old Regime Ended: August 4, 1789, and the French Revolution*, (University Park: Pennsylvania State University Press, 2003), pp. 4-5.

³⁶ *AP*, vol. 8, p. 127, Séance du 17 juin 1789.

³⁷ *Ibid.*, p. 138, Séance du jeu de paume.

³⁸ Fitzsimmons, *The Night the Old Regime Ended*, pp. 9-10.

³⁹ *Ibid.*, pp. 16-17.

⁴⁰ Fitzsimmons, ‘Sovereignty’, p. 208.

⁴¹ Troper, *Terminer la Révolution*, p. 111.

argued, in June 1789, that “it pertains [to the National Assembly], and pertains to it alone, to interpret and express the general will of the nation.”⁴²

Contrasting with the theory of national sovereignty is the idea of popular sovereignty, according to which it is ‘the people’ who are sovereign. In this theory sovereignty is not dependent on the unity of these people but on their status as citizens, who have the right to participate in the creation of laws.⁴³ As Troper points out, a crucial difference between national and popular sovereignty is the conception of representation each theory produces. Whereas national sovereignty is based on elected representatives realising the abstract nation, popular sovereignty is based on the participation of all, implying universal suffrage and as close to direct democracy as is practicable. If the people must choose representatives for the purpose of law-making, then those representatives must carry a binding mandate given to them by their constituents and from which they must not stray.⁴⁴

By August 1789, the idea of national sovereignty had achieved dominance in the thinking of the deputies in the National Assembly. For them, the sovereignty of the nation did not pertain to a mass of individuals but to the abstract concept of the nation, a single entity. Ideally this nation would exercise its sovereignty directly, through the meeting of its diverse constituent parts, however such a system was simply impracticable in a nation as large and populous as France. Even in 1795 this view was still prevalent, as evident in some of the proposals the *Commission des Onze*, charged with drafting the Constitution of Year III, received from citizens and theorists, such as one which observed that “if [France’s] population was not greater than that of Athens, and that of Sparta, it would have no trouble establishing a pure democracy, but with 25 million people, and at least 6 million voters, creating the physical impossibility of meeting in one place to deliberate, the French nation is thus forced to be content with a representative government which most closely approaches a pure democracy.”⁴⁵

The centrality of the concept of national sovereignty to the National Assembly is clearly illustrated by the debate over bicameralism. If it was to be the people as individuals who were

⁴² AP, vol. 8, p. 109, Séance du 15 juin 1789.

⁴³ Troper, *Terminer la Révolution*, p. 110.

⁴⁴ Ibid., pp. 110-111.

⁴⁵ ‘Projet d’une Constitution Républicaine’, Archives Nationales (AN), C//232.

sovereign then there may exist a plurality of wills, and if the general will could be divided then so too could the legislature designed to express that will. On the other hand, if, as was the prevailing view in 1789, the general will pertained only to the nation, then it must be as “one and indivisible” as that nation itself. How, these deputies argued, could a divided legislature rightly interpret and express the general will of an indivisible nation? Sieyès made this point clear in his motion to rename the assembly of the deputies of the Third Estate as the ‘National Assembly’, since “the members who compose it are the only legitimate and publicly known and proven representatives, and because they have been sent directly by nearly the entirety of the Nation, and finally because representation being one and indivisible, no deputy, regardless of order or class, has the right to exercise his functions separate to the present Assembly.”⁴⁶ The idea of a bicameral legislature was practically antithetical to this theory of national sovereignty, and it was primarily for this reason that the *monarchiens* ambitions in 1789 concluded in such a dismal failure.

Yet despite the unequivocal rejection of bicameralism in 1789, a mere six years later (albeit six of the most politically tumultuous years France has known) that very institution was introduced under the Directory. How was opinion reversed so radically by 1795? What specific ideas or circumstances had changed that led the members of the Thermidorian Convention to adopt as a central aspect of their project for a new republican regime a system proposed by moderate royalists in 1789? Understanding this change will reveal much about nascent French democracy in the revolutionary decade, and its importance for succeeding regimes. In order to develop such an understanding, it is necessary first to turn to the establishing document of the Directory, the Constitution of Year III, and in particular consider the circumstances of its creation.

The Constitution of 1795, was created in haste and against a backdrop of instability and unrest, yet it was still the longest and most comprehensive constitution France had yet seen. Following the fall of Robespierre and his fellow Jacobins in Thermidor Year II (July 1794), the remaining deputies of the Convention soon recognised that they needed a firm foundation by which to legitimise their claim to power. Although a constitution had been written for the Convention in 1793, it had never actually been promulgated, ostensibly due to the necessity

⁴⁶ AP, vol. 8, p. 127, Séance du 17 juin 1789.

of Revolutionary Government in order to address the war that had begun in 1792. Instead, the Constitution of 1793 had immediately been placed within a specially constructed cedar chest sitting in the meeting hall of the Convention. The fact that this box had been constructed in advance of the constitution has prompted Bronislaw Baczko to question the sincerity of the constitution's Jacobin authors, asking whether they had ever intended to promulgate it or if they had considered it from the start as "anything other than a propaganda exercise?"⁴⁷ Nevertheless, when it became clear that Revolutionary Government had to give way to Constitutional Government, an extant constitution was naturally the first place the deputies of the Thermidorian Convention turned.⁴⁸

In early April 1795 (Germinal, Year III) a *Commission des Sept* was thus appointed to investigate what "organic laws" ought to be passed by the Convention in order to facilitate the implementation of the Constitution of 1793. However even at this point many deputies (including Sieyès, who was himself a member of the *Commission des Sept*) were already steadfastly opposed to a constitution associated so closely with the legacy of Jacobin violence and tyranny, and instead wanted a new constitution altogether. The Constitution of 1793 contained several features that were radical and well ahead of their time.⁴⁹ It would have introduced universal manhood suffrage, for instance, and significantly expanded the Declaration of the Rights of Man and Citizen to include social rights such as education and public assistance. While many of these features appear familiar to modern democracies, in the midst of revolutionary France they were too drastic for some deputies to accept at such an early stage. Furthermore, the haste with which the Constitution of 1793 had been written and the questionable process of its approval, with barely any debate in the Convention (freshly purged of the fiercest of the Jacobins' opponents) and then acceptance by a plebiscite held in suspicious circumstances, had done little to persuade more moderate deputies that the Constitution was a desirable, let alone valid, basis for government.⁵⁰

The opponents of the Constitution of 1793 got their way in a mere three weeks, when the *Commission des Sept* was replaced by a new committee, the *Commission des Onze*, which was given instructions to draft a new constitution. Soon afterwards any misgivings held by

⁴⁷ B. Baczko, *Comment sortir de la Terreur: Thermidor et la Révolution*, (Paris: Gallimard, 1989), p. 307.

⁴⁸ Troper, *Terminer la Révolution*, pp. 33-35.

⁴⁹ Baczko, *Comment sortir de la Terreur*, p. 307.

⁵⁰ *ibid.*, pp. 306-307.

proponents of the former constitution regarding this new direction were swept away on 1 Prairial (20 May) when a violent mob invaded the Convention demanding “Bread and the Constitution of ‘93!” One deputy, Féraud, was killed in the assembly hall, his head mounted on a pike and held up for the sitting president of the Convention, Boissy-d’Anglas, to greet, for the amusement of the crowd; Boissy-d’Anglas’ stoicism in this moment would become instrumental for his career, earning him a “place among the national heroes.”⁵¹ Several deputies sided with the mob however, and after the uprising was put down by the army and by militias from moderate *sections* of Paris the dominant moderates in the Convention were swift to arrest and condemn these rebellious deputies, whose deaths (either by suicide or guillotine) were memorialised as the “Martyrs of Prairial”.⁵²

Prairial served as a vindication of the decision to abandon the Constitution of 1793 and bring about the end of the Revolution by creating a new, constitutional government. However, the surge in anti-Jacobin sentiment that followed the Prairial uprising (together with a similar one earlier, in Germinal) also played into the hands of royalist counter-revolutionaries who had been capitalising on the demise of Robespierre and were swiftly becoming as worrisome to the Thermidorians as the populist insurrectionists in Paris.⁵³ This left the *Commission des Onze* with the challenging task of crafting a new constitution which would retain the republican principles of the Revolution while finding a ‘middle way’ between the resurgent royalist right and the remnants of the radical left, preventing either extreme from dominating the new government.

Despite having been appointed in April, the *Commission des Onze* does not seem to have commenced its work in earnest until early May, and its report was delivered to the Convention on 5 Messidor (23 June).⁵⁴ In the six intervening weeks the eleven constitutional theorists of the Commission created the longest and most rigorous constitution France had seen. After two months of debate in the Convention, the Constitution of 1795 was ratified on 5 Fructidor III (22 August 1795). In comparison to the creation of France’s first constitution in 1791, which took almost two years to complete despite being significantly shorter, this was a

⁵¹ C. Le Bozec, ‘Sur la journée du 1^{er} prairial an III: le mythe et la réalité’, in Vovelle (ed.), *Le tournant de l’an III*, pp. 35-38.

⁵² Baczko, *Comment sortir de la Terreur*, pp. 315-316.

⁵³ M. Lyons, *France Under the Directory*, pp. 15-17.

⁵⁴ Troper, *Terminer la Révolution*, pp. 47-48.

staggeringly fast achievement. Admittedly the *Commission des Onze* had the two earlier constitutions from which to draw inspiration, but to attribute their expeditiousness to plagiarism would be to ignore both their explicit intent to differentiate the new constitution from that of 1793 and, far more importantly, the originality and innovation of the Constitution of 1795, not least in its introduction of bicameralism.

Little is known of the proceedings of the *Commission des Onze*, as no minutes were kept of their meetings. What we do know must be gleaned from the draft projects they produced, and the marginalia and corrections some of these contain, however even this is difficult as the various drafts were not dated, complicating the task of following the development of the theorists' thoughts. The vast majority of the documents stemming from the Commission that are stored at the Archives Nationales are letters and constitutional drafts from citizens, political clubs, and even fellow deputies in the Convention. These are copious and are themselves fascinating: many, for example, already enthusiastically suggest a two-chambered legislature, such as that of a doctor, F. Saléles, whose contribution included a veritable treatise lamenting the necessity of occupations such as agriculture which prevent men from spending their whole time thinking about and debating political matters.⁵⁵ Both his enthusiasm for politics and his advocacy of bicameralism are typical of the material received by the *Commission des Onze*, which invites further investigation to try to discern how the idea of bicameralism came to be apparently so widespread already in 1795.

It is clear that bicameralism was intended to be a central feature of the new constitution from the outset of the Commission's work. While the drafts are undated, the earliest can nevertheless be identified by a number of distinctions compared to the others, such as the absence of the declaration of rights and discrepancies in the nomenclature used for various groups and positions, notably the two legislative councils and the executive Directory.⁵⁶ In the case of the apparent first draft, several of the terms used seem to have been carried across from the Constitution of 1793, such as *Conseil Exécutif*, however it is the departures from that document that are the most marked. The *Conseil Exécutif* of the 1795 draft, for instance, was no longer the 24-man assembly proposed in 1793 but a small, 5-man council which already

⁵⁵ 'Projet d'un constitution republicaine', AN, C//232.

⁵⁶ All drafts produced by the *Commission des Onze* can be found in AN C//232. The apparent first draft is alternatively catalogued under the code C/II/183bis 15C.

lacked any role in the passage of legislation, its powers being confined to foreign policy, military appointments, and a number of other important but non-legislative areas. In fact, the executive Directory as described in the final Constitution of 1795 was significantly strengthened compared to its initial conception in this first draft. It appears that the idea of an executive veto was briefly revisited, but was swiftly rejected in favour of creating a second legislative chamber whose sole function would be to approve or reject the laws proposed by the first chamber. Initially the two chambers were to be titled (somewhat confusingly) the '*Directoire*' and the '*Sénat*', referring to the eventual Council of Five-Hundred and Council of Elders respectively.⁵⁷

Why, then, was bicameralism adopted apparently so easily in 1795 when it had been so forcefully opposed in 1789? Firstly, it is evident that the primary reasons bicameralism was opposed in 1789 were no longer as strong. The fear that a second chamber would come to be dominated by the aristocracy had been strongly diminished over the course of the past six years, as emigration, exile, and the Terror had greatly reduced the existing aristocratic population of France. Still, the *Commission des Onze* took no chances in this regard, laying out in painstaking detail the manner by which deputies of the two councils would be elected. A crucial element of the system was the fact that deputies for both councils would be drawn from the same broad pool of candidates. Voting was made indirect, with primary assemblies meeting to elect deputies to the second-level electoral assemblies, who would then elect deputies from among their own ranks to the *Corps législatif*. Each electoral council would first elect to the Council of Elders deputies who met the age and marital status requirements (Elders were required to be at least 40 years and either married or widowed), followed by the appointments to the Five-Hundred. This system served several purposes for the Thermidorian constitutionalists, but one important role was to ensure that no distinction according to social class would emerge between the two councils. The system was summarised in the presentation of the draft constitution to the Convention on 5 Messidor (23 June), in contrast to those systems from which the *Commission des Onze* were eager to distance themselves:

“A chamber of hereditary peers is the product of feudal pride, in order to preserve the privileges of the lords and defend the authority of the throne; ... a Senate with

⁵⁷ AN, C/II/183bis 15C.

a life-long term is an aristocratic institution no less contrary to the sacred principles on which our revolution was founded.... We propose only to divide the Corps législatif into two councils equally elected by the people, appointed for the same length of time, and only different from each other in the number and age of their members.”⁵⁸

Furthermore, ideas about sovereignty had gradually changed over the course of the Revolution, undermining the other powerful objection to bicameralism in 1789. One of the most significant ruptures between the Constitution of 1791 and that of 1793 was the concept of who was sovereign. The Constitution of 1793, written during the emergence of powerful populist politics following the triumph of the Jacobins over the Girondins in the Convention, had departed from 1791’s clearly expressed idea of national sovereignty in favour of a more ambiguous relationship between ‘the people’ and their sovereignty. Article 7 of the Constitution of 1793 states that, “The sovereign people is the universality of French citizens”, which has tended to be interpreted as implying popular sovereignty.⁵⁹ The Constitution of 1795 employed similar terminology, Article 2 stating that, “The universality of French citizens is the sovereign”, yet the traditional view of historians has been that 1795 represented a break with the radical democracy and popular sovereignty of 1793 and a return to the national sovereignty of 1791.⁶⁰ Michel Troper, however, has argued persuasively that both the language regarding sovereignty in the Constitution of 1795 and the institutions it outlines suggests that the Thermidorians actually retained the notion of ‘the people’, rather than ‘the nation’, as the sovereign.⁶¹ This continuity must be considered alongside the evidence that the Constitution of 1795 moved away from the popular sovereignty of 1793, such as the reintroduction of tax-related conditions on suffrage.⁶² Nevertheless, it is clear that the firm and widely held notion of national sovereignty seen in 1789 had significantly weakened by 1795, allowing the serious consideration of alternative ideas about how the national legislature could be structured in order to perform its role of interpreting and expressing the ‘general will’ of the people.

⁵⁸ Séance du 5 messidor III (23 June 1795), *Le Moniteur*, 1795.

⁵⁹ Troper, *Terminer la Révolution*, p. 109.

⁶⁰ *ibid.*, pp. 109-110.

⁶¹ *ibid.*, Chapter IV: ‘Souveraineté nationale ou souveraineté populaire?’, pp. 109-127.

⁶² Constitution du 5 Fructidor An III, Article 8, in Troper, *Terminer la Révolution*, Annexe 8, pp. 712-713.

Just as the main reasons for opposing bicameralism in 1789 had been eroded by 1795, the experiences of the intervening years had raised certain institutional problems to which a bicameral legislature seemed to offer a solution. The dangers, foreshadowed by the *monarchiens* in 1789, of a single chambered legislature, and especially one that incorporated the executive, had been well and truly realised over the course of the Revolution, above all in the Jacobin domination of the Convention during the period of Revolutionary Government. Even in the early debates in the Thermidorian Convention about the potential adoption of the Constitution of 1793, many voices called for patience and slower movement. Cambacérès, for instance, argued that, “good laws are not improvised and we must not believe that they simply appear, like Minerva emerging fully armoured from Jupiter’s head.”⁶³ For many it was the unbridled pace of the Convention that had been its undoing, and over the following months a theme became evident: we must not go too quickly; we must take our time.

A bicameral legislature presented an interesting means of slowing the pace of governance down while preventing it from grinding to an absolute halt. Boissy-d’Anglas expounded at length on this point when he presented the constitutional project of the *Commission des Onze* to the Convention on 5 Messidor (23 June) in a particularly powerful and evocative speech. First he observed the dangers of unicameralism, in terms not dissimilar to those used by Lally-Tollendal six years earlier but with a far more personal and emotive appeal to his colleagues:

“I will pause briefly to remind you of the inseparable dangers of a single assembly; I have on my side your own memories and the feelings of your consciences. Who knows better than you how strong, in a single assembly, the influence of one man can be? ... In a single assembly tyranny is only opposed in its first steps; ... it establishes the throne of terror on a unique and solid base, and the most virtuous men are soon forced to appear to sanction crimes, to allow rivers of blood to flow until a fortunate plot manages to overthrow the tyrant and re-establish liberty.”⁶⁴

Having so vividly evoked the horrors of the previous years (while simultaneously washing his and every other surviving deputy’s hands of guilt for the Terror), Boissy-d’Anglas

⁶³ Séance du 10 germinal III (30 March 1795), *Le Moniteur*, 1795.

⁶⁴ Séance du 5 messidor III (23 June 1795), *Le Moniteur*, 1795.

then proceeded to the virtues of two-chambered legislatures in general, and of that proposed in the constitutional draft in particular. The Council of Five-Hundred, being composed of the younger deputies, would generate the ideas for laws: “it will be the thought, and, so to speak, the imagination of the republic; the Council of Elders will be its reason: it will have no other duty than to examine with wisdom which laws to adopt and which laws to reject, never having the power to propose laws of its own.”⁶⁵ It was the latter aspect, the reasoned examination of the Council of Elders, that would be the brake on any potential run-away legislation, and that would prevent the domination of the legislature of a particular personality or faction.

It is clear, then, that the primary purpose of the introduction of bicameralism in 1795 was to prevent the accumulation of power in any one assembly, and so to protect the new regime against the threat of factional domination and make it less vulnerable to the vicissitudes of national politics; as Francois Furet put it, the Thermidorians sought “to limit sovereignty by dividing it.”⁶⁶ In this sense, bicameralism was a logical accompaniment to the establishment of an executive council separate to but dependent on the legislature. Both new institutions aimed to slow the legislative process and prevent rash governance. The excesses of the Terror and the dangers of popular intimidation of the national government were all too fresh in the minds of the deputies of the Thermidorian Convention, and bicameralism provided a unique means of preventing a repeat of such events, while also providing the new regime with the measured, stable legislative process so desired by the Thermidorians. However, it was only one such means in a Constitution which seemed to take the decentralization of power as its foremost objective. As we shall see, several of the measures adopted in the name of separating or balancing powers in the Constitution of 1795 had profound effects on the practical functioning of the new bicameral system. Looking at how these measures played out will help us to see the rupture between the idealistic bicameral theory of the Constitution of 1795 and the gritty reality of post-Jacobin democracy.

⁶⁵ *ibid.*

⁶⁶ F. Furet, *Revolutionary France, 1770-1880*, trans. Antonia Nevill, (Oxford: Oxford University Press, 1992), p. 165.

Relations Between the Legislative Councils and the Executive Directory

The division of governmental powers was a central tenet in the Constitution of 1795. The parliamentary arrangement established in 1795 was novel not just for the introduction of bicameralism, but also for the creation of an executive body which would be separated from the legislative Councils but nonetheless bound to them. In many ways the executive Directory appeared a subservient member in the relationship; for example, its five members were chosen by the Councils, it lacked control over the nation's finances, and it had no power of veto on legislation, its role in the legislative process being reduced to little more than a rubber stamp. Yet from its inception in the constitution the Directory was clearly intended to be a powerful institution, the centrepiece of the new government, and one need not look far to see the enduring legacy of that intent. Not only did the executive organ give its name to the period over which it presided, but virtually every political history of those years focuses on the policies, tactics, actions, and problems of the Directors, giving little attention to the deputies of the Councils.¹ Indeed, where the Councils are mentioned it tends to be in the context of their opposition or submission to the will of the Directors, being portrayed at times as just another obstacle for the Directory to try to navigate its way around, and at others as a weak and directionless bureaucracy powerless to resist the force of the Directory.

The purpose of this chapter is to address the accuracy of this depiction, and to explore more deeply the relationship between the Directors and the legislative Councils. Many questions remain to be answered regarding how the legislative and executive functioned alongside each other, ranging from what their quotidian functions in the governance of revolutionary France looked like, through to questions of personal relationships and the importance of rumour and

¹ The four most notable in this category are M.J. Sydenham, *The First French Republic, 1792-1804*, (London: B.T. Batsford, 1974); G. Lefebvre, *La France sous le Directoire, 1795-1799*, (Paris: Éditions sociales, 1977); D. Woronoff, *La République Bourgeoise, de Thermidor à Brumaire, 1794-1799*, (Paris: Éditions du Seuil, 1972); and M. Lyons, *France Under the Directory*, (Cambridge: Cambridge University Press, 1975).

factionalism in both the Councils and among the Directors themselves. By addressing these questions we will arrive at a more thorough and complicated understanding of the difficulties the revolutionaries faced in attempting to establish a parliamentary, democratic republic, while also developing an assessment of the degree to which they were successful in that ambition.

Unlike many aspects of the Directory, the broad political narrative of the period has been relatively well explored in a handful of general assessments of the regime in the second half of the twentieth century, although many details remain to be filled in or debated.² Through these political narratives a general stream of thought has emerged regarding the flux of power between the executive Directory and the legislative Councils. This interpretation, is marked by a number of key aspects. Firstly, it emphasises the rivalry and antipathy between the Directory and the Councils. These two bodies are perceived to be perpetually at odds with each other, each struggling for dominance over the other. Proponents of this view, such as Lefebvre, Sydenham, Lyons, Woronoff,³ argue that the paradoxically rigid yet vague division of powers in the Constitution of 1795 left each of the Directory and the Councils (especially the Council of Five-Hundred) with a bizarre array of governmental powers. The constitution gave the Directory most of the responsibilities associated with government, such as foreign relations, the military, and the appointment of government ministers as well as local officials.⁴ However, two crucial responsibilities were excluded. Firstly, responsibility for the nation's finances was bestowed on the Council of Five-Hundred, and secondly, the Directory lacked the power of an executive veto, meaning that the Councils retained full autonomy over legislation. By so clearly delineating these powers, the constitution established a confusing arrangement where the power to govern was unclearly located. In part, this was deliberate on the part of the framers of the constitution, who sought to prevent that power from coalescing within the hands of any one body.⁵ They intended to balance these two branches of government against each other, a model which surely seemed reasoned and conservative in the imaginations of the constitutional framers but which relied on

² The four works cited above are again the best representatives, while William Doyle's *The Oxford History of the French Revolution*, (Oxford: Oxford University Press, 2002) summarises succinctly most of the advancements that have been made in the subsequent three decades.

³ *ibid.*

⁴ Lyons, *France Under the Directory*, p. 19.

⁵ Lefebvre, *La France sous le Directoire*, p. 72.

the ability of the two bodies to co-operate. The constitution made no provision for breaking a deadlock, a catastrophic oversight on the part of the framers. Thus, when the Directory and Councils inevitably came into conflict there was no clear legal solution; as Lyons points out, the constitution “permitted the legislature, if dominated by a hostile majority, to paralyse the Directory. The Directory, which had no power of dissolution, and no veto, could only reply by unconstitutional methods.”⁶

This raises a second key feature of the commonly held view of the relationship between the Directory and the Councils, namely the focus on the *coups d'état* that peppered the period. The four successful *coups* carried out between 1797 and 1799 are taken as the turning points in the political narrative of the Directory. These were, in chronological order, the *coups* of 18 Fructidor in Year V (4 September, 1797), 22 Floréal Year VI (11 May, 1798), 28-30 Prairial Year VII (16-18 June, 1799), and finally, the *coup* of 18-19 Brumaire Year VIII (9-10 November, 1799) in which Napoleon Bonaparte and his fellow conspirators overthrew the Directory and lay the foundations for the Consulate. The fact that these *coups* occurred on a roughly annual basis certainly makes for a neat chronological division when describing the story of Directorial politics, and there is certainly merit in such an organisation.

The *coup* of Fructidor in particular is taken as a critical moment for the new regime, marking the point when the Directory apparently abandoned the constitution and pursued repressive, often violent policies in order to preserve itself. In order to understand the *coup* and its significance in the legacy of the Directory, it is necessary to have a sound grasp of the complex context in which it was carried out. When the regime had been installed in Brumaire Year III (October-November, 1795),⁷ the majority of the membership of both the Councils and the Directory itself had been committed to the idea of a liberal democratic republic which would tread the ‘middle way’ between royalism and Jacobin terrorism.⁸ This was initially ensured by the infamous Law of Two-Thirds which stated that two-thirds of the membership of the new Councils

⁶ Lyons, *France Under the Directory*, pp. 19-20.

⁷ The National Convention had been suspended on 4 Brumaire (26 October) with the new regime officially taking office a week later on 11 Brumaire (2 November).

⁸ Sydenham, *The First French Republic*, pp. 130-143.

would consist of *ex-Conventionnels*. However, the royalist cause had been gathering momentum since the fall of the Jacobins in Thermidor Year II (July, 1794), and the results of the elections of Year IV (which were carried out by the same primary assemblies, immediately following the referendum on whether or not to accept the Constitution of 1795, the document which established the very institutions that were subject to these elections) displayed the extent to which royalism had grown in popularity.⁹ While the liberal republicans retained firm control of the new *Corps Législatif*, roughly half of the new third of deputies were royalists of some kind, whether absolutists or constitutionalists.¹⁰

This did not bode well for the new regime, and the royalists capitalised on their gains in the year and a half before the next elections in Year V (1797). Taking advantage of new electoral laws that for the first time permitted declared candidatures, royalist associations and clubs across the nation organised nascent electoral campaigns by distributing lists of their desired candidates and spreading right-wing propaganda via newspapers, while refractory priests were particularly effective “guiding rural political choices.”¹¹ The Jacobins were still recovering from Thermidor and so made little impact in the electoral campaigns of 1797, but the liberal republicans were quick to respond to the resurgent royalists, compiling their own lists of candidates and using the press to push their agenda. However, when the election results emerged in Floréal (April-May) it became clear that the republicans’ efforts had been insufficient to maintain their control on the legislative Councils. Royalists had been successful in sixty-two out of ninety-eight *départements*, while only seven *départements* returned unequivocally favourable results for the government.¹² The liberal republicans quickly began to lose their grasp on government. The fervently royalist general Pichegru was elected as president of the Council of Five-Hundred, despite being suspected of treasonous dealings with *émigrés* and foreign powers while commanding the Army of the Rhine, suspicions which were soon proven with assistance from Bonaparte although the evidence was kept secret by Barras until an opportune moment.¹³ His counterpart in the Council

⁹ M. Crook, *Elections in the French Revolution*, (Cambridge: Cambridge University Press, 1996), pp. 132-133.

¹⁰ Lyons, *France Under the Directory*, p. 20.

¹¹ Crook, *Elections in the French Revolution*, pp. 141-145.

¹² P. Gueniffey, *La Nombre et la Raison*, (Paris: École des Hautes Études en Sciences Sociales, 1993), p. 501.

¹³ Sydenham, *The First French Republic*, p. 138.

of Elders was Barbé-Marbois, who Lefebvre identifies as one of the instigators of the Brunswick Manifesto in 1792 which threatened reprisals against France if any harm should come to the royal family.¹⁴ Meanwhile another royalist, Barthélémy, was elected to the Directory to replace Letourneur, on whom the lot had fallen to step down. Fate had fallen on the side of the liberal republicans in this regard, since Letourneur had been largely ineffectual during his time as a Director (La Revellière-Lépeaux describes him as being “just the echo of Carnot”) and his departure did not disrupt the control over the executive held by La Revellière-Lépeaux, Barras, and Reubell, the so-called ‘*triumvirs*’.¹⁵

A schism had thus formed between the legislative Councils now dominated by royalists, and the executive Directory which remained in the hands of the ‘liberal’ *triumvirs*. Precisely the situation for which the Constitution of 1795 made no provision had eventuated, and it was only a matter of time until one side or the other would give way. La Revellière-Lépeaux argued that this was the case in his defence of the *coup* of Fructidor, agreeing with Lefebvre and Lyons that, “the Constitution of Year III had unfortunately given the Directory no legal means of defence against attacks on the constitution itself. This failing was its ruin.”¹⁶ Yet the reaction against the royalist electoral successes was not immediate. More elections would be held in a year’s time, after all, so if the Councils and the Directory were able at least to tolerate each other until then, perhaps the conflict could be resolved at the ballot box, either by the lot falling on one of the *triumvirs* to be replaced or by a reversal of the royalist gains of 1797. Early hopes for such peaceable co-operation were doused quickly. Not only did the two Councils appoint royalists as their respective presidents, but the secretarial positions for each had been similarly filled with “names hostile to the Republic,” which was interpreted by the Directors as “a threatening indication.”¹⁷ The Councils began agitating for the relaxation of laws against *émigrés* and refractory priests, and for a conclusion to the revolutionary wars; but on none of these issues was the republican majority in the Directory prepared to concede.¹⁸ A flashpoint soon emerged

¹⁴ Lefebvre, *La France sous le Directoire*, pp. 270-272.

¹⁵ L.-M. La Revellière-Lépeaux, *Mémoires de La Revellière-Lépeaux, ... publiés par son fils*, vol. 2, (Paris: E. Plon, Nourrit et Cie, 1895), p. 50.

¹⁶ *ibid.*, p. 60.

¹⁷ H. Carnot, *Mémoires sur Lazare Carnot*, vol. 2, (Paris: Librairie Hachette, 1907), p. 106.

¹⁸ Lyons, *France Under the Directory*, p. 49.; and A.N. C//418 plaquard 21, pièces 33 & 54.

in the form of opposition in the Councils to the ministerial appointments the Directory had made. The remaining liberal republicans (or “the constitutional faction”, as they began to be known) suggested that the Directors replace two ministers: Merlin de Douai as Minister of Justice, and Delacroix as Minister of Foreign Affairs.¹⁹ This act, it was hoped, would appease the royalists and allow the government to carry on under a tentative truce. There seems to have been little chance that an attempted appeasement of this kind would have succeeded, however, as the vocal royalists demanded a reshuffle of the entire ministry.²⁰

The Directory now held the initiative. Would they act on the potentially futile advice of the constitutionalists, succumb to the pressure of the royalists, or make a stand of their own and reject the *Corps législatif*'s calls for change? The decision would depend on how the allegiances and divisions between the Directors themselves panned out, and with Barthélémy's entry to the Directory it was slightly less clear where everyone stood. According to Carnot, the initial reaction he felt to the calls of the Councils was “repugnance for this unconstitutional intrusion by the *Corps législatif* in the affairs of the executive,” as any man loyal to his charge under the constitution would.²¹ Putting aside Carnot's undoubtedly slanted account of an event which would play a key role in bringing about his expulsion from public life in Fructidor, his observations about the dynamics between the individual Directors, and between those Directors and the deputies of the Councils, are nonetheless fascinating. Like La Revellière, he acknowledges that in order for the constitution to remain intact it would be absolutely necessary to foster good relations between the Directory and the Councils. This, he claims, was his driving motivation for striving to form a majority within the Directory which would replace some, but not all, ministers.²² Barthélémy, rather unsurprisingly, joined Carnot, while Reubell and La Revellière-Lépeaux formally refused. The fate of the nation thus fell to Barras, who comes across as something of an irresponsible and deceitful villain in the memoirs of both Carnot and La Revellière-Lépeaux, as demonstrated in Carnot's relation of this crucial affair. The other three Directors having clearly shown their colours, Barras told Carnot that he would be willing to go along with a change of

¹⁹ Carnot, *Mémoires*, vol. 2, pp. 116-117.

²⁰ A.N. AF/III/454, ‘Message de Conseil des Cinq-Cents au Directoire exécutif’, 5 Messidor an V.

²¹ Carnot, *Mémoires*, vol. 2, p. 117.

²² *ibid.*

ministers, as long as Carnot took the initiative in making the proposition.²³ Carnot accepted, and on 26 Messidor (14 July) proposed the dismissal of four ministers that the legislative Councils had taken particular issue with.²⁴ However, the moment the proposal was made to the Directory, Barras switched sides, “either because he had played a disgraceful act, or because he had been brought back around by his colleagues,” and joined La Revellière and Reubell in rejecting the proposal.²⁵ Furthermore, the renewed *Triumvirat* seized the moment and, on the pretext of respecting the desires of the legislature, reviewed all ministerial positions. Their true intent, however, was revealed when, after a mere twenty minutes of discussion, they had ousted three of the ministers most closely associated with the royalist faction while boldly reinstating those most despised.²⁶ For Carnot, this was the decisive moment at which conflict between the Councils and the Directory became inevitable: “The *Triumvirat*, by this significant display, threw down the gauntlet simultaneously to the minority in the Directory and to the two Councils.”²⁷

For La Revellière-Lépeaux’s part, the path to Fructidor was more a question of when, rather than if, the balance between the executive and legislative would collapse. The “happy harmony and rapid progress towards improvements of all kinds” that typified, in his view at least, the relationship between the Directory and the legislative Councils during their first sixteen months ended with the elections of Year V.²⁸ The seizure of the Councils by the royalists and the appointment of Barthélémy were severe enough challenges by themselves for La Revellière, already a grim pessimist,²⁹ to fear for the constitution. But to him, it was Carnot who revealed himself as the duplicitous Director responsible for forcing the executive and legislative arms of government into a conflict that could only be resolved by resorting to unconstitutional violence. Too astute to present himself as an outright proponent of the royalist cause, Carnot is portrayed by La Revellière as a talented opportunist with no firm values of his own: “Judging that, by the

²³ *ibid.*

²⁴ A.N. AF/III/457, ‘Séance du 26 Messidor’.

²⁵ Carnot, *Mémoires*, vol. 2, p. 117.

²⁶ A.N. AF/III/457, ‘Séance du 26 Messidor’.

²⁷ Carnot, *Mémoires*, vol. 2, p. 117.

²⁸ La Revellière-Lépeaux, *Mémoires*, vol. 2, pp. 50-51.

²⁹ La Revellière even attributes his political success to his inclination towards “a profound melancholy, which has never abandoned me and which gives to all my moral feelings an irresistible force, and to my character an energy which has not yet slowed, despite my sixty-nine years.” La Revellière-Lépeaux, *Mémoires*, vol. 1, p. 10.

number, the talents and firmness of the leaders, these new two thirds [in the Councils] could carry the balance, perhaps even without him, but certainly with him, he presented himself to them.”³⁰ La Revellière recounts at great length and in extraordinary detail examples of the shifts in Carnot’s language, behaviour, and those with whom he began to associate, piling on the evidence of his complicity in a supposedly impending royalist plot.³¹

As the summer of Year V wore on the tensions between the Councils and the Directory worsened. In July the Councils discovered that Hoche, a general loyal to the Directory, had moved his troops within the 60 kilometre ring around the legislature that had been forbidden to military forces according to the Constitution, which precipitated a nervous wait while the Councils weighed up whether to attempt to impeach the *Triumvirat*. Eventually this push for impeachment petered out when it became clear that it would not have the support of Carnot, who passed off the incursion as a clerical error.³² By this point, however, virtually no-one expected the situation to last. Either the royalists would co-ordinate and oust the *Triumvirs* or the Councils would be purged. On 10 Fructidor (27 August), La Revellière delivered a stirring speech on the occasion of the arrival of General Bernadotte from the successful campaign in Italy, which announced the intent of the government: “It was necessary to be attacked or to attack ourselves.”³³

A week later the *Triumvirs* took decisive action and attacked. The three Directors ordered the republican troops they had steadily been amassing in and around Paris to occupy the Tuileries Palace, where the legislative Councils met, and to take control of tactical positions throughout the capital. The city was plastered with La Revellière’s proclamation, hastily printed at two o’clock in the morning, attesting to a royalist conspiracy and making plain the treasons committed by Pichegru as General of the Army of the Rhine.³⁴ Carnot and Barthélémy were arrested, as were fifty-three of the leading royalist deputies; with the exception of Carnot, who was allowed to flee,

³⁰ *ibid.*, vol. 2 p. 51.

³¹ La Revellière-Lépeaux, *Mémoires*, vol. 2, chapters XXVII & XXVIII.

³² A.N. C//419/37, ‘Message du Directoir exécutif au Conseil des Cinq-Cents sur l’état de troupes dans la circonscription de Paris’, 25 Thermidor an V.

³³ La Revellière-Lépeaux, *Mémoires*, vol. 2, pp. 126-127.

³⁴ *Proclamation du Directoire annonçant aux Parisiens la découverte d’un complot royaliste*, (Paris: Imprimerie du Directoire exécutif, 1797), Collection de Vinck, 6944.

those arrested were deported to Guiana.³⁵ The *Triumvirs* were incapable of carrying out this *coup* entirely without the support of the Councils and so special sessions of both the Five-Hundred and the Elders were swiftly assembled, each consisting of a carefully selected quorum of deputies and meeting under the watchful eye of the occupying military, in order to legalise retroactively the measures taken.³⁶ Furthermore, they annulled the results of the elections the previous Germinal in 49 *départements*, resulting in a total of 177 empty seats in the Councils.³⁷

It is particularly important to note these last points, for they speak to the continuity as much as the break in the relationship between the Directory and the Councils on 18 Fructidor. Firstly, the fact that the purged Councils lost 177 out of a total of 750 seats demonstrates the weakness in the argument of both La Revellière and Carnot: there was clearly far from a “royalist majority” dominating the Councils.³⁸ True, their claims were not without some substance. That the royalists had grown influential was unquestionable, given their accession to almost all of the administrative positions within each of the Councils and their election of Barthélémy to the Directory. Furthermore, the treasons of Pichegru were indisputable and there is sufficient evidence to suggest that royalist plotting of some kind was indeed going on with the support of British funds and agents, although how accurately this could be called a conspiracy, and how effective it might have been, remains a subject of debate. For instance, Albert Meynier argues that the royalists were too ineffective and disorganised to be considered a genuine conspiratorial threat, an opinion shared by Gueniffey.³⁹ William Doyle, on the other hand, considers Fructidor to have “undoubtedly thwarted the ‘grand design’ of certain British-backed royalist agents like the ex-magistrate and deputy d’André,” although this ‘grand design’ was less a conspiracy and more a long-term plan of electioneering.⁴⁰ There had been discussion within the Councils about whether to impeach the Directors, but this had been proposed by liberal republicans as much as

³⁵ A.N. C//421/50.

³⁶ W. Doyle, *The Oxford History of the French Revolution*, 2nd Edition, (Oxford: Oxford University Press, 2002), p. 331.

³⁷ Lyons, *France Under the Directory*, p. 50.

³⁸ La Revellière-Lépeaux, *Mémoires*, vol. 2, pp. 50-52; Carnot, *Mémoires*, vol. 2, pp. 114-115.

³⁹ A. Meynier, *Les coups d'état du Directoire*, Vol. 1 ‘Le Dix-huit fructidor an V’, (Paris: Presses Universitaires de France, 1927); Gueniffey, *La nombre et la raison*, p. 502.

⁴⁰ W. Doyle, *The Oxford History of the French Revolution*, 2nd Edition, (Oxford: Oxford University Press, 2002), p. 331.

by royalists.⁴¹ However, it seems highly unlikely that a conspiracy posing the sort of imminent threat the *Triumvirs* warned of was actually in the works.

Thus, we are left with a crucial question. If liberal republicans retained a majority in the Councils and there was no imminent royalist conspiracy to overthrow, why did the Directors, who were acutely aware of the weakness in the constitution and of the consequent need to preserve a workable relationship with the Councils, not appeal to like-minded deputies in order to counteract the influence of the royalists? Indeed, this is precisely the course of action Carnot claims to have advocated. He stresses in his memoirs that he deliberately limited his interaction with the main royalist leaders, even before he was made aware of Pichegru's treason, seeking only position himself as a conciliator between the competing factions in the Councils.⁴² La Revellière is heavily sceptical of this, however, suggesting that Carnot's eagerness to distance himself from connections with royalist leaders is more suspicious than exculpatory.⁴³ Since both were writing around two decades after the fact, it is difficult to know precisely where the truth lay.

Nevertheless, the battle over the legacy of the Directory waged soon after its collapse in the memoirs of those at the heart of the intrigues may provide us with several hints as to how we might understand the choice of the Directors to ignore the possibility of building a consensus between a moderate majority in both the Directory and the Councils. These memoirists bemoaned the circumstances in which they had found themselves and the lack of suitable constitutional powers or measures for addressing such exigencies, constantly shifting blame to each other or to the Constitution of 1795. La Revellière, for instance, lamented that the Directory took charge, "in a moment when everywhere the most awful disorder and the most complete deprivation reigned," and when France was "without money, without bread, without revenue, without police", and that in such circumstances the "flood of abuse against the executive Directory" was unfairly thrown.⁴⁴ Not only were the general conditions for governing bad, but

⁴¹ Sydenham, *The First French Republic*, pp. 137-138.

⁴² Carnot, *Mémoires*, vol. 2, pp. 108-110.

⁴³ La Revellière-Lépeaux, *Mémoires*, vol. 2, pp. 49-50.

⁴⁴ La Revellière-Lépeaux, *Mémoires*, vol. 1 pp. 305-308.

the government was “surrounded by traps, assailed relentlessly by royalism and anarchy, envied by the members of the two legislative Councils, who could never agree clearly and faithfully by what means to make the country prosper”.⁴⁵ Writing during the Bourbon Restoration, La Revellière felt particularly aggrieved by the way the *coup* of 18 Fructidor had come to be remembered. For him, 18 Fructidor had been a capitulation, in the direst circumstances, to the demands of “all the influential members of the two Councils and of a great number of respectable citizens, who pressured [us, i.e. the Directory] to increase their powers and to prolong, for a great number of years, the exercise of the functions of each of its present members.”⁴⁶ The *coup* is thus framed not as an assault by the Directory on the elected deputies of the legislative Councils which paved the way for future abuses of power, but as the action of a reluctant, moderate government that had resisted the relentless demands of self-serving deputies for as long as possible before being overtaken by the crisis of resurgent monarchism in 1797. Even then, the former Director defended the actions of 18 Fructidor, “which so many people, who at the time celebrated with an extraordinary enthusiasm, at least in appearance, today declare the most criminal act.”⁴⁷

It is clear that for La Revellière, rather than Fructidor representing the moment when the Directory exerted dominance over the Councils and abandoned constitutional legalism, it was in fact a moment when the majority group in the Directory chose a side from among the factions within the Councils. This ought not to be confused with forming a consensus of the sort discussed thus far: the political violence of the actions taken during Fructidor cannot be ignored, and the *coup* essentially destroyed the basis for constitutional government in the following years. Yet La Revellière’s interpretation does highlight two particular aspects of the *coup* that may help us to understand relationship between the Directory and the Councils, namely the roles of both personality and factionalism. Both of these aspects have already emerged, of course: the personal disagreements between the five Directors was central in the lead up to Fructidor, and the entire contest has been largely framed as a wrestle for control between a royalist faction and

⁴⁵ *ibid.*, p. 308.

⁴⁶ *ibid.*, p. 309.

⁴⁷ *ibid.*

a moderate republic faction, each of which was represented in both the Directory and the Councils. Nevertheless, personality and factionalism were more influential in the dynamic between the executive and legislative than has hitherto been acknowledged. For example, the personalities of the Directors and their conflicts have been well-researched, but the relationships between individual Directors and specific deputies remains less known. It is in the back-channel communications and alliances, whether forged out of political pragmatism or personal friendship, that we shall find the source of the Directory's ability to adapt to changing circumstances, pre-empt threats both within and without the legislature, and above all, to survive the kind of upheavals that had brought down earlier constitutional systems.

So defining is the *coup* of 18 Fructidor in the legacy of the Directory that it has become common to refer to the pre-Fructidor government as the 'First Directory', contrasting with the 'Second Directory' after the actions of the *coup* which, according to most historians of the period, irreparably damaged the integrity and credibility of the Directorial regime as a whole.⁴⁸ Georges Lefebvre, for instance, divided his voluminous assessment of the regime into two parts labelled "*Premier Directoire*" and "*Second Directoire*" respectively.⁴⁹ While Lefebvre did not present the First Directory particularly favourably, he saved the bulk of his criticism for the Second, beginning the second part of his work with a discussion of the "Directorial Terror", which sets the tone for the rest of the text.⁵⁰ Lefebvre concurs with Carnot and La Revellière in attributing the root cause of this Directorial Terror to the Constitution of 1795 and its lack of any peaceful means of resolving conflict between the Directory and the Councils.⁵¹ He then continues the political narrative of the Second Directory by focusing on the lead up to and execution of the subsequent *coups d'état* in Floréal, Prairial, and ultimately Brumaire, with brief interludes to look at how the Second Directory was increasingly repressive throughout French society.

The significance of the shift from the First Directory to the Second cannot be overstated. The *coup* of 18 Fructidor left an indelible stain on the reputation of the Directory which

⁴⁸ Lefebvre, *La France sous le Directoire*, p. 14.

⁴⁹ *ibid.*

⁵⁰ *ibid.*, pp. 439-456.

⁵¹ *ibid.*, pp. 72-73.

contributed not only to the succession of *coups* that followed, including that of 18-19 Brumaire which brought about the end of the Directory, but also to the negative view the entire Directorial period has endured over the subsequent two centuries. According to Howard Brown, by abandoning constitutional legalism and purging the legislative Councils in Fructidor the Directory announced the failure of liberal democracy to bring a peaceful conclusion to the French Revolution and set the regime on the path towards the establishment of a “modern ‘security state’ based on administrative surveillance, coercive policing, and the legitimacy that came with restoring and maintaining order.”⁵² This is certainly a strong argument, and there is little doubt that the restoration of order was seen by the Directors as the ultimate obstacle in the task of bringing the Revolution to a close and claiming legitimacy. Brown acknowledges the difficulty the moderate republicans faced in tracing out the middle way between the royalists and the radicals, but points out that the peril of democracy is that it only survives if the people governed by it are themselves committed to democracy.⁵³

However, this view perhaps ignores the relative stability that existed between the Directory and the Councils during the regime’s initial phase. Indeed, that relationship had been largely typified by co-operation throughout the first 18 months of the regime; that is, from its inception through to the elections of Year V and the royalist successes. The Law of Two-Thirds had achieved its goal of stacking the new Councils with enough like-minded moderates who were mostly happy to go along with the Directory’s plans. There were occasional squabbles, of course, but these largely emerged comparatively minor or procedural issues, particularly when they felt that the Directors were exceeding the boundaries of their constitutional responsibilities and encroaching on those of the Councils. It is also true that finances were always a delicate topic between the Directory and the Council of Five-Hundred, given that the latter preciously guarded its control of the national budget despite the Minister for Finances being responsible to the Directory. Any time the Directory attempted to raise a financial issue, the Five-Hundred was quick to appoint a special commission to examine thoroughly the request or report, and to judge its worth. These

⁵² H. Brown, *Ending the French Revolution: Violence, Justice, and Repression from the Terror to Napoleon*, (Charlottesville: University of Virginia Press, 2006), pp. 14-16.

⁵³ *ibid.*, pp. 38-46.

commissions were generally critical of the Directory's expenditure, and of its attempts to strong-arm the Five-Hundred into acceding to whatever plans the Minister for Finances laid out.⁵⁴ However, this sort of response stands out as the exception to the general relationship between the Council and the Directory, rather than exemplifying the norm. For the most part, both Councils appear to have been in harmony with the agenda of the Directory. Special commissions were appointed to address virtually every message received by either Council from the Directory, and most met very briefly and concluded in favour of the Directory's requests.

The Council of Elders seems to have been in accord with the Directory's intentions at least as much as the Five-Hundred during the First Directory, although it is much more difficult to trace the lines of influence between the two. The Elders received far fewer messages than the Five-Hundred, no doubt owing to the fact that they lacked the constitutional power to initiate legislation, and thus the only real influence that the Directory could hope to exercise over the Elders was to push them to approve or veto pieces of legislation sent to them by the Five-Hundred. The Elders were relatively liberal with their use of the power of veto, and it is challenging to judge the extent to which they were swayed by the Directory one way or another. Interestingly, the Directors stopped short of outright requesting that the Elders vote one way or another on specific pieces of legislation. Instead, most of the messages received by the Elders from the Directory were simply explanatory, seeking to update the Council on military operations (usually victories),⁵⁵ ongoing programs such as the attempt to establish a new system of weights and measurements,⁵⁶ or the occasional copy account of a citizen holding an event to praise the republic.⁵⁷ Compared to the flood of messages received by the Five-Hundred concerning every

⁵⁴ See, for example, A.N., C//II/28, 'Finances', 23 Prairial Year VI.

⁵⁵ For example, A.N. C//490/250, 'Message du Directoire Exécutif au Conseil des Anciens donnant des nouvelles des armées de Rhin-et-Moselle et de Sambre-et-Meuse', 5 Messidor an IV (23 June 1796); and A.N. C//496/328, 'Message du Directoire Exécutif au Conseil des Anciens concernant les victoires de l'Armée d'Italie', 10 Frimaire an V (30 November 1796).

⁵⁶ A.N. C//495/312, 'Message du Directoire Exécutif au Conseil des Anciens le mettant au courant des travaux relatifs au renouvellement des poids et mesures', 27 Vendémiaire an V (18 October 1796).

⁵⁷ A.N. C//499/362, 'Message du Directoire Exécutif au Conseil des Anciens lui envoyant ci-joint la copie d'un manifeste de Joseph, comte de Puisaye, lieutenant général des armées du Roi en Bretagne, aux habitants de ladite province et pays adjacents, une exhortation à la fidélité à la République', 23 Pluviôse an V (11 February 1797).

matter from local elections and the state of local schools to the nation's finances and international relations (to take a snapshot of a single week),⁵⁸ the Directory's correspondence with the Elders appears almost dismissive, as though the second chamber of the *Corps Législatif* did not need to be bothered with the intricacies of governing the nation but instead should have its spirits lifted with good news. Nevertheless, there was potentially a slight tendency of the Elders towards the Directory in that they rarely vetoed resolutions from the Five-Hundred that had been specifically requested by the executive. While a more thorough investigation of the use of the Elders' veto is needed, a sampling of resolutions rejected during the relative calm of 1796 (Pluviôse year IV to Nivôse year V) suggests that a majority of the resolutions rejected were generated within the Five-Hundred itself, rather than at the prompting of a message from the Directory.⁵⁹

This generally co-operative relationship between the Councils and the Directory during its initial stage was, however, a fragile one. The disagreements, especially when the Five-Hundred took issue with matters of finance, may have been few but were nevertheless indicative of the lack of factional consensus among the moderates. Even in Year IV debates on the budget could become heated within the Five-Hundred, with deputies strongly divided over how far they should accede to the Directory's demands.⁶⁰ The semi-permanent commission of finances in the Five-Hundred was never short of demands for the Directory to make available more records of expenses from various ministries or projects. In Pluviôse Year V, for example, the Five-Hundred had clearly been perturbed by a report from the commission of finances and demanded to know "on what orders and on what funds the expenses of the High Court of Justice have been made."⁶¹ The formal structure of this official message does little to disguise the tone of indignation and

⁵⁸ A.N. C//410/465, 'Message du Directoire Exécutif au Conseil des Cinq-Cents concernant les opérations de l'assemblée primaire de Baume', 26 Floréal an V (15 May 1797); 'Message du Directoire Exécutif au Conseil des Cinq-Cents concernant le perfectionnement de l'école polytechnique', 22 Floréal an V (11 May 1797); 'Message du Directoire Exécutif au Conseil des Cinq-Cents concernant les fonds nécessaires au ministère de l'Intérieur', 30 Floréal an V (19 May 1797); 'Message du Directoire Exécutif au Conseil des Cinq-Cents concernant les relations avec la République de Venise', 25 Floréal an V (14 May 1797).

⁵⁹ This is on the basis of a sampling of rejected resolutions found in the following dossiers: A.N., C//484/160; A.N., C//485/179; C//486/197; C//487/213; C//488/228; C//489/245; C//491/260; C//492/276; C//493/293; C//494/307; C//495/322; C//496/334.

⁶⁰ A.N., C//390/139.

⁶¹ A.N., AF/III/434, plaquette 2493/35.

anger that the deputies felt at the apparent autonomy the Directory had granted the court to spend the nation's money. It was not uncommon for the Council to use such messages to remind the Directory which body was ultimately responsible for the national treasury.

These tensions, although apparently minor, reveal that despite a period of relative peace and co-operation in the first year and a half of the Directory, the French government was still a long way from having an identifiable moderate 'party' that could focus its efforts and provide the much-needed stability the nation craved. The royalist success in the elections of Year V were therefore a heavy blow to the fledgling relationship between executive and legislature. Immediately following the entry of the royalist deputies to the Councils, conflicts between the two bodies intensified. As early as Floréal, the Council of Five-Hundred was demanding to see the state of outstanding expenses from before the inauguration of the Directory itself, in addition to those from the previous year, in order to establish a definitive statement of the nation's finances, a development the Council deemed crucial to their control of the budget.⁶² The Directory replied tersely that they could not provide such information for at least a month, but by Prairial they had been so frustrated by the constant pestering of the Five-Hundred combined with an apparent lack of actual progress on the budget that they sent a message asking the Council to "*occupy yourselves seriously with finances*", along with various expense records and a report from the Minister of Finances.⁶³

Despite holding only a small minority of the seats in the *Corps Législatif*, the royalists had effectively disrupted the fragile co-operative relationship that had been developing between the Councils and the Directory. We have already seen how the Directors themselves reacted to this turn of events. Carnot (and to a lesser extent Barthélémy, once he entered the Directory) sought to build a consensus with the new Councils, whether out of an opportunistic desire to preserve his own power or a genuine desire to preserve the constitutional arrangement and continue the work of restoring order to France. Meanwhile, La Revellière-Lépeaux and Reubell were frustrated by the ambivalence of the mass of deputies who had supposedly shared their views but who were

⁶² A.N. AF/III/447, plaquette 2629/7.

⁶³ A.N. AF/III/450, plaquette 2662/34; A.N. AF/III/451, plaquette 2669/1-4.

now being cowed by a vocal minority, and were becoming increasingly convinced that the executive and the legislature were on course for a collision that only one would survive. Barras, enigmatic as always, probably held more cards than any other, with his early knowledge of the treason of Pichegru and other evidence of a potential royalist conspiracy. Yet he waited until almost the final moment to play his hand and enable the *coup* of Fructidor. Whether it was the fault of the pugnacious royalist deputies, the inefficacy or complacency of the moderate deputies, or the inflexibility of the Directors, the delicate relationship between the Directory and the Councils that had taken 18 months of co-operation to develop was so shattered by a mere 5 months of outright conflict that a purge of the legislature seemed the only possible recourse.

Yet in the wake of Fructidor the nature of the relationship between the Directory and the Councils shifted rapidly. Although victorious in the coup, the *triumvirs* remained shaken by the apparent ease with which the royalists had taken command of the Councils. Both they and their allies in the freshly-purged legislature were eager to prevent a recurrence of such a scare, and they began planning accordingly. A collaborative relationship thus began to re-emerge between the moderates in the executive and legislature with the aim of perpetuating the moderate republic for which they had all but torn up the constitution.

The Second Directory learned quickly from the problems of the First, and attempted to strengthen its ties to the Councils. Messages flowed between the Directory and the Council of Five-Hundred at an increasing rate in the months following Fructidor, raising all manner of issues and concerns, demands and requests. These messages indicate that a productive working relationship was developing between the Triumvirs in the Directory and the moderates in the Council, who were in turn coalescing into a more clearly delineated faction. While still not at the level of organisation or cohesiveness as either the Jacobins or the royalists, the moderates were seeking each other out more regularly and with more determination than had been seen since the Thermidorian Reaction. For some, this new-found factionalism was driven by a reawakened sense of insecurity, driven by the sense that the republic was under fresh attack. In the wake of Fructidor many deputies seemed more willing to speak out in defence of the republic against its perceived enemies both within and without France.

The coalescence of this moderate faction essentially constituted the development of a parliamentary government in France, more akin to the parliament of the United Kingdom or to the Congress of the United States than to the vision of a national assembly, representing the entirety of the people as a single whole, that had been at the centre of French democratic theory ever since the constitutional debates of 1789. Factionalism had always played a role in the legislative assemblies of the early years of the French Revolution, of course. Indeed, from the very start of those debates in the National Assembly deputies had been considered as belonging to one or another faction, such as the Monarchiens who had so ardently desired a bicameral parliament or the Feuillants. Factionalism had reached a peak during the Convention, when Jacobins and Girondins were wrestling for power while various smaller factions such as the Hébertists or the Cordeliers, often overlapping with each other or with the dominant ones, vied for influence both within and without the assembly chamber.⁶⁴ Yet even throughout that period the notion of formal party politics was scorned by the deputies themselves. Party politics was considered antithetical to the idea that each deputy to the national legislature represented the entirety of the nation, rather than separate constituencies, an idea which had been deeply ingrained in the nascent democratic political culture of France.⁶⁵

During the Directory, however, this fundamental concept was put under unprecedented strain. The collaboration between moderate republican deputies in the Councils and their like-minded colleagues in the executive Directory, especially during the Second Directory, eventually established a *de facto* centrist party that operated along lines very similar to those of a modern political party, from the initiation and passage of legislature through to cohesive and coordinated electoral campaigning. While the phenomenon of party politics (or at least a very rudimentary form thereof) emerging from the established factions of the Revolution will be examined in much greater detail in a later chapter, it is worth mentioning here due to the extent

⁶⁴ The factionalism of the Convention, and the factions themselves, have been thoroughly explored by historians such as Patrice Higonnet in *Goodness Beyond Virtue: Jacobins during the French Revolution*, (Cambridge, Mass.: Harvard University Press, 1998), Marisa Linton in *Choosing Terror: virtue, friendship, and authenticity in the French Revolution*, (Oxford: OUP, 2014), and Mona Ozouf and François Furet in *La Gironde et les Girondins*, (Paris: Payet, 1991).

⁶⁵ K.M. Baker, 'Representation', in Baker (ed.), *The French Revolution and the Creation of Modern Political Culture*, Vol. 1, (Oxford: Pergamon Press, 1987).

to which the factions or parties needed to cross the barrier between the legislative Councils and the executive Directory in order to succeed. The odd distribution of governmental powers between the two branches meant that a faction needed to control both if it was to govern effectively. It was an acknowledgement of this fact that prompted the *triumvirs* to perpetrate the *coup* of Fructidor, as much as it was fear of a potential Royalist conspiracy. La Revellière, Barras, and Reubell were well aware that without a co-operative legislature their control of the executive would amount to nothing, and the nation would be condemned to yet more uncertainty and instability at a time when it most needed clear leadership and direction.

Elections to the Councils thus became a central concern for the Directory. If the government could influence who constituted the legislative Councils, then there would be less danger to the working relationship between the executive and the legislature. In the lead up to the elections of Year VI (in March 1798), the Directory introduced a number of new strategies designed to influence the electorate and encourage a favourable result. During the elections of Year V the practice of declared candidatures had been introduced for the first time, allowing individuals to run openly for office. This experiment with electoral practices had turned out rather dismally for the moderate republicans, as it was one of the features upon which the royalists had leapt upon with fervour, and it was dropped a few months before the elections of Year VI.⁶⁶ However, the Directory was still eager to get a head start on electoral rivals, and so gave itself the power to distribute lists of official candidates of their own choosing.⁶⁷ Wary of the potential for a small but organised group to propel themselves to electoral success, the Directory was eager to promote electoral participation. A holiday was therefore declared to celebrate the “Sovereignty of the People”, scheduled to be held on the weekend before polling began.⁶⁸ Perhaps most strikingly, the electoral *commissaires* that had been sent to observe the elections of Year V in a passive capacity were now ordered to undertake a much more active role: they were encouraged to “stand for election, canvass for votes and, if all else failed, foment schisms”

⁶⁶ A.N., C//427/120, ‘Rapport fait par Pons (de Verdun), au nom d’une commission spéciale, sur la suppression des listes de candidats’, 21 Nivôse Year VI (10 January 1798).

⁶⁷ Crook, *Elections in the French Revolution*, p. 149.

⁶⁸ A.N., AF/III/498, plaquette 3138/2.

which would allow the government to annul whichever result, or results, seemed unfavourable.⁶⁹ This electoral campaigning was by no means the work of just the executive. After Fructidor the deputies in the Councils were just as eager to promote the moderate republican cause and they assisted the Directors by passing the raft of electoral laws required to legitimise, at least officially, the innovative techniques being employed.⁷⁰ The elections of Year VI reveal a renewed sense of collaboration between the moderate republicans in the Councils, even as conflicts continued to arise between the two bodies in other areas.

The evolution of the relationship between the executive and the legislative over the course of the Directory represents a novel and important development in the history of French republican democracy. Never before had France been governed by clearly delineated executive and elected legislative bodies. Later verdicts on the regime have typically been negative, seeing the regime as an abject failure largely on the basis of the perceived perversion and discarding of the Constitution of Year III on 18 Fructidor. Yet the very fact that the regime persisted for another 3 years belies the short-sightedness of this assessment. The Second Directory did indeed abandon (in essence, if not explicitly) the idea, central to the Revolution since 1789, that government ought to be based on a foundational and sacrosanct document. When previous constitutions had been found lacking in the face of specific circumstances, they had been abandoned and replaced by hastily drafted new systems. These earlier efforts had been undertaken by men still filled with revolutionary optimism and idealism, who thought that a perfect model could emerge like a phoenix from the ashes of its failed predecessor. The men of the Directory, on the other hand, realised that this cycle of trial and error was never going to produce a perfect model. By transferring the basis of governance from the written constitution to a de facto system of cooperation between the legislative and executive organs of government, the Directory simultaneously circumvented the impracticalities of the Constitution of 1795 and managed to preserve its own existence and continue its attempt to restore stability and order to revolutionary France.

⁶⁹ Crook, *Elections in the French Revolution*, pp. 147-148.

⁷⁰ See, for example, the various reforms of Ventôse, A.N., C//430/152-157.

While the dangers of this precedent have been well explored by historians, such as Howard Brown, interested in tracing the roots of Napoleon Bonaparte's authoritarian effectiveness, it would be wrong to present this development in a singularly negative light. In the minds of the Directors and deputies who carried out the coup of 18 Fructidor, they were acting out of a sincere interest of preserving a fragile democratic republic. Although the self-interest of their actions ought to be noted, we do these men a disservice if we cynically assert that all or even most of them put their own interests ahead of those of the republic. The coup was a revolutionary act, not only by overturning the Constitution but by establishing in its place an unprecedented model of parliamentary governance. While the drama of the coup of Fructidor has understandably drawn most of the attention of historians, it is in the relatively quiet period following it that we see the potential effectiveness of this new model.

Bicameralism in Action: Relations Between the Council of Five-Hundred and the Council of Elders

Both the introduction of bicameralism and the formation of an executive body outside of the legislature were radical departures from the established ideas of how France's government ought to be structured, and created new layers of political interaction. The prevailing notion of national representation, established at the Estates General in 1789, was that the national deputies were representatives of the Nation as a unified whole, rather than specific sections of the population whether divided geographically, in the form of electorates, or ideologically, such as by subscribing to a nominal political party. Although the deputies were elected by departmental electoral assemblies, each deputy's constituents were not just those who had elected them but rather every citizen of the entire Nation, in accordance with the definition of representation expressed by Sieyès and adopted by the Constituent Assembly in 1789.¹ It was this Nation that was ultimately sovereign, and thus was considered indivisible. The bicameral system of the Directory presented something of a paradox, then: the indivisible Nation was to be represented by a legislative body itself divided across two chambers.

This chapter will seek to demonstrate how this paradox played out in the everyday functioning of the legislative councils. How did the deputies in the *Corps Législatif* envisage their respective roles in each of the councils? To what extent did the councils undermine or uphold the concept of the indivisibility of the sovereign Nation? By examining the daily interactions between the Council of Five-Hundred and the Council of Elders we can discover important shifts in the political ideas of the deputies that would help shape France's future political systems, as well as points of tension where the inherent contradiction of a divided legislature attempting to represent a supposedly indivisible Nation became critical weaknesses in the Directorial regime.

¹ Keith Baker is particularly enlightening about the way the deputies conceived of representation, notably the chapter 'Representation redefined' in K.M. Baker, *Inventing the French Revolution*, (Cambridge: Cambridge University Press, 1990), pp. 224-251.

The parliamentarianism of the Directory was largely dictated by the Constitution of 1795. The framers of that constitution had been determined to prevent the new regime from sliding into the tyranny by assembly that had led to the downfall of the Convention. One of the primary ways they sought to avoid a similar fate for the Directory was to establish a rigid separation of powers. Montesquieu had famously outlined the three powers of government, executive, legislative, and judicial, and had warned against the unification of any two powers in the same person or body.² For the Thermidorians, then, the Terror had been the result of unwisely placing executive power in the hands of the legislature; without an external executive to check its more radical impulses, the Convention had led, as Montesquieu predicted, to “an end of liberty.” Montesquieu had further differentiated between particular parts of the legislative power, specifically that of the common people and that of the nobility. Each of these social orders, he argued, had its own “separate views and interests,” and thus each ought to be represented by its own assembly.³ However, in Montesquieu’s view, the interests of the hereditary nobility were particularly susceptible to exploitation, to the detriment of the nation as a whole. The nobility’s part in the legislature, then, ought to be restricted to the “power of rejecting, and not that of resolving”; that is, they should neither propose nor amend legislation, but only approve or reject proposals originating in the first, broader part of the legislature.⁴

Montesquieu’s influence on the Constitution of 1795 is quite apparent in the three governmental institutions created for the new regime: the executive Directory, and the legislative Council of Five-Hundred and Council of Elders. Despite jointly forming the legislative branch and even sharing a joint title as the “*Corps Législatif*”, the two councils were separated by an array of measures enshrined in the constitution. These measures ranged from those dictating the specific powers each council would hold, through to the specifics of how their deliberations could take place or how they were to communicate with each other.

² Montesquieu, *The Spirit of Laws*, Book XI, Chapter VI, in Montesquieu, Baron de, *The Complete Works of M. de Montesquieu*, (London: 1777), vol. 1, pp. 198-199.

³ Montesquieu, *The Spirit of the Laws*, Book XI, Chapter VI.

⁴ *ibid.*

Undoubtedly the two most important of these measures were firstly, the stipulation in Article 76 of the constitution that only the Council of Five-Hundred had the power to initiate legislation, and secondly, that of Article 95 which prohibited the Council of Elders from making amendments to any legislation.⁵ Together, these two articles set the balance of power in the *Corps Législatif* drastically in the favour of the Council of Five-Hundred. The Council of Elders was relegated to a purely obstructionist position of the sort envisaged by Montesquieu, able only to reject or pass the resolutions sent to them by the Five-Hundred; although, as we have seen, the Thermidorians were careful to distance the Council of Elders from Montesquieu's notion of an upper chamber consisting of the nobility.

The framers of the constitution found this arrangement attractive for more than just Montesquieu's recommendation, however. There had been a deliberate effort made to slow down the passage of legislation and to imbue the entire legislative process with a sober solemnity, in order to encourage political stability. A key element of the Thermidorian narrative was that the downfall of the Convention was in part due to the feverishness of its proceedings, as the more fiery and populist deputies overwhelmed by threats and haste those who preferred prudent reflection, especially at moments of crisis when caution and level-headedness would have been most valuable. According to this narrative, it was the lack of such restraint that had led the deputies to run headlong into the fire of populism and Terror. One of the key framers of the Constitution of 1795, Boissy d'Anglas, had endured a particularly vivid experience of where such unbridled populism could lead during the uprising of 1 Prairial (20 May), Year III, when a mob invaded the Convention and murdered a deputy, Féraud, before presenting his head on a pike and forcing Boissy d'Anglas, the president of the assembly at the time, to greet his slain colleague. The trauma of this event no doubt influenced his views when drafting the constitution, work which was taking place through the time of the Prairial uprising. When presenting the proposed constitution to the Convention on 5 Thermidor (23 July) Boissy d'Anglas spoke with passion, strongly denouncing the radicalism and violence that had pervaded the Convention and

⁵ Constitution of 1795, Article 76 & Article 95, in Michel Troper, *Terminer la Révolution*, (Paris: Fayard, 2006), pp. 719-720.

had led to events such as those of Prairial.⁶ At the same time, he lauded the virtues of prudence and patience in law-making, arguing that instead of the mad rush of the Jacobin Convention, the pace of the legislature in the new regime ought to be closer to that of a plodding march.⁷

This desire for a slow but steady legislative process was a key reason for the creation of a bicameral legislature, and specifically for the curious division of powers between the two councils. Unlike the United Kingdom, where the House of Commons and House of Lords were divided along class lines and the latter was intended to be a house of review with powers of initiation and amendment, or the United States, where the Senate was designed to represent state interests, the legislative councils of the Directory were intended to embody both the innovative genius and the experienced wisdom of the fledgling French Republic. This is made explicit in Boissy d'Anglas' presentation of the draft of the Constitution of 1795 to the Convention. Firstly, he clarifies the nature of the councils in contrast to those of other bicameral systems. The two councils of the Directory would be elected by the people (as opposed to inheriting their positions) simultaneously and for identical terms. They would be different from each other only "in the number and age of their members."⁸ Secondly, he idealises the two councils as the mind of the republic. The Council of Five-Hundred, being larger and consisting of younger deputies, would be "the thought, and, so to speak, the imagination of the republic."⁹ It was intended to be a creative cauldron of ideas where the spark of political genius could flourish and give rise to brilliant new legislation. Part of the reason it would be free to be so creative was that it could rely on the more measured Council of Elders to overrule any legislation that got overly imaginative. Indeed, it was to "have no other duty than to examine with wisdom which laws to adopt and which laws to reject, never having the power to propose laws of its own."¹⁰ In this way, the Elders were to be the "reason" of the republic, there to keep the imagination in check where necessary.¹¹

⁶ 'Discours préliminaire au projet de constitution pour la République française, prononcé par Boissy-d'Anglas, au nom de la commission des Onze', in Troper, *Terminer la Révolution*, pp. 277-305.

⁷ *ibid.*

⁸ *ibid.*, p. 288.

⁹ *ibid.*

¹⁰ *ibid.*

¹¹ *ibid.*

Described in this idealised way, the arrangement of the two councils appears rather beautiful. However, the Constitution of 1795 has long been criticised as the product of “abstract theorists” who placed far too much trust in the apparent rationalism of their constitutional plan.¹² Was the elegant legislative procedure laid out by Boissy d’Anglas merely an example of this overly abstract theorising which quickly fell to pieces when applied to the reality of revolutionary France? Was the Council of Elders effective in slowing the pace of political change while still allowing the still-young French republic to develop and grow, or did it simply devolve into either an ineffective rubber stamp or an obstructionist nightmare? On the other hand, how respectful of the Elders was the Council of Five-Hundred, which with its superior numbers and power of legislative initiative potentially still wielded significant clout against the Elders’ single power of veto in the event of an impasse? In order to make such judgements it will be necessary to survey the practices of the *Corps Législatif* and analyse to what extent Directorial bicameralism actually embodied the intentions of the framers of the Constitution of 1795.

A particularly interesting feature of the Constitution of 1795 is the attention it gave to communication between the three bodies of government: The Council of Five-Hundred, the Council of Elders, and the executive Directory. Most notably, each of the of these bodies was to appoint four official Messengers of State, who were to carry any and all messages between the three.¹³ Each messenger was to be preceded by two hussars, in part for security but also in part to evoke the pomp and dignity that was intended to clothe the legislative process under the Directory. Indeed, the importance given to ceremony in the relationship between the two councils is a topic that will reappear. The flow of official messages carried by these Messengers of State between the two councils was very unbalanced, however. The Council of Five-Hundred was by far the more communicative of the two councils, although that was understandable since it held the initiative. In fact, the vast majority of documents sent from the Five-Hundred to the

¹² M. Lyons, *France Under the Directory*, (Cambridge: Cambridge University Press, 1975), p. 19. This standard interpretation can also be found in G. Lefebvre, ‘La Constitution de l’an III’, *Les thermidoriens - Le Directoire*, (Paris: Armand Colin, 2016).

¹³ Constitution of 1795, Article 125 & Article 170, in Troper, *Terminer la Révolution*, pp. 723 & 727.

Elders were resolutions for new laws, and so it will be beneficial to come to a better understanding of the legislative process under the Directory.

The process of creating a law according to the Constitution of 1795 was a long, laborious process. This was to be expected, given the desire of its framers to slow the process down, yet the specific details can still be somewhat bewildering in their strictness. Under normal circumstances, it took a minimum of thirty days (an entire month under the revolutionary calendar) to create a law.¹⁴ First, a proposal had to be made in the Council of Five-Hundred and presented for discussion. No fewer than ten days after the first reading, the proposal had to be read a second time, followed by another ten-day waiting period before the third and final reading. After the third reading the Five-Hundred could proceed to a vote, and if accepted the proposal then became a resolution and was sent to the Council of Elders for approval or rejection. Despite the fact that the Elders could make no amendments, each resolution nevertheless required another three readings in the second Council, this time separated by a five-day waiting period each time. Finally, once approved by the Elders a resolution became known as a law, and was sent to the executive Directory for promulgation no more than two days after they received it. This risked creating a situation where legislation could quickly pile up, the deputies, particularly those in the Council of Five-Hundred, being required to keep almost a month's worth of proposals straight in their minds.

In practice, both councils utilised special commissions to great effect in managing their workload. In the Council of Five-Hundred these special commissions were the main generators of proposals. Any time a particular issue was raised, either by a deputy or, as was frequently the case, by a message received from executive Directory or other external source, that the council felt required legislation, a commission, usually of three to five deputies, would be formed to draft a proposal. Similarly, in the Council of Elders every resolution received from the Five-Hundred was assigned to a small commission, which would then report back to the council with a recommendation to approve or reject the resolution. Many of the proposals or resolutions received little debate in the full assembly, the work of the commissions being given a brief

¹⁴ Constitution of 1795, Articles 77, 91 & 128, in Troper, *Terminer la Révolution*, pp. 719-720 & 723.

verification before ushering the proposed law along the lengthy legislative process. This was especially the case in the Council of Elders, where deputies could not add or remove articles to a resolution and so were, in principle, only able to express dissatisfaction with specific elements by rejecting the entire resolution. In practice, deputies in the Council of Elders did have ways of expressing their views on the specifics of legislation to the Council of Five-Hundred, whether by messages sent directly to the council (although these were surprisingly rare), by having their views noted in the *procès-verbaux* of the sessions and which were then published in *Le Moniteur*, or by delivering an eloquent enough discourse in the council that it was printed and distributed. In Brumaire, Year VI, for instance, Dedelay d'Agier argued that the Elders should reject a resolution, "so that the Council of Five-Hundred, by a new resolution, can fix the uncertainties" that he had outlined in it.¹⁵

While commissions were effective at streamlining the legislative process, the output of the *Corps Législatif* was in fact significantly lower than that of earlier regimes. On the second anniversary of the installation of the Directory, which also happened to mark almost precisely the regime's mid-point, deputy Darracq in the Five-Hundred rose to lament the way that legislation had multiplied over the course of the Revolution.¹⁶ By his count, the Constituent Assembly had given 3,488 laws to France over its two-year existence; the Legislative Assembly, 2,190 over the course of a single year; and the Convention, from 1792 to 1795, had provided 15,414.¹⁷ By contrast, the first two years of the Directory had generated only 1,139 new laws. It is worth noting that Darracq was speaking prior to the elections of the Year VI, when the *Corps Législatif* began verifying the operations of electoral assemblies at all levels of government and thus tremendously increased the number of laws it was creating. Prior to that development, however, it appears that the desire of the framers of the Constitution of 1795 to restrict the pace of legislation and to encourage measured lawmaking, tempered by reflection over an extended period of time, was being largely realised.

¹⁵ *Journal des débats et des lois du Corps Législatif*, Brumaire an VI, No. 179, pp. 164.

¹⁶ *ibid.*, pp. 165-166.

¹⁷ *ibid.*, p. 165.

Yet despite this desire, the framers of the Constitution included a provision for expediting the process. Article 81 of the constitution stated that the usual form of three readings in each council could be ignored in the case of “proposals recognised as urgent by a preceding declaration by the Council of Five-Hundred.”¹⁸ This declaration, an “*acte d’urgence*” was to outline the cause for the urgency and, if the proposal was successful, was to be included in the preamble of the resulting resolution. When presented with a resolution carrying an *acte d’urgence*, the Council of Elders was to decide whether or not to accept the stated reasoning for ignoring the normal procedures. If the council agreed with it then they, too, could ignore their usual procedures and deliberate immediately on the approval or rejection of the resolution. Here lay a small but important *caveat*, however, that if the Council of Elders rejected the motive for urgency then they could not deliberate on the main content of the attached resolution. Finally, any laws which had been declared urgent by the Five-Hundred and accepted as such by the Elders were to be promulgated by the Directory immediately. In theory, then, an *acte d’urgence* could enable a law to be passed within a single day, although in reality such speediness was an impossibility.

Faced with the drawn out legislative procedure prescribed for normal circumstances, the councils were swift to take advantage of this shortcut. From the earliest days of the Directory, the Council of Five-Hundred attached an *acte d’urgence* to the majority of their resolutions, and that habit continued unabated throughout the period, irrespective of coups or changes in the membership of the councils.¹⁹ To take an example from the middle of the Directorial period, of the twenty laws enacted between 12 and 28 Vendémiaire, Year VI, only one was passed by the so-called normal procedure of three readings in each council.²⁰ The other nineteen were all, for one reason or another, declared urgent. Nor was this an atypical month, despite the fact that it immediately followed the coup of 18 Fructidor, a period when urgency might be expected to be more prevalent as the councils quickly attempted to reassert their authority. The output of laws increased dramatically once the *Corps Législatif* began verifying electoral assemblies, but if those

¹⁸ Constitution of 1795, Article 81, in Troper, *Terminer la Révolution*, p. 719.

¹⁹ *Journal des débats et des lois du Corps Législatif*, Frimaire an IV, No. 31, pp. 95-100.

²⁰ *Journal des débats et des lois du Corps Législatif*, Brumaire an VI, No. 176, pp. 113-128.

laws of verification (which were invariably deemed urgent) are put to one side then even in the comparatively calm period of Pluviôse, Year VII, again only one out of twenty-one laws was unaccompanied by an *acte d'urgence*.²¹

At every point in the life of the councils, the *actes d'urgence* were a central feature of their operations. At first glance this seems like a blatant disregard for the intent of the constitution. Surely it could not be the case that virtually all resolutions emerging from the Five-Hundred were genuinely so urgent that they necessitated forgoing the standard procedure set forth by the constitution. A closer inspection of the motivations for these *actes d'urgence* reveals several significant aspects of parliamentary practice during the Directory, and in particular sheds light on the nature of the relationship between the Council of Five-Hundred and the Council of Elders.

The reasons given for the *actes d'urgence* cover an enormous range. Given that the vast majority of the laws passed by the *Corps Législatif* were accompanied by an *acte d'urgence*, the deputies became quite skilled at wording their motivations in such a way that virtually any conceivable circumstance could be portrayed as urgent. It can thus be difficult at times to determine whether the urgency was legitimate, or if the deputies had a more surreptitious motive. At the simpler end of the spectrum were resolutions that were deemed urgent due to practical limitations. These included those bound by a specific deadline, such as last minute amendments to plans for key festivals, such as the *fête de la souveraineté*²² or, from Year VI onwards, celebrations marking the anniversary of the coup of 18 Fructidor.²³ Such resolutions may have indicated a certain lack of foresight on the part of the deputies, but otherwise this seems like a reasonable occasion in which to expedite the legislative process. Similarly, the *Corps Législatif* frequently received requests, generally via the executive Directory, for assistance to ensure the well-being of citizens. These requests might come from certain categories of people, such as that underlying the law of 16 Fructidor, Year V, which declared that, "it is urgently necessary to provide the means to ensure the subsistence of a great number of officers who, by

²¹ *Journal des débats et des lois du Corps Législatif*, Ventôse an VII, No. 306, pp. 313-320; No. 315, pp. 441-448; No. 318, p. 473.

²² A.N. C//536/123, Séance du 7 Thermidor.

²³ A.N. C//537/136, Séance du 2 Fructidor.

their age, wounds, or illness, have been deemed unfit to continue their service in the army.”²⁴ Alternatively they could come from a particular department or town. Take, for example, the case of the town of Jouvence, north of Lyon, which lacked sufficient funds to repair its main well after it had been damaged during the winter of 1798-1799.²⁵ Having had no success applying for assistance from the department, the town had petitioned the *Corps Législatif* directly, complete with a repayment scheme. Both councils recognised the need for such repairs quickly since “the situation in Jouvence may be harmful,” and so approved the loan with the help of an *acte d’urgence*. By contrast, only two weeks later an almost identical request for financial assistance to repair a well, this time from the town of Morangles, north of Paris, was approved by the Five-Hundred but rejected by the Elders.²⁶ Here the Elders initially approved the *acte d’urgence* on the same grounds as they had for Jouvence, yet refused the loan because they were unconvinced that the township had made sufficient inquiries for assistance from the municipal administration before approaching the Directory.²⁷ While a relatively minor difference, the contrast between the Elders’ actions on these two resolutions nevertheless suggests that they continued to take seriously their constitutional duty to treat the *acte d’urgence* separately to the main body of a resolution.

Another reason frequently given for *actes d’urgence* was that the given resolution was vital to the stability and proper functioning of the state. This type of motivation is particularly prevalent in two key areas: firstly, among laws concerning finances, which were controlled by the Council of Five-Hundred; and secondly among those reviewing electoral assemblies. Both of these categories provide fascinating insights to the dynamics between the two legislative councils. Major budgetary resolutions were among the densest pieces of legislation to pass through the *Corps Législatif*, and it was reasonable to expedite their passage in the interest of ensuring supply for the government. The resolution outlining the expenses of the Directory for the Year VI, for instance, was preceded by a declaration of urgency that was as long as some

²⁴ *Journal des débats et des lois du Corps Législatif*, Vendémiaire an VI, No. 148, p. 134.

²⁵ A.N. C//561/302, Résolution concernant l'autorisation donnée aux habitants de la commune de Jouvence (Saône-et-Loire) de prélever sur eux-mêmes une contribution pour les frais de réparations de la fontaine publique; and A.N. C//561/301, Séance du 5 Ventôse an VII.

²⁶ A.N. C//561/301, Séance du 14 Ventôse an VII.

²⁷ *ibid.*

entire resolutions, but which essentially stated that it was of prime importance to establish “as early as possible” the amount available to the government for the coming year, and to regulate future expenses by a “definitive law”.²⁸ However, the sheer length and detail of such resolutions created a dilemma for the Elders. Would they prioritise the necessity of a prompt decision implied by the *acte d’urgence*, or would they instead play their role as the brake on legislation and take whatever time they needed to properly analyse and debate the resolution?

Invariably when it came to major financial resolutions the Elders chose the latter. A closer look at the passage of laws relating to government finances reveals that despite the application of an *acte d’urgence*, they often took just as long to be approved as they would have without one. For example, on 8 Fructidor Year VI the Five-Hundred passed a resolution governing the budget for the upcoming Year VII.²⁹ This resolution was accompanied by a short *acte d’urgence* which simply stated that, “the interest of the Republic demands that the revenue required for the service of Year 7 be promptly fixed”.³⁰ Yet it was not until 26 Fructidor that the Elders finally approved the resolution. It had been presented at the session on 9 Fructidor, where the *acte d’urgence* was immediately approved and a special commission formed in order to examine the resolution more thoroughly.³¹ This commission then reported back to the council on 18 Fructidor to apprise the deputies of the commission’s progress. This constituted the second reading that, in the absence of an *acte d’urgence*, would have been required under the constitution. The commission returned to its work until 26 Fructidor, when one of its members, Arnould, gave a final, lengthy report to the council that concluded that despite several minor concerns, the resolution ought to be approved.³² The resolution had then spent eighteen days in the hands of the Elders, being introduced to the deputies three times, with at least five days between each reading, just as required by the constitution for non-urgent resolutions. This extended and measured procedure was typical of the way the Council of Elders approached larger pieces of

²⁸ A.N. C/I/146, Séance du 16 Brumaire, an VI.

²⁹ *Journal des débats et des lois du Corps Législatif*, Fructidor VI, No. 102, pp. 145-147.

³⁰ *ibid.*, p. 145.

³¹ A.N. C//537/137, Séance du 9 Fructidor, an VI.

³² *Journal des débats et des lois du Corps Législatif*, Fructidor VI, No. 122, pp. 455-464.

legislation. In such cases, rather than being a shortcut around some of the more restrictive aspects of the Constitution

It is true that budgetary resolutions of this kind did carry a deadline, specifically the first day of the new year, 1 Vendémiaire. As such, the fact that the final discussion of the resolution in the Elders was taking place a mere ten days before that deadline left little time to request amendments from the Five-Hundred. Interestingly, though, that is precisely what one deputy, Lenglet, attempted to do. Rising to speak after Arnould's presentation, Lenglet appreciated the "measured and methodical work" that the commission had done in elaborating the details of the resolution, but nevertheless felt that one particular article would be improved significantly by the removal of the words "*indirecte et du même nature*" (indirect and of the same nature), in reference to types of extra taxes that could be applied if the standard sources of income proved insufficient to meet the 600 million specified at the start of the resolution.³³ He was quick to recognise that such an amendment could not be made by the Elders, as they were bound to respect the intentions of the "founders and defenders of the Republic, those men from whom no just idea escaped, and whom no grand idea could frighten."³⁴ Yet, he argued, such a minor change could be made by the Five-Hundred and returned to the Elders "in less than three days", and so could still make the deadline of 1 Vendémiaire if expedited by an *acte d'urgence*.³⁵ Despite this, Lenglet's call to reject the resolution was ignored and the resolution approved with no further discussion.

While the specific reasons Lenglet's suggestion was not adopted are not made clear in the archival evidence, we can make a reasonable guess. The deputies likely saw it as simply too minor a quibble to worry about, and felt it would be a waste of time to go through the entire process again, even if expedited. They had, after all, just sat through a third reading of a particularly dry resolution, along with a detailed analysis of its minutiae, and the prospect of hearing it again in its entirety minus a mere five words was likely not an exciting one. Furthermore, Lenglet's belief that the amendment could be made within three days was likely optimistic, since restarting the

³³ *ibid.*, p. 464.

³⁴ *ibid.*

³⁵ *ibid.*

entire process could open the resolution up to all sorts of other minor criticisms that could derail the project. Finally, and most importantly Lenglet's critique may have been justified but it would not be an issue until well into the following year, by which time, if it was really necessary, an amendment could be passed to rectify the issue. Such amendments were not uncommon, and were used to correct errors or clarify the meaning in the wording or printing of laws, such as that of 21 Vendémiaire, Year VIII, which corrected several figures in a law of the 4 Complementary Day of Year VII which determined the salaries of certain soldiers, and also clarified the wording in a different law from the previous Fructidor.³⁶ Similarly, in Brumaire VI the Elders were presented with a resolution that one deputy acknowledged quite openly was flawed, but argued that it should be approved while also notifying the Five-Hundred of the irregularity, "so that they will be able to propose a rectification by means of a separate law."³⁷ Precisely this sort of rectifying law could have made the adjustment Lenglet sought, though since now such law exists, his critique was evidently deemed inconsequential.

Although Lenglet's interruption was a minor incident in the passage of this particular budgetary law, it does add to our understanding of some of the subtle tensions in the Elders' conception of their task as the 'reason' of the *Corps Législatif*. The Elders were acutely conscious of the need to balance their role as the brake in the legislative process with the expediency demanded by the uncertain political reality of the French Revolution. In this one example, we find the Elders essentially ignoring, or at least putting to one side, the *acte d'urgence* in favour of a slower, more careful handling of the resolution. Yet at the same time, they are willing to overlook certain problems in the interest of facilitating a functional and productive legislature. They were evidently wary of devolving into the frustratingly obstructionist entity that detractors of the Constitution of 1795 always feared it would, but were also determined not to neglect their duty to the Constitution of holding the Five-Hundred to account.

While such budgetary resolutions provide an example of the Elders largely managing this balance well, the evidence from the resolutions surrounding the verification of electoral assemblies reveals quite a different story. The elections of Years V, VI, and VII were unlike any

³⁶ *Journal des débats et des lois du Corps Législatif*, Brumaire an VIII, No. 187, pp. 374-375.

³⁷ *Journal des débats et des lois du Corps Législatif*, Brumaire an VII, No. 177, p. 106.

France had previously experienced, due to the extensive reforms to the electoral introduced by the Constitution of 1795.³⁸ In particular, the increasingly well-co-ordinated electoral campaigning both by the government, notably through the use of *commissaires du Directoire exécutif* to organise local campaigns, and by factions on the left and right was an unprecedented move towards modern representative democracy.³⁹ However, it also meant that, in the absence of an overwhelming turnout, concerted anti-Directory minorities were capable of achieving great success in the primary and electoral assemblies. In the Year V, for example, the councils had failed to take the initiative and were taken by surprise by the royalist success, which ultimately led to the coup of Fructidor. By the time the next electoral cycle came around in the Year VI it had become clear that radical democrats were likely to stage a similar upset, and so, as a means of defending themselves against such results, the councils declared that they would verify the results of the electoral assemblies. Ostensibly this was to ensure that the assemblies were conforming to the constitution, but had the convenient effect of allowing the councils to annul unfavourable results. The fact that in areas with particularly strong anti-Directory sentiment the government had encouraged *scissions*, or break-away electoral assemblies which could compete for legitimacy with the original assembly, greatly aided the deputies in their verification efforts, essentially enabling them to choose their preferred candidate or giving them an excuse to outright annul the results for a department.⁴⁰ These *scissions* had the drawback, however, of greatly increasing the number of electoral results that required verification, which meant that the deputies were hard pressed to complete them before the new deputies took their seats, verified or not, on 1 Prairial.

Ultimately, the relationship between the two councils was not the rational, idealistic balance of imagination and reason that Boissy d'Anglas had aspired to. Yet nor was it as dysfunctional and incompetent as its many detractors over the past two centuries have claimed. France's first experiment with bicameralism, while not an outright success, had outlasted both

³⁸ See Patrice Gueniffey, *La Nombre et la Raison*, 'chapter title', (????), and Malcolm Crook, *Elections in the French Revolution*, 'Parties, schisms and purges: Elections under the Directory, 1795-1799', (Cambridge: Cambridge University Press, 1996) for more on these reforms and their importance in shaping the political culture and legacy of the Directory.

³⁹ Crook, *Elections in the French Revolution*, pp. 147-149.

⁴⁰ *ibid.*, p. 149.

its republican predecessor in the Convention and the short-lived constitutional monarchy of 1791. If the rate of legislation did not slow to the crawling pace suggested in the Constitution of 1795, thanks to the frequent use of *actes d'urgence*, the Council of Elders nevertheless functioned effectively as a brake on the legislative machine, through judicious use of its right to veto. Yet at the same time the deputies recognised the necessity of being able to react to situations and emergencies swiftly, especially when facing the continuing social turmoil of revolutionary France. They thus took it upon themselves to create a balance between the constitutional call to measured governance and the need to be able to act swiftly when it was required of them. This left them hovering uncertainly between full commitment to the constitution on one side and cold, bureaucratic pragmatism on the other. That precarious position was not sustainable, and 18 Brumaire saw the fall of an undoubtedly flawed system. However, as an experiment in parliamentary politics it is remarkable more for its successes in the face of profound adversity than for its failures. The Council of Five-Hundred and the Council of Elders had managed to prove to France that bicameralism was not only feasible, but desirable. The Directorial system may have passed away without much regret in Brumaire Year VIII, but it left a legacy that would resonate throughout eighteenth-century French politics.

The Role of Commissions in the Legislative Councils of the Directory

The creation of the committee system was one of the most significant political innovations of the French Revolution, and one with an important legacy for modern European parliamentarianism. Despite lacking the grandeur of a written constitution or the salience of elections on a national scale, this humble organisational development was fundamental to the day-to-day operations of early French democracy. It was the model by which every parliamentary assembly had conducted its business, from the National Constituent Assembly through to the Convention. Tim Tackett, in his assessment of the National Assembly goes so far as to argue that that the committee system was “the single most important organisational development” of that body.¹ By the time of the Convention committees had acquired such a prominent position in the governance of France that executive power was wielded *de facto* by a two governmental committees within the legislature, the Committee for General Security and the Committee of Public Safety.² So powerful were these committees that the Thermidorian Reaction against Robespierre and the Jacobins in July 1794 was as much a reaction against the tyranny of the legislature by a cabal of committee members as it was against the specific policies of the Terror.

This goes some way to explain a curious feature of the Constitution of 1795, namely Article Sixty-Seven. Part of the section on the legislative power, this article reads,

“Neither Council may create within itself any permanent committee. Each Council has only the option, when a matter seems to merit a preparatory examination, of nominating from among its members a special commission, which will address only the object of its formation. This commission is dissolved as soon as the Council has decided upon the object with which it has been charged.”³

¹ T. Tackett, *Becoming a Revolutionary: The Deputies of the French National Assembly and the emergence of a revolutionary culture (1789-90)*, (Princeton, NJ: Princeton University Press, 1996), p. 219.

² J. Godechot, *Les Institutions de la France pendant la Révolution et l'Empire*, 3rd Edition, (Paris: Presses Universitaires de France, 1985), pp. 304-314.

³ Constitution of 1795, Article Sixty-Seven, in M. Troper, *Terminer la Révolution*, (Paris: Fayard, 2006), Annexe 8.

The significance of this shift in parliamentary practice cannot be overstated. Although committees were not outright prohibited, the proscription of standing committees represented a departure from the central format of the fledgling French parliamentary system. The experience acquired over five years of parliamentarianism was discarded while no advice regarding an alternative model was provided by the constitution. The present chapter will investigate the implications of this shift. In order to contextualise the ban on permanent committees, and to emphasize its significance, the chapter will begin with a brief overview of the development of the committee system in 1789 and its importance in the assemblies preceding those of the Directory. The many questions raised by the introduction of Article 67 will then be explored. If the fear of committees tyrannising the legislature truly lay behind the move, why was a proscription of permanent committees chosen rather than instituting some form of oversight and accountability? How did the legislature proceed with its business in the absence of permanent committees to which the bulk of work could be delegated? More precisely, in what ways were the deputies guided by their prior experiences of parliamentary politics and what novel features, if any, did they invent? How did this new parliamentary model fit into the bicameral system? And, of course, did the Councils actually obey Article Sixty-Seven, or were they tempted to revert to old forms either by establishing secret committees or by exploiting the several vagaries in the wording of the constitution? By understanding the role of committees in the councils of the Directory, we will be able to paint a more colourful and clearly defined portrait of early French parliamentary practice.

The committee system was not a planned aspect of revolutionary parliamentary organisation. France had very limited experience of parliamentary politics, which posed a significant challenge to the deputies of the National Assembly, who were essentially trying to create a new system from scratch. Indeed, these deputies had arrived at Versailles with no clear intention of overturning the political structures of the Old Regime, but rather represented a vast range of agendas and aspirations.⁴ While the dissolution of the Estates General into the National Assembly appears at first glance to have represented a unification of ambitions, at least on the

⁴ A. Castaldo, *Les Méthodes de Travail de la Constituante*, (Paris: Presses Universitaires de France, 1989), pp. 57-58.

part of the deputies of the Third Estate (signified perhaps by the Tennis Court Oath with its solitary dissenter), in actuality the differences in opinion between deputies were intensified. In this environment of uncertainty and division, coupled with their awareness of the need to act quickly, the deputies of the National Assembly were forced to organise themselves in new ways simply to handle the immense task they had set themselves. As just one of the organisational experiments developed by the deputies, albeit the most successful, the committee system was in fact a response to exigent circumstances and a shortage of time, but would become an essential feature of French parliamentary politics.

The ostensible aim of the National Assembly when it emerged out of the Estates General in June was to write and establish a constitution for France, a seemingly singular purpose. Yet as the summer of 1789 drew on, it was the divisions between deputies, rather than their commonalities, that became increasingly evident. The tension between the *monarchiens* and their rivals was particularly pronounced and resulted in many intense conflicts during the constitutional debates of August and September.⁵ However, most of the difficulties facing the National Assembly did not manifest themselves as clearly-defined partisan divisions. Rather the deputies found themselves in the midst of an identity crisis. Beyond desiring a constitution, the deputies could not seem to agree on anything. This was in part due to the unusual and unexpected circumstances in which they were placed. As Tackett points out, “the men of ’89 found themselves in the midst of an unusually fluid situation, in which all traditional political values were being put into question, in which the very boundaries and definitions of sovereignty were continually in flux, in which their own conceptions of themselves could be transformed daily.”⁶ This sense of fluidity and lack of definition was only exacerbated by the revolutionary events outside of the Assembly, such as the storming of the Bastille or the October Days, which gave the deputies good reason to fear that if they did not succeed in giving the impression that they were making steady progress, they ran the risk of losing control of the revolution.

The deputies recognised the need to organise themselves in such a way that individual tensions or disagreements would not hold up the decision-making process unnecessarily, and

⁵ J. Egret, *La Révolution des Notables*, (Paris: Armand Colin, 1950), pp. 131-159.

⁶ Tackett, *Becoming a Revolutionary*, p. 211.

that would enable the Assembly to address the ever-growing list of governmental issues threatening to distract them from their primary task of writing a constitution. The main assembly alone was clearly not equipped for the task; the sheer size of the assembly, both in terms of the number of deputies and in the physical space of the meeting hall (which, after the National Assembly moved to Paris, was the *Manège*, or riding school of the Tuileries Palace), meant that the vast majority of deputies felt unable to participate. The deputies experimented with a number of organisational ideas, beginning with a system of *bureaux*. This system divided the main assembly into smaller groups (initially of 30 members, growing to 40 with the addition of deputies from the First and Second Estates), each of which would meet separately to discuss the same topics.⁷ This enabled greater participation, especially by those deputies who felt, due to lack of either vocal power or confidence, incapable of voicing an opinion in the main assembly. Membership of these *bureaux* was changed on a monthly basis, with the intention that over time each deputy would have the opportunity to engage with every other deputy while also avoiding the emergence of any particularly dominant group. Many deputies thoroughly appreciated the more intimate environment provided by these small group discussions, while others, such as Mounier, felt that having all the *bureaux* discussing the same issues separately was a wise precaution against rash decision-making.⁸

However, precisely that obstruction to hasty deliberation was the downfall of the *bureaux*. While the small group format was clearly a desirable one, facilitating as it did more fruitful discussion and enabling more deputies to participate, the redundancy of having multiple debates on each issue was too costly a luxury for the time-pressed National Assembly. What was needed was a system almost precisely opposite that of the *bureaux*, one which would streamline discussion and decision making. The most pressing issue facing the National Assembly, the development of a constitution, offered the perfect opportunity to put a new format to the test, in which a select group of deputies considered particularly knowledgeable about a certain area would be assigned to work on that field and prepare a project on which the Assembly as a whole

⁷ *Ibid.*, p. 219.

⁸ Egret, *Révolution des Notables*, pp. 84-85.

could deliberate.⁹ This model had already been explored in June 1789 to tackle several immediate issues of organisation, although each had only a brief existence. These early experiments were followed in July by the first Committee of the Constitution, of which Mounier (despite being devoted to the *bureau* system) was made a leading member.

While this Committee's central recommendations, inspired by Mounier and his fellow *monarchiens*, were thoroughly defeated when put to a vote in September,¹⁰ the underlying system was deemed a success. A new Committee of the Constitution was created to replace the shattered original, and the number of other committees rose rapidly. By February 1790 there were around 25 permanent committees working within the National Assembly.¹¹

From these haphazard origins, emerging from an experiment in response to exigent circumstances, the committee system swiftly became thoroughly ingrained in the assemblies of revolutionary France. Indeed, committees provided significant continuity across the early regimes of revolutionary France. They remained central to the operations of the Legislative Assembly, which inherited many of the committees of the National Assembly in spite of the self-denying clause the deputies of the latter placed on themselves.¹² However, it was under the Convention that committees reached their greatest importance. After the fall of the monarchy the executive powers of government were absorbed by the legislature, and in the newly-formed Convention these powers were wielded by a number of increasingly powerful committees. Most notable among these were the Committee of General Security and the Committee of Public Safety. Godechot traces the origins of the former of these back to the Committee of Intelligence in the National Assembly, via the Legislative's Committee of Surveillance.¹³ As it grew in power from the beginning of the Convention the Girondins attempted to curb its influence, such as by establishing the Commission of Twelve as a rival body. However, the fall of the Girondins

⁹ Castaldo, *Les Méthodes de Travail de la Constituante*, pp. 205-207.

¹⁰ *Archives Parlementaires (AP)*, Premier Série, Vol. 8, pp. 605-612.

¹¹ Tackett, *Becoming a Revolutionary*, pp. 222-223.

¹² C.J. Mitchell, *The French Legislative Assembly of 1791*, (Leiden: E.J. Brill, 1988), pp. 112-114.

¹³ Godechot, *Les Institutions*, pp. 304-305.

(instigated in large part by the actions of the Commission of Twelve itself) led to the Committee of General Security attaining unrivalled authority.¹⁴

By contrast, the Committee of Public Safety was established in March 1793, just before the fall of the Girondins. It was created at the instigation of the Committee of General Defence, with the intention that it would be responsible for all legislation governing the defence of the nation both internally and externally. This exceptionally broad remit allowed the Committee of Public Safety to encroach ever more on every aspect of the business of government. This period of Revolutionary Government, typified by the Reign of Terror, is perhaps the most heavily studied of the French Revolution, and there is little that could be added here to further an understanding of this turbulent time.¹⁵

Nevertheless, it is important to realise the significance of the Committee of Public Safety and the Committee of General Security as the organs perceived to be responsible for the Terror. It is only with such an understanding that the proscription of permanent committees during the Directory can be properly appreciated. When Robespierre and his fellow Jacobins were overthrown by the Thermidorian Reaction, it was not just the individuals who were attacked. As much as they were decried and scourged, so too were the institutions that they had embodied and which had enabled their usurpation of power. Above all, the governmental committees were seen as both the cause and the means of the Terror. As the Thermidorians set about the task of crafting their own origin story, casting themselves as the innocent victims of Jacobin tyranny, the committees posed a significant problem.¹⁶ On the one hand, the committees were synonymous with the regime that had just been overthrown and thus had to be dissolved. Yet the threats to the Republic, both external and internal, that had instigated the ascension of the committees were still present. How could they maintain any sort of order without the established governmental structures? The short answer was that they could not: both the Committee of

¹⁴ *ibid.*, p. 306.

¹⁵ There is a wealth of scholarship on Revolutionary Government and the Terror, but for two relatively recent studies see Marisa Linton, *Choosing Terror: Virtue, Friendship, and Authenticity in the French Revolution*, (Oxford: Oxford University Press, 2013), and D. Andress, *The Terror: Civil War in the French Revolution*, (London: Little, Brown, 2005).

¹⁶ On the topic of the Thermidorians' attempts to redefine themselves, see B. Baczko, *Comment Sortir de la Terreur: Thermidor et Révolution*, (Paris: Gallimard, 1989).

Public Safety and the Committee of General Security survived Thermidor, though they were profoundly changed. The membership of each was increased while the number of executive positions was reduced.¹⁷ Various other structural changes were implemented in order to reduce the powers of the committees; however, it was evident that this could only be a short term solution. In order to move beyond the Terror a new regime would be required, and there could be no hint of the possibility of a return to the tyranny of committees over the legislature. Not only was a new constitution required, so too was a revision of the entire model of French parliamentarianism.

The preclusion of permanent committees by the Constitution of 1795 was evidently a profound departure from the established, if still fledgling, model of parliamentarianism during the Revolution. How, then, did the two councils of the Directory respond and organise themselves? Answering this question will not only clarify some of the practical aspects of French parliamentarianism under the Directory but will go some way to explaining the difficulty the regime had in accomplishing its aim of a stable and moderate republican government.

Two initial observations are worth making at this point. Firstly, there was a shift in terminology that accompanied the ban on permanent committees, presumably in part to avoid confusion. While the 'special commissions' of the councils performed precisely the same function that temporary committees had done in previous assemblies, the use of a different term served to distance their status from that of the earlier committees. This nomenclature emphasises both the subordinate nature of the commissions in their relationship to their respective Council and their transience: they were commissioned for a single, specific task, on which they were merely to report and make recommendations before dissolving back into the Council from whence they came. Similarly, there was to be no mistaking membership of a commission as a sign of special status or rank, as had been the case during the Convention when 'Member of the Committee of Public Safety' or one of the other pre-eminent committees had been worn as a sort of title. By

¹⁷ Godechot, *Les Institutions*, p. 315.

stark contrast, membership of a special commission was intended to imply nothing about an individual deputy except that they were a deputy of one of the legislative councils.

The switch in terminology also allowed served to distinguish these commissions from the one, very specific occasion that the term 'committee' (*comité*) was still used during the Directory. Article Sixty-Six of the Constitution of 1795 (immediately preceding the ban on permanent committees) stated that, "At the request of one hundred of its members, each Council can form itself into a general and secret committee, but only to discuss, and not to deliberate."¹⁸ This secret committee bore little resemblance to the committees of earlier regimes, consisting of the entire Council rather than a small group selected to treat a topic outside of the general assembly. Again, this emphasised the distance the framers of the Constitution of 1795 were attempting to create between the committees of the Convention and the new regime. The power to form a secret committee appears to have been exercised very rarely by the two councils, almost solely for matters of foreign relations such as peace treaties or alliances.¹⁹ There was only one significantly different matter that the councils felt warranted discussion in secret, that of the denunciation of a deputy in the Council of Five-Hundred, Drouet, for conspiring to overthrow the Directory. Given his status as a deputy, the trial and punishment of Drouet posed a significant problem for the Directorial regime, itself still relatively young and susceptible to the aftershocks of even a foiled plot, and the ability to hold their discussions of his guilt in secret was no doubt a welcome protection.²⁰

The second observation to be made is the disparity in the number of commissions created by each of the Council of Five-Hundred the Council of Elders. While the Five-Hundred was veritably awash with commissions, the Elders very rarely felt the need to delegate its tasks to smaller groups. There were a number of reasons for this disparity. Perhaps the most obvious reason can be found in the nature of the respective councils. Commissions were primarily used to draft legislative proposals, a power which the Council of Elders lacked. Intended to simply

¹⁸ Constitution of 1795, Article Sixty-Six, in Troper, *Terminer la Révolution*, Annexe 8.

¹⁹ AN, C//502, dossier 392/2-8.

²⁰ AN, C//502, dossier 392/1, 'Procès-verbaux des séances secretes des deux Conseils relativement à l'Acte d'accusation contre le Représentant du Peuple Drouet prévenu de conspiration contre la République'.

approve or reject the resolutions of the Council of Five-Hundred, the Elders had little cause to distribute their workload. Furthermore, the size of the respective councils may also explain why the Elders were less inclined towards commissions. Part of the attraction of commissions and committees was the opportunity they gave their members to participate more actively in a small group setting than they could in the crowded assembly halls. Consisting of 250 seats, the Council of Elders was by no means a small group. Nevertheless, it was significantly smaller than any of the previous assemblies. Indeed, the size of assemblies had gradually reduced over the course of the Revolution, starting at well over one thousand in the National Assembly, down to 745 in the Legislative Assembly and 750 in the Convention, and finally settling on the 750 seats spread across two councils during the Directory.²¹ Given that most of its members had spent time in those earlier assemblies, even a fully-attended session of the Council of Elders must have felt to them a comparatively open and accessible space. It was thus less pressing to defer the business of the Council to smaller groups.

Given this large disparity between the two councils in regard to commissions, the bulk of the present chapter will be concerned with the special commissions of the Council of Five-Hundred, where they played almost a daily role. Nevertheless, the commissions of the Elders are interesting precisely for their rarity and will be addressed in the context of how the long-established committee system was transformed not only by the exclusion of permanent committees, but also adapted to the newly created bicameral system.

There were hundreds of special commissions created by the Council of Five-Hundred between 1795 and 1799.²² The specifics of their formation and operation are not immediately obvious, and must be deduced from a combination of sources. In some cases, there is a wealth of documentation of their work, such as that of the various commissions of finances or the fascinating Commission of the Inspectors of the Meeting Hall, which understandably created

²¹ E. Hindie Lemay & A. Patrick, *Revolutionaries at Work: The Constituent Assembly 1789-1791*, (Oxford: Voltaire Society, 1996), p. 16, and Godechot, *Les Institutions de la France*, p. 78 & p. 275.

²² AN, C/II/24 & 26-28.

detailed accounts and contributed heavily to significant debates in the Council.²³ Most helpfully, from the Year V (1796-1797), every special commission created by the Council of Five-Hundred was recorded in a four-volume register, noting the date of creation, the title of the commission, the names of its members, a description of its remit, and the location of documents pertaining to the commission within the archives of the Council.²⁴ From these records some broad conclusions can be drawn about the nature of the special commissions as a whole.

Membership of the special commissions provides some initial insights to the new system, and in particular highlights the sharp break with the former committee system. In terms of numbers the commissions were almost universally small, even by the standards of the Revolution. Virtually no commission appears to have consisted of more than five members, and the most common number was three.²⁵ Even the commissions of finances conformed to this apparent restriction: to take the example of Year VI, the committee was technically composed of 55 members, these were spread evenly across eleven sub-committees covering particular areas or ministries.²⁶ By contrast, for most of the Revolution committees had been formed of around ten to twelve members; for instance, there were twelve members in the first Committee for the Constitution in 1789 and the Convention's Committee of Public Safety, while the Constitution of 1795 had been drafted by the *Commission des Onze*.²⁷

In proscribing permanent committees, the Constitution of 1795 had not given any directions regarding the size of the special commissions it condoned. The reduction in numbers, then, can only be attributed to the deputies themselves. There was a clear practical reason for keeping the size of most of the commissions low. While the earlier committees had received broad remits which demanded a wider range of expertise or opinion, the special commissions

²³ See, for instance, the ledger of the Commission of Inspectors in AN C/II/25, or the collection of receipts and reports (most of them agonising over the imbalance in the books) from the Commission of Finances in AN C//503 dossier 393/5.

²⁴ AN, C/II/24 & 26-28. Each volume corresponds to a year (C/II/24 for year IV; /26 for year V; /27 for year VI; and /28 for year VII) and the commissions are recorded according to their initial letter, then by date. In the absence of page numbers, specific references will be to the title and date (in the Revolutionary calendar) of commissions discussed.

²⁵ *ibid.*

²⁶ AN, C/II/27, Finances, 1 Messidor.

²⁷ Egret, *Révolution des Notables*, p. 111.

often had an extraordinarily narrow focus. When a captain of the veteran's company in Toulouse complained about the lack of reparations he had received after an administrator had damaged his property, it is understandable that the Council felt the matter warranted a commission of no more than three deputies.²⁸ Nevertheless, not all commissions were of such relative insignificance. If Captain Gaillard's damaged equipment received the attention of three deputies, how is it that a report from the War Council was also addressed by a three-member commission?²⁹ One result of keeping the special commissions small, especially when coupled with the limit on their duration, was to ensure that no commission was likely to exert undue influence over the rest of the Council. This reflected the desire of the deputies in the councils of the Directory to remain faithful to the intention of the constitutional framers (most of whom were, of course, also deputies) to prevent the emergence of any particularly powerful organ within the legislature.

The range of topics that prompted the creation of these commissions was vast, and defies an attempt at categorisation. At one end of the spectrum there were commissions to tackle what might be called the grand tasks of governance, such as the commission of the colonies or the commission for finances. Indeed, the latter was arguably among the most important functions of the Council of Five-Hundred, which had been granted control of the government's budget by the constitution. This was to be a consistent source of tension between the Council and the executive Directory, and tracing the various special commissions created to address the Republic's finances provides a fascinating insight to the dynamics of power and influence that developed between the two bodies.

However, the great majority of commissions were created for far more transient purposes. In the registers of the special commissions, the most frequent type of titles is those that refer to administrative departments or specific cantons, cities, and towns. In many cases little other information is recorded, particularly in regard to the remit. To discover the specific focus of the "special commission for Bordeaux" created on 27 Nivôse year VII (16 January 1799), for example,

²⁸ AN, C//426, dossier 98, 'Pétition du Citoyen Jacques Gaillard'; AN, C/II/27, Gaillard, 8 Frimaire.

²⁹ AN, C/II/28, Conseil de Guerre, 6 Nivôse.

the reader is simply directed to “see letter ‘S’ in folder no. 196”, which in this case refers to a missive sent by the central bureau of the canton informing the Council of various generalities about the bureau’s activities.³⁰ The fact that such a letter apparently required the creation of a special commission is somewhat bemusing, even more so given that besides the aforementioned letter no documentation seems to have emanated from the commission, although given that the register does not list any members in this commission (or most of those like it) this lack of output is perhaps not so surprising.

Usually more detail is given for commissions related to geographical locations, however, especially during election periods. The electoral process was constitutionally scheduled to begin with the canton-based primary assemblies meeting on 1 Germinal (around 21-22 March depending on the year) before proceeding to the departmental electoral assemblies, which were charged with electing national deputies among other higher level offices, on 20 Germinal (9-10 April). The Council of Five-Hundred and the executive Directory alike kept a wary eye on these assemblies, and made a habit of reviewing the *procès-verbaux* of the sessions of each electoral assembly, if not the primary assemblies. The months following the elections saw a flurry of activity in the Council of Five-Hundred, with dozens of commissions being appointed to examine the reports emanating from around the nation. In the Year VI (1797-1798), for instance, between 28 Germinal and 4 Prairial (17 April-23 May) there were a total of 50 special commissions created specifically to examine the “operations” or the “*procès-verbaux*” of the primary, communal, or departmental assemblies.³¹ Furthermore, most of these commissions consisted of four or five members, a relatively high number for commissions during the Directory. Particular attention was given to assemblies where a *scission*, or schism in the assembly, had occurred, such as in the primary assembly of the south-western canton of Sallies in year VII.³² These *assemblées scissionnaires* formed in cantons or departments where one faction (usually consisting of republicans loyal to the Directory) believed that the official assembly was violating the Constitution or was simply acting unfairly and had been a growing feature of the electoral system

³⁰ AN, C/II/28, Bordeaux, 27 Nivôse; and AN C//461, dossier 26, ‘Lettre envoyée au Conseil des Cinq-Cents par le bureau central du canton de Bordeaux’.

³¹ AN, C/II/27.

³² AN, C/II/28, Sallies, 27 Prairial.

over the course of the Directory.³³ In fact, the Directory encouraged such schisms, which were often used as a pretext for annulling electoral results deemed unfavourable to the regime.³⁴

It is interesting, therefore, that the Council of Five-Hundred would take such close interest in the proceedings of these assemblies. There was ongoing tension between the legislature (primarily expressed through the Council of Five-Hundred) and the executive Directory, with each trying to exert influence over the other. Elections were a key arena for this conflict, with the Directory working hard to ensure the return of candidates who would be amenable to their agenda, either by running election campaigns (an unprecedented feature of French politics) through their *commissaires* in the departments or by encouraging *scissions* which could then be used to exclude whichever assembly elected unfavourable candidates.³⁵ That the Council of Five-Hundred was appointing commissions to pore over the reports from these assemblies is evidence of their awareness of the electoral gamesmanship being employed by the Directory. It is more difficult, however, to determine the extent to which their obsession with the electoral assemblies stemmed from opposition to the Directory's political manipulation or from a desire to cooperate. It seems to have changed on a yearly basis, as we can discover from both the reports emanating from several of the commissions investigating the electoral assemblies and the broader historical narrative of the Directory.

The case of the elections of Year VI, which gained such extensive attention from the commissions of the Five-Hundred, was a rare example of the executive and legislature working relatively well alongside each other. Following the *coup d'état* of 18 Fructidor Year V (4 September 1797), when royalist electoral successes were reversed by a purge of the councils and the closure of right-wing newspapers, the Directory had encouraged the spread of left-wing, anti-royalist sentiment by relaxing restrictions on political clubs.³⁶ The freshly purged councils were thus weakened against the Directory, but the individual deputies were in any case intent on

³³ M. Crook, *Elections in the French Revolution*, (Cambridge: Cambridge University Press, 1996), pp. 145-146.

³⁴ *ibid.*, pp. 146-147.

³⁵ *ibid.*, and W. Doyle, *The Oxford History of the French Revolution*, 2nd Edition, (Oxford: Oxford University Press, 2002), pp. 328-329.

³⁶ Doyle, *Oxford History*, pp. 331-332.

maintaining their own positions which had been strengthened by the neutering of the royalist faction. They had no compunction, then, in supporting the Directory's tactics.

However, as the Germinal elections drew nearer, it became clear that the royalist suppression had gone too far and allowed the resurgence of neo-Jacobins who posed just as much a threat to the Directory, which at the time was dominated by a moderate majority of Barras, Reubell, and La Revellière-Lepaux, together dubbed the 'Triumvirs' by the press.³⁷ The indulgences the left had been granted following Fructidor were reversed and on 12 Pluviôse Year VI (31 January 1798) the Councils passed a law declaring their intention "to verify" the operations of the electoral assemblies, ostensibly in order to ensure that they were conforming to the Constitution.³⁸ This law demonstrates the commitment of the deputies in the *Corps Législatif* to the institution of commissions, putting them at the very centre of the verification work. As the *procès-verbaux* from the departmental electoral assemblies arrived, the Council of Five-Hundred was to appoint commissions of up to five members to assess five *procès-verbaux* at once. Having decided to approve or annul each assembly, both the *procès-verbaux* and the accompanying reports from the commissions of the Five-Hundred were sent to the Council of Elders which was then to appoint its own commissions, each one again examining five *procès-verbaux* at once but with only three members. The reduction in numbers is probably more reflective of the smaller pool of potential commission members in the Elders compared to the Five-Hundred than it is of the perceived importance of the respective councils. Nevertheless, this discrepancy does reflect, intentionally or not, the gap between the influence of the Five-Hundred and that of the Elders. Throughout the verification process of Year VI there does not seem to have been a single instance where a commission of the Elders overturned the findings of the commissions of the Five-Hundred. Again, while this fact alone does not necessarily indicate a complete lack of initiative on the part of the Elders (following the coup of 18 Fructidor the composition of the two councils was largely homogenous, so a high degree of consensus between them ought not to be overly

³⁷ Crook, *Elections*, pp. 150-153; M. Lyons, *France Under the Directory*, (Cambridge: Cambridge University Press, 1975), pp. 221-223; Doyle, *Oxford History*, p. 330.

³⁸ AN, C//428, dossier 135/17-22; 'Loi qui determine la manière de proceder à la vérification des pouvoirs des députés nouvellement élus au Corps-Législatif', 12 Pluviôse an 6, in J. B. Duvergier (ed.), *Collection Complète des Lois, Décrets, Ordonnances, Réglemens, Avis du Conseil-d'État*, vol. 10, 2nd Edition, (Paris: A. Guyot & Scribe, 1835), pp. 186-187.

surprising), it certainly does not harm the argument that the Council of the Elders was in practice a significantly less important body than the Constitution of 1795 had originally intended.

Since the new legislature was due to open on 1 Prairial (20 May), it was necessary for the Council of Five-Hundred to work rapidly to ratify as many pro-Directorial electoral assemblies as possible before that time. They were aided in this task by a stream of messages from the Directory indicating the departments most likely to require suppression and those whose results were probably acceptable. For instance, the electoral assembly of Haroué, in the eastern department of Meurthe, was singled out for multiple “irregularities” on the part of “anarchists”, as the radical revolutionaries of the left were increasingly known, who were accused of intimidation and tampering with ballots.³⁹ The commissions of the Five-Hundred seem to have taken this to heart. The commission charged with examining the electoral assemblies of the *Basses-Alpes*, *Gemmappes*, *Hautes-Pyrénées*, *Vaucluse*, and *Eure-et-Loir* departments praised the actions of those who had seceded from the main assemblies (the ‘*assemblée mère*’) and created *assemblées scissionnaires* in protest against the “terrorism” they perceived in the actions of some of the electors in the *assemblée mère*: “It is truly expressed ... that meaningless denunciations, arbitrary arrests, and mistreatments preceded and even accompanied the primary assembly of the canton of *Forcalquier*; that they spread terror, and gave cause for a just schism.”⁴⁰ The commission went on to denounce certain electors as anarchists before eventually declaring the *assemblée mère* annulled and the *assemblée scissionnaire* approved. Interestingly, they noted the charges levelled at those participating in the schismatic assembly by those of the *assemblée mère*, concluding their report by hoping that, “if Citizen *Barrière* [the approved deputy] really is a man of infamy, may his presence not defile the senate; if he is, on the contrary, of the

³⁹ AN, C//433, dossier 191/19, ‘Message relatif aux irrégularités dans les opérations électorales de l’assemblée d’Haroué (Meurthe)’.

⁴⁰ BN 8-Le43-1960, *Rapport et Projet de Résolution par Engerran, au nom de la commission chargée d’examiner les procès-verbaux des assemblées électorales des départements des Basses-Alpes, Gemmappes, Hautes-Pyrénées, Vaucluse, Eure-et-Loir*, Séance du 18 floréal an VI (7 May 1798), (Paris: Imprimerie Nationale, Floréal an VI), p. 10. Emphasis retained from the original.

honourable class of pure republicans, may he enter here to defend the sovereignty, the rights, and the majesty of the French people.”⁴¹

“Anarchist” conspiracies and electioneering were prominent in the messages from the Directory to the Five-Hundred over the course of Floréal year VI. One particular message, sent on 13 Floréal (2 May), provided a long list of disturbances, mostly deemed the work of “anarchists” but also recounting some Royalist activity, at electoral assemblies around the nation, from Perpignan, where the constitution was attacked and a new regime called for; through Vaucluse, where violent riots occurred with calls of “war on the Directory! Down with the Constitution of ’95! War and death to the Thermidorians!”; to Metz where a group hailed “with audacity” Marat, Robespierre, and Babeuf.⁴² A special commission was formed on 14 Floréal to examine this message, and on 18 Floréal presented its findings in a report that included a proposed law which would annul the results of over 100 electoral assemblies, including every assembly in eight departments and affecting almost half of all departments.⁴³ Approved by the Elders four days later, the law of 22 Floréal ultimately purged 127 deputies from the legislature before they had even taken their seats, and constituted another *coup d’état* on the part of the Directory, less dramatic than that of Fructidor but no less a case where “the authority of the Directory seemed to predominate over the general will,” as Jean Debry observed in his response to the proposal of 18 Floréal.⁴⁴ Perhaps surprisingly, Debry was actually speaking in defence of the proposal, arguing that granting the Directory power over the general will was warranted in the face of “the hydra of factions” wreaking the destruction and discord throughout France that the Directory had brought to the Council’s attention by its message.⁴⁵

⁴¹ *ibid.*, p. 14.

⁴² AN, C/433, dossier 191/26, ‘Message relatif aux élections de l’an VI et notamment les entreprises anarchistes’. Also recounted by a commission to the Five-Hundred: BN 8-Le43-1959, *Rapport fait par J. Ch. Bailleul, au nom d’une commission sur le message du Directoire exécutif, relatif aux élections*, Séance du 18 floréal an VI (7 May 1798), (Paris: Imprimerie Nationale, Floréal an VI), pp. 7-8.

⁴³ BN 8-Le43-1959, *Rapport fait par J. Ch. Bailleul*.

⁴⁴ BN 8-Le43-1962, *Discours de Jean Debry sur la loi du 12 pluviôse, relative au jugement des élections*, Séance du 18 floréal an VI, (Paris: Imprimerie Nationale, Floréal an VI), p. 9.

⁴⁵ *ibid.*

The level of co-operation between the Directory and the Five-Hundred at this point is a particularly important question. Indeed, Suratteau argues that the commission charged with reporting on the Directory's message of 13 Floréal actually became a tool of the Directory at a critical moment for the regime.⁴⁶ In his view the Directory's message was an attempt to persuade the deputies of the Five-Hundred that the process of verification was taking too long, and that in the face of such virulent animosity towards the regime it would be too dangerous to allow unverified deputies to take their seats in the new legislature. It was a gambit used in the hope of avoiding repetition of 18 Fructidor: rather than having to purge troublesome deputies from the legislature, it would be far better to simply prevent them from arriving in the first place. The commission, for its part, was adamant that the resolution it proposed was entirely its own: it may have been crafted on the basis of the information contained in the Directory's letter, but they claimed to have confirmed that information themselves and, more importantly, they rejected the notion that the Directors had played any part in the authorship of the resolution.⁴⁷ The commission's spokesperson in the Council, Bailleul, had already started to come under particular scrutiny, and was careful to declare in his report that "the project is the work of the commission and not that of the Directory."⁴⁸ Suratteau's predecessor in studying the coup of Floréal, Albert Meynier, suspected collusion between the Directory and the commission but concluded that if it had taken place then it had left no definitive proof.⁴⁹ Suratteau, on the other hand, views it as little short of a coup against the legislature on the part of the executive Directory: while he accepts Meynier's claim that there is no "proof in the strict sense", he argues that there is sufficient circumstantial evidence to find the Directory guilty of coercion.⁵⁰ The fact that the commission did not seek further information from the Directory by way of an official message, for instance, is taken to be evidence that it was "directly by amicable agreement and outside the

⁴⁶ J-R. Suratteau, *Les Élections de l'an VI et le "Coup d'État du 22 Floréal" (11 mai 1798)*, (Paris: Société les Belles Lettres, 1971), pp. 324.

⁴⁷ BN 8-Le43-1959, *Rapport fait par J. Ch. Bailleul*, pp. 8-9.

⁴⁸ *ibid.*, p. 11.

⁴⁹ A. Meynier, *Les Coups d'État du Directoire*, vol. 2, (Paris: Presses Universitaires de France, 1928), pp. 80-82.

⁵⁰ Suratteau, *Les Élections de l'an VI*, pp. 323-329.

much vaunted separation of powers” that the Directory exercised its influence over the Council of Five-Hundred.⁵¹

Both Meynier and Suratteau are right to suspect that the Directory strongly influenced the Five-Hundred through this commission, however the evidence available does not seem to suggest that this influence was oppressive or even unconstitutional. On the part of the Directors, there is very little mention in their papers of the law of 22 Floréal. What few notes do exist suggest that they were hopeful that the legislature would have the same objectives as them and would thus come to the same conclusion without the need of strong-arming.⁵² The direct influence of the Directory on the commission does not seem to have extended beyond the original message, which nevertheless was very strongly worded and contained quite graphic and emotive descriptions of the disorder taking place in the electoral assemblies. The Directory felt, correctly, that if they provided the legislature with the right evidence then there would be no need to rise against it with armed force as they had done in Fructidor. The fact that the *Corps Législatif* passed the law of 22 Floréal is thus indicative more of the consensus between the Directory and the legislature at that moment than it is of a conspiracy.

However, the Directors could have felt more secure that this tactic would work thanks to the commission system itself. They knew that upon receipt of an official message from the Directory, the Five-Hundred would appoint a commission of only three to five members. This meant that rather than having to persuade the entire legislature to go along with what amounted to yet another coup against the legislature itself by the Directory, they merely had to convince the few deputies in the commission and then rely on them to act as the Directory’s voice by proxy. This was not as risky a strategy as it might first appear. While there is no evidence whatsoever that the Directors were able to influence who might be selected from the commission, they were quite aware that the sentiments of the majority of the Council were in favour of the Directory and so they no doubt felt quite confident that a pro-Directory commission would be appointed. For instance, the commissions charged with examining the operations of

⁵¹ *ibid.*, p. 324.

⁵² AN, AF/III/99, dossier 440/5.

electoral assemblies up until 13 Floréal had almost uniformly found in favour of pro-Directory assemblies, which were usually the schismatic ones.⁵³ Even in the rare event that a commission annulled the results of pro-Directory assemblies, it was usually because their behaviour was as violent or disorderly as those of the reactionary or radical assemblies they were supposedly replacing and in such cases both assemblies were rejected, as in the department of the Seine.⁵⁴ The responses to the proposed law are also revealing in this respect.⁵⁵ There was significant debate of the proposal, especially in the Five-Hundred, a fact which must count against the accusation that the Council was coerced. In terms of numbers, responses delivered by deputies across the two councils were relatively evenly split between those in favour of the proposal (and therefore on the side of the Directory) and those against.⁵⁶ However those in favour tended to speak decisively, couching their arguments in terms of finding the *via media* between the Royalist and Terrorist threats, which were evidently taken to be both very real and very dangerous.⁵⁷ On the other side, however, objections tended to be against specific elements of the proposal or warning against the slippery slope that would result from a legislature effectively legislating against itself in favour of the executive.⁵⁸

In any case, the pro-Directory side already had several days' worth of preparation and information-gathering by the time the proposal was made on 18 Floréal, thanks to the work of the commission on the Directory's message. By placing the legislative initiative in the hands of special commissions, the Five-Hundred had stacked the odds in the favour of those commissions: any opposition was fighting an uphill battle from the very start. It was this fact, rather than any blatantly unconstitutional interference on the part of the Directory, that allowed the coup of Floréal to succeed.

⁵³ Suratteau, *Les Élections de l'an VI*, pp. 331-341

⁵⁴ BN 8-Le43-1954, *Rapport fait par Savary, au nom d'une commission spéciale, sur les opérations de l'assemblée électorale du département de la Seine*, Séance du 16 floréal an VI, (Paris: Imprimerie Nationale, an VI). Also Suratteau, *Les Élections de l'an VI*, pp. 331-342.

⁵⁵ The relevant reports can be found in BN 8-Le43-1960 to -1964.

⁵⁶ Suratteau, *Les Élections de l'an VI*, Annexe X, pp. 348-349.

⁵⁷ See, for instance, Debry's response: BN 8-Le43-1962, *Discours de Jean Debry*, Séance du 18 floréal an VI.

⁵⁸ See, for instance, Garran's response: BN 8-Le43-1964, *Opinion de Jean-Philippe Garran, sur le rapport relatif aux élections*, Séance du 18 floréal an VI, (Paris: Imprimerie Nationale, an VI).

Commissions were not always allies of the Directory, however. The elections of Year VI came at one of the few times that the legislature and the executive were aligned. More often than not, the councils, and in particular the Five-Hundred, were suspicious of or outright opposed to the agenda of the Directory, and commissions were used to frustrate the Directory's plans and to co-ordinate opposition. The Directory had no official power to initiate legislation; they could only send a message to the Council of Five-Hundred requesting that they consider a certain matter. These messages unfailingly prompted the creation of a special commission to examine them, as seen with the message of 13 Floréal Year VI. These commissions had mixed reactions to the messages, however, and can reveal much about the tenor of the relationship between the Five-Hundred and the Directory at any given point during the regime. Germinal to Prairial Year VI may have been a time of conciliation between the two bodies, resulting in the legislative coup of Floréal, but at other times the result of messages from the Directory was quite the reverse. Before 18 Fructidor Year V, for instance, the increasingly dominant Royalist faction chose to remain deaf to some of the requests of the Directory, such as when they invited the Five-Hundred to consider what to do with monasteries in the annexed Belgian lands.⁵⁹ The Royalist deputy (and future victim of 18 Fructidor) Mailhe reported back on behalf of the commission tasked with considering this message at the very next session, with a single page report which simply stated that nothing was to be done about it.⁶⁰ Other times the Council actively subverted the aims of the Directory, as when the executive attempted to suggest stronger measures against refractory priests in Floréal Year IV.⁶¹ Instead, the commission appointed for the message used it as an opportunity to contradict the Directors' approach towards refractory priests and suggested instead a relaxation of the laws against them.⁶² In both of these cases, the commissions were used as a sort of buffer between the Directory and the Council as a whole. The only constitutional

⁵⁹ AF/III/392, plaquette 1719/6-7, 'Message du Directoire exécutif au Conseil des Cinq-Cents concernant les monastères de la ci-devant Belgique'.

⁶⁰ BN Le43-383, *Rapport fait, au nom d'une commission spéciale, sur le message du Directoire exécutif concernant les monastères de la ci-devant Belgique, par Mailhe*, Séance du 18 thermidor l'an IV, (Paris: Imprimerie Nationale, thermidor an IV).

⁶¹ AF/III/361, plaquette 1072/4-5, 'Message du Directoire exécutif au Conseil des Cinq-Cents relatif aux prêtres réfractaires'.

⁶² BN Le43-3853, *Rapport fait au Conseil des Cinq-Cents, par Philippe Drulhe, au nom de la commission chargée d'examiner un message du Directoire exécutif, du 23 germinal, relatif aux prêtres réfractaires*, Séance du 4 floréal, an IV, (Paris: Imprimerie Nationale, an IV).

means of direct influence the Directory had over the Council of Five-Hundred was the use of these messages, and yet the Council could simply brush the message aside by delegating a small commission to ‘consider’ the message while the Council as a whole continued on its own agenda.

In fact, the commissions of the Council of Five-Hundred were sometimes used to exert pressure on the Directory. One such example comes from Floréal Year V. The Council of Five-Hundred had heard a rumour that the Minister of the Navy had sent a letter to the French colonies in the western Atlantic and Caribbean declaring that French citizens who left Saint Domingue, then in the middle of the Haitian Revolution, for another nation were to be treated as “*émigrés véritables*”, or counter-revolutionaries.⁶³ There was no small number of such citizens, who considered themselves to be refugees fleeing the slave rebellion and in most cases heading to the United States of America.⁶⁴ In particular, one citizen by the name of Reux-Beaufort had been arrested in Saint Domingue on charges of emigration and brought to Rochefort for trial. The Five-Hundred was outraged not only that these people, who they were inclined to view as genuine refugees, were being unjustly deprived of rights and property, but also that the Directory may have allowed (or, as the Council suspected, ordered) such a directive to be sent without consulting the legislature. The Council issued a decree fiercely rebuking the Directory for such lack of compassion towards refugees fleeing “the ravage and destruction of their homes, and the death that menaces their persons,” but above all for circumventing the legislature.⁶⁵ They demanded that the Directory clarify whether or not such an instruction had been sent by the Minister for the Navy, and in the meantime, if such an instruction had been sent it was to be immediately suspended (and, in the case of seizure of property, reversed) until the legislature had made a decision on a pending report from the Special Commission for the Occidental Colonies.⁶⁶

Several aspects of this affair are noteworthy. Firstly, it is a fascinating example of the legislature claiming authority against the Directory and enforcing that authority by means of a

⁶³ AN C//405, dossier 387/21-28.

⁶⁴ *ibid.*

⁶⁵ AN AF/III/446, plaquette 2615/6.

⁶⁶ *ibid.*

special commission. Commissions were thus not only bodies used for the internal organisation of each council, but also tools that could be wielded against other groups. The appointment of a committee could be used to signal the Council's intent and influence others, whether the Directory or the other legislative Council, to fall into line. In fact, it is also worth briefly mentioning this 'other' Council at this point. In its message to the Directory, the Council of Five-Hundred unilaterally claimed to speak for the entire *Corps Législatif*. Yet the Council of Elders technically held a very powerful position in this stand-off between the Five-Hundred and the Directory. The Elders may have had only a single constitutional power, that of approval or rejection of resolutions, but if the Council so chose then it could become an extraordinarily frustrating power, particularly for the Five-Hundred. In this particular case, if the Elders chose to side with the Directory, then the Five-Hundred could appoint as many commissions or send as many official messages to the Directory as it wanted to no avail: without approval from the Elders, their resolutions meant nothing. In fact, the chips were stacked in the Elders favour in this regard, since article 99 of the Constitution of 1795 prevented a rejected resolution from being presented by the Five-Hundred until one year had passed.⁶⁷ The Five-Hundred thus had to be confident that the Elders would be on their side, or else any action against the Directory would meet a swift defeat. Returning to the case at hand then, perhaps the most notable aspect regarding the Council of Elders is its complete absence. The Elders raised no objection to the resolution passed by the Five-Hundred, but nor did they make any particular noise against the Directory's manner of exercising its executive powers; they simply approved the original decree from the Five-Hundred and then sat back from the ensuing exchange between the Five-Hundred and the Directory.⁶⁸ Once again, the discrepancy between the influence of the respective Councils is made plain.

Another interesting feature of this incident is the commission mentioned in the Council of Five-Hundred's decree, that of the Occidental Colonies. What is particularly significant here is that the Five-Hundred did not create the commission at this time, only bestowed a new

⁶⁷ Constitution of 1795, Article 99, in Troper, *Terminer la Révolution*, Annexe 8.

⁶⁸ AN C//501, dossier 379/10.

responsibility on an extant commission.⁶⁹ This is seemingly a minor detail, but one which has fascinating implications. Given that commissions were supposed to dissolve themselves at the conclusion of the specific task they were formed to undertake, it ought to have been virtually impossible for this action to occur. Indeed, according to a strict reading of article 67 of the Constitution it was outright impossible: rather than adding a new aspect to the remit of an existing and relevant commission, even in the unlikely event that such a commission happened to exist, a brand new commission ought to have been created specifically for the new issue.

The fact that such a commission already existed, and especially with a remit as broad as “Occidental Colonies” suggests that the deputies of the councils were willing to be flexible with the constitutional ban on permanent committees. There does not appear to be much evidence of such behaviour in the register of commissions created by the Five-Hundred. Commissions with remits that would be expected to arise frequently, such as the commission of finances, do appear in the register at fairly regular intervals, and generally with a different membership each time.⁷⁰ However, a closer reading of these records in conjunction with various reports delivered to the Council reveals various discrepancies. The Commission of Finance appointed on 23 Prairial Year VII, for instance, was “to examine and to report on all objects of particular interest which have been sent to the so-called Commission of Finances.”⁷¹ To give the deputies the benefit of the doubt, this by itself does not imply the existence of an ongoing Commission of Finances, merely that the Council had received many documents addressed to such a commission; indeed, the fact that there was a need to appoint a commission just to sort through these documents might have been evidence that no such commission existed. That hypothesis is weakened, however, by the number of reports given in the name of the Commission of Finances, especially when the dates of such reports are compared with those of the commissions recorded in the register. When the new legislature assembled (minus those purged in Floréal) on 1 Prairial Year VI (20 May 1798), Crassous was already able to present a proposal “in the name of the Commission of Finances”, specifically relating to a message sent by the Directory the previous 3 Pluviôse (22 January 1798)

⁶⁹ AN AF/III/446, plaquette 2615/6.

⁷⁰ For instance, for Year VII see the Commissions of Finances appointed on 1 Brumaire, 6 Ventôse, 26 Germinal, and 23 Prairial. C/II/28, all under section F.

⁷¹ AN C/II/28, ‘Finances’, 23 Prairial.

about the liquidation of the assets of *émigrés* in nine departments.⁷² The four month delay between the receipt of the message and the proposal of a resolution is already cause for suspicion, but furthermore, according to the register the most recently appointed Commission of Finances was recorded on 14 Brumaire (4 November 1797), a further three months before the message from the Directory.⁷³ There is also no record of a special commission being appointed around 3 Pluviôse under any other name that might have arisen from this message. Commissions appointed in response to messages from the Directory were usually recorded under '*Directoire exécutif*', for example, yet there is no commission of that nature recorded around that time; the same goes for titles such as '*Liquidation*', or '*Émigrés*'.⁷⁴ The only conclusion, then, is that there was a Commission of Finances operating throughout this period and without record in the official register. Other examples of the Commission of Finances operating 'off the books' can be found within months of the commencement of the Directory. Reports or proposals of resolutions were delivered in the name of the Commission of Finances on 12 Prairial and 9 Fructidor Year IV (31 May and 26 August 1796), bearing no clear correlation to the commissions recorded in the register on 5 Frimaire and 28 Pluviôse (26 November 1795 and 17 February 1796).⁷⁵

In proscribing permanent committees in the Constitution of 1795, the Thermidorians sought both to distance themselves from the legacy of the Jacobin Convention and to prevent the emergence of a powerful cabal within the assembly (or assemblies). They failed to realise that committees were an essential aspect of French parliamentarianism, and by neglecting to provide an alternative organisational framework they set the councils of the Directory a no-win scenario. The councils could choose to either follow the letter of the Constitution and drown in an endless river of commissions that lacked the continuity to effectively address long-term issues like finances and the military, or they could succumb to pragmatism and establish somewhat

⁷² BN 8-Le43-1992, *Projet de Résolution propose au nom de la Commission des Finances, ... par le C. Crassous (de l'Hérault)*, Séance du premier prairial an 6, (Paris: Imprimerie Nationale, an VI).

⁷³ AN C/II/27, 'Finances', 14 Brumaire.

⁷⁴ AN C/II/27.

⁷⁵ BN 8-Le43-290, *Projet de Résolution présenté par la Commission des Finances*, Séance du 12 prairial, an 4, (Paris: Imprimerie Nationale, Prairial an IV); BN 8-Le43-419, *Rapport fait par Defermon, au nom de la Commission des Finances*, Séance du 9 fructidor, an IV, (Paris: Imprimerie Nationale, Fructidor an IV); AN C/II/24, 'Finances', 5 Frimaire & 28 Pluviôse.

covert standing committees that could act efficiently but which undermined the legitimacy of the constitution. The councils made their situation worse by vacillating between these two models, continuing to operate by myriad special commissions for the most part while resorting to permanent commissions in certain areas.

Nevertheless, the evolving role of commissions in the parliamentary practice of the Directory reveals the innovation that continued to typify French revolutionary politics. The use of commissions as a means of influence both for and against the executive Directory was a fascinating development, and is vital to understanding how the various *coups* of the period were planned and carried out. Furthermore, if the deputies undermined the legitimacy of the constitution by forming permanent commissions, these commissions were vastly different to the governmental committees that had dominated the Convention. The commission system during the Directory was a novelty in this respect, managing to adapt the committee system so essential to French parliamentarianism to a political system which so feared the accumulation of power in the hands of any one body.

Conclusion

When the Directory was established in late 1795, it raised few hopes that the new regime would be any more successful than the previous attempts at stability. It was founded on a byzantine constitution, written in haste by legal experts who bound their new regime in layers of checks and entanglements in their desire to cool, though not extinguish, the revolutionary fire of French government. The new councils consisted mostly of deputies from the old, failed Convention, deputies whose self-preserving measures had hardly won them new supporters. The new system borrowed elements of previous regimes, while adding to them institutions that had been thoroughly opposed and rejected in earlier constitutional discussions, most notably bicameralism. The new constitution even specifically proscribed the formation of committees, which up to that point had been arguably the most important and effective innovation in the nascent French democratic culture. There seemed to be every reason for pessimism about the Directory at its inception.

And yet it endured. In spite of the burden of a continuing and expanding war without, and the threat, alternately, of radical democrats and of royalists within, the Directory outlasted every revolutionary regime before it, and continued to function reasonably effectively until at last it was brought undone by a cabal of conspirators on 18 Brumaire. This achievement should not be underappreciated. The Legislative Assembly of 1791 was founded on a constitution that was the fruit of almost two years of labour by some of the most intelligent, accomplished, and highly-educated men in France (some of whom, it must be said, would go on to contribute to the Constitution of 1795), and yet it collapsed within a year of its inauguration, its architects failing to equip the regime to meet the problems that arose when the king became hostile to it. The Directory, by contrast, lasted four times as long, despite all the odds seemingly being stacked against it.

That the Directory was flawed is indisputable. Every election held during its existence was marred by voting irregularity (often at the government's encouragement) and by annulments or

coups. That the regime could have persisted effectively for much longer were it not for the intervention of Sieyès and Bonaparte is doubtful. Yet these negative aspects have unfairly overshadowed the real innovations of the Directory, both institutionally and in the development of parliamentary practices that would prove profoundly influential, if unrecognised as such, in the nineteenth century. By introducing a form of bicameralism distinct to that of either Britain or America, the Directory established a precedent that would be followed by nearly every one of the procession of regimes over the course of the succeeding century, the sole exception being the Second Republic's unicameral National Assembly.

The parliamentary methods that the Directorial deputies developed were likewise significant both in their departure from the practices of the early phases of the Revolution and in their legacy for future regimes. The creation of short-term commissions in the place of standing committees seemed at first to be a chaotic, inefficient model, dreamed up by potentially over-cautious deputies still reeling from the failures of the Convention. Yet they proved that the parliamentary experiences of the first years of the Revolution did not have to be definitive. The parliamentary innovations of the Directory, both those in its constitutional foundation and in the deputies' creative resort to pragmatic circumventions of that same constitution, are significant for having opened up the scope of what French democracy could become. While later generations may have scorned the Directory's legacy in words, they nonetheless benefited greatly from its democratic experiments.

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