

**THE FIRST FRENCH REPUBLIC: A STUDY OF  
THE ORIGIN AND THE CONTENTS OF THE  
DECLARATION OF THE RIGHTS OF  
MAN, OF THE CONSTITUTION, AND OF  
THE ADOPTION OF THE REPUBLICAN  
FORM OF GOVERNMENT IN 1792, PP. 5-65**

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The first French republic: a study of the origin and the contents of the declaration of the rights of man, of the constitution, and of the adoption of the republican form of government in 1792, pp. 5-65 by Horace Mann Conaway

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**HORACE MANN CONAWAY**

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## PREFACE.

THE present study is one of origins. Our object is to trace from the beginning the gradual development of the Declaration of the Rights of Man, of the first written constitution in France, and to follow the movement which led to the abolition of monarchy and to the adoption of the republican form of government. In view of the complex phenomena of the French Revolutionary period, it is advantageous to our understanding of that surpassingly interesting era to view the various classes of facts from different standpoints. The Revolution was social, religious, political, and economic. While the study of any one of these phases necessarily involves the others, the best results will be secured by considering the movement now as social, now as religious, now as political, and now as economic. This paper is an investigation of the early Revolution from the political point of view. Whence arose in the minds of the French the idea of a Declaration of the Rights of Man? Where did they derive the principles therein contained? How were they led to feel the need of a written constitution? Through what series of events were they brought to suspect, to denounce and to renounce royalty, and to accept the idea of an elective executive? Such questions as these are of interest to the student of political history.

Though the primary sources for the investigation of this subject are limited in our American libraries, enough has been found to lead to an interpretation suggestive and, we believe, correct.

Recently two important books upon the French Revolution have appeared. M. A. Anlard published last year his *Histoire politique de la Révolution française*. In this work he has re-examined, in the light of the voluminous material at hand in France, these same questions. Prof. William M. Sloane, of Columbia University, has treated the Revolution primarily in its ecclesiastical aspects in his *French Revolution and Religious Reform*. The manuscript of this thesis was practically completed

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before either of these works came into the writer's hands. It did not seem advisable, therefore, to make any modifications in the conclusions herein reached; they are, however, in the main in accord with those arrived at by these two authors. The Declaration of the Rights of Man and the origin of the idea of a written constitution are here more fully discussed than by these writers.

H. M. C.

SHEFFIELD, PA., *August 5, 1902.*

## THE DECLARATION OF THE RIGHTS OF MAN.

THE first question that naturally suggests itself in studying the Declaration of the Rights of Man is, whence did the French derive the idea of such an instrument? It has been asserted, and an attempt has been made to prove, that both the notion of such a Declaration and its content were borrowed from the early American State Constitutions.<sup>1</sup> This question, however, really resolves itself into a double inquiry, *i. e.*, whence did the French receive their notion of the guaranty of individual rights against governmental intrusion, and how far did the ideas contained in the Declaration of the Rights of Man represent the political traditions and current thought of France? Only a study of the abuses and of the political theories of pre-revolutionary France and of the facts relative to this document, as they are revealed in the writings of contemporaries and in the records of the Constituent Assembly, can at all satisfactorily answer these inquiries.

The sympathetic relation between France and the colonies during and after the American Revolution, the interest in America of some of the more radical French political theorists, such as Mably and Condorcet, and the community of ideas existing between the two countries, shown by the Jeffersonian school in America, and by the publication of American writings in France, are facts well known. Hence it may be inferred that, when a few of the *cahiers* asked for a Declaration, their framers were acquainted with and influenced by the American Bills of Rights.<sup>2</sup>

<sup>1</sup> Ritchie, *Natural Rights*, p. 1; M. Charles Borgeaud, *Établissement et Révision des Constitutions en Amérique et en Europe*, 240-242; Dr. Geo. Jellinek, *Die Erklärung der Menschen- und Bürgerrechte*, p. 10.

<sup>2</sup> Two requests for a Declaration of the Rights of Man came from Paris, *intra muros*; one from the Nobility, *Archives parlementaires*, v, 271; the other from the Third Estate, *Ibid.*, v, 281. The latter cahier contains a formulated Declaration of thirteen articles. The general cahier of Rennes, *Arch. Parl.*, v, 538, that of the Third Estate of Annonay, *Arch. Parl.*, ii, 50, and that of the Third Estate of Nemours, *Arch. Parl.*, iv, 161, ask for the Declaration of Rights.

But not until the States General had assumed the rôle of a Constitutional Convention were the proposals of Declarations numerous. Then it was that the Frenchmen gave abundant proof of their fondness for formulating political documents.

On July 9, 1789, M. Mounier, who had been charged by the Constituent Assembly with the preparation of a scheme for a constitution, presented a report in behalf of the committee, the first article of which reads: "Tout gouvernement doit avoir pour unique but le maintien des droits des hommes; d'où il suit que pour rappeler constamment le gouvernement au but proposé, la constitution doit commencer par la déclaration des droits naturels et imprescriptibles de l'homme."<sup>1</sup> July 11, Lafayette proposed the form of a Declaration of Rights, containing twelve articles, and pointed out the advantages of such an instrument.<sup>2</sup> M. Lally Tollendal approved this project, but argued that it was dangerous to adopt any such articles separate from the Constitution; he at the same time called the attention of the Assembly to the great difference between a new-born colonial people, who were breaking with a distant government, and an old nation extending over an immense territory, one of the first nations of the world, which for eight centuries had obeyed the same dynasty and had cherished the royal power when it had been tempered by custom. This nation, he said, will idolize this power when it shall be regulated by laws.<sup>3</sup> M. Lally Tollendal certainly believed that they were following the American example.

July 14, Lafayette's motion was discussed. Some thought the Declaration should be put at the head of the Constitution, in order permanently to secure the rights of man before establishing those of society; others thought it should be placed after the Constitution. It was decided at this session that the Constitution should contain a Declaration, but its position was left for later decision.<sup>4</sup> Siéyès read his exposition of the Rights of Man, on July 10, to the Constitutional Committee, and on July 21, to the Assembly.<sup>5</sup> On July 17, M. Target presented a scheme of thirty-one articles for a Declaration, and M. Mounier one of sixteen

<sup>1</sup> *Arch. Parl.*, viii, 216.

<sup>2</sup> *Ibid.*, 221 et seq.

<sup>3</sup> *Ibid.*, 230-231.

<sup>4</sup> *Ibid.*, 221-222.

<sup>5</sup> *Ibid.*



articles.<sup>1</sup> On July 31, M. D. Servan, advocate to the Parlement of Grenoble, presented a project of thirteen articles. August 1, a long debate occurred upon the position to be given to the Declaration in the Constitution. M. Thouret also offered a scheme for a Declaration. The debate continued. On August 4, M. Camus proposed that the Assembly make a declaration of the rights and duties of man and of a citizen; but this motion was defeated by a vote of 570 to 433.<sup>2</sup> However, at the same session, it was decided almost unanimously that the Constitution should be preceded by the Declaration. On August 12, Abbé Siéyès offered a project of a Declaration of forty-two articles.<sup>3</sup>

During discussion in the Assembly, August 1, M. Champion de Cicé, Bishop of Auxerre, opposed a declaration as useless at that time, and said that the example of North America was not conclusive, as that country only contains proprietors, cultivators, and citizens all on the same social footing. M. De la Luzerne, Bishop of Langres, also asserted that the Constitution of an empire did not need a Declaration. M. Malouet, in making strong protest against their placing the Declaration at the head of the Constitution, portrayed the contrast between the situation of France and that of America.<sup>4</sup> M. Delandine spoke in agreement with M. Malouet.

On August 12, two projects for a Declaration of Rights were offered to the Assembly: one of seventy-one articles, by Gouges-Carton of Quercy, and one of twenty-four articles, by the Sixth

<sup>1</sup> *Arch. Parl.*, 341.

<sup>2</sup> *Ibid.*, 422.

<sup>3</sup> "Conversions nous en acte législatif cet exposé métaphysique, ou présenterons nous les principes avec leur modification dans la constitution que nous allons faire? Je sais que les Américains n'ont pas pris cette précaution; ils ont pris l'homme dans le sein de la nature, et le présentent à l'univers dans sa souveraineté primitive, mais la société Américaine nouvellement formée, est composée, en totalité de propriétaires déjà accoutumés à l'égalité, étrangers au luxe ainsi qu'à l'indulgence, connaissant à peine le joug des impôts, des préjugés qui nous dominent, n'ayant trouvé sur la terre qu'ils cultivent aucune trace de féodalité. De tels hommes étaient sans doute préparés à recevoir la liberté dans toute son énergie; car leurs goûts, leurs mœurs, leur position les appelaient à la démocratie. Mais, nous, Messieurs, nous avons pour concitoyens une multitude immense d'hommes sans propriétés, qui attendent, avant toute chose, leur subsistance d'un travail assuré, d'une police exacte, d'une protection continue, qui s'irritent quelquefois, non sans de justes motifs, du spectacle du luxe et de l'opulence," etc. *Arch. Parl.*, viii, 322.

Bureau of the Assembly. On August 13, a committee of five, consisting of Desmeuniers, Bishop of Langres, M. Tronchet, Count Mirabeau and M. Rhédon, was chosen to receive the drafts of a Constitution and to recast these into one form.<sup>1</sup> August 14, Mirabeau, on behalf of the committee, reported a scheme of a Declaration containing nineteen articles. In speaking of the aim of the committee, he said, that from the score of plans offered them, they had sought, like the Americans, to construct a Declaration not of abstract and scientific principles, but one of political truths that would readily be comprehended by the popular mind.<sup>2</sup> In the debate of August 18 upon the Declaration, M. Rabaud de Saint Etienne said that the Declaration of Rights had been adopted because the *cahiers* had asked it, and that the *cahiers* had asked it because the Americans had set the example, but that this was no reason why the Declarations should be similar, for the circumstances of the two nations were different.<sup>3</sup>

August 19, the Assembly decided to discuss first the Declaration of the Sixth Bureau.<sup>4</sup> On August 21, after some debate, the Assembly adopted the preamble of the plan, somewhat modified, presented by the committee of five. M. Mounier then proposed three articles, which were adopted. August 21, on the proposal of M. Alexander de Lameth, articles four, five, and six, after discussion, were adopted.

August 21, M. de Boislander proposed a plan of seventy-four articles. August 22, after divers proposals had been made and

<sup>1</sup> *Arch. Parl.*, viii, 434.

<sup>2</sup> "Nous avons cherché cette forme populaire qui rapelle au peuple, non ce qu'on a étudié dans les livres ou dans les méditations abstraites, mais ce qu'il a lui même éprouvé. . . . C'est ainsi que les Américains ont fait leur déclaration de droits; ils en ont à dessein écarté la science; ils ont présenté les vérités politique qu'ils s'agissait de fixer sous une forme qui pût devenir facilement celle du peuple, à qui seul la liberté importe, et qui seul peut la maintenir." *Arch. Parl.*, viii, 438-440.

<sup>3</sup> *Arch. Parl.*, viii, 452 et seq.

<sup>4</sup> A comparison of the Declaration offered by the Sixth Bureau with the Bill of Rights of the Revolutionary Constitutions of Massachusetts and of Virginia, shows that the Bill of Rights of the Virginia Constitution contained sixteen articles, that of the Massachusetts thirty, and that of the Sixth Bureau, twenty-four. The same general ideas are found in all three, but they are couched in different words, that of the Sixth Bureau being the least extreme.

discussed, articles seven, eight, and nine were adopted.<sup>1</sup> August 23, after many proposals and lengthy debate, article ten was agreed upon. August 24, a liberal discussion of the phraseology resulted in the adoption of articles eleven, twelve, and thirteen.<sup>2</sup> August 26, after some discussion, articles fourteen and fifteen were accepted; later in the same day, articles sixteen and seventeen were agreed upon.<sup>3</sup> Then the Assembly resolved that the consideration of further articles should be postponed until the Constitution should be completed.<sup>4</sup> October 2, the articles previously adopted were presented to the Assembly, with article four changed from "La liberté consiste à faire tout ce qui ne nuit pas à autrui," to "La liberté consiste à pouvoir faire tout" etc. The change was accepted. The whole Constitution was presented to the king September 13, 1791, and accepted by him. In the Assembly, September 14, the king swore to obey the constitution.<sup>5</sup>

These are the facts of historical data relating to the formation of the Declaration of the Rights of Man purposely set forth in detail and in chronological order. What conclusions may we draw from them? The frequent reference to the American Bill of Rights, the number of Declarations proposed in *cahiers* and before the Assembly, differing in form and in length, but agreeing in fundamental principles, the discussions, the selections and the modifications to which this raw material was subjected in the process of constructing the Declaration finally adopted, warrant these two inferences: (1) the notion of a Declaration of Rights, separate from the Constitution proper, was suggested to the French by the American State Constitutions; (2) the contents of the articles and the language in which they were couched were original.

A study of the separate articles of the Declaration in the light of contemporary conditions gives additional reason for thinking that the ideas therein contained were not foreign to France. For convenience of consideration in the present study, the articles of the Declaration may be divided into two classes: the first class consists of those articles that were in the main reactive against certain abuses under which the French suffered; the second class

<sup>1</sup> *Arch. Parl.*, viii, 470 et seq.

<sup>2</sup> *Ibid.*, 483-484.

<sup>3</sup> *Ibid.*, 487, 489.

<sup>4</sup> *Ibid.*, 492.

<sup>5</sup> *Histoire Parlementaire*, 395-402.