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THE TREATMENT OF COLLABORATIONISTS IN FRANCE

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Description

An analysis of how France has dealt with those Frenchmen who collaborated with the Germans. Both the laws dealing with the purge and its actual machinery and operation are discussed, with special attention to the merits and defects disclosed. The internal political problems raised by the purge are also described.

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CONFIDENTIALTHE TREATMENT OF COLLABORATIONISTS IN FRANCESummary

Like the other European countries that were occupied by the Germans, France was faced upon liberation with the problem of dealing with those who had collaborated with the enemy. The strongest demand for the purge came from the French resistance movement. General de Gaulle had previously accepted this demand in principle; however, he differed from Resistance on the question of how broad and how drastic the purge should be, partly because he was conscious of the extremely complex legal, ethical, and practical problems involved, and partly because he considered the purge an objective quite secondary to the establishment of a stable government, the restoration of national unity, and the maintenance of due process of law.

Except for a brief period of popular justice immediately after the liberation of France, the purge has been conducted in an orderly, legal fashion. The serious cases of collaboration have been assimilated to treason and tried under the appropriate provisions of the penal code. At first these trials were held by military tribunals, but the latter were soon supplanted by "Courts of Justice" which the Provisional Government set up to deal with crimes of collaboration. A "High Court of Justice" has been organized for the specific task of trying ex-members of the Vichy government. While the Provisional Government has in general avoided retroactive penal legislation, it has created one new crime, "civic unworthiness," through which lesser collaborationists, and particularly members of anti-national organizations, can be punished. The penalty for "civic unworthiness" is "national degradation," which involves the loss of civic and economic rights, and, in aggravated cases, the confiscation of the offender's property. Cases of this type are tried before "Civic Chambers" attached to each Court of Justice. Government ordinances have also provided for the epuration of the civil service, each ministry being required

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to conduct its own purge, under the control of the responsible minister. Ad hoc commissions have been formed under government auspices for the epuration of the national economy. Economic collaborators have, in addition, been affected by a law concerning the confiscation of illicit profits made through collaboration. In all these purge courts and commissions the Provisional Government has assigned a large role to representatives of Resistance.

Thus far the most active purge organs have been the Courts of Justice, which have tried some 16,000 persons, condemning 1,458 to death and 12,279 to prison. The Civic Chambers have imposed 11,092 penalties of national degradation and have deprived 22,487 Frenchmen of the right to vote. The epuration of the government has been carried out with varying degrees of effectiveness by the different ministries, but lack of official statistics prevents adequate analysis of this aspect of the purge. The attempted epuration of the national economy is generally conceded to have been ineffective. Some limited progress has been made in the direction of confiscating collaborationist profits, over 30,000 persons having appeared thus far before the confiscation committees. Certain organizations and institutions, which were permitted and expected to conduct a self-purge, have, with a few exceptions such as the trade unions, failed to make a serious effort to do so.

The Left and Resistance movements, alleging that the results thus far achieved by the purge are excessively meager and slow, have incessantly attacked the Government's policy as deliberately lenient and lacking in energy. General de Gaulle has made only the most minor concessions to such criticisms. He has been supported in his moderation by anti-purge forces which, though less articulate than the Left and Resistance, are not without strength, as they include the Catholic Church, the parties of Catholic persuasion, and the great bulk of conservative Frenchmen. The issue, therefore, is clearly joined, and the unsettled problem of the purge promises to continue having a significant divisive effect on the course of French politics.

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I. INTRODUCTION

A. The Nature of the Purge Problem

When the Germans came to France in 1940 they found a number of Frenchmen willing to co-operate with them. Of these collaborationists, many were opportunists attracted by the possibilities of personal profit and advancement, and seemingly indifferent to considerations of patriotism; a few were actually convinced of the desirability of a rap-prochement with National Socialist Germany; most of them, however collaborated more or less unwillingly because they lacked the courage to take the risks of resistance, and it was difficult to remain neutral. The latter group felt itself protected by the fact that its actions were sanctioned by an ostensibly legal government, organized under the high authority of Marshal Petain, who, following the collapse of France, received a vote of full powers from the National Assembly to draw up a new constitution for France.

Like the other European countries that had been occupied for a long period by the Germans, France was faced upon its liberation with the problem of dealing with those who had collaborated with the enemy. Many of the country's most patriotic and active elements considered that the new and healthy political life to which they looked forward could not be established without destroying the influence of those who through greed, error, or weakness had betrayed the interests of the nation. For those who had resisted the Germans the purge was also a psychic necessity. The years of German oppression had built up in them a tremendous resentment against those who had profited by France's downfall and assisted the Germans in exploiting and persecuting the French people. The pent-up bitterness which existed particularly among the Left and Resistance forces, and the widespread desire for justice and vengeance could be assuaged only by the speedy and exemplary punishment of collaborationists.

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B. The Attitude of Resistance

The demand for a thorough-going purge was nowhere stronger than among the resisters, who were animated not only by ordinary patriotism but also by the fact that their activities had made them the special object of counter-measures by the collaborationist police and propagandists. Before liberation the underground press ceaselessly and vehemently demanded a swift, severe purge. The clandestine newspaper Résistance in its special purge issue of 25 January 1943 declared, for instance: "The first act of the Government of Liberation must be the unrelenting destruction of those guilty of treason, and the investigation of those responsible for the defeat of France. After the liberation of our country there can be no task of greater urgency, for upon this all else depends." Résistance also stressed the thesis that the purge was a political necessity for France: "France cannot hope to be restored or to recover her traditional place in the world unless she achieves a social and moral revolution. This she cannot do if those who govern her give way to weakness or compromise toward those who led France to defeat and defiled her through betrayal."¹

To resisters of Socialist or Communist orientation, the purge held forth another attractive possibility: it might be made the instrument for the destruction of the old ruling classes in France and their replacement by men of the Left. This belief appears, however, to have played a distinctly minor role in general Resistance sentiment on the purge issue.

C. Position of General de Gaulle

During the early pre-liberation period General de Gaulle fully endorsed the principle that a purge was to take place when France was freed. Acceptance of this principle was undoubtedly necessary to him for the purpose of obtaining the support of the Resistance movement. At one time, moreover, De Gaulle displayed at least a limited personal enthusiasm for the purge, saying that France could not omit punishing "those who betrayed

1. Résistance, 25 January 1943.

her and delivered her to the enemy."¹ France, declared the General, "must not sheath the sword of justice."

The closer De Gaulle came to power, however, the more moderate became his expressed views on the purge. This change of emphasis may have been motivated in part by the fear that a drastic purge would alienate public opinion in Great Britain and the United States, upon whose support he depended. Furthermore, probably because he feared that any outbreaks of popular violence might undermine the stability of his government, De Gaulle insisted that the purge must be carried out by the state alone, in accordance with laws laid down by it. "Justice," he said at Casablanca on 10 August 1943, "is the business of the state, acting exclusively in the service of France.... The purge will be conducted as it should be, in the normal fashion, from above, and under the authority and responsibility of those who are charged with carrying it out.... A crowd of Frenchmen were led astray by the action of the Vichy government. Nevertheless, despite everything, these too are Frenchmen. They are part of France. Naturally those among them who personally participated in a wicked policy must be gotten out of the way (écartés); some of them already have been. Still others will be. But, I repeat, it is the business of the state."

Later declarations of General de Gaulle made it even more evident that his ideas on the conduct of the purge differed substantially from those of Resistance. In January 1944 he stated with deliberate emphasis: "France has need of all her children; of those whom events proved right, and then of all the others, of all those who are worthy of serving her. I submit this statement for your consideration."²

D. Difficulties of the Purge

The legal, ethical, and practical problems connected with the purge were complex and difficult, as became evident even before liberation in the minor epuration conducted in North Africa.

In the first place, how was "collaborationist" to be defined? Only a partial answer was afforded by the government ordinances which distinguished in a general way the major classifications of collaborationists:

1. Speech at Casablanca, France-Amerique, 22 August 1943.

2. Speech at Dakar, l'Echo d'Alger, 27 January 1944.

1. On the highest level were the men who constituted the Vichy regime, headed by Marshal Pétain as Chief of State and Pierre Laval as Chief of Government.
2. This regime functioned through a civil service which, though seriously infiltrated by resistants, in the main accommodated itself to Vichy.
3. A host of propagandists, writers, journalists, and radio speakers contributed their talents to the German cause.
4. Many of those who controlled the financial, industrial, and commercial resources of France placed them at the service of the occupying power.
5. Some Frenchmen had become members of political organizations which imitated and were inspired by the Germans, and whose object was to tighten the bonds of collaboration between France and Germany or to foster the spread of national socialist ideas. Typical organizations of this sort were the Groupe Collaboration, the Parti Populaire Français, the Rassemblement National Populaire, and the Association nationale des travailleurs français en Allemagne.
6. On the lowest level of collaboration were those Frenchmen who personally performed the work of vigilance and repression involved in the maintenance of the regime, such as police engaged in detecting resistants, members of the Milice, and informants in the pay of the Gestapo.

These broad classifications, however, were of little assistance in determining individual guilt. Did a government official become tainted with collaborationism merely by continuing to work for Vichy? General Henri Honoré Giraud, who was first in control in North Africa, declared in a note of 27 April 1943 to De Gaulle that he agreed collaborationists should be punished, but that "one should not include in this term Frenchmen who have resisted the enemy while remaining at their posts, where their task has often been more difficult than that of those who have left France and served her abroad." In the trial of Pierre Pucheu, ex-Vichy Minister

of the Interior, which took place in North Africa in early 1944, the Court did not find that Pucheu had violated French law by the sole fact of being a member of the Vichy regime. Again, was a general to be excused for his dealings with the Germans if he could prove that he had acted honestly and sincerely, believing that Vichy was a legal government and that he was obeying the lawful orders of a lawful superior? How late could a person abandon Vichy, as Pucheu did, and yet be rehabilitated as a good Frenchman? Was an industrialist a collaborationist if he did work on German order, but with the object of preventing the deportation of his workers to Germany? These were questions not susceptible of an easy answer.

In addition, the purge raised a large number of practical difficulties. France had been under the German occupation and the Vichy regime for over four years. A broad definition of collaboration was likely to include such a large number of Frenchmen that their elimination would seriously hamper the restoration of France. Was it wise to attempt such an elimination, in view of France's weakened condition? And if it was wise, how could the purge be carried out in a legal and orderly fashion, considering that the magistracy and the police forces of France were themselves more than likely to be decimated by the purge? Could such a purge be conducted without outbreaks of popular violence, or without proceedings of summary justice, either of which might alienate Great Britain and the United States and lead to internal chaos? Could a vigorous, drastic purge be carried out without provoking outright revolution?

Finally, the purge involved several problems from the legal point of view. The French Penal Code adequately covered the classic forms of treason to the state, but not the special types which occurred under the guise of collaboration. Therefore, at the outset of the purge it was necessary to face the alternatives of allowing many acts of collaboration to go unpunished, or else of passing retroactive laws, a solution repugnant to the systems of justice prevailing in the democratic western world. Moreover, in view of the large number of cases of collaboration and the limited capacity of the French courts, a widespread purge inevitably meant

the establishment of special tribunals with accelerated procedures, although France under the Vichy regime had had an overdose of such special tribunals.

Conscious of these numerous vexatious difficulties, De Gaulle approached the purge with understandable caution and moderation. However, in the incompatibility of this caution with the demands of Resistance lay the seeds of a conflict that was to come to full flower during the later conduct of the purge.

II. THE LEGAL BASIS OF THE PURGE

A. The Crimes of Collaboration

All of the more serious crimes of collaboration, i.e., those assimilable to treason and involving the imposition of the death penalty or of imprisonment, are being tried under legislation existing prior to the war. These crimes fall under the penalties of Articles 75 et seq. (Des crimes et délits contre la sûreté de l'Etat) of the French Penal Code, which though originally intended to cover the usual forms of treason to the state, are in fact so broadly formulated that by liberal interpretation they can be employed against the unexpected types which occurred in the guise of collaboration. These articles prohibit such crimes as "intelligence with the enemy," a formula applicable to a large variety of the so-called "anti-national acts" committed in the occupation period.

The very breadth of these formulae was so great, however, that too broad an interpretation threatened to make an excessive number of Frenchmen liable to indictment. The Provisional Government, therefore enacted a law which provided that no one is to be charged with collaboration in a case where he (1) merely executed, without any personal initiative, orders or instructions duly given to him, or (2) merely performed his professional duties without voluntarily committing any anti-national act.¹ However, this saving clause is inoperative when the person concerned could have avoided performing the anti-national act, and when his responsibility and moral authority were such that his refusal would have served the cause of national freedom. Nor can the plea that the defendant did nothing more than obey orders be accepted in any case of denunciation, acts of personal violence, or deliveries of articles, materials, or information to the enemy.

B. Civic Unworthiness (Indignité Nationale)

Many collaborators committed acts which did not violate any articles of the Penal Code, but which nevertheless are considered to have been harmful to the interests of France and to have fallen below the standards of patriotism which the country had a right to expect of its citizens. To

1. Journal Officiel de la République Française (hereafter referred to as JO), 6 July 1944, p. 535.

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reach these collaborators, the Provisional Government issued the Ordinance of 26 August 1944, defining a new offense: "civic unworthiness."¹ This law is undoubtedly of a retroactive character, inasmuch as it punishes acts not legally defined as crimes at the time they were committed. The law is of special interest because it comes closer than any other government ordinance to giving a minimum definition of collaboration. According to its terms all Frenchmen are guilty of civic unworthiness who subsequent to 16 June 1940 voluntarily aided Germany or its allies, directly or indirectly, or who voluntarily committed an offense against the unity of the nation, or the liberty and equality of Frenchmen. By way of facilitating the work of the purge courts under this law, participation in the Vichy government and in certain other groups is specifically stated in the law to constitute in itself the crime of civic unworthiness. Among the groups named in the law are the Vichy propaganda services and the Commissariat for Jewish Affairs, and various collaborationist, political and para-military organizations including the Milice, the Légion des Volontaires Français, the Parti Populaire Français, the Groupe Collaboration, and the Rassemblement National Populaire. The law also declares that intellectual or artistic efforts in behalf of collaboration or in advancement of totalitarian doctrines fall within the definition of national unworthiness. The penalty established for civil unworthiness is national degradation (dégradation nationale), a complex of fourteen interdictions including deprivation of the vote, prohibition of holding any office of honor and trust, and exclusion from a number of occupations involving the public interest. In addition complete or partial confiscation of the accused person's property can be decreed. Punishment under this law does not act as a bar to further proceedings under the Penal Code if the individual concerned can be convicted of a specific crime covered by that legislation.

1. JO, 28 August 1944, p 767.

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C. Epuration of the Government

The Provisional Government also found it necessary to adopt special measures to cleanse the government service of collaborators, the basic law passed being that of 27 June 1944.¹ The government personnel affected by this law and its subsequent amendments are:

1. The magistrates of the judicial and administrative services.
2. Functionaries and employees of all types, whether employed by the state or other public bodies, or by an organism created by public law and allotted public funds, or by an enterprise operating on concession by the state, or by any lesser political body than the state.
3. Ministerial officers (officiers ministériels).
4. Members of the Armed Forces, or of para-military organizations such as the Youth Camps (Chantiers de Jeunesse).

The individuals punishable by this legislation include those who have: (1) favored the enterprises of the enemy, whatever their nature; (2) obstructed the war effort of France or her Allies, notably by denunciations; (3) committed offenses against constitutional institutions or fundamental public liberties; or (4) knowingly benefited, or attempted to benefit, materially from the application of Vichy laws.

Penalties under this law were applied by administrative action, and ranged from dismissal without pension down to mere transfer. The person concerned could also be forbidden to exercise his profession, either permanently or for a fixed period of time. Such punishment did not act as a bar to indictment before the Court of Justice of the Civic Chamber. (See below)

D. Economic Epuration

1. Economic Relations with the Enemy. Penalties for economic collaboration could be imposed under the decree-law of 1 September 1939, which forbade all economic relations, direct or indirect, between Frenchmen and the enemy, subject to a number of minor exceptions such as correspondence with prisoners of war.² The De Gaulle government issued a

1. JO, 6 July 1944, p. 536.

2. JO, 4 September 1939, p. 11091.

further clarifying ordinance on this subject on 6 October 1943.¹ However, neither the clarifying ordinance nor the original decree-law was sufficiently detailed to deal with the complex questions of economic collaboration which arose in France after June 1940. In particular, these laws did not take sufficient cognizance of the fact that there existed in France a de facto regime claiming to be the legitimate government of the French state, and that France was occupied by an enemy power which often ignored both the Hague Convention and the rest of international law. It was therefore necessary to define more precisely the situations in which economic relations would be punishable, a need which was filled, rather belatedly, by the ordinance of 29 March 1945 "concerning commerce with the enemy in territories occupied or controlled by the enemy."² This law declared to be punishable all commerce with the enemy, with a few minor exceptions such as sending packages to French prisoners of war, or making ordinary retail sales to German soldiers in France. Large-scale economic relations were declared punishable under the Penal Code as forms of treason; lesser violations under the more lenient provisions of the decree-law of 1939. The maximum penalty under the latter law was imprisonment for five years. Acts performed under constraint, or acts performed in the mere fulfillment of one's professional obligations or in execution of orders, were also exempted from punishment, provided no abnormal profit had been received. In general, to escape punishment for relations with the enemy it was necessary to show that no element of personal initiative had entered into the act. For serious cases the Courts of Justice or the Military Tribunals were declared competent; for minor cases the regular criminal courts. Profits of such illegal economic relations were declared subject to confiscation under the Ordinance of 6 January 1945. Application of penalties under the Ordinance of 29 March 1945 did not act as a bar to prosecution of the same acts on the charge of treason or espionage.

1. JO, 9 October 1943, p. 184.

2. Ibid., 30 March 1945, p. 1710.

2. The Epuration of Enterprises. The Ordinance of 16 October 1944 "concerning the epuration of enterprises" was motivated by the Government's fear that the action of the purge courts might be slow, and that many economic collaborators might not be tried for their crimes until some time had elapsed.¹ It was considered unsuitable that such collaborators should continue to hold positions of honor and trust in the economic life of the country. The ordinance therefore provided for the removal from all important economic positions of any persons who had contributed to the advancement of the enemy's enterprises, or who had obstructed the French war effort. The worst penalty that could be imposed under this law was dismissal from the position held, together with a prohibition against holding any position of authority in the enterprise or profession concerned. A later amendment widened the range of punishments, so that in the less serious cases the culprit could be let off with a reprimand, while in the more serious cases severer penalties than those allowed in the original law could be imposed.² All penalties under the law of 16 October 1944 are regarded as temporary, and are superseded as soon as a purge court has ruled concerning the guilt of the person affected.

3. The Confiscation of Illicit Profits. To supplement the other penalties imposed on economic collaborators, the Government issued a comprehensive decree providing for the confiscation of all illicit profits made by Frenchmen during the occupation through illegal relations with the enemy, or through violation of price, exchange, and other government regulations, or through having taken advantage of German acts and decrees directed against special groups of Frenchmen, e.g. Jews, Freemasons, and Communists. The ordinance not only covers the recouping of such illicitly acquired gains, but also permits a punitive fine to be levied on such economic collaborators, and in aggravated cases even allows the confiscation of the malefactor's other property. The law sets up a complicated formula for calculating the amount of the illicit profit.³

1. JO, 16-17 October 1944, p. 965.

2. Ordinance No. 45-511 of 29 March 1945; JO, 30 March 1945, p. 1713.

3. Ordinance of 18 October 1944, JO 19 October 1944, p. 988; amended and confided, Ordinance No. 45-15 of 6 January 1945, JO, 7 January 1945, p. 92.

E. Political Epuration

No legislation has yet been passed dealing specially and definitively with the crime of political collaboration. However, the Government decreed that all members of Parliament who voted for granting Pétain full powers in 1940 were ineligible for the Provisional Consultative Assembly and for the later municipal elections, subject to an opportunity to prove that they had rehabilitated themselves by their subsequent resistance activities.¹ The Government also took measures to have the courts declare ineligible to vote all those who belonged to anti-national organizations, regardless of whether such persons had yet received their full day in court. In other respects the purge of political figures has been left to the general laws regarding collaboration and to the extra-legal operations of the parties to which they belonged.

1. OWI: European News Digest, 10 April 1945.
2. New York Times, 10 February 1945.

III. THE MACHINERY AND OPERATION OF THE PURGE

A. The Period of Popular Justice

Although the purge on the whole has been carried out in a legal and orderly fashion, summary executions of notorious collaborationists took place in the initial period of liberation. The number of persons dealt with out of hand by popular justice will never be known accurately, but it may have amounted to several hundreds. In some cases groups of the French Forces of the Interior held informal and irregular drumhead courts-martial. In addition, numerous shavings of heads and lesser penalties were imposed. The Government very soon gained complete control of the situation, and this period of illegality came to a rapid close. It does not appear that there was any concerted desire to supplant or prevent the establishment of the Government's authority; the executions took place in areas to which the Government had not been able to extend its powers, and were generally confined to cases of local collaborators well known for their past offenses.

A more serious problem was presented by the fact that during this same period a substantial number of people was arrested and interned, often on vague grounds and without the lodging of any specific charges. A basis for administrative internment was provided by the decree-law of 18 November 1939, applicable to individuals found dangerous to public security, but in many cases during the period of liberation no such finding had been made. The number of these internees soon reached the proportions of a public scandal. The Government did not have the judicial personnel to investigate rapidly the internees' cases and it was afraid to release them without investigation.¹ As a result many persons later proved completely innocent were held for months without a chance to answer charges. Special "sifting commissions" were set up by the Government to clear the internment camps, but as late as February 1945 there were still thousands of uninvestigated internees in such camps and prisons as Drancy and Fresnes. Vigorous

¹. OSS source S-R, 12 October 1944.

protests about this situation came from all sides, even from the Communists and such organizations as the "League for the Rights of Man," neither of which groups was leniently disposed toward collaborationists. The Minister of the Interior promised in January 1945 that he would rectify the situation in the shortest possible time, but actually the tempo with which the internées were either released or remanded for trial remained slow. ¹

B. The Military Tribunals

Because the Provisional Government anticipated that France would be liberated gradually, and because it did not wish to delay the start of the purge until France had been wholly liberated, it made special provision for military tribunals to be set up within the zones of military operations. ² These courts superseded all civil jurisdictions wherever the state of siege existed in France, and since France had been legally in a state of siege since September 1939, the military tribunals remained the sole purge courts until they were replaced by courts of justice established under the law of 26 June 1944 (below). They operated under the Code of Military Justice of 1928. In some areas the military tribunals were trying collaborationists until well into November 1944. The justice meted out by these courts was swift and severe. While official statistics have not been released, it appears that as of 1 February 1945 they had tried some two thousand cases, in nine hundred of which they had decreed the death penalty. ³

C. The Courts of Justice

One of the principal difficulties facing the Government at the outset of the purge was the establishment of a system of courts to deal with crimes of collaboration. This problem was solved in the Ordinance of 26 June 1944, "concerning the repression of crimes of collaboration." ⁴ This ordinance instituted a new and special "court of justice" (cour de justice) with the object of providing a speedy trial for those acts of

1. Pressintel, Paris, 4 January 1945.

2. Ordinance of 6 June 1944, JO, 6 July 1944, p. 534.

3. Monde, 22 February 1945.

4. JO, 6 July 1944, p. 535; amended and codified, ibid., 28 November 1944, p. 1540.

collaboration committed between 16 June 1940 and the liberation of France. It specified that such acts, in order to be considered crimes, must have violated the French penal legislation in force on 16 June 1940. In pursuance of this ordinance, one such court, divisible into sections where necessitated by the volume of work, has been set up at the seat of each of the twenty-seven appellate judicial districts. The Courts of Justice have the following distinctive features not to be found in the ordinary French court:

1. The Court is composed of a magistrate, four jurors, and a government commissioner (commissaire) who acts as prosecuting attorney.

2. Juries are chosen, with the assistance of the departmental Committee of Liberation, exclusively from among those "who have never ceased to give evidence of national sentiments." That is to say, the juries are ordinarily staffed by ex-resistants.

3. Women can serve on the jury.

4. The Court cannot give suspended sentences.

5. Generally speaking, procedure in the Courts of Justice is similar to that in the regular French courts, and the rights of the defense are fully preserved, but technical flaws do not constitute grounds for mistrial unless they injure the essential rights of the defense.

6. Appeals from the decision of the Court of Justice can be made to a special section of the Appellate Court, but here again procedures are uncommonly swift, and deliberate delays are impossible.

7. The Court of Justice has jurisdiction only over cases whose investigation is initiated not later than six months from the total liberation of France.

By far the bulk of the serious purge cases in France has been handled by the Courts of Justice. According to official statistics, up to 30 April 1945 these courts had tried some 16,100 persons.¹ Of these, over 12,700 had been condemned to prison, and 1,458 to death. The number of acquittals was 2,432.

1. L'Aube, 4 June 1945.

The Courts of Justice have been the most successful innovation effected by the purge in the judicial machinery. Due to their comparatively speedy establishment the French soon emerged from the period of popular justice and military tribunals to a purge by law in which, so far as the court procedure was concerned, it was possible to combine swift justice with a fair trial. As of 28 February 1945 there were 126 Courts of Justice in France, with 865 magistrates of various types assigned to them. The increase in the speed with which the purge was applied by the Courts of Justice is indicated by the following table covering their activities:

<u>Month (1945)</u>	<u>Persons sentenced to death</u>	<u>Persons sentenced to lesser penalties</u>
January 1	133	1496
February 2	154	1723
March 3	317	1971
April 4	462	4859

D. The Civic Chambers

For the handling of the large number of persons accused of "civic unworthiness" special courts have been established, called at first "Special Sections" (Sections Spéciales) and later Civic Chambers. At least one of these is attached to each Court of Justice, or to each section of the Court of Justice whenever the latter is divided into sections. The Civic Chamber is composed of a judge and four jurors, the latter chosen in the same manner as those for the Court of Justice. The territorial competence of the Civic Chamber is coextensive with the section of the Court of Justice to which it is attached. Cases are presented to the Chamber by a prosecuting attorney (commissaire du gouvernement). The departmental Committees of Liberation have the right to apprise Civic Chambers of cases of which they should take cognizance.

1. FCC: Ticker, 9 February 1945.
2. OWI: European News Digest, 20 March 1945.
3. New York Times, 8 April 1945.
4. L'Aube, 4 June 1945.

Laws of procedure and of evidence do not differ from those of the ordinary French courts. Appeals can be addressed to the Court of Cassation, and the right to ask pardon is also maintained. Trials can be held in absentia. The same six-month time limit imposed for the Courts of Justice has been set for the receipt of accusations of national unworthiness by the Civic Chambers.

As of 30 April 1945 the Civic Chambers had condemned 11,092 to national degradation, and had deprived 22,487 persons of their voting privileges only. The number of those that had been acquitted was 4,458. The large number of cases in which the defendant was deprived only of his right to vote is explained by the fact that the Civic Chambers were assigned the task, prior to the municipal elections, of declaring ineligible to vote all members of anti-national organizations of whose cases they were apprised, without bar to the later imposition of other penalties upon due trial.¹ At the present writing it seems likely that the total number of persons who will have faced the Civic Chambers may exceed 50,000, and will be much greater than the number of persons brought before Courts of Justice. Should those estimates prove correct, there will have been created in France a fairly numerous class of persons not only without civic rights in the American sense, but also without many important economic and social powers.

E. The High Court of Justice

The Courts of Justice were considered sufficient to take care of most major collaborators, but for the top Vichyites a special "High Court of Justice" (Haute Cour de Justice) was set up at Paris.² The high Vichyites over whom this court has jurisdiction range from Pétain and Laval down through all the Vichy ministers, secretaries of state, under secretaries of state, commissioners general, secretaries general, residents general, governors general, and high

1. FCC: Ticker, 9 February 1945.

2. Ordinance of 18 November 1944, JO, 19 November 1944, p. 1382.

commissioners. Approximately seventy men fell into these categories when the law instituting the High Court was passed. Of these only about twenty were then available for trial. The High Court set up to try these men for the crimes they committed during their tenure of office under Vichy is composed as follows:

1. Three magistrates: the first president of the Court of Cassation, the president of the Criminal Section of the Court of Cassation, and the president of the Court of Appeals of Paris.

2. Twenty-four jurors, drawn by lot from two lists established by the Provisional Consultative Assembly, the first list composed of ex-deputies and senators, and the second list made up of other categories, twelve names to be selected from each of the two lists.

Other features of this High Court are that it has a large and specially selected group of magistrates to conduct the investigations for its trials, and that its prosecuting attorney (procureur général) and two assistant prosecuting attorneys (avocats généraux) are chosen from among the highest-ranking and best qualified members of this branch of the French magistracy. Sentences of the court cannot be suspended or appealed, but the condemned man can request pardon from the President of the Provisional Government. Laws of evidence and other technical matters are similar to those of regular courts, except for the provisions dealing with trials in absentia.

The High Court of Justice began its investigations on 11 December 1944, but up to the beginning of June 1945 it had tried only two cases, that of Admiral Jean Pierre Esteva, who was sentenced to life imprisonment, and that of General Henri-Fernand Dentz, who was condemned to death. 1 Of the men subject to the jurisdiction of this court, however, no less than twenty-eight were in French hands in February 1945, and some, notably Pierre Etienne Flandin and François Pierre Boisson, had been held since the Algiers period. 2 With the return of Pétain to

1. French Press and Information Service, Doc. Série II, No. 1749.

2. Parisien Libéré, 1 February 1945.

France in April 1945 all plans for holding trials of lesser Vichyites were postponed, since the basic question of their guilt largely depended upon the determination made in case of Pétain.

F. The purge of Government officials.

The procedure decreed for effecting the epuration of the government services permitted a wide diversity of results, inasmuch as each minister was required to set up a commission of inquiry to investigate cases within his ministry and make recommendations as to their disposition. There was no co-ordination of these separate ministerial commissions, and therefore procedures, punishments, and vigor of prosecution varied considerably from one department to another. In almost all ministries the investigating commission was staffed partly by employees who belonged to resistance groups. The accused was given the right to defend himself, in writing or orally. Since the whole proceeding was regarded as administrative, appeals could be directed only to the Conseil d'Etat. The grounds on which appeals could be based were narrow.

It was at first contemplated that the ministers in Paris would direct the purge of their field services within the departments, and that the Minister of the Interior would supervise the epuration of lesser governmental units, in particular the department and the commune. However, the central administrations threatened to be swamped with dossiers, and therefore a decentralization was decreed whereby the prefects and sub-prefects within the departments were given the duty of purging local administrations, except that the right to inflict some of the penalties of the law of 27 June 1944 continued to be reserved to the central administrations. ¹

Due to the fact that each ministry conducted its own purge and statistics were not centralized, it is difficult to generalize on the effectiveness of the purge, except to say that it was carried out unevenly, that numerically the results are not impressive, and that in

1. JO, 11 December 1944, p. 1837.

the main only the higher levels of officialdom, where the administrative merged into the political, were drastically affected. However, in evaluating the fragmentary statistics that have been given out, it should be borne in mind that the need for administrative action on the purge was often obviated by the condemnation of the employee in a Court of Justice or Civic Chamber, which automatically debarred the convicted person from all government employment and thus rendered administrative measures unnecessary.

In the Ministry of the Interior, the government department with the most employees, the following results had been obtained up to 1 January 1945 by its Purge Commission: 1

Central Administration

Cases Investigated 185

Cases Decided

Dismissals	22
Retirements	5
Temporary Suspensions	2
Demotions	3
Other dispositions, including transfers and acquittals	115

Cases Pending 35

Prefectoral Administration

Cases Investigated 290

Cases Decided

Dismissals	19
Temporary suspensions	3
Retirements	3
Demotions	4
Resignations	1
Other dispositions, including transfers and acquittals	105

Total: 135

Cases Pending 155

Obviously the total of forty-one dismissals as of 30 December 1944 in an agency as large as the Ministry of the Interior, which has an extensive field service, is not impressive. However, between 30 December 1944 and 15 March 1945, on which date the purge of the administrations came to an end, the pace of the purge was stepped up, and doubtless when the final summation is issued the total of persons affected will be greater.

More comprehensive action was taken in the Sûreté Nationale, France's most important national police organization. There 1,792 cases were investigated between 17 October 1944 and 5 January 1945. Of these, 1,200 cases were deemed worthy of further action, and in 600 cases proposals for changes in status were made, including 152 dismissals.¹ In the Ministry of Justice 266 out of a total of 2,100 magistrates were suspended, and 36 of the 152 members of the Conseil d'Etat were penalized in some way. The Communist Minister for Air, Tillon, conducted a vigorous purge of his comparatively small ministry, and transmitted no less than 170 dossiers to the Paris Court of Justice, in addition to his own administrative purging. No national figures have been issued by the Ministry of National Education, which has charge of the epuration of all public educational personnel, but in four French departments it was anticipated that a total of about 1,000 cases, less than 10 percent of all the employees of this ministry, would require investigation. It was expected that the purge in this educational district would be finished early in 1945.²

In some branches of the Government the purge has been markedly ineffective, as in the Comités d'Organisation (Organization Committees). Though the latter have a semi-independent status in the machinery controlling French industry, they are under Government supervision, and unlike the other Government administrations, the Comités d'Organisation are still in the process of the purge. So far the purge commission of

1. OSS source X, February 1945.

2. Ibid.

these committees has produced little in the way of actual results, despite the fact that the committees were established by Vichy and are especially suspect of harboring collaborationist personnel. ¹

G. Economic Epuration

The legislation on economic collaboration was so broadly formulated that a loose interpretation of its provisions would have made a very large number of Frenchmen liable to drastic court action. It was necessary, therefore, to define the crime of economic collaboration narrowly, and to apply its penalties in a spirit of common sense.

1. Economic Collaboration before the Courts of Justice. The number of economic collaborators actually brought before the Courts of Justice has been small. Government prosecuting attorneys have accepted the principle that having done routine business with the Germans does not constitute a crime. "The crime is manifest," explained one of them, "as soon as there is an increase in the potential of the enemy surpassing the normal necessities of subsistence. In addition, there must be established on the part of the furnisher of the goods to the enemy a volition to co-operate with the enemy." ² The purge officials have also proceeded with that scrupulous respect for private property which is characteristic of French law and the French judiciary. In fact, their conscientiousness on this score has attracted unfavorable attention from the Left and resistance press. Franc-Tireur bitterly complained that the investigating magistrates who were supposed to deal with collaborationist bankers and industrialists were actually accomplishing nothing because they were "ravaged by scruples." ³

As a result of these attitudes, the purge of economic collaborators has not been stringent. Some drastic individual actions have been taken, such as the nationalization of the Renault plants, the sequestration of the Paris Gas Company, and the proceedings against France-Rayonne Corporation. ⁴ Aviation industrialists have been hit

1. OSS source S-R, 26 June 1945.

2. Monde, 20 March 1945.

3. Franc-Tireur, 1 February 1945.

4. New York Times, 1 May 1945.

especially hard, as have been the various collaborationist newspapers, which were forbidden to appear, sequestered, and finally made subject to a law under which most of them will probably suffer definitive confiscation.¹ On the whole, however, the economic purge has been notable more for its leniency than for its rigor. The number of persons brought up before the purge courts on charges of economic collaboration has been quite small, especially in view of the fact that as early as the fall of 1941 over eighty percent of the French plants in the occupied zone were working for the Germans, while the percentage in the unoccupied zone was only a little lower.²

2. The Epuration of Enterprises. The second method by which the French hoped to punish economic collaborators was the application of the Ordinance of 16 October 1944 providing for their removal from economic positions of any importance.³ The machinery set up in accordance with the provisions of this ordinance is complicated.⁴ A Regional Interprofessional Epuration Committee has been established for each of the 18 regions of France. It is composed of a magistrate, two members of a departmental Committee of Liberation, two technicians belonging to a labor union, one employers' representative, and three persons of the same labor category as the person under consideration. This regional committee can establish sections to deal with particular professions or occupations. Anyone can bring to the notice of the committee cases worthy of its attention, but false denunciations are punishable under the Penal Code. The committee reports its findings to the regional commissioner (in some cases, to the prefect) and suggests an appropriate punishment. Appeals can be made to the Conseil d'Etat, but only on the ground that the committee or the regional commissioner have exceeded the powers given to them by law.

For cases which are of more than regional importance, a National Interprofessional Purge Commission has been created. This commission

1. Ordinance of 30 September 1944, JO, 1 October 1944, p. 851; Ordinance No 45-920 of 5 May 1945, JO, 6 May 1945, p. 2571.
2. Christian Science Monitor, 31 August 1942.
3. See above, II, D, 2.
4. JO, 16-17 October 1944, p. 965.

consists of a magistrate of the Court of Cassation, two representatives designated by the National Council of Resistance, one representative from each of the Ministries of Industrial Production, Labor, and National Economy, two representatives of union organizations, one employers' representative, and three persons belonging to the same labor category as the person arraigned. A magistrate of the Social Chamber of the Court of Cassation acts as prosecutor. Cases can be submitted to this commission by its president, by the regional purge committees, or by members of the Government. Sessions of the economic epuration committees are not public. Accused persons are allowed to have counsel and to submit a written defense, which can also be developed orally, should they desire to do so.

No statistics are available on the number of persons affected by these epuration committees, but there have been frequent allegations in the press that they have been ineffective, and the Confédération Générale du Travail withdrew its delegates from the National Interprofessional Purge Committee in protest against the slow and inefficient manner in which this aspect of the purge was allegedly being carried out. ¹

3. The Confiscation of Illicit Profits. For the confiscation of illicit profits, a third countermeasure taken against economic collaborators, committees of ten persons have been set up in each department. ² Each such committee is composed mainly of Government financial and administrative officers, but it also includes three representatives of the departmental Committee of Liberation. Cases are referred to it by the ministerial departments into whose province falls the activity producing the illicit profit. The accused can enter a defense in writing, but does not have the benefit of counsel. Decisions of the committee are rendered by a majority vote, and must give the reasons upon which the decision is based. Above the departmental committees has been placed a "Superior Council" (conseil supérieur)

1. FCC: Ticker, 27 April 1945.

2. JO, 7 January 1945, p. 92.

consisting of a president of a section of the Conseil d'Etat, five other high financial and economic officials, and six persons appointed by the Ministry of the Interior upon nomination by the National Council of Resistance. This "Superior Council" is given appellate jurisdiction over the departmental committees; its decisions can be appealed in turn, although only on certain specific and limited grounds, to the Council of State. Procedure before the Superior Council is primarily conducted in writing, and the defendant can employ counsel.

Some enormous fines have been levied by these departmental committees in individual cases, the highest being one of \$25,000,000 against a man who had made huge profits out of furnishing the Germans with blankets. By the end of January 1945 eighty-one committees for the confiscation of illicit profits had been set up, and over 15,000 cases, about half of them in Paris, were awaiting judgment. ¹ Unofficial estimates placed at 50,000,000,000 francs the amount the Government would recover through confiscation proceedings. Up to 31 March 1945 more than 30,000 individuals had been called before the departmental committees, and the fines and confiscations up to that date totalled 7,000,000,000 francs. ² Moreover, at that time between 1,800 and 2,000 persons were being called before these committees each week.

All of these measures, however, were taken at a rather late stage, although as early as November 1944 even non-leftist commentators such as François Mauriac had warned that "the beneficiaries of the German occupation are finishing the job of putting their millions and their billions in safe places." ³ Yet in December Finance Minister René Ploven was still "drawing up plans" for speedy handling of the problem, and on 31 January 1945 it was reported that "the confiscation of fortunes made in business dealings with the enemy is just getting into stride." ⁴ Perhaps the most significant proof of the failure thus far

1. New York Times, 1 February 1945.

2. FCC: Ticker, 7 June 1945.

3. Figaro, 22 November 1944.

4. Pressintel, Paris, 29 December 1944; New York Times, 1 February 1945.

of the plan to confiscate illicit profits is the statement which Pierre Mendès-France made on 5 April 1945 after his resignation as Minister of National Economy: "At present there exists no sure way of reaching illicit profits, often gained by means of treason. ...The 800 billion francs extorted from France by the Germans have been spent in France, yet their recovery accounts for only 12 billion francs in this year's budget." 1

H. Self-Epuration Action in France

Besides the purge enforced by the Government through commissions and courts set up by itself, there has also taken place in France a self-purge conducted by certain institutions, professions, and occupations. In some cases the Government has specifically enjoined the self-purge of the particular profession, as in the Ordinance of 6 December 1944 authorizing the councils of the various bar associations to purge collaborationist lawyers; 2 in other cases organizations have voluntarily assumed the responsibility of removing unworthy members. One of the most effective of these self-epurations has taken place in the trade unions. For example, the Union des Syndicats Ouvriers (Federation of Workers' Unions) itself set up a purge commission with the power to exclude workers from membership for life, and in numerous cases sanctions were actually applied. 3 The journalistic profession was drastically purged of its collaborationists by the device of requiring all journalists to have an identity card which could be secured from the competent commission only upon the presentation of proof as to the patriotic bearing of the journalist in question. On the other hand, some institutions and organizations which have been left to purge themselves have not done so to any significant extent. The Catholic Church has apparently taken no action against those of its clergy who were accused of too favorable an attitude to the Germans and to Vichy. The Académie Française and its sister institutions, despite much prodding in the press, retain among their members persons supposedly notorious collaborationists.

1. Combat, 7 April 1945.

2. JO, 7 December 1944, p. 1726.

3. OSS source S-R, 12 October 1944.

IV. POLITICAL ASPECTS OF THE PURGE

A. The Purge as a Divisive Issue

The question of the purge has become, since the liberation of France, one of the principal political issues of the country. The Left and Resistance forces have remained united on the purge, at least to the extent of insisting that it should be extensive, drastic and speedy; other forces in France, while unwilling to take the politically dangerous stand of direct and complete opposition to the purge, have labored to slow it down and minimize its effects. The purge as actually conducted thus far has satisfied neither group, being too weak for the first and too severe for the second.

B. Supporters of the Purge

The proponents of a thoroughgoing purge have been particularly discontented by the results achieved up to the present. They have criticized the purge first of all for the slowness with which it has been conducted, citing numerous cases of major delay, such as that of the ex-police prefect of Paris, who eight months after his arrest as a collaborator had not yet been brought to trial.¹ Even worse, claim the pro-purge groups, is the likelihood that some prominent collaborationists will escape altogether, and that "returning deportees from Germany may at any moment meet on the streets of Paris the men who persecuted them, for there has been no purge in the police or the judiciary."² There have been continual allegations that only the small fry of collaboration are being severely punished, while the important malefactors, particularly the economic collaborators, are not being brought to justice.³ The Government's setting of a time limit (15 March 1945) for the purge in the Government services has also aroused great indignation. The resistance paper Volontés protested: "The purge, which is hardly begun, is considered as almost over!"⁴

1. FCC: Ticker, 23 April 1945.

2. Speech of Auguste Gillot, Communist member of the Conseil national de Resistance, New York Times, 24 April 1945.

3. New York Times, 14 November 1944; La France au Combat, 25 January 1945.

4. Volontés, 31 January 1945.

The Left and Resistance groups continually allege that sections of the Government's personnel remain permeated with a Vichyite spirit.¹ Occasionally there are admissions that the top layer of collaborationist officials has in fact been removed, but these admissions are usually accompanied by complaints that even in purging the Vichy elite there have been notable gaps and strange delays. "Why," demanded the Socialist Le Populaire in its issue of 9 March 1945, "have some of the magistrates who helped prosecute the Riom trials continued untouched until late in February 1945?" "Why has the redoubtable corps of the Inspection des Finances not been thoroughly purged?" the Resistance paper Combat has asked.² According to the Left and Resistance, much of the administrative sabotage and other fifth-column activity that has occurred in France since liberation must be attributed to the general leniency with which the Government has carried out the purge.³ Interpreting this leniency as evidence that General de Gaulle is not really prepared to effect the basic reforms which they demand, they profess to fear that after the purge, as before, France will continue to be dominated by "the trusts."

Left and Resistance criticism of the Government's conduct of the purge has centered in the Provisional Consultative Assembly. Since the Algiers period this body, which by the nature of its composition has been the most effective voice of these groups, has continually harassed and criticized the Minister of Justice, François de Menthon. In December 1944 it registered its dissatisfaction by reducing the budget of the Ministry of Justice by a symbolic hundred francs, and in the bitter debates accompanying this action De Menthon was so severely attacked that there could be no doubt of the unacceptability of his explanations to the greater part of the Assembly.⁴ A similar debate took place during the budget debates of February 1945, when the Assembly by a vote of 169 to 14 passed what amounted to a vote of censure on De Menthon for mis-

1. OWI: European News Digest, 11 April 1945; Franc-Tireur, 6 December 1944.

2. Combat, 20 September 1944.

3. L'Humanité, 28 November 1944; Libertés, 26 January 1945; La Bataille, 18 January 1945.

4. Franc-Tireur, 6 December 1944.

handling of the purge.¹ Only the fact that De Gaulle continued to maintain confidence in de Menthon and refused to admit that his ministers were responsible to the Assembly saved De Menthon at that time.

The National Council of Resistance has also more than once expressed discontent with the Government's handling of the purge issue.² Criticism of the purge, furthermore, has been featured consistently and prominently in papers belonging to or friendly to the Left and Resistance movements, notable Le Populaire, L'Humanité, Front National, Combat and Franc-Tireur, to single out only a few. These journals have continually given De Menthon's efforts a cold reception, whereas the conservative papers such as Le Monde and Le Figaro, despite their frequent objections to certain aspects of the purge, have sympathetically portrayed the difficulties confronting De Menthon and in effect supported him.

C. The Purge Policy of General De Gaulle

Faced with these repeated and bitter attacks on De Menthon, De Gaulle was finally forced to let him go at the end of May 1945, but chose as his replacement Pierre-Henri Teitgen, like De Menthon a Christian Democrat and a professor of law, whose policy on the purge is not considered likely to differ from that of his predecessor.

This change, however, represents the only concession which De Gaulle has been willing to make to the Left and Resistance criticism of the purge. He has maintained and even strengthened his insistence that the purge ought to be conducted with mildness and moderation. When the question of the purge was raised before the Assembly in Paris in December 1944, De Gaulle evidenced a striking spirit of tolerance toward the men of Vichy and their followers. "As for the drama of 1940," he declared, "there were many differences then between men and groups. I did not go to Vichy, but many who were there believed that they were serving their country in their own way."³ Still later, when taxed by Communists with failure to purge

1. Combat, 23 February 1945.

2. FCC: Ticker, 23 April 1945.

3. New York Times, 28 December 1944.

Vichyite army officers, notably General Erienne-Paul Beynet, he replied that he completely disagreed with the suggestion that those "large numbers of Frenchmen who at one time were more or less constrained to submit to the law of Vichy," should be excluded from France.¹ The maintenance of legality and public order, and the restoration of national unity, are clearly much more important to De Gaulle than bringing collaborators to justice; and he rejects the theory that a vigorous purge is essential to the attainment of these objectives.

Besides frequently chiding the advocates of a far-reaching purge, De Gaulle has given practical effect to his own more indulgent views by a liberal policy of pardon in regard to death sentences. He has refused to make public the number of commutations he has granted, claiming that the right of pardon is a prerogative for whose use he need account to no one. That he has employed the right extensively can be inferred from protests in the French press,² from the fact that the jurors of the Court of Justice at Marseille went on strike to protest De Gaulle's alleged abuse of this power,³ and from the fact that of a group of ten persons sentenced to death at Dijon over a period of four months, De Gaulle definitely pardoned five, and as of 5 April 1945 was still considering the cases of three others.⁴

In line with its general policy of limiting the scope of the purge, the Government announced on 23 January 1945 that 15 February 1945 had been fixed as the final date for the epuration of the central administrations and 15 March 1945 for that of the local administrations. Moreover, 1 May 1945 was decreed as the deadline for all capital cases in which the investigation had been completed. This decision caused considerable adverse comment, particularly in the leftist press. Franc-Tireur commented bitterly that after 1 May all the collaborators "would be able to start their dirty work again," and that "one ceases fire when the fight is finished, and not when it has just begun."⁵

1. New York Times, 16 June 1945.

2. Action, 2 February 1945.

3. Monde, 14 April 1945.

4. New York Times, 6 April 1945.

5. Franc-Tireur, 24 January 1945.

D. The Anti-Purge Forces

General De Gaulle has apparently based his purge policy on the belief that the loud and frequent protests of the Left and Resistance groups represent a highly vocal minority, whereas in the country at large there exists a powerful but less articulate majority that approves his moderation.

As the purge progresses, it does in fact appear that powerful elements in the population support the Government's attitude. These elements are not restricted to collaborationists who themselves fear the results of a drastic epuration. They tend to embrace all those who are apprehensive of far-reaching political, economic, and social change, and include not only Frenchmen whose political doctrines are those of the pre-1940 Right, but also many who had been as far to the Left as Radical Socialism. The anti-purge forces profess to be frightened by the possibilities of an indiscriminate "terror" after the style of the French Revolution. They do not wish, they say, to see the destruction of the present elite. They are aware that many who support the purge look upon it as an instrument which will facilitate the destruction of France as a bourgeois capitalist state. "It cannot be tolerated," said the Catholic resistance L'Aube, "that under the guise of a purge there should be spoliation or structural modification of private enterprise."¹ Motives of this sort have been powerful among conservatives of all types and particularly among the peasantry, less affected by the German occupation and traditionally opposed to violent and rapid change.² Their apprehensions have been strengthened by the violence and illegality which has accompanied the purge. Though minor in extent, this popular violence has caused serious revulsions in some sections of the population.

The purge has also met with a great lack of enthusiasm among employees of the state, not only because many of these are more or less compromised themselves, but also because they are upset by the summary, untraditional departures from bureaucratic procedures which are inevitable in a purge.

1. L'Aube, 28 October 1944.

2. The important agricultural organization Confédération Générale de l'Agriculture, which is representative of peasant thought, glossed over the purge issue in its congress of March 1945. OSS source S-R, 16 April 1945.

The fonctionnaires have a certain stake in the prevention of any drastic transformation of the government, if only in their pension rights. They clearly would like everything to settle down to the peaceful routine of the Third Republic, and show distress at seeing civil servants punished for collaborationist acts committed mainly because of their desire to remain civil servants. It has been alleged that administrative sabotage of the purge, carried out by civil servants opposed to its objectives, has been one of the most important factors in weakening and slowing down the epuration.

Finally, among those fundamentally opposed to anything but the narrowest possible purge must be placed the clergy and the political parties of Catholic inspiration. The most important spokesman of this group has been Francois Mauriac, who has called for a "policy of charity" toward collaborationists. Mauriac warned in October 1944 that the purge menaced national unity: "A purge on a national scale cannot be carried out quickly, and meanwhile many minds are troubled and a suffering people seeks concord and reconciliation."¹ As the purge went on, Mauriac's pleas for a spirit of forgiveness became more explicit. In January 1945, addressing himself to those who had resisted, he declared that he was not trying to say that they and the collaborationists were equal in virtue, but that "each one can find in his past enough errors to be able to understand a graver error on the part of others, and to forgive them when the time comes."² Mauriac has been seconded in arguments of this nature by the most prominent clerical resistant of France, the Bishop of Montauban.³ The tenor of General de Gaulle's recent statements on the purge would seem to indicate that this line of thought is close to his own.

The anti-purge forces have had to proceed mainly by obliquely discrediting the purge for frontal opposition would be politically inad-

1. Figaro, 19 October 1944.

2. Ibid., 2 January 1945.

3. New York Herald Tribune, 20 October 1944.

visible. They have warned first of the disruptive effects of the purge. "Now that the enemy is gone, half of our country rises to accuse the other half," according to Jérôme Tharaud, a notoriously reactionary member of the Académie Française.¹ He predicted that such a course could only offend France's Allies and retard the progress of French unity. Another favorite mode of attack has been to emphasize, and sometimes exaggerate, the amount of illegal violence produced by the purge, with accompanying demands for an end to lynching and "Ku Klux Klan methods."² A third criticism frequently voiced is that the sentences of the various purge courts are inconsistent and arbitrary, with the result that minor offenders often receive heavy sentences, while more important collaborationists escape with minimum penalties.³ Mauriac, indeed, is quoted as saying that the purge is the new national lottery. Opponents of the purge have also called attention to its injurious effects in the economic realm. "In the coal fields of northern France," said L'Aurore, "production has been hampered by a purge resulting in the discharge or arrest of many engineers."⁴ Finally, the opponents of the purge have continually recalled that the purge is being conducted by tribunals unknown to the Third Republic, the implication being that these special courts are just as odious in principle, if not in fact, as those established by Vichy. The most vigorous statement of these views was contained in the protest of the Council of the Paris Bar, which demanded the restoration of the regular methods of choosing juries, the re-establishment of the appeals channels eliminated in the purge legislation, and the complete abolition of all the special purge courts (juridictions d'exception), as well as a host of other changes, all tending to the restoration of the legal status quo ante.⁵

E. Reaction of the French Public

A substantial part of the French public is clearly dissatisfied with the conduct and results of the purge thus far. According to the

1. New York Times, 26 October 1944.

2. L'Aurore, 18 February 1945.

3. Figaro, 27 December 1944; New York Times, 7 December 1944; Propanal, Lyon, 22 January 1945.

4. New York Times, 28 October 1944.

5. Monde, 14 March 1945.

French Services des Sondages et Statistiques, which runs a very rough public opinion poll, seventy percent of the French population is not contented with the conduct of the purge.¹ Public dissatisfaction has been based mainly on the ground that the purge has not been sufficiently speedy and effective, a fact which has been emphasized by occasional but infrequent outbreaks of public violence in which collaborators have been executed or attacked by direct popular action. The results of the recent municipal elections of 29 April-13 May 1945 would seem to strengthen Left and Resistance claims that their views on the purge are more representative of what the public demands than are the views of General de Gaulle. Indeed, a significant part of the success of the Left and Resistance lists may be attributable to the fact that these groups have tried to force the Government to a more energetic purge. In any event, it cannot be doubted that the majority of the public has in general rejected the Government's view, as expressed by De Menthon, that the purge can and should be liquidated by the end of July 1945.² Thus the purge threatens to remain a critical issue for some time to come.

1. Christian Science Monitor, 16 January 1945.

2. Monde, 20 March 1945.

V. CONCLUSION

A. Accomplishments of the Purge

Thus far the purge has on the whole been conducted in substantial accordance with French standards of due process of law. In the beginning, it is true, there took place some applications of summary justice, but the number of these cases was comparatively inconsequential, and the Government soon had the situation in control. It is true, also, that the trials of collaborationists have been entrusted to courts of exception specially established, outside the existing judicial system, for the conduct of the purge, but even here the rights of the defense have on the whole been scrupulously preserved. The same can be said of the economic and governmental purges, which have been carried out by administrative action, but in which the procedures employed have been of a quasi-judicial nature, the defendant receiving a fair opportunity to be heard. The Government has been successful, in general, in keeping the purge on a level of law; it has avoided creating organs of popular -- and summary -- justice. Much of the Government's success in maintaining legality must be attributed to early legislation providing for the establishment of courts of justice, and to the speedy setting-up of these courts. If these courts had not been brought into existence, the burden of conducting the purge would have fallen on the regular system, which probably would have been totally unable to deal with the number and type of cases that had to be tried. Trials in the courts of justice have been swift, and no dilatory tactics have been permitted, but at the same time the proceedings have not been of a star chamber character.

Another reason for the Government's success in keeping the purge an orderly and judicial proceeding has been its consistent policy of associating the resistance movement with the conduct of the purge, on all levels, through such methods as restricting the membership of purge juries to ex-resistants and having members chosen by resistance groups on all the important epuration commissions. This device has

increased the efficiency with which the purge has been carried out and has given some outlet for the energies and emotions of part of the population which might otherwise be even more critical of the purge than it is at present. The Government has adroitly managed to incorporate the resistance movement into the mechanism of its own purge organs, thus avoiding the danger of having the resistance movements take over the purge, to the detriment of the Government's authority, and the almost equal danger of attempting to disregard resistance, which probably would have led to an early rift between the Government and the currently most energetic elements of the French population.

The Government has wisely adopted a policy of keeping to a minimum the amount of retroactive legislation it passed. Most of this retroactive legislation has had to do more with procedure than with the definition of crimes. The major piece of retroactive legislation, that concerning civic unworthiness and its penalties, has proved to have many advantages. It provides the means whereby collaborators who have not committed major crimes of treason can be subjected to significant punishment in the form of the loss of civic and economic rights, while at the same time it avoids filling the jails with tens of thousands of persons whose chief fault in many cases was weakness rather than criminal intent. The retroactive legislation that was passed filled out the framework of laws so that a legal system now exists sufficient to cover all types of collaboration, from Marshal Pétain's to that of artists who consented to entertain the Germans.

In the scope of its incidence, the French purge has made a fairly impressive showing to date. Up to 30 April 1945 the Courts of Justice alone had condemned 1,458 persons to death and 12,700 to imprisonment for various terms. ¹ Over 33,000 persons had been sentenced to some penalty by the Civic Chambers. ² It is anticipated that before the end of the purge about 100,000 Frenchmen will have been investigated by the Courts of Justice, and the number of those brought

1. L'Aube, 4 June 1945.

2. Ibid.

before the Civic Chambers is likely to be even greater. ¹ To these must be added the persons punished financially by committees set up to confiscate illicit profits, which have already dealt with more than 30,000 cases, and those affected by the epuration commissions in the Government or in the national economy. ²

Of the six main classifications of collaborationists mentioned above, ³ some have been combed rather carefully, particularly the members of anti-national organizations, the propagandists, and members of organizations to repress resistance. The high Vichyites have not yet been tried in great numbers by the High Court of Justice, but the majority of those subject to the jurisdiction of that Court are now awaiting trial, and it does not seem likely that they will escape retribution, though admittedly they have enjoyed a long respite. Epuration in the Government has been less striking, yet even here the top layer of collaborationist officials has been skimmed off, and many others of lesser importance have been punished administratively in some way.

B. Shortcomings of the Purge

One of the principal shortcomings of the purge has been the slowness with which it has been conducted, for while the trials themselves have been swift, the investigations preceding the trials have been the reverse. As of 1 May 1945, the dockets of the Courts of Justice contained 25,004 cases awaiting trial. The dockets of the Civic Chambers are also clogged. It may be that this defect is not easily separable from the principle of giving everyone a fair trial, but it has been the subject of much adverse comment in France.

The purge has also been somewhat discredited by the fact that it has tended to spare certain large groups which, in the estimate of much of the French public, particularly of the Left parties and of the Resistance, are most worthy of punishment. Economic collaborators have

1. L'Aube, 22 October 1944.

2. FCC: Ticker, 7 June 1945.

3. See above, Section I, D.

not been severely affected, though some of them have lost their profits. Protests have also been made, with considerable basis, that the magistracy, the police, the Armed Forces, and the middle echelons of the Government administrations have escaped punishment to a large extent. There have also been bitter complaints about the failure of the Government to arrest certain individual notorious collaborators, and about its alleged pampering of some collaborationists who have been arrested.

There has been an unsettling inconsistency in the application of the purge. Similar crimes have received markedly dissimilar punishments before the various courts of justice. Some ministries have been purged vigorously, others lightly. The Government has not effectively co-ordinated any level of the purge.

The main shortcoming of the purge, however, has been that it has not fulfilled its most important object, to satisfy the French demand for justice. The purge has not proved to be that "act of psychic catharsis" which was to have cleansed France of the corruption brought by four years of collaborationist intrigues and betrayal. It has become an issue of politics instead of an instrument of national regeneration. The purge has divided, not united, the nation.

C. The Future of the Purge

The Government's hopes that the purge issue would die quietly and the purge itself come to a peaceful end do not seem likely to be fulfilled. Thus far the only phase of the purge which has definitely ended is the epuration of the Government. New developments have occurred recently which continue to keep the purge an acute question. Among these developments has been the return to France of many leading collaborationists, notably Pétain and Fernand de Brinon. Anticipation of the trials of these men has reinvigorated a popular interest which has never really flagged.

Moreover, French prisoners and deportees, the chief victims of the collaboration policy, have come back in substantial numbers, bringing with them tales of German brutality that have fanned anew the national hatred against those who aided the Germans. As long as these

prisoners continue to return, it is not likely that the purge issue will be allowed to die down.

Finally, the recent municipal elections have shown a strong tendency to the Left. The two parties that gained most strikingly, the Socialists and the Communists, are precisely the parties that have most vociferously and consistently demanded that the purge be accelerated, broadened in scope, and made more drastic in penalties. At present these groups are confronted with a Government which is fundamentally unsympathetic to their demands. However, De Gaulle has promised a general election to be held in the autumn of 1945, and should these elections result in a government of the Left, there is every likelihood that the administration of the purge will become more energetic.