

from the effect very much and have repeatedly complained before the Japanese authorities. Therefore the Japanese Consul protested to the Chinese Municipality threatening to take own action against the Anti-Japanese Boycotters.

As a result, the Japanese marines landed at Nimshan near Canton. In the meantime Eugene Chen, one-time foreign minister, returned to Canton from Hongkong to take active part in the Southwest political affairs.

## A Chinese Constitution For The Chinese\*

IN this issue *The Critic* publishes three special articles on Dr. John C. H. Wu's draft constitution which was released some four months ago for general study and criticism and which is at this moment being revised in deference to candid public opinion. Within the restricted scope of the three articles we attempt to present the history of constitutional developments in China, the international tendencies of her foreign policy, and the pertinent views on the constitution under review.

The most gratifying feature which has greeted us in our present study, however, lies outside of the subject itself. The abundance of literature which has flooded the Chinese press since the first appearance of the draft constitution is most agreeably overwhelming. It may be safely asserted that there is no single Chinese periodical of note but has devoted generously of its columns to an intelligent examination of our future bill of rights. The wide-spread interest thus manifested is a healthy sign of the growth of a national political mind. This is a condition precedent to a full exercise of political rights by the people and to the termination of what the Kuomintang has been pleased to call the period of political tutelage.

The old axiom still holds good as ever that a nation deserves as much of its ruler as it proves itself deserving. Before a constitution can be made effective as an instrument of guarantee, its beneficiaries must of necessity understand what it is and what it implies. A nation cannot be governed constitutionally until and unless it can think constitutionally. There would have been no constitution for America, for France or for Germany, had there been no constitutional-mindedness on the part of their nationals. The response which Dr. Wu's draft has brought forth cannot but be accepted as auguring a new era of political thought in China which alike challenges the government and stimulates the governed.

In a broad sense the submission of the draft to public criticism is in itself a test of public claim to constitutional rights. If the proposed constitution were received with perfunctory comments and cursory interest, it may be judiciously concluded that the nation is neither prepared for nor worthy of any constitution at all. The extensive and intensive commentaries which we have witnessed in the press should go a long way toward proving that the Chinese are both interested in having a constitution and qualified to have it. The public is thus indebted to Dr. Wu for providing, wittingly or otherwise, a venue for expressing its studied opinions on a subject which directly bears upon its well-being.

General appreciation, however, does not necessarily

signify general endorsement; in fact, appreciation is most genuine when it is most critical. Dr. Wu and his associates will hardly be perturbed by the voluminous adverse criticisms showered upon them and may conceivably take particular delight in watching the critics wrangle, pro and con, over the fruit of their ardent labors.

In studying the draft the essential point to be borne in mind is its status as a draft. There is no finality to its text, and there is no pretense to its perfection or near-perfection. The process of revision which is now proceeding may alter it so materially as to submerge its present identity. So it would suffice here to deal only with the fundamental principles underlying its conception.

No matter what the ultimate constitution may be, we may register at the outset that it will be based upon Dr. Sun Yat-sen's San Min Chu I or the Three Peoples' Principles. Critics are apt to deprecate their introduction as lacking in precedent. This may be true in form, but in spirit ample justification is provided in the constitution of Soviet Russia, Germany and other lesser states, in which the political tenets of each party in power are incorporated.

The San Min Chu I, furthermore, is not an exclusive legacy of the Kuomintang. It is more than a party platform; it is a political doctrine to which the Chinese, with or without party affiliations, can hardly object. The Kuomintang may recede into the background in the China of tomorrow, but the Three People's Principles will guide, in one way or another, her constitutional evolution under other political organisms. They will, in other words, survive any single party, which reigns today or may reign in the future. Their embodiment in the draft, when viewed in this light, need occasion no concern over its inelasticity or inflexibility.

A constitution is a recorder and a forerunner of political tendencies of an age. It reflects the political wisdom of the past and lights the political path ahead. It is not, contrary to popular conceptions, an instrument which becomes venerable only in time. If the spirit of "equality, fraternity, liberty" may permeate the French constitution, or if the creed of independence and individual freedom may characterize the American constitution, then there is no reason why the San Min Chu I may not be the basis of China's constitution.

For the provision for "the People's Livelihood" Dr. Wu's draft is also not wanting in precedent. In the German constitution one may note even more definite and thorough protection to labor, for "every German shall have the opportunity to earn his living by economic labor," and "so long as suitable employment cannot be procured for him, his maintenance will be provided for."

Neither need Dr. Wu apologize for injecting moral

\*The text of the Draft Constitution may be found in "The Critic," Vol. VI. Nos. 34, 35, and 36.

cardinals into his draft. Some may contend that the reverence for parents calls for no constitutional encouragement, but if we were to be frank with ourselves, the spirit which has held the family system intact and thereby the nation together is in danger of fast extinction. China for four thousand years has been a great nation because of her traditional virtues of which filial piety stands out pre-eminent and the disregard of which has been largely responsible for the moral disintegration of this generation. If Prohibition were worthy of a constitutional amendment in America, shall we hesitate to grant an equal importance to the respect for parents which is the fountain of all human relationships?

While we have endeavored to examine certain parts of Dr. Wu's draft in the light of precedents, we are far from the belief that it need be patterned after any other constitution at all. Only too often are we prone to emulate the examples set by the occident, and only too readily have we ignored the special conditions in our country which demand special treatment. A constitution which is to govern China must be a Chinese constitution. It may resemble that of another country, and yet it may not. The sole test is its serviceability to China, and China alone. Incapable of meeting this test, even the best compilation from the best constitutions of the world will be worthless indeed.

## Constitutional Developments In China

By H. H. SUN (孫浩煊)

IN THE short period of less than three decades, from the closing years of the Tsing Dynasty down to the present, there have been not less than a dozen fundamental laws by which China has been governed; not to mention others, both national and provincial in their scope, which were drafted but not put into effect. All these laws may be divided into three groups, representing three distinct periods; namely, the monarchical period, the parliamentary period and the party dictatorship period. If we set as the aim of a constitutional movement the establishment of a government "of the people, by the people, and for the people," these instruments have been decidedly barren in positive achievements. Yet, remembering that the Chinese revolution did not stop with the overthrow of the Manchu dynasty and has even now by no means completed its course, these constitutions and attempts at constitution making may very well be compared to the milestones along the way we have trodden, and a study of them, especially on the eve of adding another such mark, cannot fail to be profitable.

China's constitutional movement started at the beginning of the century, when contact with foreign powers had again and again not only exposed her weakness but also demonstrated, what is really more important, the principal cause of it, namely, her archaic political machinery accentuated by incapability and corruption at the top. Schemes of reform finally were directed toward the adoption of a constitutional government. In 1909 the Law of the Principles of the Constitution was promulgated. It was largely modelled after the Japanese constitution, establishing, according to its preamble, a constitutional monarchy but with all the powers of the government centered in the hands of the emperor. It was to be carried out in full after a preparatory period of ten years.

The proposed reform however came too late. Though there were people who still believed in the retention of the monarchy under perhaps a more liberal constitution, the revolutionary movement under the leadership of Dr. Sun Yat-sen aiming at the overthrow of the Manchu dynasty was fast spreading and finally culminated in the outbreak at Wuchang in 1911. Hoping to stem this poli-

tical storm, the Constitution of Nineteen Principles was promulgated. According to this law, though the monarchy was retained, a cabinet system of government responsible to an elective national assembly patterned after the English system was to be set up. But the demand of the time was the establishment of a republic. Nothing short of it, no matter how drastic the change from the old government could be entertained. However, it was according to this law that Yuan Shih-kai was made prime minister who, failing to save the monarchy through negotiations with the revolutionary forces, ultimately recommended the abdication of the Manchu emperor.

Thus ended the Manchu dynasty. But the revolution that overthrew it was not a racial revolution. The monarchy was simply the first obstacle to the regeneration of China. Had its reigning family been of Chinese stock, it would have met the same fate. Thus as late as 1925 Dr. Sun Yat-sen declared in his will that "the revolution is not yet finished."

Immediately following the outbreak of revolution at Wuchang, two thirds (later increased to seventeen) of the eighteen provinces of China Proper declared independence. A congress was then called of representatives from these provinces who formulated the Law of the Organization of the Provisional Government. It adopted the presidential system of government with a single chamber legislature known as the Senate, composed of three representatives from each province. Without going into details we may describe it as having in the main followed the scheme of the American Federal Constitution. In accordance with this law a provisional government was organized in Nanking with Dr. Sun Yat-sen as the first provisional president.

Upon the unification of China through the abdication of the Manchu emperor. Dr. Sun Yat-sen resigned his presidency and the senate elected Yuan Shih-kai in his stead. In the meantime the senate had completed the Provisional Constitution of the Republic of China which was promulgated by President Sun on March 11, 1912. The main features of the Provisional Constitution are the incorporation of a bill of rights of the people and the