

Nova Law Review

Volume 30, Issue 2

2006

Article 2

The Real French Constitution

Anthony Chase*

*

Copyright ©2006 by the authors. *Nova Law Review* is produced by The Berkeley Electronic Press (bepress). <http://nsuworks.nova.edu/nlr>

THE REAL FRENCH CONSTITUTION

ANTHONY CHASE**

I.	INTRODUCTION.....	209
II.	END OF AN AFFAIR?	211
III.	READING HISTORY	213
IV.	THE GREAT REVOLUTION	217
V.	CONCLUSION	220

I. INTRODUCTION

Admittedly, the first analytic forays into popular legal culture,¹ especially including research on law and film,² did not initially make much of a dent in American legal scholarship. One law professor, Kenneth Lasson of the University of Baltimore, even expressed skepticism regarding the intellectual value of such research on the basis of *the title* of one published essay in the field.³ Lasson, himself the author of an oddly titled law book, *Mousetraps and Muffling Cups*, inspired another law review essayist, Oklahoma City attorney Michael D. McClintock, to adopt an equivalently shorthand approach, questioning the value of research into American legal culture simply by reproducing Lasson's original list of presumably dopey article titles. The sarcasm of Lasson and McClintock's writing style appeared to eclipse the sincerity of their argument.

Where Lasson had adroitly removed author information, McClintock deleted entire citations, making it impossible for readers to decide for them-

+ At the author's request, *Nova Law Review* has retained the informal essay format of this article and thus deviated from standard procedure with regard to providing sources for each of the textual references employed.

* Professor of Law, Nova Southeastern University, Shepard Broad Law Center.

1. See, e.g., Anthony Chase, *Toward a Legal Theory of Popular Culture*, 1986 WIS. L. REV. 527 (1986); Anthony Chase, *Lawyers and Popular Culture: A Review of Mass Media Portrayals of American Attorneys*, 1986 AM. B. FOUND. RES. J. 281 (1986).

2. See Anthony Chase, *An Obscure Scandal of Consciousness*, 1 YALE J.L. & HUMAN. 105 (1988).

3. Kenneth Lasson, *Scholarship Amok: Excesses in the Pursuit of Truth and Tenure*, 103 HARV. L. REV. 926, 930-31 (1990). Lasson's essay is routinely cited for the proposition that legal scholarship is partly a consequence of pressure to obtain academic tenure, though so mundane a fact was no doubt appreciated by most of those reading what Lasson wrote beforehand. The real trick is to take the next step and provide a socioeconomic explanation of why law schools were integrated into institutions (universities) which required academic scholarship of legal professionals in the first place. See Anthony Chase, *The Legal Scholar as Producer*, 13 NOVA L. REV. 57, 65 (1988).

selves whether the suspect titles had been drawn from articles worth reading.⁴ But good things come to those, including Lasson and McClintock, who wait, and a confluence of factors ranging from the dramatic rise of culture studies within the late-twentieth century American college curriculum through the ubiquity of legal culture in American society have, after almost two decades, brought the study of law and popular culture into legal academia's mainstream.⁵ "Mass-mediated images," argue Austin Sarat, Lawrence Douglas, and Martha Merrill Umphrey, "are as powerful, pervasive, and important as are other early twenty-first-century social forces—for example, globalization, neo-colonialism, and human rights—in shaping and transforming legal life."⁶ This realization seems to have taken hold both inside and outside law schools.

Published in 2002, *Movies on Trial: The Legal System on the Silver Screen*⁷ illustrates one way of approaching legal culture, giving special focus to different cinematic genres dealing with law and lawyers.⁸ Therein the reader will find, for example, a brief discussion of why there have been so few motion pictures and television series based upon the workings of the United States Supreme Court or devoted to an exploration of constitutional law and practice. But there has developed an important if carefully circumscribed narrative tradition in both fiction and film dealing with the American Revolution, an event from which constitution-making in the United States is inseparable, as well as with the historical context within which the origins of American constitutional government must be situated.⁹

The same holds true for France. While French cinema has rarely given focus to French appellate practice or constitutional decision-making, the French Revolution has been a popular subject of French movies and mass entertainment. As a companion piece to what has already been written about the popular culture of the American Revolution, this essay confronts one of the ways the French Revolution has been portrayed in French motion pic-

4. Michael D. McClintock, *The Declining Use of Legal Scholarship by Courts: An Empirical Study*, 51 OKLA. L. REV. 659, 674 (1998).

5. See, e.g., LEGAL REELISM: MOVIES AS LEGAL TEXTS (John Denvir ed., 1996); PAUL BERGMAN & MICHAEL ASIMOW, REEL JUSTICE: THE COURTROOM GOES TO THE MOVIES (1996); LAW AND FILM (Stefan Machura & Peter Robson eds., 2001); STEVE GREENFIELD ET AL., FILM AND THE LAW (2001); RICHARD K. SHERWIN, WHEN LAW GOES POP: THE VANISHING LINE BETWEEN LAW AND POPULAR CULTURE (2000); MICHAEL ASIMOW & SHANNON MADER, LAW AND POPULAR CULTURE (2004).

6. LAW ON THE SCREEN I (Austin Sarat et al. eds., 2005).

7. See ANTHONY CHASE, MOVIES ON TRIAL: THE LEGAL SYSTEM ON THE SILVER SCREEN (2002).

8. *Id.* at 35–66.

9. *Id.*

tures and suggests that interpretation of such “mass-mediated images” can help shed light on the fundamental character of French law and politics.

II. END OF AN AFFAIR?

The U.S.-French relationship has, of course, become enormously controversial since the French failed to support the United States in its decision to invade Iraq in 2003. At one level, the dispute between the two countries is said to turn on a sharp divide over the relationship between the Iraq war, the United Nations, and international law. On this view, the French are made uncomfortable by the Bush administration’s embrace of a unilateralist policy in foreign affairs, especially including the invasion of Iraq, and by the two nations’ contrary views of how international law should be applied to the circumstances of Iraq’s alleged efforts to develop weapons of mass destruction, and its relationship to international terrorism.

With respect to the first issue, I have elsewhere sought to show that claims of a new unilateralism in American foreign policy are greatly exaggerated.¹⁰ And the United States has pursued a self-interested foreign policy quite consistently since the end of the Second World War. It would, for example, be silly to argue that America’s war in Vietnam was somehow less “unilateral” than the recent invasion of Iraq. As to the second issue, how international law should be applied to American conduct, I have also sought elsewhere to demonstrate that international law has in common with other kinds of law a certain flexibility which permits arguments to be marshaled—and marshaled convincingly—on both sides of most major international disputes, including the Iraq war.¹¹ Both the United States and France, their diplomats and lawyers, understand this and are well aware of the fact that legal arguments are not at the heart of the friction between the two nations over Iraq.

While it is true that the United Nations Security Council did not sanction the United States’ use of military force against Saddam Hussein in 2003 (in contrast to the Gulf War of 1990-91), the U.N. also failed to approve the use of military force by NATO in Bosnia to combat the “ethnic cleansing” practiced by Slobodan Milosevic’s Serbian regime—and in that instance, the French not only approved the use of force but were themselves participants in its deployment. The lack of correspondence between NATO’s use of force in Bosnia and what Secretary General Kofi Annan refers to as the

10. Anthony Chase, *Some Realism About Unilateralism*, 28 NOVA L. REV. 631 (2004).

11. Anthony Chase, *Marxism and International Law, Historical Materialism* (forthcoming 2006).

“U.N. paradigm” did not trouble the French when the human rights of Albanian Kosovars were on the line.

To be sure, American pundits like Ann Coulter are quick to assert that the *real* difference between the United States and France is simply that Americans have the backbone to stand up for liberty and the French do not.¹² With regard to President Ronald Reagan’s bombing of Tripoli, for example, in an effort to discourage Libya’s sponsorship of terrorism, the French did not, in Coulter’s view, rise to the occasion. “Quaking in the face of [Reagan’s] show of manly force,” she writes, “France denied America the use of its airspace. As a consequence, American pilots were required to begin their missions from airbases in Britain.”¹³ Nevertheless, some important facts are omitted from Coulter’s rendition of events. Neither France’s airspace in the bombing of Tripoli, nor its Security Council vote in the United Nations at the time of the Iraq invasion were even important to the success of American military operations, let alone essential to them.

It was a very different story in Vietnam, however, when France’s own war was very much in doubt and the United States held all the cards. Foreign correspondent John Newhouse records that in April 1954, the position of the French garrison at Dien Bien Phu was hopeless. “By then, [the U.S. Navy’s] Admiral Radford had reported the conclusion of an ‘advance study group’ in the Pentagon: ‘Three tactical A-weapons, properly employed, would be sufficient to smash the Vietminh effort there.’”¹⁴ The Vietminh was the fighting force assembled by Ho Chi Minh and the Vietnamese communists, under the leadership of General Vo Nguyen Giap, for the purpose of resisting a continuation of French colonial domination in Southeast Asia. “In Paris,” continues Newhouse, “the French military were counting on American military intervention, which alone could head off the loss of their colony. Radford, they felt, had promised aerial strikes against enemy positions.”¹⁵

The air strikes were not forthcoming, nor were the three tactical nuclear weapons the Pentagon’s “advance study group” rather optimistically predicted could eliminate the Vietnamese resistance.¹⁶ Nor was a miracle that the French suffered one of the most humiliating military defeats in their na-

12. Ann Coulter, *Attack France!*, TOWNHALL.COM, Dec. 20, 2001, <http://www.townhall.com/opinion/columns/anncoulter/2001/12/20/161943.html>.

13. *Id.*

14. JOHN NEWHOUSE, *WAR AND PEACE IN THE NUCLEAR AGE 100* (1989) (quoting DAVID ALAN STOCKMAN, *THE TRIUMPH OF POLITICS: WHY THE REAGEN REVOLUTION FAILED 380* (1986)).

15. *Id.* (citation omitted).

16. *Id.*

tional history at the hands of the communists at Dien Bien Phu.¹⁷ Ironically, the United States itself, twenty years later, would suffer military defeat when confronted with these same tenacious Vietnamese patriots. But the point to be made here is that France could certainly be forgiven for feeling “betrayed” by an America unwilling to fight or, at least, unwilling to fight when French national pride hung in the balance in Southeast Asia.

At times France has come to the aid of the United States (e.g., Lafayette during the Revolution) and at times Americans have fought to save France (as in World War II); there have also been times when each nation pursued a course of action that bitterly disappointed the other. So what is the current falling out between America and France actually about? In the wake of an obviously acrimonious United Nations debate between the two countries in 2003, a series of bitter tracts have appeared, each entry in the line claiming a fundamental irreconcilability between American and French interests, each failing to identify the historical terrain on which fundamental differences invariably are fought out, substituting a list of carefully selected events—especially recent ones—which obviously fortify rather than subvert their main line of argument.¹⁸ Such pop comparative history or jerry-rigged international relations theory is of little lasting value.

III. READING HISTORY

There *are* fundamental differences between French and American political histories and cultures, but they are not likely to be rationally explored in books ready-made for an anti-French (or anti-French *fries*) American reading public whose prejudices seem easily enflamed by publishing houses looking for a fast buck, occasionally willing to stoke any xenophobic bonfire. Until the last two decades of the twentieth century, a familiar debate in the social sciences turned on the issue of *American Exceptionalism*.¹⁹ It is, to be sure, beyond dispute that since the arrival in New England of white European settlers in the seventeenth century, Americans had regarded themselves as somehow politically and spiritually unique, destined to forge not simply a

17. *See id.* at 99–100.

18. *See, e.g.*, JOHN J. MILLER & MARK MOLESKY, *OUR OLDEST ENEMY: A HISTORY OF AMERICA’S DISASTROUS RELATIONSHIP WITH FRANCE* (2004); KENNETH R. TIMMERMAN, *THE FRENCH BETRAYAL OF AMERICA* (2004); RICHARD Z. CHESNOFF, *THE ARROGANCE OF THE FRENCH: WHY THEY CAN’T STAND US—AND WHY THE FEELING IS MUTUAL* (2005); DENIS BOYLES, *VILE FRANCE: FEAR, DUPLICITY, COWARDICE AND CHEESE* (2005).

19. *See, e.g.*, DAVID W. NOBLE, *DEATH OF A NATION: AMERICAN CULTURE AND THE END OF EXCEPTIONALISM* (2002); CHARLES LOCKHART, *THE ROOTS OF AMERICAN EXCEPTIONALISM: HISTORY, INSTITUTIONS AND CULTURE* (2003); *IS AMERICA DIFFERENT? A NEW LOOK AT AMERICAN EXCEPTIONALISM* (Byron E. Shafer ed., 1991).

new nation but an original genus of civilization, a kind of new harmony out of the transatlantic wilderness.²⁰ But just how accurate was this national self-perception? Has it survived intact into the twentieth-century world of industrial development and economic underdevelopment, technological invention and military intervention, violence and war? And what concrete consequences has it had for politics and society?

Does it, for example, explain why, in Werner Sombart's phrase, "There is No Socialism in the United States?"²¹ While many political historians and social commentators used the concept of American exceptionalism to explain why neither socialism nor Marxism enjoyed the sort of intellectual credibility or popular embrace in America that they had achieved in Europe by the end of the Second World War, the decades following the elections of Ronald Reagan and Margaret Thatcher, the international export (and not just to Western Europe after the fall of the Soviet Union) of Reaganomics or, later, neoclassical *laissez faire* and globalization, seemed to render the differences between the United States and Europe, which had appeared in such sharp outline as recently as the Euro-Communist bid for power in Italy and France, much less visible. The rise of southern rim (or sunbelt) states (and their economic power bases, including military bases) in the United States—and the *Californiaization* (as some called it) of America—only foreshadowed a seemingly unstoppable Americanization of Europe. The more Europe was like the United States, the less exceptional America would inevitably become.²²

So if the United States and Europe, including France, are more and more like each other, at least in the grand scale of things, why should the United States and France have such a bitter falling out *now*? Another way of asking this question is to inquire why, with Europe so far along the road of *unification*, with all that means, should France, in 2005, vote against European constitutionalism in a much-watched national referendum, thus veering off the main highway onto a side trip of its own? And why should the Netherlands, for that matter, wish to join France, breaking out of the pack to chart another stray national itinerary? Amsterdam and Paris would appear, almost single-handedly, to have dynamited Europe's road to utopia—symbolized first and foremost by the American-style economic prosperity promised by the European Union's bureaucratic ruling elite in Brussels.

20. See DEBORAH L. MADSEN, *AMERICAN EXCEPTIONALISM* (1998).

21. WERNER SOMBART, *WHY IS THERE NO SOCIALISM IN THE UNITED STATES?* 23 (C.T. Husbands ed., Patricia M. Hocking & C.T. Husbands trans., Int'l Arts & Sciences Press, Inc. 1976) (1906).

22. See MIKE DAVIS, *PRISONERS OF THE AMERICAN DREAM* (1986).

An acute observation on the outcome of the 2005 European constitutional referendum provides us with a useful key to understanding more than just the Franco-Dutch shredding of the Europeans Unions' vaunted roadmap. According to Jean-Christophe Cambadélis, a French Deputy from Paris' nineteenth *arrondissement*, the no vote represented "la victoire posthume de Georges Marchais sur François Mitterrand."²³ Georges Marchais, general secretary of the French Communist Party for twenty-two years (1972–94), and François Mitterrand, leader of the Socialist Party in France and president of the country for a key decade-and-a-half (1981–95), are indeed both dead. But Cambadélis sees the French rejection of E.U. constitutionalism as a postmortem victory for Marchais in the sense that Marchais not only boisterously opposed Mitterrand's efforts to reconcile a tepid socialism with free-market capitalism during the Reagan years but also vigorously countered Mitterrand's love affair with the Common Market and its successor, the European Economic Community, with a deeply French version of what Benedetto, Browne, and Quaglia label "Euroscpticism."²⁴

In spite of the fact that the two most successful political parties in recent French national elections represented the center-right and the far-right, the French left still has sufficient political clout to throw a roadblock onto the Autobahn, so to speak, the fast track to one Europe. It is that same left which is today even more skeptical of America than of Europe and firmly plants its feet in the soil rather than being dragged along on elite projects like the creation of a single state in Europe or a single definition of freedom, imposed by American militarism, around the world. And this explains much of French hostility to America's Middle Eastern ambitions. To the consternation of pro-American right-wing political philosophers who have come to dominate the French intellectual scene in the past couple of decades, French conservatives, not least of all President Jacques Chirac, often publicly and dramatically opposed the U.S. invasion of Iraq in 2003 as well.

But just as the conservatives alone could not persuade the French to rubber stamp the E.U. Constitution, they could not have placed France in so prominent a position of resistance to American foreign policy as has been the case since the U.N. Security Council debacle of 2003. But if the enduring

23. Posting of Jean-Christophe Cambadélis to Journal d'un Chou, <http://chourka.canalblog.com/archives/2005/05/31> (May 31, 2005, 08:47 CET); Posting of Isabelle Mandraud to Bella Ciao, http://bellaciao.org/fr/article.php3?id_article=15691 (May 31, 2005, 00:03 CET). For an excellent analysis of the larger causes of France's resounding "Non," see Robin Blackburn, *Capital and Social Europe*, 34 NEW LEFT REV. 87 (2005).

24. GIACOMO BENEDETTO ET AL., EUROSCEPTICISM AMONG WEST EUROPEAN COMMUNIST PARTIES IN FRANCE, SPAIN AND ITALY: A COMPARATIVE ANALYSIS (2004), available at <http://www.psa.ac.uk/journals/pdf/5/2004/benedetto.pdf>.

left-wing quality of French political culture helps explain the tension between an increasingly conservative America²⁵ and France today, what explains this “path-dependency”²⁶ of French politics, this habitual adherence to a dialectical field of political (and social) conflict within which the left looms large—before, during, and after the Soviet experiment in Russia? Political scientist Mark Lilla, in an insightful essay comparing Anglo-American and Continental philosophical traditions, argues that there has been a sharp divide between the two approaches and asserts that “[t]he estrangement of *political* philosophy in the two traditions had . . . concrete causes.” Those causes were, says Lilla, “not surprisingly, political.”²⁷

In other words, the chasm separating American and European, especially French (in Lilla’s critique), political philosophy reflected, in fact, a concrete and decisive separation between American and French political history and social experience, not just philosophy. *That* conflict emerged most clearly from the French Revolution forward. “French political debate in the nineteenth century,” claims Lilla, following the work of noted French historian, François Furet, “devolved into contentious struggles over the revolutionary heritage that largely excluded the kind of liberal politics that developed in England and America.”²⁸ How could contrasting perspectives on the French Revolution shape French philosophy, indeed French politics, decade in and decade out, from the Revolution to the present, long after the Revolution itself was consigned to dusty textbooks in dilapidated libraries and museums? To be sure, observes Lilla, the “Revolution was over. But to those intellectuals for whom the Revolution was an eternal process, ever to be extended and reconceived . . . the Revolution was internationalized, with the French Communist Party (PCF) and the Soviet Union now serving as honorary *sans-culottes*.”²⁹ While, to be sure, the Soviet Union is no longer and the PCF and the French left are alive and well (as the E.U. constitutional referendum made transparent), it is to the theory and practice of the French left which, in effect, Mark Lilla opposes the contemporary practice of American politics and imperial outreach. Thus, in an attempt to come to terms with the contemporary relationship between the United States and France, between French law and politics and America’s version of the same institutions and

25. See JOHN MICKLETHWAIT & ADRIAN WOOLDRIDGE, *THE RIGHT NATION: CONSERVATIVE POWER IN AMERICA* (2005).

26. WIKIPEDIA, *PATH DEPENDENCE*, http://en.wikipedia.org/wiki/Path_dependence (last visited Feb. 8, 2006).

27. Mark Lilla, *The Legitimacy of the Liberal Age*, in *NEW FRENCH THOUGHT: POLITICAL PHILOSOPHY* 3, 3 (Mark Lilla ed., 1994).

28. *Id.* at 7.

29. *Id.* at 10 (footnote omitted).

systems, we can reasonably begin by taking a closer look at the French Revolution—especially at how it has been represented in French popular culture.

IV. THE GREAT REVOLUTION

Italian filmmaker, Roberto Rossellini, once remarked that Karl Marx dreamed of a society without classes and without government, the very ideals of the American Revolution. One might ask *whose* American Revolution did Rossellini have in mind? That of the New England merchants or Boston's poor? Of Alexander Hamilton or Tom Paine? Just as the premier Russian movie director, Sergei Eisenstein, never managed to make a film out of Marx *Capital*, a project on which he had set his sights for years, Rossellini failed to get around to making a movie about the American Revolution. Others did, however, as mentioned above, though perhaps fewer in number than one might expect. The French Revolution, by contrast, has attracted novelists and filmmakers like flies.

Will it continue to do so? Sociologist Barrington Moore, writing during the decade of the 1960s, placed the Bolshevik Revolution in a direct line of descent from the French.³⁰ As Mark Lilla suggests, it is well known that debates within modern French historiography over the revolution of 1789, the "Great Revolution," have often been nothing more than arguments camouflaging bitter disagreement over socialism, communism, and the revolutions they have inspired.³¹ Does the disintegration of the Soviet Union at the end of the twentieth century, and America's "victory" in the Cold War, signal it is high time to reevaluate the relationship between these two extraordinary, late-eighteenth-century revolutions? If Americans now see their revolution, and the legal and political system it founded, as a model for the rest of the world's nations to emulate, does that not place France's revolution increasingly in the shadow, a discredited progenitor of failed left-wing social movements and, in power, botched schemes for a worker's paradise? We shall have to wait and see.

In a catalogue accompanying the 1983 *Rediscovering French Film* exhibition organized by New York's Museum of Modern Art and France's Ministry of Culture, curator Richard Roud describes Abel Gance's French Revolution film, *Napoléon*, which premiered at the Paris Opera House in

30. BARRINGTON MOORE JR., *SOCIAL ORIGINS OF DICTATORSHIP AND DEMOCRACY: LORD AND PEASANT IN THE MAKING OF THE MODERN WORLD* 112 (reprint 1993) (1966).

31. Lilla, *supra* note 27, at 10.

1927, as one of the “milestones in the history of world cinema.”³² *Napoléon* certainly deserves as much as any film ever made to be designated as *avant-garde* or ahead of its time.³³ Gance, the film’s director, not only pioneered an editing process which employed a rapid and rhythmically compelling mode of inter-cutting powerful images but also invented the use of hand-held cameras—later utilized so successfully by French *Nouvelle Vague* and *cinéma vérité* filmmakers—image distorting lenses, and what Gance called *Polyvision*. The latter process involved first shooting, then projecting onto a screen, three separate images arranged horizontally, creating both a wide-screen and split-screen effect which, not surprisingly, overwhelmed early film-goers. Also relying upon a range of masking devices (familiar from D.W. Griffith’s movies) and even a 275mm telephoto lens, Gance established himself, according to film historians David Bordwell and Kristin Thompson, as the boldest innovator in the history of film technology.³⁴

A minority of critics, over the past eighty years, have resisted the seductive force of Gance’s *Napoléon* and refused to be enlisted by its furious enthusiasms, decrying it as Hollywood spectacle gone mad. For example, in the film’s sequence during which a youthful officer presents the Revolution with its anthem, or Napoleon’s trial at sea in which the raging storm against which he struggles is inter-cut with the political storm raging in the legislative convention back in Paris, or in the sequence near the end of the film in which, as army commander in the Italian campaign, Napoleon is visited by the ghosts of the Revolution, the leaders whose authority he inherits, some critics have seen Gance’s transformation of historical forces into those of nature, personality, and spirit as defects in his narrative technique.

The personification of history seems typical of Hollywood’s own version of historical spectacle. Describing Jean Renoir’s film of the French Revolution, *La Marseillaise* (1938), made a decade after *Napoléon*, Jonathan Buchsbaum says that Renoir specifically sought to avoid making just another Hollywood historical epic or its French equivalent, hysterical drama like Gance’s *Napoléon*.³⁵ A critic for the politically-oriented *Cineaste* magazine even accused Gance of employing an essentially fascist cinematic technique.

Attribution of politics to aesthetic technique alone often seems overdrawn. Perhaps less so in Brecht’s famous theory of alienation effect, but

32. Richard Roud, *Introduction to REDISCOVERING FRENCH FILM* 13, 21 (Mary Lea Bandy ed., 1983).

33. See ABEL GANCE, *NAPOLÉON* (Bambi Ballard ed., Moya Hassan trans., Faber & Faber Ltd. 1990) (1927); NORMAN KING, *ABEL GANCE: A POLITICS OF SPECTACLE* (1984).

34. DAVID BORDWELL & KRISTIN THOMPSON, *FILM ART: AN INTRODUCTION* 90 (McGraw-Hill, 2003) (2001).

35. JONATHAN BUCHSBAUM, *CINEMA ENGAGÉ: FILM IN THE POPULAR FRONT* 258 (1988).

when both Godard and Luc Mollet write in *Cahiers du Cinéma* that a traveling (or tracking) shot is a moral statement, you have to wonder exactly what they mean. A specific motion picture image, shot in a certain way, can secure a political meaning just as it can any other kind of meaning. Eisenstein's "montage," or juxtaposition of successive images of stone lions that appear to be rising to their feet in anger during the Odessa Steps massacre sequence in *The Battleship Potemkin* (1925) provides a familiar illustration. This kind of inter-cutting between two different sets or streams of images, used by Godard and other French New Wave filmmakers as well as Gance and Eisenstein before them, constitutes one of the elementary principles of Rudolph Arnheim's psychological theory of film technique.

But the "form is content" theory actually goes further and posits, for example, that Eisenstein's method of editing is itself a political or ideological statement. Its defenders usually argue that it is a Marxist approach to filmmaking, but by the time Godard's own approach to making movies had evolved to the point, revealed at the end of *Weekend* (1968), where he believed the history of cinema had come to an end, he regarded Eisenstein's *Potemkin* as a *right-wing* film simply because it retained evidence of conventional narrative or story-telling strategies. Another director, Constantine Costa-Gavras, expressed surprise at Godard's statement—recalling that *Potemkin* had an unmistakably left-wing influence on his generation of filmmakers. It is fine for Godard to glibly observe, for example, that you cannot make left-wing films on a right-wing editing table, but again, how does that translate into a coherent political idea about film practice?

In any event, Abel Gance's effort to tell the story of the French Revolution through his depiction of the life of a single man, Napoleon Bonaparte, makes sense in the context of real French history. Within a few years of the Corsican's arrival on the scene, as E.J. Hobsbawm reminds us, "France had a Civil Code, a concordat with the Church and even, most striking symbol of bourgeois stability, a National Bank."³⁶ Of course, there is a limit to the impact of a single individual on history—even a Napoleon, as they say. "[M]ost—perhaps all—[Napoleon's] ideas," Hobsbawm acknowledges, "were anticipated by Revolution and Directory."³⁷ If, as is certainly the case, Napoleon eventually drew the line on the Jacobin project of social emancipation, the dreams of Robespierre and Jean-Paul Marat, the Jacobin revolutionary sensibility still managed to survive the legend of Napoleon.

In the section of Gance's film titled, *Thermidor*, following the intertitle, a mask shot is used to reveal the Convention in turmoil. Along with the

36. E.J. HOBBSAWM, *THE AGE OF REVOLUTION: EUROPE 1789–1848*, at 74 (1962).

37. *Id.* at 75.

well-dressed politicians, the chamber is now flooded with George Rude's "crowd,"³⁸ and there are calls of "Death to Saint-Just!" and "Death to Robespierre," as a reaction sets in. "Death to the monsters!" is cried by a shiftless rabble that has suddenly turned against the Revolution. Robespierre, begging to be given a chance to speak, is simply shouted down. One of his opponents raises a dagger and promises to stab this "new Cromwell" if the "Convention lacks the courage to indict him." With another knife, held in the trembling hand of Charlotte Corday, those most frightened by and bitter toward the Revolution have already murdered Marat in his bathtub—an historical incident filmed by Gance with great deference to the Republican painter Jacques-Louis David, who as a revolutionary Deputy voted for the execution of King Louis XVI and would later paint the most noble of Marat's portraits.

Finally, after a couple of false starts, Saint-Just, played by Abel Gance himself, obtains the podium. This scene, in which Saint-Just is able to win over the assembled mass, even though his personal fate may already be sealed, is one of the true glories not only of Gance's career but of the history of French film. "Yes, we had to have victims," says Saint-Just, "but is not the Revolution a great beacon lit upon tombs?" Gance cuts to a close-up of Saint-Just's face which now fills the screen. "Have you forgotten that during this time we have created for you a France that is new and ready to be lived in?" Here Gance gives focus to the beautiful face of *Violine Fleuri*, one of his characters in the film, who is obviously moved by these words. "And we have done all this," cries Saint-Just, again in close-up, "with that vulture, the Vendee, at our flanks, and on our shoulders that mass of tigers, the kings!" A medium shot of the crowd, now standing and clapping, follows along with one of Robespierre, stony-faced, then Saint-Just, again, like a cat ready to strike: "You can now scatter our limbs to the four winds—Republics will rise up from them!" Saint-Just glances upward, as he concludes his fiery polemic, and most of the listeners in the packed hall rise to their feet, applauding wildly. Robespierre stoically stands and embraces Saint-Just.³⁹

V. CONCLUSION

Like Saint-Just, the German philosopher, G.W.F. Hegel, decried the abolition of equality in wealth, that political gambit Hegel believed had led directly to the decline of the great republics in classical antiquity. "There

38. GEORGE RUDÉ, *THE CROWD IN THE FRENCH REVOLUTION 178–79* (Reprint 1960).

39. For a relatively brief but interesting biography of Gance's character, in English, see NORMAN HAMPSON, *SAINT-JUST* (Blackwell, 1991). See also, BERNARD VINOT, *SAINT-JUST* (1985).

was no longer any activity for the whole,” wrote Georg Lukacs in his book on Hegel, “for an idea—each man either laboured for himself or was forced to work for another. . . . All political freedom faded away; the law only gave the citizen a right to the security of property, the pursuit of which now filled his entire life.”⁴⁰ The republican values Hegel saw personified in Napoleon, a world-historical figure, and his victory at Jenna in 1806; that Robespierre and Saint-Just saw in the Great Revolution; that Lukacs saw in the revolutionary social movements which derived hard lessons as well as inspiration from the fierce Jacobin commitment to freedom—all this can be felt building, moment by moment, throughout Abel Gance’s compelling cinematic tribute to the utopian aspirations of French political history.

Would one be wrong to regard this aspiration as the real French Constitution, the political and moral dynamic animating the Civil Code and its efforts to undercut the undemocratic authority of judges and generals and even bureaucrats in Brussels? Can we be surprised that French republicanism should produce a foreign policy—or legal process—contrary to that generated by American liberalism, a political and constitutional ideology with which we, on this side of the Atlantic, have lived for much too long?

40. GEORG LUKÁCS, *THE YOUNG HEGEL: STUDIES IN THE RELATIONS BETWEEN DIALECTICS AND ECONOMICS* 47 (Rodney Livingstone trans., The Merlin Press 1975) (citations omitted).