
From Deliberation to Demonstration

Political Rallies in France, 1868–1939

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Some people may still remember the words of one of Maurice Mac-Nab's most famous satirical songs. Mac-Nab was an emblematic figure at the Montmartre cabaret Le Chat Noir. The song was written in 1887 after an assembly organised at the Cirque d'Hiver by the radical party to discuss the construction of the metropolitan railway in Paris — an assembly raided by anarchists and Blanquists.¹ I recall the song here to give you a glimpse of the sort of political life I had in mind when I decided to take a look at assemblies held at the end of the nineteenth and early twentieth centuries.

How can we get individuals to participate in political life beyond the mere act of voting? Can there be a more active form of popular sovereignty without there being a risk for public order? What forms of participation would this entail? What means are there to allow other forms of democratic expression to complement the vote without the risk of competing with political representation? At the end of the nineteenth century, in reply to these questions, political assembly was the main form of participation encouraged by republicans. It was seen as the best way to get the masses to participate without undermining representative government, through the creation and expression of public opinion. This book is devoted to this aspect of the republican enterprise of defining public space. It arises from a fascination with a period of French history when little was spoken about disinterest in politics, where people did not hesitate to devote time to discussing political issues, a period when citizens thought that politics could change things.

This golden era of assemblies is quite different from the end of the twentieth century when, even during important electoral contests, the public of political meetings is basically made up of activists of the organising parties.² Today, gathering together in a political rally is the political activity of a minority³ — even if the last presidential elections in France in 2012 saw a renewal of interest in electoral rallies.⁴ In the period of the enquiry, the popular passion with assemblies was such that, in the big cities, attending one was a commonplace way to spend an evening, and not only during electoral campaigns. This was a period when Aristide Bruant, another famous *chansonnier* at the Chat Noir, sang: 'I go to all the meetings, I never'd miss an assembly' to the tune of 'la Carmagnole'.⁵ The

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1. Maurice Mac-Nab, 'Au grand métingu' du Métropolitain!', *Poèmes mobiles*, Paris, Atelier des Brisants, 2002, pp. 129–131.
 2. For further information about the meetings held for municipal elections, see: Daniel Gaxie and Patrick Lehingue, *Enjeux municipaux. La constitution des enjeux politiques dans une élection municipale*, Paris, PUF, 1984.
 3. In the 1989 European elections, only 3 per cent of electors took part in an assembly, the same percentage as for party membership. Russell J. Dalton, *Citizen Politics. Public Opinion and Political Parties in Advanced Industrial Democracies*, New York, Chatham House, Seven Bridges Press, 2002, pp. 39–43.
 4. See, for instance, Paula Cossart, 'À quoi servent les meetings dans une campagne électorale?', *Mediapart*, 23 February 2012; Paula Cossart, '2012, la guerre des meetings de plein air', *Atlantico*, 15 April 2012.
 5. The song is called 'Pus d'patrons'. Aristide Bruant, *Dans la Rue. Chansons et monologues*, vol. 2, Paris, A. Bruant, 1895.

meetings were then much more numerous than today, and the public filling the halls was incomparably larger. Today it is not unusual to hear the organisers of a ‘school hall assembly’ happy to have gathered a few hundred people; a century ago, political actors would hesitate to hold a political rally for such a limited public. To describe the first decades of the Third Republic, Michelle Perrot speaks of a ‘frenzy of public assemblies’, and compares it with the ‘weariness [that such meetings] encounter today’.⁶

The atmosphere of meetings has also changed with the disappearance of contradictory assemblies, where political adversaries met face to face before a divided and animated public. The change was also the result of the widespread use of microphones and loudspeakers which drown out the sound of interventions, protests and interruptions from the floor. In parallel, what Jean-Jacques Courtine described as a ‘rhetorical education in vocal strength which made the meeting resemble a spoken opera’ became obsolete.⁷ Finally, the mediatisation of political life has transformed the nature of meetings which have largely become ‘televised messages’ made with a view to transmitting selected extracts.⁸ Starting this study, I was not stimulated by a particular interest in the type of political rallies that I had the opportunity to attend; it was more of a fascination with the spirit of the ‘*grand métingu*’ du Métropolitain’.

Nevertheless, it is contemporary concerns that guide me in the analysis of assemblies in the past. Since the end of the 1980s observations and analyses on the crisis of representation currently affecting France and other Western democracies have multiplied.⁹ Recurrent descriptions of this disaffection with voting and the decline of political commitment and union membership, contrast sharply with reports of Paris at a time when, before voting day, half the electors had attended an assembly.¹⁰ Given my curiosity for political assemblies at the end of the nineteenth and early twentieth centuries, I wanted to have a better understanding of this massive participation in a form of political activity which, nowadays, meets with a disinterest symptomatic of the contemporary disaffection for conventional political participation in general.

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6. Michelle Perrot, *Les ouvriers en grève. France, 1871–1890*, Paris, Mouton, 1973, vol. 2, p. 589.
 7. Jean-Jacques Courtine, ‘Les glissements du spectacle politique’, *Esprit*, 1990, vol. 9, p. 158.
 8. Yves Pourcher, ‘“Un homme une rose à la main”. Meetings en Languedoc de 1985 à 1989’, *Terrain*, 1990, vol. 15, p. 90.
 9. For different perspectives, see: Pierre Rosanvallon, ‘Malaise dans la représentation’, in Furet, Julliard and Rosanvallon (eds), *La République du centre. La fin de l’exception française*, Paris, Calmann-Lévy, 1989, pp. 133–182; Bernard Lacroix, ‘La “crise de la démocratie représentative en France”. Éléments pour une discussion sociologique du problème’, *Scalpel*, 1994, vol. 1, pp. 6–29; Marcel Gauchet and Philippe Raynaud, ‘La République enlisée’, *Le Banquet*, 1995, vol. 6, pp. 174–188.
 10. ‘According to the police, 170,000 Parisians (out of 350,000 registered voters) attended “meetings” during the electoral period of August 1893’. Michel Offerlé, *Un homme, une voix? Histoire du suffrage universel*, Paris, Gallimard, 1993, p. 90.

If the state of contemporary political life has stimulated my interest in the assemblies of the past and prompted my questions, it is above all because of a reflection on the possible virtues of deliberation in democracy which has developed over the last twenty years, notably in reaction to the current crisis of Western representative government. When I began my analysis, not only was there an increasing amount of research on participatory or deliberative democracy, but outside the academic sphere, there were also concrete experiences in the use of deliberative devices. What these experiences have in common is being concentrated around the proclaimed goal of intensifying or extending citizens' political participation through the collective discussion of public issues.¹¹ In examining assemblies held over a century before the advent of this type of research and experience, I wanted to study the republican idea that deliberation among assembled citizens could effectively complement representative democratic institutions.

In France freedom of assembly experienced three important episodes of liberalisation which correspond to the first three French Republics. It was affirmed in 1881 by the law of 30 June which is still valid today. Under the other governments, with the exception of the short experience of the Commune, this right was either inexistent or only subsisted within a very tight framework, making it a major republican demand. Each time that the need to grant citizens a right of assembly was defended by the republicans it was in the name of reinforcing the institutions of representative democracy. What justifies the fact of giving citizens the opportunity to meet together to discuss politics is the idea that popular participation in democracy extends beyond voting. The assembly – an organised and static event held in a place which is distinct from the public street, where citizens come to give and to hear speeches, and to exchange ideas – is considered the ideal way to reinforce democracy as it makes the masses participate by mixing public opinion and representation. In the last three decades of the nineteenth century freedom of assembly was presented as the best device to complement and accompany the vote. This was because the republicans believed in the virtues of deliberation. Deliberation would permit people to form a reasoned opinion taking into account the common good whilst steering individuals towards an apprenticeship of citizenship. It is impossible not to draw a parallel with the arguments put forward today in favour of deliberative democracy. Indeed, I rediscover an almost identical discourse among many public actors and in an important current of contemporary political philosophy.¹²

11. If there are deliberative devices which are barely participatory, and participatory procedures which are barely deliberative, the democratic forms developing today often tend to emphasise both these dimensions, making the distinction between participatory and deliberative democracy quite relative, see: Loïc Blondiaux, 'Prendre au sérieux l'idéal délibératif: un programme de recherche', *Swiss Political Science Review*, 2004, vol. 10, (4), pp. 158–169.

12. See, in particular, Julien Talpin, 'Des écoles de démocratie? Formation à la citoyenneté et démocratie participative', 2005, <http://www.univ-paris8.fr/scpo/talpin.doc> (accessed 6 June 2006).

Under the Third Republic, the contradictory assembly, that is, the assembly as a place for debate between participants, is regularly presented as a feature of French political life. Contemporary commentators affirm with insistence that it is not found in Britain or the United States. At first sight this is surprising since France seems to be characterised — in comparison with the Anglo-Saxon world and Northern Europe — by ‘a lesser cultural attachment to the virtues of deliberation’: the ‘valorisation of contradictory debate’ is less present in France today, even if, as Loïc Blondiaux reminds us, it had once been ‘at the heart of the parliamentary ideal’.¹³ The importance of deliberation for the founders of the Republic in the United States is well-known.¹⁴ However, since the mid-nineteenth century electoral campaigns are well and truly marked by the organisation of large partisan meetings by each political group. Support is brought from outside to swell the public and people are attracted by non-political elements (concerts, food and drink, balloon trips, etc.); and the partisan press contests the numbers present at their meetings and at those of their adversaries.¹⁵ In nineteenth-century America Richard Jensen compares the parties to armed rivals at ‘monster meetings’.¹⁶ Jon Lawrence demonstrates that for Britain until the introduction of secret voting with the 1872 Ballot Act, an electoral assembly where voting is by a show of hands, is a place of contradiction; rival candidates present their programmes to a challenging public, they submit themselves to questioning and uproar often ensues. But these assemblies progressively give way to meetings organised for a candidate.¹⁷ In France, the contradictory assembly has long been the form of assembly closest to the republican ideal of a place where individuals gather to debate together and to learn citizenship values.

In attempting to identify the political culture of the early Third Republic, James R. Lehning affirms that republicanism has a double venture: ‘the creation of institutions allowing popular participation’ and ‘the creation, through the transformative powers of the Republic, of the citizens who would participate in these institutions’.¹⁸ In observing assemblies in the closing years of the Second

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13. Loïc Blondiaux, *Le nouvel esprit de la démocratie. Actualité de la démocratie participative*, Paris, Seuil, ‘République des idées’, 2008, p. 43. Blondiaux is referring to J.-P. Heurtin, *L’espace public parlementaire. Essai sur les raisons du législateur*, Paris, PUF, 1999.
 14. Joseph M. Bessette, *The Mild Voice of Reason. Deliberative Democracy and the American National Government*, Chicago, Chicago University Press, 1997.
 15. Glenn C. Altschuler and Stuart M. Blumin, ‘Limits of Political Engagement in Antebellum America. A New Look at the Golden Age of Participatory Democracy’, *The Journal of American History*, 1997, vol. 84, pp. 855–885.
 16. Richard Jensen, ‘Armies, Admen and Crusaders. Types of Presidential Election Campaigns’, *The History Teacher*, 1969, vol. 2, (2) p. 36. My thanks go to Dafnah Strauss for having provided the references for many works on this issue.
 17. John Lawrence, *Electing Our Masters. The Hustings in British Politics from Hogarth to Blair*, Oxford, Oxford University Press, 2009.
 18. James R. Lehning, *To Be a Citizen. The Political Culture of the Early French Third Republic*, Ithaca, Cornell University Press, 2001, p. 9.

Empire and under the Third Republic, I want to help highlight how we arrive at the definition of a legitimate public space and the delimitation of boundaries of an acceptable political conduct in a republican democracy. I also want to analyse how the republicans intended to shape the political behaviour of citizens so as to guarantee government stability. This is a question of understanding exactly how the assembly constitutes one of the elements in articulating an emerging representative democracy. In exploring the issue of public sphere in the Republic, I have focussed part of this research on the end of the Empire. First, because the political assembly took shape partly in the period 1868–1870 when a law voted on 6 June 1868, albeit not very liberal, permitted many meetings to be held. Furthermore, the republicans had already developed their discourse on the virtues of freedom of assembly under the Empire. Without closing an eye to this important period or previous experiences of assemblies, the analysis does not focus on the Commune, but on the periods when assemblies of citizens could become commonplace. I want to observe the diffusion in the society, the assimilation by political mores and the potential routinisation of this form of participation.

Promoting public opinion

The establishment of republican institutions took place alongside the development of a body of theories about the crowd, particularly influenced by social psychology. These take ‘the advent of the crowd or the masses as new social subjects as a gift, and try to describe how they functioned’.¹⁹ The important developments in crowd psychology only occurred at the end of the century, but it was ‘shortly after the 1870 war that [it] appears in France’.²⁰ Susanna Barrows demonstrates how approaches as diverse as those of Taine, Sighele, Tarde or Le Bon resemble each other in their claim to scientific methods and in their ‘nearly always terrifying’ vision of the crowd. Moreover, Barrows argues that crowd psychologists were fully aware of the negative aspects of political and social conduct in France at the time. The fear of the crowd was shared by part of the political class of republicans when they came to power, and the will to define suitable modes of mass participation in public life was by no means unrelated to this concern. The convergence between fear of the crowd and the republican will to transform individuals into a People which could support the government, has already been noted, particularly by Olivier Bosc:

19. Pierre Rosanvallon, *Le peuple introuvable. Histoire de la représentation démocratique en France*, Paris, Gallimard, 1998, p. 109. On crowd psychology, see: Robert A. Nye, *The Origins of Crowd Psychology. Gustave Le Bon and the Crisis of Mass Democracy in the Third Republic*, London, Sage, 1975; Serge Moscovici, *L'âge des foules. Un traité historique de psychologie des masses*, Paris, Fayard, 1981; Susanna Barrows, *Distorting Mirrors: Visions of the Crowd in Late Nineteenth-century France*, New Haven, Yale University Press, 1981; Jaap Van Ginneken, *Crowds, Psychology, and Politics, 1871–1899*, Cambridge, Cambridge University Press, 1992.

20. Barrows, *Distorting Mirrors*, p. 10.

The conservatives [...] need the crowd to forget the People, whereas republicans need the People to forget the crowd. This is why in the republican programme, republican institutions, the school, the army, we find many devices to achieve the transformation of the crowd, this badly-defined group, this community related to dangerous social classes, in the People, an organic group composed of autonomous citizens capable of guaranteeing the democratic regime by its existence.²¹

The memory of revolutionary agitation, particularly the Commune, is also present. Thus the question of how to ‘associate the figure of the People, without mobilising the suspect strength of the crowd’,²² arises with particular acuity.

Dominique Reynié has described the basically legislative process of circumscribing public space which, even if not limited to this period, remains characteristic of the creation of the institutions of representative democracy in the last decades of the nineteenth century.²³ What is certain is that it is the need to justify the government that acknowledged participation of the masses as necessary: it was encouraged because ‘it appeared likely to provide [...] reasons to abide by the new authority’.²⁴ But the concern to guarantee public order also plays a role. The aim of republican mass politics was to preserve public decision-making from the excessive influence of crowds in defining the boundaries of public sphere. This largely depends on the promotion of public opinion as a ‘positive element of the collectivity’.²⁵ Until the end of the nineteenth century, the most dangerous form of public gathering was considered to be the spontaneous gathering in a public place. Alongside a ban, what appeared necessary in order to avoid these unstructured gatherings was to grant some right of framed assembly. In Reynié’s words: ‘From the perspective of public order, the solution is not a summary and drastic ban. It is a ban accompanied by authorisations’.²⁶ This is the context where the assembly is conceived as an ideal form of collective participation of the People in public affairs. Assemblies must thus be held in a defined place and not on the public street: ‘As long as the legislator will not authorise a public space *de jure*, the public place will be *de facto* the political space’. For this reason the *locus* of participation had to be shifted from public *place* to public *space*, and the nature of participation transformed from *action* to *opinion*. The two operations are linked. Citizens’ assemblies must help promote this collective abstraction of ‘public

21. Olivier Bosc, *La foule criminelle. Positivismes, politique et criminologie en Italie et en France à la fin du XIX^e siècle. Scipio Sighele (1868–1913) et l’école lombrosienne*, PhD dissertation, Paris IX, 2001, p. 272.

22. Olivier Ihl, *La fête républicaine*, Paris, Gallimard, 1996, p. 17.

23. Dominique Reynié, *Le triomphe de l’opinion publique. L’espace public français du XIX^e au XX^e siècle*, Paris, Odile Jacob, 1998.

24. Reynié, *Le triomphe de l’opinion publique*, p. 86.

25. This expression is used by Pierre Rosanvallon to interpret the development of opinion polls. See: Rosanvallon, *Le peuple introuvable*, p. 340.

26. Here and below, Reynié, *Le triomphe de l’opinion publique*, p. 52.

Chapter One

The Ideal of Participation Without Action

Public assemblies are both an instrument of ruin for oppressive governments and the best guarantee of stability for those which [...] tread in truly democratic paths inspired by [public] opinion.¹

Lawyer and journalist Émile Faure and Anatole Fontaine de Rambouillet, known for his defences during ‘trials of opinion’² under the Second Empire, ended their study of the right of assembly by emphasising the link between democracy, public opinion and freedom of assembly. *Le peuple et la place publique*, published shortly after the vote on the ‘dubious and hypocritical’ law of June 1868, is a defence of the people’s right to enjoy a true freedom of assembly. This freedom is indeed the only one that allows public opinion to develop and be expressed properly; that is, a public opinion that democratic governments should not consider to be a threat. On the contrary, these governments should be based on public opinion in order to set themselves apart from despotic regimes.

This position was shared by the whole body of republicans speaking on the question of the right to free assembly, when they struggled against the restraints imposed by the Empire or when they worked in order to establish the fundamental laws of the Third Republic. The existence of elections with universal suffrage is not a sufficient condition for a democratic society. Democracy and republic — the latter being conceived as necessarily democratic, the two terms were used interchangeably to indicate a representative government whose legitimacy is based on the will of the people — also imply that voting depends on an enlightened opinion and that mechanisms exist, in addition to the vote, that allow its development and expression. Discussion between the citizens at the assembly is seen as the most natural and democratic means to achieve this. In the last part of the nineteenth century, republicans saw assemblies as a form of popular participation which would consolidate representative democracy by replacing participation-action by participation-opinion.

1. Émile Faure and Anatole Fontaine de Rambouillet, *Le peuple et la place publique. Historique du droit de réunion*, Paris, Décembre-Alonnier, 1869, pp. 202–204.

2. These are trials against opinions deemed as illegal and expressed in the press, speeches, books, pamphlets and so forth.

Governing without fear of public opinion

The new social configuration that emerges at the end of the century leads to a complete shift of the attention hitherto focussed on society and politics. The representative principle now faces a new reality: that of numbers.³

The arrival of the masses on the public scene raised the urgent question of what form should be taken by popular participation if it was not to compromise the stability of the regime. The principle of popular sovereignty was accepted, but its form had yet to be decided; as we have seen, the promotion of opinion is related to the conciliation between public order on the one hand, and the imperative of mass participation on the other.⁴ Under the Second Empire, government policy limiting freedom of assembly was attacked by the republican opposition as being symptomatic of a distrust of public opinion, which the government claimed to have as support. The difference between imperial and republican politics regarding the right of assembly lies in particular in the conflict between repression and prevention. The latter was considered an open door to despotism: therefore the Republic opted for a basically repressive system.

The bond between the Republic, public opinion and freedom of assembly

The question of the role of public opinion in a government based on universal suffrage is already central under the Second Empire. This unavoidable reference to opinion is obvious in the debates on the 1868 law. The liberal reforms following the imperial letter of January 1867 to the Minister of State, Eugène Rouher, are thus presented as the outcome of listening to public opinion, that is, the proof that government is based on the will of the People. In his memoirs, Émile Ollivier, who joined the liberal Empire shortly after the vote on the law, writes that unlike ‘conservatives’, for whom the right of assembly ‘causes [...] even more alarm than freedom of the press’, the Emperor: ‘as he prided himself on democracy [...] understood that this right is a truly democratic freedom’.⁵ During the debates in the Legislative Body of March–May 1868, those defending the government bill insist on its democratic character: for them the bill favours the expression of the People’s opinion. On 17 March, the Minister of Justice, Pierre Baroche, exclaimed:

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3. François D’Arcy and Guy Saez, ‘De la représentation’, in François D’Arcy (ed.), *La représentation*, Paris, Economica, 1985, p. 16.
 4. Pierre Rosanvallon, *Le sacre du citoyen. Histoire intellectuelle du suffrage universel en France*, Paris, Gallimard, 1992; *La démocratie inachevée. Histoire de la souveraineté du peuple en France*, Gallimard, Bibliothèque des histoires, 2000; *Le peuple introuvable. Histoire de la représentation démocratique en France*, Gallimard, Bibliothèque des histoires, 1998; Dominique Reynié, *Le triomphe de l’opinion publique. L’espace public français du XVI^e au XX^e siècle*, Paris, Odile Jacob, 1998.
 5. Émile Ollivier, *L’Empire libéral. Études, récits, souvenirs*, Paris, Garnier Frères, 1905, p. 428.

It is not this Government that should be taught understanding and respect for public opinion! The sovereignty of public opinion has been defined in noble words; recognised with solemnity and confirmed by the Head of Government.⁶

This recollection of the position of the Empire with regard to public opinion comes as no surprise; the principle of popular sovereignty was one of the cornerstones of the political model of ‘illiberal democracy’ constituted by Napoleon III’s government.⁷

A broad freedom of assembly had long been demanded by the liberal opposition particularly on behalf of the bond between citizens’ rights to assemble, public opinion and democracy. This was also the way that the legislative proposal under debate was criticised by Émile Ollivier. On 14 March, Ollivier developed the idea that if the Empire was to be democratic, it had to grant a true right of assembly to its citizens: ‘A democratic government without freedom of assembly is inconceivable.’ For Ollivier the judgement of citizens on public issues takes shape in meetings. As a consequence: ‘thanks to freedom of assembly [...] a government never ignores what takes place in a nation’s soul’.⁸ The republican opposition did not take up his argument or associate imperial government with democracy at all. Although the 1852 Constitution claims to: ‘recognise, confirm and guarantee the great principles proclaimed in 1789’, and even though the Empire preserved universal suffrage, this did not make it a democracy for the simple reason that it ignored freedom. The republican opposition thus suggested that it was indeed normal for the Empire to be wary of freedom of assembly; were people to express themselves freely, the government would be unlikely to outlive the criticism.

Under the Third Republic, the belief in the idea that the right of assembly is a natural consequence of democratic government emerges clearly in the debates on the draft laws submitted to the Chamber of Deputies. In 1878 the legal recital for the second law proposed by Alfred Naquet bears witness to this. Two years earlier, when close to radical republicans, Naquet had demanded an absolute right to assembly, but his proposal failed. Naquet affirmed that he had not changed his opinion, but realised it was not realistic if one wanted a law to be adopted rapidly. Therefore Naquet scaled down his demands by conceding to a framing of freedom—in parallel towards his evolution to Opportunism. On 30 May 1878 he affirms that the existence of a genuine right to assembly, above all in political matters, allows men to say whether or not a government is democratic. Resolutely declaring with reference to the past, that: ‘the obstacles to the right of assembly are a legacy of absolute monarchy’, suggesting that the Empire obstructed political debate as this would have been to the detriment of the government in ‘making a chink in its actions’. Because ‘silence and night are the preconditions for monarchy

6. *Le Moniteur Universel*, 18 March 1868, p. 408.

7. Pierre Rosanvallon, ‘Les corps intermédiaires dans la démocratie’, course at the Collège de France, 2002–2003, http://www.college-de-france.fr/media/pierre-rosanvallon/UPL28739_UPL25235_prosanvallon.pdf, p. 1020 (accessed 6 June 2006).

8. *Le Moniteur Universel*, 15 March 1868, p. 389.

and oligarchy, just as speech and day are the preconditions for the Republic', the republican government that is coming into being must be based on freedom of assembly. Indeed, it rests on popular sovereignty:

If it is true that the People [...] are sovereign, that it is to the People and to the People alone that the government of the country is responsible, it is clear that citizens must have the right to meet to discuss their interests.⁹

Yet the same argument was used later on by those who continued to defend absolute freedom. During the debate leading to the law of June 1881 that started in 1879, three drafts were examined: that of Naquet in 1878; that of Louis Legrand, close to the republican Opportunists and the most conservative; and that of the Radical republican Louis Blanc, the most liberal. Blanc demanded the suppression of all laws limiting freedom of assembly and association. On 27 January 1880 Georges Perin, whose position was close to that of the radicals defended the draft, returning to the idea that freedom of assembly is directly related to republican democracy, the sole form of government which does not fear absolute freedom.

In the years following the vote on the 1881 law, this bond between the Republic and freedom of assembly made meetings a form of incarnation of the Republic itself. Thus, when there were incidents such as fights breaking out, the press associated them with the poor health of the Republic. If violence occurs during an assembly of revolutionary groups, the reactionary press interprets it as a sign of failure: the Republic's rash desire to grant freedom of assembly and its consequent inability to maintain order, and the regret for the time when this sort of liberty was not allowed. Depending on their more or less close proximity to government, the Republican newspapers affirmed either that government must react to maintain order — the risk being that otherwise the assemblies would discredit the Republic — or that disorder would not undermine the Republic — since those responsible were only marginal actors. The press which supported organisers of the 'guilty' assemblies often denounced troublemakers as government agents who had come to cause disorder and to scare the bourgeoisie who thought that they had taken refuge in the Republic, whose practices hardly differed from those of former tyrannies.

On 20 September 1885 an assembly was organised in the Palais de la Bourse by a workers' electoral committee. The selection of the *bureau*¹⁰ in a packed room gave way to clashes between various groups of radical leftists: blanquists, collectivists and anarchists. A fight broke out among the public, chairs were thrown, and glasses and carafes prepared for the speakers were used as missiles. Two people were wounded in the midst of the general turmoil after two shots were fired. Yet the assembly was not interrupted. A relative calm returned and speeches were made. The use of a firearm in an assembly and the fact that the police did not intervene, but only checked the disorder at the exit, gave rise to much

9. Legal recital on the proposed law on right of assembly was presented by Naquet on 30 May 1878.

10. All assemblies set up a *bureau* to organise the speeches.

speculation in the press.¹¹ On 22 September the republican newspaper *Le Siècle* was concerned by the fact that the press of ‘retrograde parties’ would exploit this incident to the detriment of the Republic: ‘They will not hesitate to exaggerate the facts and use them against the government of freedom that allowed them, and the government of the Republic under which they took place.’¹² Indeed the same day the anti-republican catholic newspaper *La Défense sociale et religieuse*, drew a lesson from the progress of this ‘democratic-socialist anarchist, so-called worker’s assembly’: political mores had not ‘softened’ under republican government, but ‘this so-called [softening and refreshing] government, now causes bitter irritation and over-excitement unworthy of a “great democracy”’. In addition to condemning the exploitation of events by reactionaries, the republican press stressed the risk of seeing the Republic ‘dishonoured’ by this ‘revolver [used] as an argument in a public assembly’.¹³ Two days earlier *Le Temps* recalled that ‘the interest of the Republic’ is at stake in the fight to prevent ‘public assemblies [from being transformed] into battlefields’ — *Le Temps* was then a newspaper for a ‘better-off and more educated readership’ with a very moderate editorial line.¹⁴ In the press sympathetic to the organisers of the assembly the bond between freedom of assembly and democracy was also raised, but in different form: the revolver shots were fired by an *agent provocateur* working for the Opportunists in order to make it appear that the socialists condoned violence. Had the government resumed the practices of the Empire?

We have the right to ask ourselves if we are not [...] in the presence of a government manœuvre; today the leaders appear [to be] anxious above all to keep the traditions, dear to all tyrannies, ‘pure’.¹⁵

The bond between Republic, opinion and right of assembly was also affirmed in the analyses of many legal experts who have examined freedom of assembly as permitted under the 1881 law. The legal commentaries written shortly after the approval of the law always tend towards a reinforcement of republican political order: if the partial nature of biographical information on the legal experts cited here means that we cannot know whether this gave them any symbolic or material reward, we can nonetheless perceive them as ‘the auxiliaries of republican politics’.¹⁶ First, in the general formulas that affirm the bond between freedom

11. See the press dossier in APP/Ba/617/Réunion électorale au Palais de la Bourse, dimanche 20 septembre 1885 par le comité électoral ouvrier des 1^{er} et 2^e arrondissements, Fédération des travailleurs socialistes de France, Parti ouvrier, Possibilistes.

12. *Le Siècle*, 22 September 1885.

13. *Le Siècle*, 24 September 1885.

14. Gilles Feyel, *La presse en France des origines à 1944. Histoire politique et matérielle*, Paris, Ellipses, 1999, p. 139.

15. *Le Cri du Peuple*, 23 September 1885.

16. Guillaume Sacriste, *Le droit de la République (1870–1914). Légitimation(s) de l’État et construction du rôle de professeur de droit constitutionnel au début du siècle*, PhD dissertation,

of assembly and democracy: freedom of assembly is the ‘natural consequence of the participation of the People in government’,¹⁷ and its ‘destiny [...] is related to that of democratic government’.¹⁸ The nature of this bond is specified by the reference to the role of opinion. In order to survive, a democratic government must rest on public opinion, which is the ‘instrument of government *par excellence*’.¹⁹ Assemblies are the key place for its expression and ‘for public opinion to form in a country, citizens must be able to write freely and to assemble to discuss public issues’.²⁰ The difference with the writing of legal experts who, during the interwar period made a more belated weighing up of the impact of the 1881 law, is striking. The latter often reacted against the naivety of law-makers, who only wanted to see ‘the intellectual’ goals of assemblies and who only had in mind an ‘exchange of ideas’.²¹ The legal provisions were devised with this sole and specific view of what constitutes an assembly. But the 1930s’ legal experts have stressed however, that assemblies could also become a dangerous ‘exercise of mobilisation’.²²

Putting and end to prevention

The republican legislature had broken with the system prevailing under the Empire. Although it took some years for the Republic to produce a new law, when adopted, this helped launch a distinctly more liberal form of government.²³ The willingness to change first appears in the law’s opening affirmation. Article 1, which was added by the Senate to the text submitted by the Chamber, is very clear: ‘Public assemblies are free.’ In a report to the Senate of 8 February 1881 Émile Labiche, an active member of the republican left, justified this proclamation:

Paris I, 2002, p. 27. The author is in part opposed to analyses of Marie-Joëlle Redor, insisting on the contestation of republican order by legal experts: Marie-Joëlle Redor, *De L’État légal à l’État de droit. L’évolution des conceptions de la doctrine publiciste française. 1879–1914*, Aix-en-Provence, Presses Universitaires d’Aix-Marseille, Economica, 1992.

17. Jean Fournier-Poncelet, *La liberté de réunion au XX^e siècle. Étude de droit public comparé*, Aix, de Barlatier, 1910, p. 24; Albert Joubrel, *Du droit de réunion*, Rennes, Librairie générale Pilhon et Hommay, 1904, p. 14.
18. Degrenne, *Les réunions et les pouvoirs de police*, p. 9.
19. Fournier-Poncelet, *La liberté de réunion au XX^e siècle*, p. 76.
20. Degrenne, *Les réunions et les pouvoirs de police*, p. 213.
21. Maurice Menanteau, *Les nouveaux aspects de la liberté de réunion. Essai sur les caractères juridiques et politiques de la liberté de réunion en France*, Paris, Librairie technique et économique, 1937, pp. 85–86. See also: Marcel Le Clère, *Les réunions, manifestations et attroupements en droit français et comparé*, Paris, Impr. Petites Affiches, 1945, pp. 5–7, 16.
22. Le Clère, *Les réunions*, p. 14.
23. In addition to the error on the date of the 1868 law, we disagree with the affirmation that ‘the Naquet law, promulgated on 30 June 1881, regulating the right of assembly, was not much more liberal than the law of 25 March 1868 that it replaced’. See: Jean-Marc Berlière, *Le monde des polices en France. XIX^e–XX^e siècles*, Brussels, Complexe, 1996, p. 116.

It was useful that this statement dominated all the provisions that follow, not only in order to constitute an unquestionable theoretical affirmation, but also to serve as an interpretative rule for the administration and the judiciary.

If the hallmark of the 1881 law was the desire to put an end to the despotism prevailing under the Empire, this was above all when it did away with most of the preventive measures whose purpose was to avoid potential offences from taking place, rather than applying repressive measures *post factum*. As with freedom of the press, it ‘grants a freedom defined by limits beyond which legal action is triggered’.²⁴ Safeguarding public order was primarily the competence of the judicial rather than administrative or police authorities. It is this judicial sanction that those who intend to break the law should fear.

The choice of a repressive system had already been promoted under the Empire by the republicans fighting for freedom. The liberal press returned to this regularly and preventive measures were also denounced in the National Assembly during the debate on the 1868 law. This was the case, for example, during the discussion of the Article giving prefects the right to adjourn assemblies, and the Minister of the Interior the right to prohibit any of them considered dangerous. On 13 March 1868, Jules Simon, one of the most popular speakers in the republican group, attacks this as ‘despotism *in personam*’, exclaiming: ‘what do we call the right to adjourn, the right to ban, in French? It is called despotic government’.²⁵ We find the same argument against preventive measures under the Republic. In the legal recital for his legislative proposal on 31 May 1878, Naquet rejects the idea that an assembly can be pre-emptively banned, by a prefect, a Minister or a Head of State:

Naturally [...] the government could always break up and contest an assembly that degenerates into insurrection; but there is a veritable chasm between the repression of an offence or crime and measures to prevent crimes or offences. The preventive system is the basis of authoritarian governments; the repressive system is the basis of all liberal systems.²⁶

When the debate on the two drafts still in competition opened on 24 January 1880, that of the commission presented by Naquet, and that of the government — those of Louis Blanc and Louis Legrand already been excluded — the government draft did contain some preventive measures, but the system finally adopted was basically repressive.

The main provision in this sense is Article 1 of the law. After establishing the principle of freedom of assembly, it goes on to reject prior authorisation required by the 1868 legislation on assemblies dealing with political or religious subjects. This was suppressed in all cases and replaced by a simple declaration which allowed the police to be informed that an assembly was to be held. The

24. Reynié, *Le triomphe de l'opinion publique*, p. 220.

25. *Le Moniteur Universel*, 14 March 1868, p. 384.

26. *Journal Officiel*, 11 June 1878, p. 6,543.

Chapter Two

Public Opinion and Consensus on the Common Good

Are you afraid of the assembly of men to the point that you think that every time they gather it will be falsehood, and not the truth, that will prevail? For my part, I place my trust in the truth [...]; this is what is successful in the long run; there is no sophism, nor passion, nor anger that can resist in the face of the cold and severe language of truth.¹

Jules Simon addressed the Legislative Body of the Second Empire on 13 March 1868 to defend freedom of assembly against government restrictions. His principle idea was that the assembly of citizens, far from being a factor of social division or likely to exacerbate unfounded passions was, on the contrary, one of the best ways to eliminate extreme positions by confronting them directly with ‘the greatest force in the world, that of reason’.² In the foundation of the republican concept of assembly, seen as a way to develop a public opinion concerned with the common good and to protect against divisions likely to destabilise representative democracy, there was an asserted faith in individual reason, ‘promoted as the sole guide of social and political action’³ and an often expressed conviction that it would inevitably gain the upper hand in any debate.

Under the Empire the conception of assemblies as a vector of social harmony was largely shared by the republicans who pleaded for a real freedom of assembly. We find it again at the beginning of the Third Republic with the adoption of the 1881 Law on assemblies and during the early days of its application. For the republicans, the opinion created by assemblies was the outcome of a discussion based on reason where participants set aside their personal interests, tending instead towards the common good. The idea that differences of opinion were normal and legitimate has long been rejected by republicans.⁴ From then on, the outcome sought by assemblies was an opinion on which there was consensus on what constitutes the general interest. Rational discussion allows men to go beyond

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1. Jules Simon, ‘Les réunions publiques’, extract from *Journal Officiel*, 10 August 1868, Paris, Degorce-Cadot, 1869.
 2. *Le Moniteur Universel*, 14 March 1868, p. 384.
 3. Yves Déloye, ‘Idée républicaine et citoyenneté. L’expérience française (1870–1945)’, in Jean-Michel Lecomte and Jean-Pierre Sylvestre (eds), *Culture républicaine, citoyenneté et lien social*, Dijon, CRDP de Bourgogne, 1997, p. 69.
 4. Raymond Huard, *La naissance du parti politique en France*, Paris, Presses de Sciences Po, 1996, p. 154.

ideology, which is perceived negatively, in order to reach a form of consensus successfully, or at least a compromise, on what is good for society as a whole. It is thus deemed necessary to prevent assemblies from grouping people around a specific idea, where the aim is not to discuss, but to gather strength, to promote this idea, and to put pressure on those in government. This type of assembly intervenes between citizens and their representatives, whereas only the latter are considered responsible for decision-making and must not be influenced by any intermediary group.

The virtues of deliberation: an opinion assembled

Compared with the opinions being generated by the press, the valorisation of the opinion emanating from assemblies is realised above all through a discourse on the virtues of direct debate among citizens. The fact that many people gather together in the same place to defend differing ideas should tend to exclude extreme ideas and those that only represent the interest of the particular group to which a speaker belongs. This would favour ideas based on reason and aspiring to the common good. The opinions of citizens are thus modified as a consequence of an exchange of ideas. From this viewpoint, what emerges at the end of an assembly is not the simple aggregation of the individual opinions of participants who enter the room. I have already suggested the similarity of this conception of the assembly with the discourse on deliberative democracy as a new ideal political system, developed in the last twenty years, particularly in Anglo-Saxon political philosophy. Influenced by Habermas and Rawls,⁵ several authors stress the beneficial effects of participation on collective discussions organised to address public policy decisions. This parallel invites us to reflect on the novelty of the role and virtues currently accorded to popular deliberation.⁶ Indeed, today's fashion for deliberation appears to keep its historical precedents in the dark. If there is specificity in what is proposed and experimented today, connecting the present to the past still provides useful clarification for contemporary questions, as well as for those of the last three decades of the nineteenth century.

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5. See, in particular: Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, Cambridge MA, MIT Press, 1998; John Rawls, *Justice as Fairness: A Restatement*, Cambridge MA, Harvard University Press, 2001.
 6. Paula Cossart, 'Lecture critique: Historiciser les expériences délibératives. L'éducation civique par la discussion aux États-Unis (années 1820 – années 1830)', *Revue française de science politique*, 2010, vol. 60, (1), pp. 136–141; Paula Cossart, Julien Talpin and William Keith, 'Comparer les pratiques délibératives à travers les époques: une aberration historique?', *Participations*, 2012, vol. 2, (3), pp. 5–47.

Letting truth triumph

On 31 May 1878 in the recital for his proposed law on the right of assembly,⁷ Alfred Naquet declared:

I have confidence in the superiority of our ideas, in the strength of the truth that triumphs, and I have no fear for the Republic of free discussion.

The discourse on the benefits of deliberation among citizens gathered together, and on the force of reason that reveals the truth through free discussion, was ready to burst onto the scene at the outset of the Third Republic. This discourse was fundamental for the creation of the 1881 Law, but it was developed even more under the Second Empire. Indeed, the republican opposition was then faced with a rather different notion of the possible effects of freedom of assembly to discuss public affairs, that of the imperial government. The Empire considered assemblies where political questions could be addressed as inherently dangerous, convinced as it was that they tended to exacerbate extreme ideas. This justified the fact that political assemblies, with the exception of those held for elections, remained bound by prior authorisation. Men, ran the argument, are not naturally inclined to use reason. On the contrary, they will continue to be dominated by their passions and to follow the most fanatical among them. The speakers defending the government's plan made this clear to the Legislative Body. On 13 March 1878, Jean-Baptiste Jousseau, a member of the commission for the draft of the law on assemblies, refused to consider the idea of meetings to discuss politics:

As regards political matters, allowing these to be dealt within public assemblies in our present epoch, and without taking into account the experience acquired, the agitation that they have produced, the uprisings that they have caused in an era not yet far removed from our own, is it prudent? Is it possible? For my part, I do not think so. [...] The right of assembly in political matters [...] has always been considered, allow me to say this, an instrument of revolution!⁸

Government spokesmen perceived assemblies where political questions were dealt with as a place where 'evil passions [...] stir up in the lower regions of society', and where 'the worst passions', 'the tumultuous passions' — taking the expressions used on 13 March by the Minister of State, Eugène Rouher — would inevitably be exacerbated. For Rouher, thinking that 'in public assemblies the influence of sovereign reason will always [prevail over] tumultuous passions', means being 'profoundly naive'.⁹ If opinions change in an assembly, this is not in favour of ideas based on reason — which in this context are the synonym for moderate, not to say conservative, ideas — but in the direction of passions, largely understood in the sense of revolutionary ideas. Léon Bienvenu, man of letters,

7. *Journal Officiel*, 11 June 1878, p. 6,543.

8. *Le Moniteur Universel*, 14 March 1878, p. 382.

9. *Le Moniteur Universel*, 14 March 1878, p. 385.

journalist and author of critical and satirical works on the imperial world caricatured these references to passions which destabilise any system authorising political assemblies several days later. The article, in his series ‘Manual of Literature and Official Eloquence for the Use of Civil Servants and Candidates of All Ranks’, was published in *Le Charivari*.¹⁰ In a section entitled ‘A Deputy’s Discourse against the Right of Assembly’, Bienvenu recalls that ‘a discourse against the right of assembly must be very ardent’, and that ‘the emphasis and the choice of words must express the most full-blooded indignation against “*the revolutionary hydra*” and “*evil passions*”’. He then proposes a discourse of a deputy arguing against the right of assembly in the form of a parody peppered with expressions such as ‘revolutionary passions’, ‘hydra of anarchy’ and ‘anarchic passions’.

I opened this chapter with a quotation from the speech made by Jules Simon on 13 March 1868. The republican statesman and philosopher spoke out against the ‘deceit’, ‘unreasonable will’, ‘exaggerations’, ‘sophisms’, ‘passions’, and ‘anger’ of a few ‘dissenters’, ‘agitators’, ‘the unruly’, and ‘the less judicious’, in favour of the ‘truth’ of the ‘wiser’, the ‘force’ of ‘reason’, and the ‘voice of common sense’. For Simon, it is always the latter that will emerge victorious from free assembly. Even if ‘the most able speakers take the upper hand’, this will not last when faced with a language inspired by reason to which assembled citizens ‘[will listen] better’. Imperial government insisted that assemblies of men tended to exacerbate passions and to radicalise positions. The republicans replied to this with an optimistic faith in the superiority of the force of reason in debate. Denouncing the endless agitation of the ‘red ghost’ by the Empire, they argued that what actually predominates in a free discussion held in an assembly is not passion. On the condition that one allows the discussion to develop freely it will be the best arguments, that is, those based on reason, which triumph. The similarity with the Habermasian ‘ideal speech situation’, a ‘situation of free discussion, unlimited in duration, constrained only by the consensus which would be attained by the “force of better argument”’ is striking.¹¹ There is relative agreement among theorists of deliberative democracy about the idea that democratic debate favours such an exchange of arguments. ‘Whatever forms [deliberative democracy] takes it must refer to the ideal of public reason, to the requirement that legitimate decisions are those that “everyone could accept” or at least “not reasonably reject”’.¹² This ‘ideal of public reason’ was already the grounds for the legitimacy of freedom of assembly among the republican opponents of the Second Empire.

After the adoption of the 1868 law, the republican discourse on the virtues of deliberation in citizens’ assemblies continued to develop culminating when the barriers to freedom of discussion were fortified in January 1869. In other

10. *Le Charivari*, 17 March 1878.

11. James Fishkin, *Democracy and Deliberation. New Directions for Democratic Reform*, New Haven CT, Yale University Press, 1991, p. 36.

12. James Bohman, ‘The Coming of Age of Deliberative Democracy’, *The Journal of Political Philosophy*, 1998, vol. 6, (4), pp. 401–402.

words, a relative tolerance only lasted until the end of 1868, after which time one finds many assemblies dissolved, speakers and chairmen put on trial,¹³ and ministerial memoranda called for a strict application of the law. The letter of 16 February 1869 from Adolphe Forcade, Minister of the Interior, to the police prefect reflects the spirit guiding this new government policy, triggered by the fear of the dangers of completely free discussion.¹⁴ Forcade invites the prefect to order the civil servants supervising assemblies to dissolve them if they deal with issues outside of their declared purpose: ‘there is a certain degree of violence in the ideas and language that [it is the] duty [of governments] to contain or repress when it occurs in public’. According to Forcade, the aim of government should be to ‘make [freedom of assembly] penetrate morals by diverting passionate debate and dangerous theories, and returning to discussions which help prepare legitimate progress and serve the real interests of the country’. Republicans responded to this hushing-up with articles in the press, by publishing works about freedom of assembly, in speeches addressed to the Legislative Body, and during trials. Their discourse distinguishes between what would, in a free discussion, issue from ‘error’, ‘excess’ or ‘eccentricities’, on the one hand, and from ‘reason’, or ‘common sense’, on the other. Once again there is the affirmation of the inevitable victory of the latter over the former. Charles Delescluze editor-in-chief of the republican newspaper *Le Réveil* stated:

On the platform, before 1,000–2,000 men from all backgrounds, with their own consciences and their own reason, if more daring theories are not always hidden, they collapse in the face of contradiction which, in the last instance, always awards the victory to general good sense.¹⁵

For this reason debate in assemblies should be left to have free rein, without preventing certain questions from being addressed, and without an impatient police commissioner eager to break up the gathering. This idea was defended by Edmond de Pressensé, a pastor critical of imperial politics. In 1871 he was elected deputy to the Assembly for the electoral district of la Seine where he stood as a candidate ‘of republican and, above all, anti-Bonapartist, faith’.¹⁶ In 1869 he published *Les réunions publiques à Paris et les élections prochaines*, particularly

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13. ADP/D3U9/34/Jugements de la Cour d’Appel de Paris. The most active speakers in socialist and communist assemblies were accused of ‘attacking the rights of the family’ (arrêt no. 2797), ‘offence against morality’ and ‘offence to public and religious morals’ (arrêt no. 2797), ‘[exciting] citizens to contempt or hatred’ (arrêt no. 2796), ‘attacks on the right to property’ (arrêt no. 2983), ‘verbal offences against state magistrates on duty’ (arrêt no. 2925), etc.
 14. Reproduced in Auguste Vitu, *Les réunions publiques à Paris, 1868–1869*, Paris, Éditions Dentu, 1869, pp. 93–95. On this pamphlet, see: Alain Dalotel, Alain Faure and Jean-Claude Freiermuth, *Aux origines de la Commune. Le mouvement des réunions publiques à Paris. 1868–1870*, Paris, F. Maspero, 1980, pp. 36–37.
 15. *Le Réveil*, 9 January 1869.
 16. Adolphe Robert and Gaston Cougny, *Dictionnaire des parlementaires français de 1789 à 1889*, Paris, Bourloton, 1889–1891, vol. 5, p. 44.