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Requisition During the French Revolution (1789-1815)

MAURICE K. WISE*

From the earliest times, states have had recourse to extraordinary measures for securing personal services and private property from their citizens in public emergencies. In many instances these measures were merely uncompensated seizures made haphazardly in the face of sudden needs and supported only by an undifferentiated *imperium* or royal prerogative. Little effort was made to foresee and delimit possible occasions of urgent need and to regulate the manner of meeting them. Great insecurity of person and property resulted. In some cases individuals were indemnified, but only to the extent dictated by political or economic expediency and without regard to maintaining equality before public charges. When it is considered that most of the urgent needs to arise were those of unruly armed forces, both in peace and in war, it becomes apparent that grave abuses prevailed.

The French monarchy strove to unify the state, effect some measure of security of person and property, equalize public charges and regularize the supply and quartering of its troops. It fell far short of its goal. It was the achievement of the Revolution to establish complete national sovereignty, equality, personal freedom and private property on a secure juridical plane. The decree of August 4, 1789¹ abolishd all feudal remnants and regional prerogatives and declared equality before public charges. The Declaration of the Rights of Man went further. It affirmed that "law is the expression of the general will" by the national representatives and "it is the same for all"; men are "born and remain free and equal in rights" of "liberty, property, security and resistance to oppression"; "no person shall be accused, ar-

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1. 10 Devilleneuve et Carette, Recueil général des lois et des arrêts, 1^{re} série (Paris 1843) 2.

rested or imprisoned except in the cases and according to the forms prescribed by law"; "private property is an inviolable and sacred right, no one shall be deprived thereof except where public necessity, legally determined, shall clearly demand it, and then only on condition that the owner shall have been previously and equitably indemnified." The constitution of 1791 embodied these reforms.² With their application, requisition emerged fully as an institution of public law. Its outlines are already clearly visible. It was no longer the royal fiat that could render requisition legitimate but public necessity determined pursuant to law. Personal freedom and private property were so enshrined that they could be derogated from only at the direction of the general will. Gone was the eminent domain of the crown; gone, too, was personal subjection to the king. The revolutionary state was a state governed by, and according to, law; it knew nothing of either. Every unequal deprivation of property or freedom in the general interest was to be justly compensated.³ Nor was such deprivation to be resorted to except in truly extraordinary circumstances of need since it comported a sort of violence become hateful. Furthermore, it was thought that it would be seldom necessary, for the state was to be severely limited to largely passive functions.

The dream of a *laissez-faire* state was due for a rude awakening. The Revolution brought in its wake a train of foreign wars and internal disorders which created a state of almost permanent emergency. Extraordinary measures became the rule rather than the exception. The nation in arms necessitated a total mobilization of national resources theretofore unheard-of. Requisition became one of its most potent and often-used weapons, for the satisfaction not only of the traditional military needs but also of a multitude of new civil ones.

The liberal principles of the revolution were quickly embodied in the requisitory law of France. Billeting, which had been longest a source of objection under the monarchy, was first remodeled. A decree of April 7, 1790 made the obligation of quartering troops general until "a new order of things" could be instituted.⁴ Thus, in one field where privilege had been most offen-

2. Duvergier *Collection des Lois*, III, p. 275.

3. The urgency of the needs to be satisfied by requisition and the financial straits of the revolutionary governments made it impossible, however, to conform with the constitutional prescription of a prior indemnity except for expropriation.

4. 10 *Recueil Devilleneuve* (1^{re} sér.) 12.

sive, equality before public charges was effected, the hope being at the same time held forth that the soldiers would be removed from the homes of the citizens as soon as barracks could be provided. The troops to be housed were still the mercenaries of the crown, the popular representatives having carelessly left the royal military establishment intact.⁵ Not until the flight of the king from Paris gave warning of the immediate danger to be apprehended from the cooperation of such forces with foreign interveners did the national assembly turn its full attention to the army. The national guard, which had been spontaneously constituted in the hectic days of 1789, was then placed on a permanent footing and the regular army was weeded of treason and enlarged.⁶ A decree of July 10, 1791⁷ provided for the strengthening of fortifications. Title V of the decree was concerned with the quartering of troops. Barracks were to be constructed as rapidly as was feasible. No municipality could be requested to supply billets except where the military establishments were inadequate. Public buildings and rented vacant premises were to be occupied first by troops. If it became indispensable to secure billets in private homes, an equitable rotation was to be observed. No absolute exemptions were permitted; depositaries of public funds and women living alone were not required to lodge troops in their own homes but had to supply substitute quarters. The soldiers were individually liable for all damages. No indemnity was due, but no great injustice resulted from this since the charge was a general one. Title VI of the decree removed from the cities and *départements* all obligations to construct or maintain any military establishment whatever; the national government assumed the entire responsibility for fortifications, barracks and other military constructions. The quartering of troops was thus regularized and in large part provided for through non-requisitory means.

The subsistence service was remodeled by a decree of September 20, 1791.⁸ The country was divided into twenty-three military districts. In each a *commissaire ordonnateur* was in charge of supply, assisted by a suitable number of *commissaires ordinaires*. With a disconcerting want of foresight, the decree did not modify the system of supply with the same thoroughness as the machinery. Except for food and forage private enterprisers

5. Revol, *Histoire de l'armée française* (Paris 1929) 135-136.

6. Decree of June 21, 1791; Duvergier *Collection des Lois*, III, p. 61.

7. *Bulletin des Lois*, II, No. 336.

8. *Id.* at No. 461.

were still to be principally relied on. When war was declared on Austria and Prussia in April 1792, the French army was numerically inadequate, poorly equipped and honeycombed with treason and indiscipline. To make matters worse, there was no effective legislation in force to remedy these evils. A hasty recourse to requisition was the only available means of supply and only conscription could provide enough men. Both courses were adopted.

Shortly after war was declared, a census of all the saddle and draught animals and vehicles available for requisition was ordered in the frontier and adjacent *départements*.⁹ The *commissaires ordonnateurs* were to requisition them and pay the indemnities fixed by the departmental directories with the advice of the local authorities. Forage for the animals and food for the drivers of military convoys could also be requisitioned. Animals and vehicles were requisitioned in use only, being returned to the owners once the public need for them was over. Only the loss of enjoyment was compensated unless restitution could not be made. The law which effected this regulation was so ambiguous as to leave it in doubt whether anyone other than the *commissaires* could requisition means of transportation. This defect was cured by a law of June 24, 1792¹⁰ which greatly enlarged the number of persons authorized to order such requisitions. When, in the next month, the national guard was called to active service,¹¹ the means of transportation which could be requisitioned in the vicinity of the frontiers were no longer adequate. The earlier law was, therefore, supplemented by a decree of September 2, 1792¹² which authorized a census of all horses and mules in the country. "When the circumstances require it," the executive power might requisition all animals used for pleasure or convenience. It must be noted that while such requisitions were intended to benefit the armed forces primarily, the law did not expressly so limit them. In its third article, in fact, it authorized even the *départements* and districts to order similar requisitions whenever necessary to any public end. The proper conditions for the exercise of this power were determinable by only a slightly controlled administrative discretion. An indemnity fixed in the

9. Law of April 29, 1792; Duvergier Collection des Lois, IV, p. 144.

10. Collection Baudouin, XXII, 309.

11. A decree of July 4, 1792 (Bulletin des Lois, III, No. 269) authorized such levy whenever the nation should be declared in danger. Such declaration was made on July 11, 1792.

12. Collection Baudouin, XXIV, 556.

manner of the earlier law was to be paid, in the way least embarrassing to the treasury as established by the executive, at the end of each period of use or upon ascertaining that restitution could not be made. The foregoing were the principal measures regulating the requisition of means of transportation throughout the revolutionary period.

Under the compulsion of wartime needs the law of 1791 on the quartering of troops was also expanded. By a decree of May 23, 1792¹³ the national assembly approved regulations prepared by the minister of war to effect such expansion and institute more detailed rules for the enforcement of anterior laws.¹⁴ The right to be quartered among the people was extended to employees of military establishments, but was limited to time of war only. The accessories of shelter were specified more fully to include bedding, furniture, utensils, heat and light and storage space for supplies. Some of these could be requisitioned independently of quarters, upon payment of an indemnity, for troops lodged in barracks or municipal public buildings. The role of the local authorities was more clearly defined. They were to be informed of the time of arrival and number of troops and, whenever possible, of the duration of their stay. On the basis of such information they were to assign billets, having regard to the desirability of keeping companies together and near to their mounts. To enforce strictly the liability of soldiers for damages it was provided that all claims were to be advanced to the commander, commissary officers or municipal officials before the departure of the unit or, at the latest, within an hour thereafter. Before their departure, the troops were bound to secure from the local civil authorities a certificate of good behavior or a statement of the claims advanced against them and of their disposition. Only troops on the march were sheltered without compensation; for troops in garrison a just indemnity was due. The wisdom of many of these provisions is best indicated by their inclusion in the present law of France.¹⁵

Of perhaps greater importance than means of transportation and certainly more imperative than shelter in time of war are arms, clothing and food. All three were lacking to the soldiers who in 1792 marched to defend the frontiers of France; and

13. Collection Baudouin, XXII, 84.

14. The minister acted pursuant to Art. 5 of the decree of September 27, 1791.

15. Law of July 3, 1877; Journal Officiel (July 6, 1877) 5053.

equally lacking were the means for their production. The country had no large industries which could be converted to supply the needs of the armies. It did not have the means for their creation. Successive confiscations of the property of *émigrés* and frequent issues of the inflationary assignats could not counterbalance the dislocation of the national economy attendant upon revolution; the country's finances were in at least as wretched a state as they had been under the king. Scarcity was everywhere so that the shocking violence of the urban mobs may be more attributed to the want of bread than to political fervor.¹⁶ The extent of that fervor may perhaps be gauged from the tremendous difficulties encountered in raising an adequate volunteer army, a feat never wholly achieved.¹⁷ Under these circumstances conscription and an extensive employment of requisition were perhaps as inevitable as reigns of terror.

Once an army had been raised, arms were the first need. As early as 1790 distributions to the national guard and the violent pillage of the royal arsenals had exhausted the government supplies of armaments. Purchase was inadequate. Not even military seizure of all arms factories could supply every soldier with a rifle. The workers in such factories were requisitioned to remain at their posts. Other plants were organized and supplied with raw materials in the form of church bells, clocks, statues and monuments. These theretofore unheard of requisitions in a measure made possible the arming of the troops while leaving to the interior only "white arms" and hunting guns.¹⁸

The lack of clothing for the troops was no less than the want of arms. Since 1791 stores of equipment had been instituted for each permanent corps, but these were not sufficient to equip the volunteers and conscripts who swelled the ranks of the army in the years immediately following. The departmental directories were invited to equip the "volunteers"¹⁹ who did not themselves have the means. Factories were instituted in Paris and in the vicinity of the armies. The citizens were encouraged to make gifts of clothing.²⁰ By these means the soldiers were kept clothed during the dangerous days of 1792.²¹

16. Bourne, *The Revolutionary Period in Europe, 1763-1815* (New York 1914) c. XII, XIII.

17. *Revol*, op. cit. supra note 5, at 136-139.

18. *Ibid.*

19. *Id.* at 137. The appellation "volunteers" was applied also to the conscripts.

20. It need not be stated that in those days of violence and suspicion encouragement was indistinguishable from the most stringent coercion.

21. *Revol*, op. cit. supra note 5, at 140.

The food problem was more acute even than the others. Famine had played its part in instigating the succession of revolutions which have been known as the French Revolution. These upheavals aggravated the evil by producing severe dislocations of agriculture which was the chief concern of nine-tenths of the population. For the armed forces, the government assumed the obligation of supplying them directly with food, the system of purchases by them having been rejected on the thoroughly valid ground that they could not be supplied with the necessary cash. Civilian and military needs joined to necessitate widespread regulation of food production and distribution. The exportation of necessaries was forbidden while the free circulation of grains within the country was widely encouraged, after an initial policy of restricted trade had been abandoned. Monopoly and hoarding were punished with death. Rationing was resorted to.²² In the interest of the army two decrees of December 13, 1792²³ gave the *commissaires ordonnateurs* unlimited powers of requisition to be effectuated at need by military force. Requisitions were, insofar as possible, to be restricted to areas in the vicinity of the troops; but, within such areas, not even the government committee on purchases could buy food without the consent in writing of the *commissaires* or the commanding officers. The sweep of these measures, the leadership of brilliant generals and revolutionary fervor saw French arms victorious everywhere by the end of the eventful year 1792 over the Austrian and Prussian forces which for a time had threatened Paris itself.

Victory did not bring peace in its wake; a successful revolutionary regime in France was too suggestive to the peoples of other nations to be tolerated by their rulers. In the late days of 1792, in accord with the unwise enthusiasms of the times, the Convention sharply drew the line between the old and the new order not only for France but for the whole of Europe by pledging its aid to any people who should rise against their rulers.²⁴ The execution of Louis XVI in the early part of the following year re-enforced the threat against all monarchs, aggravating the foreign danger and lighting the flame of insurrection at home. A multitude of unsolved economic problems made the government insecure. France entered the new year confronted with a host of foreign foes and internal enemies, impoverished and divided in

22. *Ibid.*

23. Duvergier Collection des Lois, V, 100.

24. Decree of November 19, 1792; Collection Baudouin, XXV, 204.

counsel. Once more the allied monarchs seemed able to overwhelm it. The Republic, however, was made of stern stuff and did not falter before dangers which the monarchy at its best might well have feared to meet. In April the Committee of Public Safety was instituted and rapidly drew to itself all power and all responsibility. In August Carnot, to be later hailed as the "organizer of victory," assumed the direction of the war as a member of the Committee. Disliked by the dictatorial Robespierre and threatened with the loss of his head at the first reverse, he quickly and efficiently trained and equipped new armies and rushed them to the endangered frontiers. A decree of February had ordered the compulsory levy of three hundred thousand men.²⁵ In August the government was empowered to draft all citizens between the ages of eighteen and twenty-five.²⁶ These measures supplied Carnot with raw material for his armies and he labored incessantly for their effective organization.

The mass levy furnished an untrained horde which could be equipped only by the most extraordinary efforts of the entire nation. The situation was critical when Carnot called for the military organization of the popular furor and indited that courageous resolve of a nation fighting for its life: "From this moment until that when the enemies shall have been swept from the territory of the Republic, all Frenchmen are on permanent requisition for the service of the armies. The young men will go to fight; the married men will forge arms and transport supplies; women will make tents and clothing and will serve in the hospitals; children will make lint; the old will have themselves carried to public places to excite the courage of the warriors, preach hatred of kings and the unity of the Republic."²⁷ This was truly general requisition never known before, nor since. Houses were to be converted into barracks, public places into arms factories. Saltpetre was to be extracted from caves for the manufacture of powder. Arms of all calibers were to be sent to the warriors. Saddle horses were requisitioned to mount the cavalry; draught horses, except those needed for agriculture, to pull the artillery trains and transport supplies. The Committee of Public Safety was charged with the construction of a great factory for the production of arms of all kinds; and workers throughout France

25. Decree of February 24, 1793; Collection Baudouin, XXVII, 285.

26. Decree of August 23, 1793; Bulletin des Lois, IV, No. 717. Only married men and widowers with children were conditionally exempted by Art. 8 of the decree.

27. Art. I, decree of August 23, 1793; Bulletin des Lois, IV, No. 717.

could be requisitioned for its operation. To prevent the favoritism so injurious to national efforts, no one was to be permitted to secure a substitute for any services that he was requisitioned to perform. The representatives of the people entrusted with the execution of this law were invested with the unlimited powers possessed by the popular representatives who accompanied the armies.

A multitude of more specific measures followed upon this fundamental law. The production of arms and munitions was increased and rigorously centralized until the most extreme peril had been met by September 1795.²⁸ Requisition was authorized for the defense of fortified areas. More strenuous efforts were made to supply clothing. Shoes particularly seem to have been a serious problem. For three months after November 5, 1793 all shoemakers were requisitioned to furnish the municipalities or sections in which they resided with five pairs of shoes per employee for each week of ten days.²⁹ This measure proved difficult of enforcement and shoes became increasingly scarce, especially as the soldiers sometimes sold those given them. A decree of December 8, 1793 therefore provided that during the months of *nivôse* and *pluviôse*³⁰ all shoemakers should be engaged in the production of shoes for the armed forces. All shoes manufactured for private individuals during that time were to be confiscated and the law-breakers were to be fined. Any person who bought shoes from a soldier was also to be punished, enforcement of this provision being facilitated by the adoption of a distinctive military style of shoe.

The laws on the requisition of food were more widely applied and the machinery for their execution was improved. Monopoly and hoarding were more severely repressed. In the interest of both the civilian population and the armed forces, price-fixing was resorted to for all the necessaries of life. This measure sought to combat the inflation produced by indiscriminate issues of assignats, backed only by the confiscated estates of the émigrés. The year 1790 was taken as a price base with a median increase

28. A decree of August 28, 1793. (Bulletin des Lois, IV, No. 728) authorized the extraction of saltpetre from any premises whatever upon the sole condition that they be restored to their original state and damages be compensated. All employees of powder plants were requisitioned. The price of saltpetre was raised so that less productive deposits might be profitably exploited.

29. The revolutionary calendar raised the week to ten days so as to increase working time and minimize the tradition of religious holidays.

30. January and February, 1794.

of one-third.³¹ Requisition, too, was employed for the relief of civilians: the owners of commodities could not refuse to sell at the legal price or even abandon trade except in very restricted circumstances;³² one-eighth of all the pork in the country was requisitioned for their use by a decree of November 10, 1793; all commodities, materials and merchandises in beleaguered cities were required to be put in common.³³

Means of transportation and drivers were requisitioned on a wider scale than ever before in the interest of the highest mobility, which was a valuable asset of the revolutionary armies. To avoid the difficulties of recruiting civilian personnel and preventing their desertion, a tendency developed toward the militarization of transport services.³⁴ Horses were requisitioned to mount the cavalry. Thus the revolutionary ideal of a nation in arms was realized by a colossal effort. Despite imperfections of detail, inevitable in legislation hastily improvised before the menace of so many enemies within and without the borders, this work, in the words of Barère, revealed "to the citizens the secret of their forces, to the workers the secret of their intelligence, to the Republic the secret of its enormous and innumerable resources."³⁵

By the end of 1794 the most pressing danger had been repelled and an era of reconstruction had begun.³⁶ The consolidation of republican institutions produced in the decree of 19 *brumaire*, year 3,³⁷ an organic law of requisition which was to remain unchanged for many years.³⁸ It provided in its first article that "All commodities, supplies and other objects necessary to the needs of the Republic, may be requisitioned in its name." This generic provision made unnecessary a multiplicity of specific laws; all moveable property could thereby be requisitioned. The needs of the nation were at once the justification for the taking of private property and a limit upon it. This, however, was no longer simply military, but general, requisition. All needs, at the discretion of the executive branch of government, could be met with this extra-

31. Decree of September 29, 1793 (Duvergier Collection des Lois, VI, p. 239) and a large number of others. Maximum prices were abolished by a decree of 4 *nivôse*, year 3 (December 24, 1794); Recueil Galisset I (2) p. 1299.

32. Bourne, op. cit. supra note 16, at 205-206.

33. Decree of 16 *nivôse*, year 2 (January 5, 1794); Collection Baudouin, XXXVIII, p. 119.

34. Revol. op. cit. supra note 5, at 141.

35. Ibid.

36. Bourne, op. cit. supra note 16, at 218-233.

37. November 9, 1794; Duvergier Collection des Lois, VII, p. 390.

38. Report of Baron Reille to the Chamber of Deputies, session of March 21, 1876; Journal Officiel (August 19, 1876) 6477.

ordinary remedy. There was here no innovation but rather the permanent embodiment of what had been the practice of the Republic in its hours of emergency.

The vast powers conferred by this law were to be lodged primarily in commissions of supply, operating under the direct supervision of the Committee of Public Safety.³⁹ Only the Committee could authorize requisitions to be made of specific individuals and then only "when extraordinary circumstances require it." Detailed reports of all others had to be delivered to it. Moderate even in reform, this law did not entirely remove the requisitory power from agencies close to the armed forces; the popular representatives stationed with the armies could exercise it in conditions of urgent need provided that they reported on each requisition to both the competent commission of supply and the Committee. Requisitions could also be ordered "by the constituted authorities, when necessitated by marches or unforeseen troop movements."⁴⁰

Private property was safeguarded by a procedure more stringent than any theretofore used. Unlimited requisitions were abolished. Every order had to designate the kind and quantity of objects requisitioned, the districts where it would be executed, the time and place of delivery, and when the indemnity due would be paid. Insofar as possible, all requisitions were to be executed near the point of delivery so as to reduce the burden of transportation which fell upon the prestator.⁴¹ Execution was entrusted to the local civil authorities, which were strictly accountable to the district administration, and to the national agents in the fields of their special competence. A penalty of six years' imprisonment at hard labor was prescribed for any official who converted requisitions to his own benefit or exceeded his authority. Confiscation of the articles or commodities requisitioned, ordered by the tribunals of the district at the instance of the national agent for that area, was the penalty imposed upon individ-

39. Reconstituted and deprived of many dictatorial powers after the fall of Robespierre in the summer of 1794. Bourne, *op. cit. supra* note 16, at 216-219.

40. Art. 17. This last grant of authority, made in the midst of penal provisions on the conversion of requisitions to private uses and on the exceeding of the powers conferred, is hardly justifiable. Though only slight importance was attached to it, its wording is such as to confer quite extensive powers on even minor authorities, endangering not only individuals but the statutory scheme also.

41. In the case of grains, a law of 23 *brumaire*, year 3, November 13, 1794 (Recueil Galisset, I [2], p. 1285) allowed an indemnity for transportation. This was, however, exceptional.

uals who failed to satisfy the requisitions addressed to them.⁴² Each locality was required to maintain a complete record of all orders executed by it.

A right to indemnity was guaranteed by the law as the supreme protection to the individual. No machinery was necessary, however, for the determination of the proper amounts to be paid since the principal objects of requisition were subject to fixed prices. These were so inequitable under the changed conditions of 1794, that an upward revision was made in the prices of grains and forage on the same day that the requisitory law was passed, fixing them at two-thirds above those current in 1790.⁴³ This increase was not sufficient to remedy severe injustice. Requisition came to be execrated by the people. Before the end of 1794 maximum prices were repealed entirely.⁴⁴ The law which effected this repeal indicated a clear-cut preference for purchase; requisition was to be reserved to extraordinary needs. All prestations were to be indemnified at the market prices current in the capital of the district at the moment of delivery. Public opinion was not wholly satisfied with the restriction of the scope of requisition and with the complete reversal of compensatory policy.⁴⁵ It remained so adverse to the exercise of the requisitory power that, except for brief periods during the Hundred Days, its use became increasingly rare.⁴⁶

The laws of 19 *brumaire* and 4 *nivôse* of the third year of the Republic instituted a strikingly modern regulation of the requisition of commodities. They repealed all prior contrary provisions, with one exception, thus concluding the administration of the welter of laws which helped the revolutionary state through an era of great danger. The only exception was concerned with the compulsory supply of markets in urban centers. Requisitions were allowed to be made for this purpose until adequate stocks had been accumulated.⁴⁷ They were absolutely indispensable since

42. Earlier requisitory laws carried no special sanctions, but relied on "the terror of being ranked among the suspects and conspirators" for enforcement. Grand répertoire alphabétique Dalloz, Réquisition, 289.

43. Law of 19 *brumaire*, year 3 (November 9, 1794); Duvergier, collection des Lois, VII, p. 391.

44. Law of 4 *nivôse*, year 3 (December 24, 1794); Recueil Galisset, I (2) p. 1299.

45. Lutendu, La notion de valeur dans les réquisitions militaires. (Nantes 1920) 17-18.

46. Calmégane-Course, La nature juridique de la réquisition militaire (Paris, 1920) 83-86.

47. They were to terminate by April 1, 1795, pursuant to a decree of 3 *pluviôse*, year 3 (January 22, 1795); Recueil Galisset, I (2), p. 1314.

currency manipulation inhibited trade to such an extent as to threaten cities with starvation, a condition dangerous to the very stability of the government. The opposition to them was so great, however, that the remaining days of 1794 and the beginning of 1795 witnessed an increase in the coercion inherent in the requisitory procedure. The confiscation decreed in 1794⁴⁸ against anyone who failed to satisfy such requisitions on any ground other than that he did not possess grain and flour beyond his own needs for six months proved inadequate. A decree of 3 *pluviôse*, year 3⁴⁹ therefore provided that anyone who did not satisfy a requisition of grain within eight days was to be subject to arrest and imprisonment until the grain was delivered. In addition, he was subject to a fine equal to the value of the grain not delivered in time; and his indemnity was calculated at the market price as of the time when delivery should have been made if a price increase had occurred prior to delivery. Only the representatives on mission could withdraw a requisition when impossibility to deliver was established. In March 1795 the penalty of physical detention was imposed also for the failure to satisfy requisitions of means of transportation as well as a fine equal in value to the commodities lost or damaged in consequence of such failure.⁵⁰ These sanctions were particularly necessary as indemnities for means of transportation were not modified as were those for commodities; they continued to be fixed by the administration at inadequate amounts. The foregoing measures were at once the evidence of strenuous opposition to the requisitory procedure a systematization of the coercion which in the days of the terror may well have led to the guillotine. They are important also in that, by making non-possession of requisitioned goods an excuse for not delivering them to the state, they effected a clear severance of taxation and requisition.

The Directory established in 1795 to govern France passed few laws regulating the power of requisition and these of little importance. In 1796 and 1799 forced loans were exacted. These were veritable requisitions of capital. They represented no innovation, however, as forced loans had been previously imposed.⁵¹ A

48. Decree of 11 *nivôse*, year 3 (December 31, 1794); *Recueil Galisset*, I (2), p. 1302.

49. *Recueil Galisset*, I (2), p. 1314.

50. Decree of 26 *ventôse*, year 3 (March 16, 1795); *Recueil Galisset*, I (2), p. 1326.

51. Decrees of May 20 and September 22, 1793; *Recueil Galisset*, I (2), p. 969.

law of 14 *nivôse*, year 7 authorized requisitions of arms to be indemnified on the basis of appraisal, on the occasion of a levy of new troops. It was only with regard to payment of indemnities that the Directory made any changes. These were largely the result of bankruptcy, the national finances having been placed in a serious plight by the extravagance and venality of the administration.⁵² A law of 3 *vendémiaire*, year 5⁵³ provided that certain requisitory indemnities might be paid in the form of deductions from taxation, for which purpose bonds would be issued. The liquidation was to be made on the basis of metallic values. This form of payment served a double purpose; it relaxed the strain on the treasury and compelled the payment of taxes which was seriously in arrears. So unsound was the paper currency, issued with a lavish hand and ever more unwisely, that the government unjustly settled its claim against its citizens on the basis of metallic values while settling their claims against itself on the basis of depreciated drafts on an empty treasury. A later measure of 16 *brumaire*, year 5⁵⁴ extended the purposes for which the bonds could be used not only to the payment of direct taxes for the following year, though only the original receiver could so use them, but also to the purchase therewith of public property. Their acceptance in payment for national property was a spoliation of the public domain in favor of those wealthy enough to retain or accumulate the bonds, inasmuch as no adjustment on the basis of metallic values was prescribed by this law. While the payment of indemnities by means of bonds may be frequently justified, the measures of the Directory can only be deplored as an inequitable way of meeting a crisis in the national finances.

The years following the replacement of the Directory with the Consulate⁵⁵ and the latter with the Empire⁵⁶ witnessed few changes in the requisitory scheme. In fact a greater and greater reliance was placed on open-market transactions.⁵⁷ A consular decree of 1 *fructidor*, year 8⁵⁸ tended to place the burden of requisition on certain well-defined areas by providing for the estab-

52. Bourne, *op. cit. supra* note 16, at 245, 273-274.

53. September 24, 1796; Collection Baudouin, VI, p. 5.

54. November 6, 1796; Recueil Galisset, I (2), p. 1593.

55. Law of 19 *brumaire*, year 8 (November 10, 1799); Recueil Devilleneuve, 1^{re} sér., X, p. 514.

56. Law of 28 *floréal*, year 12 (May 18, 1804); Recueil Devilleneuve, 1^{re} sér., X, p. 671.

57. Calmèjane-Course, *op. cit. supra* note 46, at 84.

58. August 18, 1799.

lishment of fixed lines of march within the country.⁵⁹ An imperial decree of April 10, 1806 permitted means of transportation to be requisitioned, when purchase proved inadequate, to fill the contingents prescribed for each corps. Requisitions were to be addressed to the mayors and a cash indemnity was to be immediately paid on the basis of tariffs to be drawn up by the prefects. Carts could not be overloaded nor horses over-driven. Nor could drivers, concomitantly requisitioned, be compelled to go beyond the next stopping place on the line of march. Anyone ordering an unlawful requisition was declared liable to the government for the loss thereby imposed upon the individual. The regard shown by this decree for the interests of the citizens does not seem to have made them less averse to requisition, as two years later a fine equal to the cost of the prestation refused had to be imposed upon individuals who did not heed the requisitions of the mayors.⁶⁰ In view of the large scale movements of Napoleon's troops within as well as without the country, it is probable that broad use was made of both these decrees as well as of anterior laws,⁶¹ despite the fact that private enterprisers were principally relied on.

The imperial policy of addressing requisitions to the mayors was abandoned in 1813. A law of December 15 of that year⁶² made the prefects the intermediaries between the citizens and the military authority and broadened the base of requisition from the commune to the *département*, which was under more thorough central control. The prefects were to appoint commissioners to accept transfer of requisitioned commodities and give receipts, which would serve as titles to subsequent indemnities calculated upon the basis of the market price. This provision eliminated entirely all contacts between civilians and the military; one of its express aims was to achieve precisely this result.

The requisitory work of the French Revolution was concluded by a law enacted by the Commission of Government which succeeded Napoleon after his second and final abdication.⁶³ This law bore the date of June 28.⁶⁴ It authorized the new government to assure, through requisition, the subsistence of the army and the

59. Not repealed until December 20, 1899, by a decree of that date; *Journal Officiel* (January 26, 1900) 534.

60. Decree of August 3, 1808; *Recueil Devilleneuve*, 1^{re} sér., X, p. 784.

61. Calmégane-Course, *op. cit. supra* note 46, at 84-85.

62. *Bulletin des Lois*, 4^e sér., 1814, XIX, No. 543, p. 458.

63. On June 22, 1815.

64. *Recueil Galisset*, II (2), p. 1578.

operation of military transports until the end of 1815. It pledged the government to take such measures as would prevent and repress abuses. A double policy was adopted as to indemnities. For commodities not traded in on exchanges and for military transports, the indemnity was to be fixed on the basis of tariffs to be drawn up by the prefects and their councils, in concert with the *commissaires ordonnateurs*; for all other objects the market price was to determine the amount to be paid. Receipts were to be given for all requisitions, stating the nature, quantity and value of the objects transferred to the government. Payment was to be made from current revenues and, to make the law more palatable, was to extend to all requisitions made since January 1 not already compensated.

The Revolution was over, exhausted by a militarism which had not known how to consolidate its power on a peaceful basis. No great efforts such as those of 1793 were possible. The allied forces invaded France and took vengeance for the vast spoliation which had been wrought against them, levying large indemnities and excessive requisitions. So heavy was the burden on the conquered provinces that a royal ordinance of August 16, 1815⁶⁵ exacted a forced loan of one hundred million francs from the wealthier elements of the population for their relief. The following year the task of liquidating the requisitions theretofore made was initiated.⁶⁶ Thus ended a period of overwhelming legislative activity, which gave a new meaning to public authority and to private property, severed requisition from the general field of taxation, and gave it an important place among the instruments of the nation in arms. The king was restored; but the work of the Revolution in the sphere of requisition could not perish. Much of it has found its way into the present law of France.⁶⁷

65. *Id.* at 1598.

66. *Id.* at 1731; Law of April 28, 1816.

67. See Wise, *Requisition in France and Italy* (New York, 1944) 9 et seq.