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Source Book in European Governments

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European Governments

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WILLIAM SLOANE
ASSOCIATES, INC.
Publishers • New York



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First Printing



Typography and format designed by

LEONARD W. BLIZARD

Manufactured in the United States of America

Contents

GREAT BRITAIN

CONSTITUTIONAL SOURCES

1. Magna Carta (1215) 3
2. The Petition of Right (1628) 8
3. The Bill of Rights (1689) 11

THE CROWN

4. Coronation Oath (1937) 17
5. Declaration of Abdication Act (1936) 18
6. Regency Act (1937) 18

PARLIAMENT

7. Sovereignty of Parliament 23
   (a) Entick v. Carrington (1765)
   (b) Edinburgh and Dalkeith Railway Co. v. Wauchope (1842)
   (c) Lee v. Bude and Torrington Junction Railway Co. (1871)
8. Parliament Act (1911) 26
9. House of Lords—Agreed Statement of Party Leaders (1948) 29
10. The Speech from the Throne (1947) 34
11. The Question Period (1947) 38
12. A Whip (1945) 40
13. The Budget Resolution 41

POLITICAL PARTIES

14. Constitution of the Labour Party (1947) 42
15. Standing Orders of the Labour Party (1947) 50
16. Tables of Elections (1929–50) 56

ADMINISTRATIVE JURISDICTION

17. Crown Proceedings Act (1947) 58

NATIONALIZATION

18. Bank of England Act (1946) 64
19. Coal Industry Nationalization Act (1946) 67

FRANCE

CONSTITUTIONAL BACKGROUND

20. Declaration of the Rights of Man and Citizen (1789) 79
21. Constitutional Laws of 1875 81

22. Amendment upon the Seat of Government (1879) 87
23. The Amendments of 1884 87
24. Amendment of August 10, 1926 88

VICHY INTERLUDE

25. The National Assembly Adoption (1940) 88
26. Constitutional Acts (1940) 89

THE FOURTH REPUBLIC

27. Referendum of October 21, 1945, with Law Draft for the Provisional Organization of the French Government 91
28. Excerpts from the First Draft Constitution (April, 1946) 92
29. Constitution of the French Republic (October, 1946) 96
30. Law (Excerpts) on the Election of Members of the National Assembly (1946) 114
31. Law (Excerpts) on the Election of the Councillors of the Republic (1948) 118
32. Law (Excerpts) on the Composition and Functioning of the Economic Council (1946) 123
33. Law (Excerpts) on the Constitution and Functioning of the High Court of Justice (1946) 125
34. Law (Excerpts) on the Composition and Election of the Assembly of the French Union (1946) 128
35. Rules Regarding the Internal Business of the Government (1947) 130
36. Law (Excerpts) Concerning the General Status of Civil Servants (1946) 137
37. National Credit Council (1945) 142
38. Treaty for the Establishment of a Customs Union between France and Italy (1949) 144

ITALY

39. Fundamental Statute (1848) 153
40. Constitution of the Italian Republic (1947) 157
41. The Lateran Agreements (1929) 183
42. Laws for the Election of the Chamber of Deputies (1948) 188
43. Laws for the Election of the Senate of the Republic (1948) 197
44. Party Divisions, Elections to the Italian Parliament (1948) 200
45. Platform of the III Congress of the Christian Democratic Party (1949) 200
46. Platform of the VI Congress of the Italian Communist Party (1948) 202
47. Platform of the XXI Congress of the Italian Republican Party (1949) 208

U.S.S.R.

LENIN'S REVOLUTION

The Emerging Soviet Power

Early Decrees and Declarations (1917–1918)

48. Declaration of the Rights of the Peoples of Russia 214
49. Supreme Board of National Economy 216
50. Church and State 217
51. Declaration of the Rights of the Toiling and Exploited People 219

"Proletarian Democracy"

52. From the Party Program (1919) 222

The First Union Constitution

53. The Federation of 1923 225

STALIN'S STATE

54. The 1936 Constitution 234
55. Election Rules (1937) 263
56. Composition of the Supreme Soviet (1937 and 1946) 271

THE GOVERNING PARTY

57. Reasons for the Amendments of 1939
From *the Resolution of the 18th Party Congress* 272
58. Rules of the C.P.S.U. (1939) 276
59. Growth and Change of the Party (1905–1946) 291

PEASANTS AND WORKERS

The Land Code (1935)

60. Standard Articles of Association of the Agricultural Artel 292

Reconstruction

61. The Fourth Five-Year Plan (1946–1950) 303

The Trade Unions

62. Statutes and By-Laws of 1949 317

GERMANY

FROM THE EMPIRE TO HITLER

63. Constitution of the German Empire (1871) 327
64. Constitution of the Weimar Republic (1919) 333
65. Law to Combat the National Crisis (Enabling Act) (1933) 343

ESTABLISHMENT AND EARLY PHASES OF MILITARY OCCUPATION

66. Yalta Agreement (1945) 344
67. Statement on Machinery of Control in Germany (1945) 348
68. Potsdam Agreement (1945) 350
69. Proclamation No. 1 (Establishing the Control Council) (1945) 359
70. Law No. 46: Abolition of the State of Prussia (1947) 360

THREE POWER AGREEMENT AND ESTABLISHMENT OF THE WEST GERMAN REPUBLIC

71. London Tripartite Agreement (1948) 362
72. Military Security Board (1948) 366
73. Ruhr Authority (1948) 371
74. Washington Agreement (April, 1949) 379
75. West German Occupation Statute (1949) 380
76. Constitution of the Bonn Republic (Basic Law) (1949) 383
77. Memorandum by the Military Governors on the Basic Law (1949) 415
78. Military Governors' Letter of Approval of the Basic Law (1949) 420
79. Electoral Law (1949) 422
80. Election Statistics (1949 and 1946/47) 427

THE ALLIED HIGH COMMISSION AND THE BONN REPUBLIC

81. Executive Order Establishing the Position of United States High Commissioner for Germany (1949) 428
82. Charter of the Allied High Commission for Germany (1949) 430
83. Bonn Protocol (1949) 434

Preface

This Source Book is a group project which has grown out of our experience in teaching courses in Comparative European Governments. It is intended to furnish students in the introductory course with illustrative material to supplement their textbooks.

Within the limitations of space we have sought to present significant documentation of an official character. Much of the material is new and not readily available elsewhere to students, while some of the documents appear for the first time in translation. Where official translations were not available or were inadequate, the editors have furnished their own translations.

In addition to the sources indicated within the text, we are indebted to the following graduate students of our Department who have assisted in the assembling of documents and in the work of translation —Mr. Henry Bretton, Mr. William Ellett, Mr. Edward Kozera and Mr. Theodore Liss.

L. H. L.
M. C. V.
S. E.
J. H. M.
J. K. P.

ANN ARBOR, MICHIGAN,
May, 1950.

Great Britain

CONTENTS GREAT BRITAIN

CONSTITUTIONAL SOURCES

1. Magna Carta (1215)
2. The Petition of Right (1628)
3. The Bill of Rights (1689)

THE CROWN

4. Coronation Oath (1937)
5. Declaration of Abdication Act (1936)
6. Regency Act (1937)

PARLIAMENT

7. Sovereignty of Parliament
   (a) Entick v. Carrington (1765)
   (b) Edinburgh and Dalkeith Railway Co. v. Wauchope (1842)
   (c) Lee v. Bude and Torrington Junction Railway Co. (1871)
8. Parliament Act (1911)
9. House of Lords—Agreed Statement of Party Leaders (1948)
10. The Speech from the Throne (1947)
11. The Question Period (1947)
12. A Whip (1945)
13. The Budget Resolution

POLITICAL PARTIES

14. Constitution of the Labour Party (1947)
15. Standing Orders of the Labour Party (1947)
16. Tables of Elections (1929–50)

ADMINISTRATIVE JURISDICTION

17. Crown Proceedings Act (1947)

NATIONALIZATION

18. Bank of England Act (1946)
19. Coal Industry Nationalization Act (1946)

Great Britain

Constitutional Sources

The British constitutional system finds expression in documents such as ancient charters, statutes, court decisions and general usages. Three documents universally recognized as basic are the *Magna Carta* (1215), *The Petition of Right* (1628) and *The Bill of Rights* (1689).

The *Magna Carta*—and agreement between King John and his noblemen—while contemporary in the details of feudal relationship, through the centuries has been regarded as a source of reference for the principle establishing the relationship of the government to the governed.

1. Magna Carta (1215)

John, by the Grace of God, King of England, Lord of Ireland, Duke of Normandy and Acquitaine, and Earl of Anjou, to his Archbishops, Bishops, Abbots, Earls, Barons, Justiciaries, Foresters, Sheriffs, Governors, Officers, and to all Bailiffs, and his faithful subjects, —Greeting. Know ye, that We, in the presence of God, and for the salvation of our own soul, and of the souls of all our ancestors, and of our heirs, to the honour of God, and the exaltation of the Holy Church and amendment of our Kingdom, by the counsel of our venerable fathers . . . and others our liegemen; have in the first place granted to God, and by this our present Charter, have confirmed, for us and our heirs forever:—

1. That the English Church shall be free, and shall have her whole rights and her liberties inviolable; and we will this to be observed in such a manner, that it may appear from thence, that the freedom of elections, which was reputed most requisite to the English Church, which we granted, and by our Charter confirmed, and obtained the Confirmation of the same, from our Lord Pope Innocent the Third, before the rupture between us and our Barons, was of our own free will; which Charter we shall observe, and we will it to be observed with good faith, by our heirs forever.

We have also granted to all the freemen of our Kingdom, for us

and our heirs forever, all the underwritten Liberties, to be enjoyed and held by them and by their heirs, from us and from our heirs.

* * *

12. No scutage nor aid shall be imposed on our kingdom, unless by the common council of our kingdom; excepting to redeem our person, to make our eldest son a knight, and once to marry our eldest daughter, and not for these, unless a reasonable aid shall be demanded.

13. In like manner let it be concerning the aids of the City of London. And the City of London shall have all it's ancient liberties and free customs.

14. And also to have the common council of the kingdom, to assess and aid, otherwise than in the three cases aforesaid: and for the assessing of scutages, we will cause to be summoned the Archbishops, Bishops, Abbots, Earls, and great Barons, individually by our letters. And besides, we will cause to be summoned in general by our Sheriffs and Bailiffs, all those who hold of us in chief, at a certain day, that is to say at the distance of forty days (before their meeting), at the least, and to a certain place; and in all the letters of summons, we will express the cause of the summons; and the summons being thus made, the business shall proceed on the day appointed, according to the counsel of those who shall be present, although all who have been summoned have not come.

* * *

17. Common Pleas shall not follow our Court, but shall be held in any certain place.

18. Trials upon the Writs of Novel Disseisin,[1] of Mort d'Ancestre[2], and Darrien Presentment[3] shall not be taken but in their proper counties, and in this manner:—We, or our Chief Justiciary, if we are out of the Kingdom, will send two Justiciaries into each county, four times in the year, who, with four Knights of each county, chosen by the county, shall hold the aforesaid assizes, within the county on the day, and at the place appointed.

19. And if the aforesaid assizes cannot be taken on the day of the county-court, let as many knights and freeholders, of those who were

[1] Now obsolete, this was an old remedy by which a tenant dispossessed of his lands might sue for recovery.
[2] Death of the ancestor.
[3] Last presentation.

present at the county-court remain behind, as shall be sufficient to do justice, according to the great or less importance of the business.

* * *

27. If any free-man shall die intestate, his chattels shall be distributed by the hands of his nearest relations and friends, by the view of the Church, saving to every one the debts which the defunct owed.

28. No Constable nor other Bailiff of ours shall take the grain or other goods of any one without instantly paying money for them, unless he can obtain respite from the free-will of the seller.

* * *

38. No Bailiff, for the future, shall put any man to his law, upon his own simple affirmation, without credible witnesses produced for that purpose.

39. No free-man shall be seized, or imprisoned, or dispossessed, or outlawed, or in any way destroyed; nor will we condemn him, nor will we commit him to prison, excepting by the legal judgment of his peers, and by the laws of the land.

40. To none will we sell, to none will we deny, to none will we delay right or justice.

* * *

45. We will not make Justiciaries, Constables, Sheriffs, or Bailiffs, excepting of such as know the laws of the land, and are well disposed to observe them.

* * *

47. All Forests which have been made in our time shall be immediately disforested, and it shall be so done with water-banks, which have been taken or fenced in by us during our reign.

* * *

55. All fines that have been made by us unjustly, or contrary to the laws of the land, and all americiaments that have been imposed unjustly, or contrary to the laws of the land, shall be wholly remitted, or ordered by the verdict of the twenty-five Barons, of whom mention is made below, for the security of the peace, or by the verdict of the greater part of them, together with the aforesaid Stephen, Archbishop of Canterbury, if he can be present, and others whom he may think fit to bring with him; and if he cannot be present, the business shall proceed, notwithstanding, without him; but so that if any one or more of the aforesaid twenty-five Barons have a similar plea, let them

be removed from that particular trial, and others elected and sworn by the residue of the same twenty-five, be substituted in their room, only for that trial.

* * *

60. Also all these customs and liberties aforesaid, which we have granted to be held in our Kingdom, for so much of it as belongs to us, all our subjects, as well clergy as laity, shall observe towards their tenants as far as concerns them.

61. But since we have granted all these things aforesaid, for GOD and for the amendment of our kingdom, and for the better extinguishing the discord which has arisen between us and our Barons, we being desirous that these things should possess entire and unshaken stability forever, give and grant to them the security underwritten, namely, that the Barons may elect twenty-five Barons of the kingdom, whom they please, who shall with their whole power, observe, keep, and cause to be observed, the peace and liberties which we have granted to them, and have confirmed by this, our present charter, in this manner; that is to say, if we, or our Justiciary, or our bailiffs or any of our officers, shall have injured any one in anything, or shall have violated any article of the peace or security, and the injury shall have been shown to four of the aforesaid twenty-five Barons, the said four Barons shall come to us, or to our Justiciary if we be out of the kingdom, and making known to us the excess committed, petition that we cause that excess to be redressed without delay. And if we shall not have redressed the excess, or, if we have been out of the kingdom, our Justiciary shall not have redressed it within the term of forty days, computing from the time when it shall have been made known to us, or to our Justiciary, if we have been out of the kingdom, the aforesaid four Barons shall lay that cause before the residue of the twenty-five Barons; and they, the twenty-five Barons, with the community of the whole land, shall distress and harass us by all the ways in which they are able; that is to say, by the taking of our castles, lands and possessions, and by any other means in their power, until the excess shall have been redressed, according to their verdict, saving our person and the persons of our Queen and children, and when it hath been redressed they shall behave to us as they have done before. And whoever of our land pleaseth may swear that he will obey the commands of the aforesaid twenty-five Barons in accomplishing all the things aforesaid, and that with them he will harass us to the utmost of his power; and we

publicly and freely give leave to every one to swear who is willing to swear; and we will never forbid any to swear. But all those of our land, who, of themselves, and of their own accord, are unwilling to swear to the twenty-five Barons, to distress and harass us together with them, we will compel them by our command to swear as aforesaid. And if any one of the twenty-five Barons shall die, or remove out of the land, or in any other way shall be prevented from executing the things above said, they who remain of the twenty-five Barons shall elect another in his place, according to their own pleasure, who shall be sworn in the same manner as the rest. In all those things which are appointed to be done by these twenty-five Barons, if it happen that all the twenty-five have been present, and have differed in their opinions about anything, or if some of them who had been summoned would not or could not be present, that which the greater part of those who were present shall have provided and decreed, shall be held as firm and as valid as if all the twenty-five had agreed in it; and the aforesaid twenty-five shall swear that they will faithfully observe, and with all their power cause to be observed, all the things mentioned above. And we will obtain nothing from any one, by ourselves, nor by another, by which any of these concessions and liberties may be revoked or diminished. And if any such thing shall have been obtained, let it be void and null; and we will never use it, neither by ourselves nor by another.

62. And we have fully remitted and pardoned to all men all the ill-will, rancour and resentments which have arisen between us and our subjects, both clergy and laity, from the commencement of the discord. . . .

63. Wherefore our will is, and we firmly command that the Church of England be free, and that the men in our kingdom have and hold the aforesaid liberties, rights and concessions, well and in peace, freely and quietly, fully and entirely, to them and their heirs, of us and our heirs, in all things and places for ever, as is aforesaid. It is also sworn, both on our part and on that of the Barons, that all the aforesaid shall be observed in good faith and without any evil intention. Witnessed by the above and many others. Given by our hand in the Meadow which is called Runningmead, between Windsor and Staines, this 15th day of June, in the 17th year of our reign.

The Petition of Right is similar to a statute in that it was passed by the two Houses of Parliament. Its significance lies in the assertion of individual rights and particularly as a protection against unauthorized taxation and levies.

2. The Petition of Right (1628)

(*3 Chas. I, c. 1.*)

Humbly show unto our Sovereign Lord the King, the Lords Spiritual and Temporal, and Commons in Parliament assembled, that whereas it is declared and enacted by a statute made in the time of the reign of King Edward the First, commonly called *Statutum de tallagio non concedendo,* that no tallage or aid shall be laid or levied by the King or his heirs in this realm, without the good will and assent of the Archbishops, Bishops, Earls, Barons, Knights, Burgesses, and other the freemen of the commonalty of this realm: and by authority of Parliament holden in the five and twentieth year of the reign of King Edward the Third, it is declared and enacted, that from thenceforth no person shall be compelled to make any loans to the King against his will, because such loans were against reason and the franchise of the land; and by other laws of this realm it is provided, that none should be charged by any charge or imposition, called a Benevolence, nor by such like charge: by which, the statutes of this realm your subjects have inherited this freedom, that they should not be compelled to contribute to any tax, tallage, aid, or other like charge, not set by common consent in Parliament:

II. Yet nevertheless, of late divers commissions directed to sundry Commissioners in several counties, with instructions, have issued, by means whereof your people have been in divers places assembled, and required to lend certain sums of money unto your Majesty, and many of them upon their refusal so to do, have had an oath administered unto them, not warrantable by the laws or statutes of this realm, and have been constrained to become bond to make appearance and give attendance before your Privy Council, and in other places, and others of them have been therefore imprisoned, confined, and sundry other ways molested and disquieted: and divers other charges have been laid and levied upon your people in several counties, by Lords Lieutenants, Deputy Lieutenants, Commissioners for Musters, Justices of Peace and others, by command or direction from your Majesty or your Privy Council, against the laws and free customs of this realm:

III. And where also by the statute called, "The Great Charter of the Liberties of England," it is declared and enacted, that no freeman may be taken or imprisoned or be disseised of his freehold or liberties, or his free customs, or be outlawed or exiled, or in any manner destroyed, but by the lawful judgment of his peers, or by the law of the land:

IV. And in the eight and twentieth year of the reign of King Edward the Third, it was declared and enacted by authority of Parliament, that no man of what estate or condition that he be, should be put out of his lands or tenements, nor taken, nor imprisoned, nor disherited, nor put to death, without being brought to answer by due process of law:

V. Nevertheless, against the tenor of the said statutes, and other the good laws and statutes of your realm, to that end provided, divers of your subjects have of late been imprisoned without any cause showed, and when for their deliverance they were brought before your Justices, by your Majesty's writs of Habeas Corpus, there to undergo and receive as the Court should order, and their keepers commanded to certify the causes of their detainer; no cause was certified, but that they were detained by your Majesty's special command, signified by the Lords of your Privy Council, and yet were returned back to several prisons, without being charged with anything to which they might make answer according to the law:

VI. And whereas of late great companies of soldiers and mariners have been dispersed into divers counties of the realm, and the inhabitants against their wills have been compelled to receive them into their houses, and there to suffer them to sojourn, against the laws and customs of this realm and to the great grievance and vexation of the people:

VII. And whereas also by authority of Parliament, in the 25th year of the reign of King Edward the Third, it is declared and enacted, that no man shall be forejudged of life or limb against the form of the Great Charter, and the law of the land; and by the said Great Charter, and the law of the land; and by the said Great Charter, and other the laws and statutes of this your realm, no man ought to be adjudged to death, but by the laws established in this your realm, either by the customs of the same realm or by Acts of Parliament: and whereas no offender of what kind soever is exempted from the proceedings to be used, and punishments to be inflicted by the laws and statutes of

this your realm; nevertheless of late divers commissions under your Majesty's Great Seal have issued forth, by which certain persons have been assigned and appointed Commissioners with power and authority to proceed within the land, according to the justice of martial law against such soldiers and mariners, or other dissolute persons joining with them, as should commit any murder, robbery, felony, mutiny, or other outrage or misdemeanor whatsoever, and by such summary course and order, as is agreeable to martial law, and is used in armies in time of war, to proceed to the trial and condemnation of such offenders, and them to cause to be executed and put to death, according to the law martial:

VIII. By pretext whereof, some of your Majesty's subjects have been by some of the said Commissioners put to death, when and where, if by the laws and statutes of the land they had deserved death, by the same laws and statutes also they might, and by no other ought to have been, adjudged and executed:

IX. And also sundry grievous offenders by colour thereof, claiming an exemption, have escaped the punishments due to them by the laws and statutes of this your realm, by reason that divers of your officers and ministers of justice have unjustly refused, or forborne to proceed against such offenders according to the same laws and statutes, upon pretense that the said officers were punishable only by martial law, and by authority of such commissions as aforesaid; which commissions, and all other of like nature, are wholly and directly contrary to the said laws and statutes of this your realm.

X. They do therefore humbly pray your Most Excellent Majesty, that no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by Act of Parliament; and that none be called to make answer, or take such oath, or to give attendance, or be confined, or otherwise molested or disquieted concerning the same, or for refusal thereof; and that no freeman, in any such manner as it before-mentioned, be imprisoned or detained; and that your Majesty will be pleased to remove the said soldiers and mariners, and that your people may not be so burdened in time to come; and that the aforesaid commissions for proceeding by Martial law, may be revoked and annulled; and that hereafter no commissions of like nature may issue forth to any person or persons whatsoever, to be executed as aforesaid, lest by colour of them any of

your Majesty's subjects be destroyed or put to death, contrary to the laws and franchise of the land.

XI. All which they most humbly pray of your Most Excellent Majesty, as their rights and liberties according to the laws and statutes of this realm: and that your Majesty would also vouchsafe to declare, that the awards, doings, and proceedings to the prejudice of your people, in any of the premises, shall not be drawn hereafter into consequence or example: and that your Majesty would be also graciously pleased, for the further comfort and safety of your people, to declare your royal will and pleasure, that in the things aforesaid all your officers and ministers shall serve you, according to the laws and statutes of this realm, as they tender the honour of your Majesty, and the prosperity of this kingdom.

[Which Petition being read the 2nd of June 1628, the King's answer was thus delivered unto it:

The King willeth that right be done according to the laws and customs of the realm; and that the statutes be put in due execution, that his subjects may have no cause to complain of any wrong or oppressions, contrary to their just rights and liberties, to the preservation whereof he holds himself as well obliged as of his prerogative.

On June 7 the answer was given in the accustomed form, *Soit droit fait comme il est desire.*]

The Bill of Rights is statutory and summarizes in legal form the 17th Century struggle between King and Parliament. The legal omnipotence of Parliament based upon popular sovereignty is recognized and from this date (1689) the limited or constitutional monarchy was firmly established.

3. The Bill of Rights (1689)

(*1 Wm. & Mary, Sess. 2, c. 2.*)

An Act declaring the Rights and Liberties of the Subject, and Settling the Succession of the Crown.

Whereas the Lords Spiritual and Temporal, and Commons, assembled at Westminster, lawfully, fully, and freely representing all the

Estates of the People of this Realm, did upon the Thirteenth day of February in the year of our Lord one thousand six hundred eighty-eight present unto their Majesties then called and known by the names and stile of William and Mary, Prince and Princess of Orange, being present in their proper persons, a certain Declaration in writing, made by the said Lords and Commons in the words following, viz.—

Whereas the late King James the Second, by the assistance of divers evil Councellors, Judges, and Ministers employed by him, did endeavour to subvert and extirpate the Protestant Religion, and the laws and liberties of this Kingdom;

1. By assuming and exercising a power of Dispensing with and Suspending of laws, and the execution of laws, without consent of Parliament;
2. By committing and prosecuting divers worthy Prelates, for humbly petitioning to be excused from concurring to the said assumed power;
3. By issuing and causing to be executed a Commission under the Great Seal for erecting a Court called the Court of Commissioners for Ecclesiastical Causes;
4. By levying Money for and to the use of the Crown, by pretence of Prerogative, for other time, and in other manner, than the same was granted by Parliament;
5. By raising and keeping a Standing Army within the Kingdom in time of Peace, without consent of Parliament, and quartering Soldiers contrary to law;
6. By causing several good subjects, being Protestants, to be disarmed, at the same time when Papists were both armed and employed contrary to law;
7. By violating the freedom of election of Members to serve in Parliament;
8. By Prosecutions in the Court of King's Bench, for matters and causes cognizable only in Parliament; and by divers other arbitrary and illegal courses;
9. And whereas of late years, partial, corrupt, and unqualified persons have been returned and served on Juries in trials, and particularly divers Jurors in trials for High Treason, which were not Freeholders;
10. And excessive Bail hath been required of persons committed in

criminal cases, to elude the benefit of the laws made for the liberty of the subjects;

11. And excessive Fines have been imposed; and illegal and cruel punishments have been inflicted;
12. And several grants and promises made of Fines and Forfeitures, before any conviction or judgment against the persons, upon whom the same were to be levied.

All which are utterly and directly contrary to the known laws and statutes and freedom of this Realm.

And whereas the said late King James the Second having abdicated the Government and the Throne being thereby vacant, His Highness the Prince of Orange (whom it hath pleased Almighty God to make the glorious Instrument of Delivering this Kingdom from Popery and arbitrary power) did (by the advice of the Lords Spiritual and Temporal and divers principal Persons of the Commons) cause Letters to be written to the Lords Spiritual and Temporal, being Protestants; and other Letters to the several Counties, Cities, Universities, Boroughs, and Cinque-ports, for the choosing of such persons to represent them, as were of right to be sent to Parliament, to meet and sit at Westminster upon the two and twentieth day of January in this year one thousand six hundred eighty and eight, in order to such an Establishment as that their Religion, Laws, and Liberties might not again be in danger of being subverted: Upon which Letter Elections having been accordingly made,

And thereupon the said Lords Spiritual and Temporal, and Commons, pursuant to their respective Letters and Elections, being now assembled in a full and free Representative of the Nation, taking into their most serious consideration the best means for attaining the ends aforesaid; Do in the first place (as their Ancestors in like case have usually done) for the vindicating and asserting their ancient Rights and Liberties, Declare

1. That the pretended power of Suspending laws, or the execution of laws, by Regal authority, without consent of Parliament, is illegal.
2. That the pretended power of Dispensing with laws, or the execution of laws, by Regal authority, as it hath been assumed and exercised of late, is illegal.
3. That the Commission for erecting the late Court of Commis-

sioners for Ecclesiastical Causes, and all other Commissions and Courts of like nature, are illegal and pernicious.

4. That levying of money for the use of the Crown, by pretence of Prerogative, without grant of Parliament, for longer time, or in other manner, than the same is or shall be granted, is illegal.
5. That it is the right of the subjects to Petition the King, and all Commitments and Prosecutions for such petitioning are illegal.
6. That the raising or keeping of a Standing Army within the Kingdom in time of peace, unless it be with the consent of Parliament, is against the law.
7. That the subjects which are Protestants, may have Arms for their defence suitable to their conditions, and as allowed by law.
8. That Election of Members of Parliament ought to be free.
9. That the Freedom of Speech, and Debates or Proceedings in Parliament, ought not to be impeached or questioned in any Court or place out of Parliament.
10. That excessive Bail ought not to be required, nor excessive Fines imposed, nor cruel and unusual punishments inflicted.
11. That Jurors ought to be duly impanneled and returned, and Jurors which pass upon men in trials for High Treason ought to be Freeholders.
12. That all Grants and Promises of Fines and Forfeitures of particular persons before conviction are illegal and void.
13. And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, Parliaments ought to be held frequently.

And They do claim, demand, and insist upon all and singular the premises, as their undoubted rights and liberties; And that no Declarations, Judgments, Doings, or Proceedings, to the Prejudice of the People in any of the said Premisses, ought in any wise to be drawn hereafter into consequence or example.

To which demand of their rights they are particularly encouraged by the Declaration of His Highness the Prince of Orange, as being the only means for obtaining a full redress and remedy therein.

Having therefore an entire confidence, that His said Highness the Prince of Orange will perfect the deliverance so far advanced by Him, and will still preserve them from the violation of their rights, which

they have here asserted, and from all other attempts upon their Religion, Rights, and Liberties.

II. The said Lords Spiritual and Temporal, and Commons, assembled at Westminster, do Resolve, that William and Mary Prince and Princes of Orange be, and be declared, King and Queen of England, France, and Ireland, and the Dominions thereunto belonging, to hold the Crown and Royal Dignity of the said Kingdoms and Dominions to them the said Prince and Princess during their lives, and the life of the Survivor of them; And that the sole and full exercise of the Regal Power be only in, and executed by, the said Prince of Orange, in the names of the said Prince and Princess, during their joint lives; And after their deceases, the said Crown and Royal Dignity of the said Kingdoms and Dominions to be to the Heirs of the Body of the said Princess, and for default of such Issue to the Princess Anne of Denmark, and the Heirs of the Body of the said Prince of Orange. And the Lords Spiritual and Temporal, and Commons, do pray the said Prince and Princess to accept the same accordingly.

III. And that the Oaths hereafter mentioned be taken by all persons of whom the Oaths of Allegiance and Supremacy might be required by law, instead of them; And that the said Oaths of Allegiance and Supremacy be abrogated.

"I, A. B., do sincerely promise and swear, That I will be faithful and bear true allegiance to their Majesties King William and Queen Mary. So help me God.

"I, A. B., do swear, That I do from my Heart abhor, detest, and abjure as impious and heretical, that damnable doctrine and position, That Princes excommunicated or deprived by the Pope, or any Authority of the See of Rome may be deposed, or murdered by their subjects, or any other whatsoever. And I do declare, that no Foreign Prince, Person, Prelate, State or Potentate, hath, or ought to have, any jurisdiction, power, superiority, pre-eminence, or authority ecclesiastical or spiritual, within this Realm. So help me God."

IV. Upon which their said Majesties did accept the Crown and Royal Dignity of the Kingdoms of England, France, and Ireland, and the Dominions thereunto belonging, according to the Resolution and Desire of the said Lords and Commons contained in the said Declaration.

V. And thereupon their Majesties were pleased, That the said Lords Spiritual and Temporal, and Commons, being the two Houses of Parliament, should continue to sit, and with their Majesties' Royal concurrence make effectual provision for the settlement of the Religion, Laws and Liberties of the Kingdom, so that the same for the future might not be in danger of being subverted; To which the said Lords Spiritual and Temporal, and Commons, did agree and proceed to act accordingly.

VI. Now in pursuance of the premisses, the said Lords Spiritual and Temporal, and Commons, in Parliament assembled for the ratifying, confirming and establishing the said Declaration and the Articles, Clauses, Matters, and Things therein contained by the force of a law made in due form by authority of Parliament, do pray that it may be declared and enacted, That all and singular the Rights and Liberties of the people of this Kingdom, and so shall be esteemed, allowed, adjudged, deemed, and taken to be; and that all and every the particulars aforesaid shall be firmly and strictly holden and observed, as they are expressed in the said Declaration; And all Officers and Ministers whatsoever shall serve their Majesties and their Successors according to the same in all times to come.

VII. And the said Lords Spiritual and Temporal, and Commons, seriously considering how it hath pleased Almighty God, in his marvellous Providence, and merciful goodness to this Nation, to provide and preserve their said Majesties' Royal Persons most happily to reign over us upon the Throne of their Ancestors, for which they render unto him from the bottom of their hearts their humblest thanks and praises, do truly, firmly, assuredly, and in the sincerity of their hearts think, and do hereby recognize, acknowledge and declare, That King James the Second having abdicated the Government, and their Majesties having accepted the Crown and Royal Dignity as aforesaid, their said Majesties did become, were, are and of right ought to be, by the laws of this Realm, our Sovereign Liege Lord and Lady, King and Queen of England, France, and Ireland, and the Dominions thereunto belonging, in and to whose Princely Persons the Royal State, Crown and Dignity of the said Realms, with all Honours, Styles, Titles, Regalities, Prerogatives, Powers, Jurisdictions and Authorities to the same invested and incorporated, united and annexed.

The Crown

4. George VI: Coronation Oath (1937)

. . . . Then shall the archbishop go to the king and, standing before him, administer the coronation oath; first asking the king, "Sir, is your majesty willing to take the oath?" And the king answering, "I am willing," the archbishop shall minister these questions; and the king, having a book in his hands, shall answer each question severally as follows:—

Archbishop: "Will you solemnly promise and swear to govern the peoples of Great Britain, Ireland, Canada, Australia, New Zealand, and the union of South Africa, of your possessions and the other territories to any of them belonging or pertaining, and of your empire of India according to their respective laws and customs?"

King: "I solemnly promise so to do."

Archbishop: "Will you to your power cause law and justice, in mercy, to be executed in all your judgments?"

King: "I will."

Archbishop: "Will you to the utmost of your power maintain the laws of God and the true profession of the Gospel? Will you to the utmost of your power maintain in the united kingdom the Protestant Reformed religion established by law? And will you maintain and preserve inviolably the settlement of the Church of England and the doctrine, worship, discipline, and government thereof, as by law established in England? And will you preserve unto the bishops and clergy of England, and to the churches there committed to their charge, all such rights and privileges as by law do or shall appertain to them or any of them?"

King: "All this I promise to do."

Then the king, arising out of his chair, supported as before and assisted by the lord great chamberlain, the sword of state being carried before him, shall go to the altar and, there being uncovered, make his solemn oath in the sight of all the people to observe the premises; laying his hand upon the Holy Gospel in the great Bible . . . . , saying these words: "The thing which I have here before promised I will perform and keep. So help me God." Then the king shall kiss the Book and sign the oath. . . .

5. Declaration of Abdication Act

(*1 Edward VIII, c. 3.*)

An Act to give effect to His Majesty's Declaration of Abdication, and for purposes connected therewith.

[*11th December 1936.*]

Whereas His Majesty by His Royal Message of the 10th day of December in this present year has been pleased to declare that He is irrevocably determined to renounce the throne for Himself and His descendants, and has for that purpose executed the Instrument of Abdication set out in the schedule to this Act, and has signified His desire that effect thereto should be given immediately;

And whereas, following upon the communication to His Dominions of His Majesty's said declaration and desire, the Dominion of Canada, pursuant to the provisions of Section 4 of the Statute of Westminster, 1931, has requested and consented to the enactment of this Act, and the Commonwealth of Australia, the Dominion of New Zealand, and the Union of South Africa have assented thereto: be it therefore enacted . . . as follows:—

Immediately upon the Royal Assent being signified to this Act, the Instrument of Abdication executed by His Present Majesty on the 10th day of December, 1936, set out in the schedule to this Act, shall have effect, and thereupon His Majesty shall cease to be King and there shall be a demise of the Crown, and accordingly the member of the Royal Family then next in succession to the throne shall succeed thereto and to all the rights, privileges, and dignities thereunto belonging. His Majesty, His issue, if any and the descendants of that issue, shall not after His Majesty's abdication have any right, title, or interest in or to the succession to the throne, and Section 1 of the Act of Settlement shall be construed accordingly. The Royal Marriages Act, 1722, shall not apply to His Majesty after His abdication nor to the issue, if any, of His Majesty or the descendants of that issue. . . . .

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6. Regency Act (1937)

(*1 Edw. 8. & 1 Geo. 6., c. 16.*)

An Act to make provision for a Regency in the event of the Sovereign being on His Accession under the age of eighteen years, and

in the event of the incapacity of the Sovereign through illness, and for the performance of certain of the royal functions in the name and on behalf of the Sovereign in certain other events; to repeal the Lords Justices Act, 1837; and for purposes connected with the matters aforesaid.

[*19th March 1937.*]

Whereas Your Majesty, by Your Majesty's Royal Message to both Houses of Parliament, has been pleased to recommend that provision should be made for a Regency in certain events:

And whereas Your Majesty in the same Message put both Houses of Parliament in mind of the difficulties which arose in relation to the exercise of the Royal Authority at the time of the Illness of His late Majesty King George the Fifth in the year ninteen hundred and twenty-eight and of His last illness in the month of January nineteen hundred and thirty-six, and recommended that Parliament should consider whether it be not expedient to make permanent provision for the purpose of securing the exercise of the Royal Authority as well in the event of the minority of the Sovereign on His Accession and in certain other circumstances:

Now therefore we, Your Majesty's most dutiful and loyal subjects, the Lords Spiritual and Temporal, and the Commons, in Parliament assembled, do most humbly beseech Your Majesty that it be enacted, and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) If the Sovereign is, at His Accession, under the age of eighteen years, then, until He attains that age, the royal functions shall be performed in the name and on behalf of the Sovereign by a Regent.

(2) For the purpose of any enactment requiring any oath or declaration to be taken, made, or subscribed, by the Sovereign on or after His Accession, the date on which the Sovereign attains the age of eighteen years shall be deemed to be the date of His Accession.

2. —(1) If the following persons or any three or more of them, that is to say, the wife or husband of the Sovereign, the Lord Chancellor, the Speaker of the House of Commons, the Lord Chief Justice of England, and the Master of the Rolls, declare in writing that they are satisfied by evidence which shall include the evidence of

physicians that the Sovereign is by reason of infirmity of mind or body incapable for the time being of performing the royal functions or that they are satisfied by evidence that the Sovereign is for some definite cause not available for the performance of those functions, then, until it is declared in like manner that His Majesty has so far recovered His health as to warrant His resumption of the royal functions or has become available for the performance thereof, as the case may be, those functions shall be performed in the name and on behalf of the Sovereign by a Regent.

(2) A declaration under this section shall be made to the Privy Council and communicated to the Governments of His Majesty's Dominions and to the Government of India.

3.—(1) If a Regency becomes necessary under this Act, the Regent shall be that person who, excluding any persons disqualified under this section, is next in the line of succession to the Crown.

(2) A person shall be disqualified from becoming or being Regent, if he is not a British subject of full age and domiciled in some part of the United Kingdom, or is a person who would, under section two of the Act of Settlement, be incapable of inheriting, possessing, and enjoying the Crown; and section three of the Act of Settlement shall apply in the case of a Regent as it applies in the case of a Sovereign.

(3) If any person who would at the commencement of a Regency have become Regent but for the fact that he was not then of full age becomes of full age during the Regency, he shall, if he is not otherwise disqualified under this section, thereupon become Regent instead of the person who has theretofore been Regent.

(4) If the Regent dies or becomes disqualified under this section, that person shall become Regent in his stead who would have become Regent if the events necessitating the Regency had occurred immediately after the death or disqualification.

(5) Section two of this Act shall apply in relation to a Regent with the substitution for references to the Sovereign of references to the Regent, and for the words "those functions shall be performed in the name and on behalf of the Sovereign by a Regent" of the words "that person shall be Regent who would have become Regent if the Regent had died."

4.—(1) The Regent shall, before he acts in or enters upon his office, take and subscribe before the Privy Council the oaths set out in

the Schedule to this Act, and the Privy Council are empowered and required to administer those oaths and to enter them in the Council Books.

(2) The Regent shall not have power to assent to any Bill for changing the order of succession to the Crown or for repealing or altering an Act of the fifth year of the reign of Queen Anne made in Scotland entitled "An Act for Securing the Protestant Religion and Presbyterian Church Government."

5.—During a Regency, unless Parliament otherwise determines,—

(a) if the Sovereign is under the age of eighteen years, and unmarried, His mother, if she is living, shall have the guardianship of His person;

(b) if the Sovereign, being married, is under the age of eighteen years or has been declared under this Act to be incapable for the time being of performing the royal functions, the wife or husband of the Sovereign, if of full age, shall have the guardianship of the person of the Sovereign;

(c) the Regent shall, save in the cases aforesaid, have the guardianship of the person of the Sovereign; and the property of the Sovereign, except any private property which in accordance with the terms of any trust affecting it is to be administered by some other person, shall be administered by the Regent.

6.—(1) In the event of illness not amounting to such infirmity of mind or body as is mentioned in section two of this Act, or of absence or intended absence from the United Kingdom, the Sovereign may, in order to prevent delay or difficulty in the despatch of public business, by Letters Patent under the Great Seal, delegate, for the period of that illness or absence, to Counsellors of State such of the royal functions as may be specified in the Letters Patent, and may in like manner revoke or vary any such delegation:

Provided that no power to dissolve Parliament otherwise than on the express instructions of the Sovereign (which may be conveyed by telegraph), or to grant any rank, title or dignity of the peerage may be delegated.

(2) The Counsellors of State shall be the wife or husband of the Sovereign (if the Sovereign is married), and the four persons who, excluding any persons disqualified under this Act from becoming Regent, are next in the line of succession to the Crown, or if the number

of such persons next in the line of succession is less than four, then all such persons.

(3) Any functions delegated under this section shall be exercised jointly by the Counsellors of State, or by such number of them as may be specified in the Letters Patent, and subject to such conditions, if any, as may be therein prescribed.

(4) The Provisions of this section shall apply in relation to a Regent with the substitution for references to the Sovereign of references to the Regent, so, however, that in relation to a Regent subsection (2) of this section shall have effect as if after the word "next," where that word first occurs therein, there were inserted the words "after the Regent."

(5) Any delegation under this section shall cease on the demise of the Crown or on the occurrence of any events necessitating a Regency or a change of Regent.

7.—The Lords Justices Act, 1837, is hereby repealed.

8.—(1) This Act may be cited as the Regency Act, 1937.

(2) In this Act, save as otherwise expressly provided, the expression "royal functions" includes all powers and authorities belonging to the Crown, whether prerogative or statutory, together with the receiving of any homage required to be done to His Majesty.

SCHEDULE.

OATHS TO BE TAKEN BY THE REGENT.

1. I swear that I will be faithful and bear true allegiance to [here insert the name of the Sovereign] his heirs and successors according to law. So help me God.

2. I swear that I will truly and faithfully execute the office of Regent, and that I will govern according to law, and will, in all things, to the utmost of my power and ability, consult and maintain the safety, honour, and dignity of [here insert the name of the Sovereign] and the welfare of his people. So help me God.

3. I swear that I will inviolably maintain and preserve in England and in Scotland the Settlement of the true Protestant religion as established by law in England and as established in Scotland by the laws made in Scotland in prosecution of the Claim of Right, and particularly by an Act intituled "An Act for Securing the Protestant Re-

ligion and Presbyterian Church Government" and by the Acts passed in the Parliament of both Kingdoms for Union of the two Kingdoms, together with the Government, Worship, Discipline, Rights, and Privileges of the Church of Scotland. So help me God.[1]

Parliament

7. Sovereignty of Parliament

(a) ENTICK v. CARRINGTON

19 S. T. 1026 (1765)

This was an action of trespass for breaking and entering the plaintiff's house and seizing his papers. The defendants (who were King's Messengers) pleaded a warrant of the Secretary of State which ordered them to search for the plaintiff and bring him together with his books and papers in safe custody before the Secretary of State to be examined.

. . . . "By the laws of England, every invasion of private property, be it ever so minute, is a trespass. No man can set his foot upon my ground without my licence, but he is liable to an action, though the damage be nothing; which is proved by every declaration in trespass, where the defendant is called upon to answer for bruising the grass and even treading upon the soil. If he admits the fact, he is bound to shew by way of justification, that some positive law has empowered or excused him. The justification is submitted to the judges, who are to look into the books; and see if such a justification can be maintained by the text of the statute law, or by the principles of common law. If no such excuse can be found or produced, the silence of the books is an authority against the defendant, and the plaintiff must have judgment.

"If it should be said that the same law which has with so much circumspection guarded the case of stolen goods from mischief, would likewise in this case protect the subject, by adding proper checks; would require proofs beforehand; would call up the servant to stand by and overlook; would require him to take an exact inventory, and

[1] Editorial Note:—This Act was amended—6. & 7. Geo. 6., c. 42—to make provision for the heir presumptive in the regency.

deliver a copy: my answer is, that all these precautions would have been long since established by law, if the power itself had been legal; and that the want of them is an undeniable argument against the legality of the thing.

"What would the Parliament say, if the judges should take upon themselves to mould an unlawful power into a convenient authority, by new restrictions? That would be, not judgment, but legislation.

"Can the twelve judges extrajudicially make a thing law to bind the kingdom by a declaration, that such is their opinion?—I say, No. —It is a matter of impeachment for any judge to affirm it. There must be an antecedent principle or authority, from whence this opinion may be fairly collected; otherwise the opinion is null, and nothing but ignorance can excuse the judge that subscribed it.

It is then said, that it is necessary for the ends of government to lodge such a power with a state officer; and that it is better to prevent the publication before than to punish the offender afterwards. I answer, if the legislature be of that opinion, they will revive the Licensing Act. But if they have not done that, I conceive they are not of that opinion. And with respect to the argument of State necessity, or a distinction that has been aimed at between State offences and others, the common law does not understand that kind of reasoning, nor do our books take notice of any such distinctions.

"Serjeant Ashley was committed to the Tower in the 3rd of Charles 1st, by the House of Lords only for asserting in argument, that there was a "law of State" different from the common law; and the Ship-Money judges were impeached for holding, first, that State-necessity would justify the raising money without consent of parliament; and secondly, that the king was judge of that necessity.

"If the king himself has no power to declare when the law ought to be violated for reason of State, I am sure we his judges have no such prerogative."

(b) Edinburgh and Dalkeith Railway Co. v. Wauchope

8 Cl. & F. 723 (1842)

. . . . "My Lords, I think it right to say a word or two upon the point that has been raised with regard to an Act of Parliament being held inoperative by a Court of Justice because the forms prescribed by the two Houses to be observed in the passing of a bill have not been ex-

actly followed. There seems great reason to believe that an idea to that effect has prevailed to some extent in Scotland, for it is brought forward in these papers as a substantive ground of objection to the applicability of the later Act of Parliament; the objection being, that this Act being a private Act, it is inoperative as to the pursuer because he had not proper notice of the intention to apply to Parliament to pass such an Act. This defence was entered into in the Court below, and the fact of want of notice was made the subject of inquiry, and the Lord Ordinary, in the note appended to his interlocutor, gave great weight to this objection. He said, 'he is by no means satisfied that due Parliamentary notice was given to the pursuer previous to the introduction of this last Act: undoubtedly no notice was given to him personally, nor did the public notices announce any intention to take away his existing rights. If, as the Lord Ordinary is disposed to think, these defects imply a failure to intimate the real design in view, he should be strongly inclined to hold . . . that rights previously established could not be taken away by a private Act, of which due notice was not given to the party meant to be injured.' . . . I cannot but express my surprise that such a notion should ever have prevailed. There is no foundation whatever for it. All that a Court of Justice can do is to look to the Parliamentary roll: if from that it should appear that a bill has passed both Houses and received the Royal assent, no Court of Justice can inquire into the mode in which it was introduced into Parliament, nor into what was done previous to its introduction, or what passed in Parliament during its progress in its various stages through both Houses."

(c) Lee v. Bude and Torrington Junction Railway Co.

L. R. 6 C. P. 582 (1871)

. . . . "I would observe, as to these Acts of Parliament, that they are the law of this land; and we do not sit here as a court of appeal from parliament. It was once said,—I think in Hobart,—that, if an Act of Parliament were to create a man judge in his own case, the Court might disregard it. That dictum, however, stands as a warning, rather than an authority to be followed. We sit here as servants of the Queen and the legislature. Are we to act as regents over what is done by parliament with the consent of the Queen, lords, and commons? I deny that any such authority exists. If an Act of Parliament has been

obtained improperly, it is for the legislature to correct it by repealing it: but, so long as it exists as law, the Courts are bound to obey it. The proceedings here are judicial, not autocratic, which they would be if we could make laws instead of administering them."

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8. Parliament Act (1911)

(1 & 2 Geo. 5., c. 13)

An Act to make provision with respect to the powers of the House of Lords in relation to those of the House of Commons, and to limit the duration of Parliament.

[*18th August 1911.*]

WHEREAS it is expedient that provision should be made for regulating the relations between the two Houses of Parliament:

And whereas it is intended to substitute for the House of Lords as it at present exists a Second Chamber constituted on a popular instead of hereditary basis, but such substitution cannot be immediately brought into operation:

And whereas provision will require hereafter to be made by Parliament in a measure effecting such substitution for limiting and defining the powers of the new Second Chamber, but it is expedient to make such provision as in this Act appears for restricting the existing powers of the House of Lords:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1.—(1) If a Money Bill, having been passed by the House of Commons, and sent up to the House of Lords at least one month before the end of the session, is not passed by the House of Lords without amendment within one month after it is so sent up to that House, the Bill shall, unless the House of Commons direct to the contrary, be presented to His Majesty and become an Act of Parliament on the Royal Assent being signified, notwithstanding that the House of Lords have not consented to the Bill.

(2) A Money Bill means a Public Bill which in the opinion of the Speaker of the House of Commons contains only provisions deal-

ing with all or any of the following subjects, namely, the imposition, repeal, remission, alteration, or regulation of taxation; the imposition for the payment of debt or other financial purposes of Charges on the Consolidated Fund, or on money provided by Parliament, or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof; or subordinate matters incidental to those subjects or any of them. In this subsection the expressions "taxation," "public money," and "loan" respectively do not include any taxation, money, or loan raised by local authorities or bodies for local purposes.

(3) There shall be endorsed on every Money Bill when it is sent up to the House of Lords and when it is presented to His Majesty for assent the certificate of the Speaker of the House of Commons signed by him that it is a Money Bill. Before giving his certificate, the Speaker shall consult, if practicable, two members to be appointed from the Chairman's Panel at the beginning of each Session by the Committee of Selection.

2.—(1) If any Public Bill (other than a Money Bill or a Bill containing any provision to extend the maximum duration of Parliament beyond five years) is passed by the House of Commons in three successive sessions (whether of the same Parliament or not), and, having been sent up to the House of Lords at least one month before the end of the session, is rejected by the House of Lords in each of those sessions, that Bill shall, on its rejection for the third time by the House of Lords, unless the House of Commons direct to the contrary, be presented to His Majesty and become an Act of Parliament on the Royal Assent being signified thereto, notwithstanding that the House of Lords have not consented to the Bill: Provided that this provision shall not take effect unless two years[1] have elapsed between the date of the second reading in the first of those sessions of the Bill in the House of Commons and the date on which it passes the House of Commons in the third of those sessions.

(2) When a Bill is presented to His Majesty for assent in pursuance of the provisions of this section, there shall be endorsed on the Bill the certificate of the Speaker of the House of Commons signed by him that the provisions of this section have been duly complied with.

[1] Editorial note: After repeated rejection by the House of Lords, and accordingly after the interval of two years required by this Act, in 1949 the term of this "suspensory veto" was reduced to two sessions and to one year.

(3) A Bill shall be deemed to be rejected by the House of Lords if it is not passed by the House of Lords either without amendment or with such amendments only as may be agreed to by both Houses.

(4) A Bill shall be deemed to be the same Bill as a former Bill sent up to the House of Lords in the preceding session if, when it is sent up to the House of Lords, it is identical with the former Bill or contains only such alterations as are certified by the Speaker of the House of Commons to be necessary owing to the time which has elapsed since the date of the former Bill, or to represent any amendments which have been made by the House of Lords in the former Bill in the preceding session, and any amendments which are certified by the Speaker to have been made by the House of Lords in the third session and agreed to be the House of Commons shall be inserted in the Bill as presented for Royal Assent in pursuance of this section:

Provided that the House of Commons may, if they think fit, on the passage of such a Bill through the House in the second or third session, suggest any further amendments without inserting the amendments in the Bill, and any such suggested amendments shall be considered by the House of Lords, and, if agreed to by that House, shall be treated as amendments made by the House of Lords and agreed to by the House of Commons; but the exercise of this power by the House of Commons shall not affect the operation of this section in the event of the Bill being rejected by the House of Lords.

3.—Any certificate of the Speaker of the House of Commons given under this Act shall be conclusive for all purposes, and shall not be questioned in any court of law.

4.—(1) In every Bill presented to His Majesty under the preceding provisions of this Act, the words of enactment shall be as follows, that is to say:

"Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Commons in this present Parliament assembled, in accordance with the provisions of the Parliament Act, 1911, and by authority of the same, as follows."

(2) Any alteration of a Bill necessary to give effect to this section shall not be deemed to be an amendment of this Bill.

5.—In this Act the expression "Public Bill" does not include any Bill for confirming a Provisional Order.

6.—Nothing in this Act shall diminish or qualify the existing rights and privileges of the House of Commons.

7.—Five years shall be substituted for seven years as the time fixed for the maximum duration of Parliament under the Septennial Act, 1715.

8.—This Act may be cited as the Parliament Act, 1911.

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9. House of Lords (1948)

In February, 1948, while the Parliament Bill, 1947 was under debate in the House of Lords, the government agreed to an adjournment in order that party leaders might discuss reform of the composition of the House of Lords and what powers should be vested in any reformed House. The extracts below are taken from the "Agreed Statement on conclusion of Conference of Party Leaders, February–April, 1948." (Cmd 7380)

5. Proposals relating to reform of the Composition of the House of Lords were discussed first. If it had been possible to achieve general agreement over the whole field of Powers and Composition, the Party representatives would have been prepared to give the following proposals further consideration, so as to see whether the necessary details could be worked out, and, if so, to submit them, as part of such an agreement, to their respective Parties.

(1) The Second Chamber should be complementary to and not a rival to the Lower House, and, with this end in view, the reform of the House of Lords should be based on a modification of its existing constitution as opposed to the establishment of a Second Chamber of a completely new type based on some system of election.

(2) The revised constitution of the House of Lords should be such as to secure as far as practicable that a permanent majority is not assured for any one political Party.

(3) The present right to attend and vote based solely on heredity should not by itself constitute a qualification for admission to a reformed Second Chamber.

(4) Members of the Second Chamber should be styled "Lords of Parliament" and would be appointed on grounds of personal distinction or public service. They might be drawn either from

Hereditary Peers, or from commoners who would be created Life Peers.

(5) Women should be capable of being appointed Lords of Parliament in like manner as men.

(6) Provision should be made for the inclusion in the Second Chamber of certain descendants of the Sovereign, certain Lords Spiritual and the Law Lords.

(7) In order that persons without private means should not be excluded, some remuneration would be payable to members of the Second Chamber.

(8) Peers who were not Lords of Parliament should be entitled to stand for election to the House of Commons, and also to vote at elections in the same manner as other citizens.

(9) Some provision should be made for the disqualification of a member of the Second Chamber who neglects, or becomes no longer able or fitted, to perform his duties as such.

6. Discussions on the Powers which should be vested in a reformed House of Lords were, in accordance with paragraph 1 of the Government Statement made by the Lord Privy Seal on the occasion of the adjourned debate in the House of Lords on the Parliament Bill, limited to considering what should be a reasonable time for the due performance of its functions by a Second Chamber.

Under the provisions of the Parliament Act, 1911, Money Bills cannot be challenged by the House of Lords. In the case of all other Bills (except a Bill to extend the life of Parliament beyond five years) the Act provides that a Bill in dispute between the two Houses cannot be presented for the Royal Assent under the procedure of the Act unless it is introduced and passed by the Commons in each of three successive sessions, and unless two years have elapsed since the date on which the Bill was read a second time in the Commons in the first session and the date on which it was read a third time in the Commons in the third session; further, the Bill must be sent up to the Lords at least one month before the end of each of the three sessions.

The Parliament Bill now before the House of Lords proposes to reduce the number of sessions in which the Bill must be introduced and passed by the Commons from three to two, and to reduce the period of time which must elapse between Second Reading in the Commons in the first session and Third Reading in the Commons in the second session from two years to one year.

7. On this question of Powers considerable discussion took place, but the Conference failed to reach agreement. The views put forward by the respective groups of Party Leaders are set out in the following paragraphs 8 to 10.

8. The representatives of the Government expressed their willingness to see a Second Chamber possessed of proper facilities for debating public affairs and for revising legislation. The procedural arrangements should secure to each House a proper time for the consideration of amendments to Bills proposed by the other; but they should not be such as to enable the Second Chamber to impose its will on the House of Commons and to force the Government to seek a General Election against its own inclination and that of the Commons. The principal organ of democratic government is the House of Commons, which is elected by the People. The danger in modern conditions is that the machinery of democratic government may act too slowly rather than too quickly. Under the Parliament Act, 1911, the procedure enables a House of Lords hostile to the Government of the day to render the legislative programme of the Government ineffective in the fourth and fifth sessions of a quinquennial Parliament. In the result, the will of the Government and of the People could be thwarted by a Second Chamber which, not being elected, is not directly responsible to the People. The Government representatives agreed that it is important that points of dispute between the two Houses should be appreciated by the public, but they considered that the proposals of the Parliament Bill adequately safeguard constitutional rights in this respect, and afford sufficient time for public opinion (which formulates more rapidly in modern conditions than was the case thirty years ago) to understand and pronounce upon a disputed issue.

The Government representatives recognised, however, that under the Parliament Act procedure, as proposed to be amended by the Bill, the Second Chamber might not have a sufficiently long period to consider a disputed measure if, for any reason, the Bill took an exceptionally long time in its passage through the House of Commons. As part of a general agreement over the reform of the House of Lords, they would have been prepared to suggest to the Labour Party that the "period of delay" which, under the Parliament Bill, would be one year from Second Reading in the Commons on the first occasion, should be extended to nine months from Third Reading if, in the case of a particular Bill, the latter period proved to be the longer. The Gov-

ernment representatives could not recommend any further extension, inasmuch as the effective legislative use of the fourth session of a quinquennial Parliament would thereby be in jeopardy. It was further argued that the greater the powers given to a Second Chamber, the more might be the necessity for the Prime Minister of the day to attempt to redress an adverse political balance in that Chamber by the creation of additional Peers, and the greater the danger that the Second Chamber might in fact become a rival of the Commons.

9. The Leaders of the Official Opposition find themselves unable to agree to what they regard as the virtual elimination of the suspensory period. They feel that this would be in conflict with the whole intention of the Parliament Act of 1911. They hold that the purpose of the power of delay, which formed an integral part of the Parliament Act procedure, has never been to enable the Second Chamber to thwart the will of the People. It is an essential constitutional safeguard to ensure that, in the event of serious controversy between the two Houses of Parliament, on a measure on which the view of the electorate is doubtful, such a measure shall not pass into law until sufficient time has elapsed to enable the electorate to be properly informed of the issues involved and for public opinion to crystallize and express itself. The "one year's delay" from the Second Reading in the House of Commons proposed in the Parliament Bill now before Parliament is in fact largely illusory. For experience shows that it may take eight months for a Bill to pass through the ordinary processes of Parliament. Such a curtailment of the powers of the Second Chamber as is involved in the Government proposals would, in the view of the Opposition, represent a formidable step towards Single Chamber Government, with all the risks entailed. And this is an especial danger in a country like Great Britain where there is an unwritten Constitution and fundamental constitutional changes can be made by a simple Bill. The Opposition Leaders regard the safeguard of some effective power of delay by the Second Chamber as vital at all times and especially at the present juncture, when political instability is so evident throughout the world. They believe that there is no danger that such a power would be used frivolously. For the very existence of a Second Chamber must depend on its acting with due responsibility. And this would apply with redoubled force in the case of a Second Chamber composed of men and women chosen for their individual wisdom and experience, especially if steps were taken to ensure as far as possible that there is no per-

manent majority for any one political Party. In this case it could not be said that the procedure would operate differently in the cases of Governments of the Left and of the Right.

Notwithstanding this view, the Opposition Leaders considered that if it had been possible to reach agreement over the whole field of Composition and Powers of the Second Chamber, they might have regarded as acceptable a period of eighteen months from Second Reading in the Commons—halfway between the two years of the Parliament Act and the one year proposed by the Parliament Bill. Indeed, in order to facilitate such agreement, they would have been prepared to suggest for consideration by their supporters an even shorter period of twelve months from the Third Reading in the Commons. Any further reduction of the period would in their view involve a breach of the spirit and purpose of the Parliament Act. No doubt the time factor would vary with the complexity of a Bill, and the time taken up by Parliamentary debate in both Houses. But a period must be provided which covers all Bills. On the principle to be applied in deciding what that period should be, there is really a fundamental difference between the Government and the Opposition. In the view of the official Opposition, the effect of the Government proposals would be to allow a period sufficient to ensure full Parliamentary consideration by both Houses, but little or no more. The Opposition contend that this is not enough; and that the time factor must be sufficient to allow for reflection by the country after discussion in Parliament has been concluded and the matters at issue between the two Houses have been clearly defined.

Failure to provide this period for reflection by the electors would, in the view of the Opposition, curtail the powers of the Second Chamber to a point at which its value as a balancing factor in the constitution would be largely nullified. To this they could not agree in view of the danger to the liberties of the People that would be involved.

10. The Liberal Leaders had originally criticised the Parliament Bill on the ground that it did not provide a sufficient suspensory period. Accordingly, they had suggested that the "period of delay" should run, not from the Second Reading, but from the Third Reading in the Commons.

However, in their view, the alternative proposal made by the Government during the course of the Meetings sufficiently met their original objection, and the Liberal Leaders were prepared to suggest the acceptance by their Party Members of the Government proposal.

Having regard to the measure of agreement in principle on proposal for the revised composition of the Second Chamber, the Liberal Leaders deplored the breaking off of further discussions by reason only of a matter of three months in the suspensory period. This, in their view, is a matter of minor importance, which should have been capable of adjustment.

11. The representatives of all three Parties were united in their desire to see the House of Lords continue to play its proper part in the Legislature: and in particular to exercise the valuable functions of revising Bills sent up by the Commons, and initiating discussion on public affairs. It was regarded as essential, moreover, that there should be available to the country a legislative body composed of men of mature judgment and experience gained in many spheres of public life. But the Government representatives and the representatives of the Official Opposition considered that the difference between them on the subject of Powers was fundamental, and not related only to the length of the "period of delay."

In these circumstances, the Party representative concluded that there did not exist between them that basis for further discussions which would warrant carrying negotiations beyond their present stage.

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10. The Speech from the Throne

(October 21, 1947)

My Lords and Member of the House of Commons:

In the Session which opens today the nation is faced with grave economic difficulties affecting almost the entire world. Upon their successful solution depends the well-being of My people. My Government are determined to use every means in their power to overcome these difficulties.

I am confident that in these times of hardship My people will demonstrate once again to the world their qualities of resolution and energy. With sustained effort this nation will continue to play its full part in leading the world back to prosperity and freedom.

The first aim of My Ministers will be to redress the adverse balance of payments, particularly by expanding exports. This will demand increased production and the sale abroad of a larger share of output.

The task to be performed by each industry has been set out and, in conjunction with all those engaged in industry, My Government will do their best to provide the means to carry out these tasks.

My Ministers will give all possible help to those who work on the land in order to increase still more the home production of food. Legislation will be introduced to provide for the improvement and development of Scottish agriculture so that Scotland may play its full part in the campaign for higher production.

With a view to increasing exports and saving imports which can be replaced by home products, steps will be taken to ensure that manpower is used to the best national advantage, and, in particular, to expand the numbers employed in the coal-mining, agricultural and textile industries. The working of the reimposed labour controls will be watched closely and My Government will take measures to bring into essential work those who are making no contribution to the national well-being. They will also encourage in every way the close joint consultation in industry which is necessary if the greatest volume of production is to be secured.

My Government will continue to devote their earnest attention to securing from overseas the essential food-stuffs and raw materials for My people. They will do all in their power to find new sources of supply and they will seek to enter into further long-term agreements with overseas countries. A measure will be laid before you designed to promote the expansion of production of all kinds within the Empire.

My Government will continue to participate in the work of European reconstruction put in hand in the recent conference in Paris and will do their utmost to forward the projects formulated at that meeting for the benefit of Europe and of the world as a whole.

The present obstacles to co-operation and understanding between the peoples of the world have strengthened the determination of My Government to support the United Nations and to seek by that means to promote the mutual trust and tolerance on which peaceful progress depends.

It is My earnest hope that the forth-coming conference of Foreign Ministers will result in a measure of agreement leading towards a democratic and self-supporting Germany which will not threaten world security, and to the satisfactory settlement of the international status of Austria.

I trust that a Treaty of Peace with Japan, which will contribute to

the welfare of all countries in the Far East, may be concluded at an early date.

A measure will be laid before you to enable the future governance of Burma to be in accordance with the free decision of the elected representatives of its people.

I hope that the discussions now in progress will enable legislation to be laid before you to confer on Ceylon fully responsible status within the British Commonwealth.

Members of the House of Commons:

Estimates for the public services will be laid before you in due course, and you will be asked to approve supplementary financial measures at an early stage of the Session.

My Lords and Members of the House of Commons:

My Ministers will accelerate the release of men and women from the Armed Forces to the maximum extent consistent with the adequate fulfillment of the tasks falling to the Forces.

They will press on with the re-organization of the Forces on their peace-time basis and the task of obtaining the necessary voluntary recruits to build up the Regular Forces and the Auxiliary Services.

Legislation will be introduced to amend the Parliament Act, 1911.

A Bill will be laid before you to reform the administration of criminal justice in England and Wales.

You will be asked to approve legislation to abolish the poor law and to provide a comprehensive system of assistance for all in need. This will complete the all-embracing scheme of social security, the main lines of which have been laid down in measures already enacted.

A Bill will be laid before you to extend the scope of public ownership in completion of the plan for the co-ordination of the fuel and power industries.

A measure will be laid before you to extend the scope of public care of children deprived of a normal home life and to secure improved standards of care for such children.

Legislation will be introduced to provide a new and more equitable basis for the distribution of general Exchequer grants to local authorities. Provision will also be made for centralising the machinery of valuation for rating purposes and amending the law as to the valuation of small dwelling-houses in England and Wales.

You will be asked to approve a measure to reform the franchise and electoral procedure and to give appropriate effect to recommendations of the Commissions appointed to consider the distribution of Parliamentary seats.

A Bill will be laid before you to enable a common national status to be maintained throughout the Commonwealth and to amend the existing law governing the national status of married women.

You will be asked to approve a measure for the establishment of river boards to take over from existing authorities certain responsibilities for land drainage, fisheries, and the prevention of pollution.

You will also be invited to pass a Bill to amend the present scheme for securing the exhibition of a fair proportion of British films.

A measure will be laid before you to reform the law relating to actions for personal injuries.

It is hoped that various measures consolidating important branches of the law will be introduced during the Session; and other measures will be laid before you if time permits.

I pray that Almighty God may give His blessing to your counsels.

ADDRESS IN REPLY:

" That an humble Address be presented to His Majesty as follows:

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom of Great Britain and Northern Ireland, in Parliament assembled, beg leave to offer our humble thanks to Your Majesty for the Gracious Speech which Your Majesty has addressed to both Houses of Parliament."

WANT OF CONFIDENCE AMENDMENT:[1]

"But humbly regret that the Gracious Speech, while clearly revealing the intention of Your Majesty's Government to continue their partisan policies, gives no assurance of the national leadership, the administrative competence, or the measures necessary to meet the economic crisis and so give relief to Your people from their ever increasing hardships."

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[1] Editorial note: Proposed by the Leader of the Opposition and subsequently defeated.

11. The Question Period

One of the main functions of parliament is watchful criticism and supervision of the government. The daily question period is an effective means towards this end. Some questions are answered orally, others in written form. Questions may fall into categories, such as—request for information on details, commitment on matter of policy, airing of grievance or request of a constituent. The examples below have been selected at random. (Parliamentary Debates—Commons Vol. 443—Oct.–Nov. 1947.)

Nurses (Training Schools)

Mr. Hastings asked the Minister of Health how many of the 24 hospitals from which recognition as training schools for nurses has been withdrawn by the General Nursing Council and how many of the 37 hospitals from which this withdrawal is proposed, are municipal and how many voluntary.

Mr. Bevan: Of the 24, 23 are voluntary and 1 municipal, and of the 37, 25 are voluntary and 12 municipal.

Dogs (Feeding Experiments)

Mr. Rhys Davies asked the Secretary of State for the Home Department whether his attention has been called to two series of feeding experiments on dogs; and whether, in view of the suffering caused by these experiments, designed to produce by the same means the distressing symptoms of canine hysteria, he will in future refuse to sanction the duplication of such experiments under the Cruelty of Animals Act, 1876.

Mr. Ede: I assume that my hon. Friend is referring to experiments regarding the effect of the practice (now generally adopted) of treating flour with agene. I should not feel justified in disallowing these experiments on the ground that parallel experiments are in progress.

Housing Programme

Mr. Emrys Hughes asked the Secretary of State for Scotland if he is aware that grave anxiety prevails among Scottish local authorities about the possibility of cuts in housing and the possibility of the slowing down of the housing programme; and whether he is in a position to make any statment likely to allay this anxiety.

Mr. Woodburn: I would refer the hon. Member to the statement on the capital investment programme made by my right hon. Friend the Minister for Economic Affairs on 23rd October. I hope to issue a circular to local authorities within the next few days outlining the effect of the new proposals on the housing programme.

National Service—Students

Mr. Low asked the Minister of Labour whether it is now open for universities to apply for students with scholarships to be released from the Forces if their age and service group is 63 or above; how many students have been affected by this concession and in what age and service groups.

Mr. Ness Edwards: No. The scheme under which universities could apply for the out-of-town release of certain students from the Forces in order to take up their studies in October, 1947, is now completed. If any vacancies occur during the academic year preference must clearly be given to men released in age and service order. The second part of the Question does not, therefore, arise.

Clothing (Overseas Gifts)

Sir I. Fraser asked the President of the Board of Trade if he will permit gifts of clothing received by the British Legion and other ex-Servicemen's organisations from the United States and the Dominions to be distributed free amongst needy cases without requiring the surrender of coupons.

Mr. Belcher: Careful consideration has been given to this matter from time to time, but it is not felt that coupon-free distribution of bulk gifts of clothing by the various voluntary organisations can be permitted.

Buckwheat Crop

Sir E. Graham-Little asked the Minister of Agriculture whether he is aware that, whereas an officer of the Newport Pagnell War Agriculture Executive Committee was allowed to grow and sell birdseed on requisitioned land, the crop of buckwheat of Mr. Dennis, of Poslinford Hall, was ploughed in by the Committee's order at the expense of Mr. Dennis; and whether he will ensure that his agents are subject to the same regulations as others.

Mr. T. Williams: The circumstances of these two cases were entirely different, as will be apparent from the replies that I gave to the hon.

Member on 17th December, 1946, 21st and 30th January, 1947, and 24th October, 1947. I have nothing to add to these replies.

[Oral answers while not used as interpellations are in France, sometimes permit of brief debate through supplementary questions as this illustrates:—]

Workers' Rations (Entitlement)

Mr. Boyd-Carpenter asked the Minister of Food the length of time a person entitled to a higher scale of rations by reason of his employment in a particular occupation, retains his entitlement to that scale when voluntarily refusing to work at that employment.

Dr. Summerskill: Extra rations issued to someone employed in a particular occupation are withdrawn as soon as he ceases to follow that occupation, but not where, owing to an industrial dispute, the cessation is temporary.

Mr. Boyd-Carpenter: Does it follow from that answer that where persons have been entitled to the extra rations they lose them if they follow some other trade, but retain them if they do not work at all?

Dr. Summerskill: If they follow some other trade they lose them—they are disqualified from getting the extra rations which they previously enjoyed. But the hon. Member is talking about a section of the community which is employed for a week or two weeks, and in those cases ration books have already been deposited with tradesmen, and it is possible that the relevant coupons may have been cancelled.

Mr. Boyd-Carpenter: While appreciating that point as a reasonable one, does not the original answer mean that there is no time limit at all?

Dr. Summerskill: The hon. Gentleman has asked me to define the time limit of a strike, and I am not prepared to do that.

Major Lloyd: Men who take part in unofficial strikes can apparently receive an extra cheese ration as long as they like, and is that good for the nation?

Dr. Summerskill: We are not going to use food sanctions for dealing with industrial disputes.

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12. A Whip

Besides designating the party officials in Parliament who are charged with maintaining organizational interests of the party,

the term *Whip* is also used for the weekly circular sent to the members as a notice of forthcoming business at which in the interests of the party they are expected to be in attendance. According to the relative urgency of the business a system of underlining is followed; hence the term—"two line whip." When underscored three times—a "three line whip"—members should regard their attendance as almost mandatory. The following illustration of a "Whip" is reproduced from Strathearn Gordon's *Our Parliament* (Published by The Hansard Society, London.)

On Tuesday, 24th April, 1945, the House will meet at 2:15 p.m.
The Chancellor of the Exchequer will open his BUDGET.

Your attendance is requested.

On Wednesday, 25th April,
and
On Thursday, 26th April,
} the House will meet at 2:15 p.m.

General debate on the Budget Resolutions.
Your attendance is requested.

On Friday, 27th April, the House will meet at 11 a.m.
Income Tax Bill; Committee.
Divisions may take place and your attendance at 11 o'clock
and throughout the Sitting is particularly requested.

Motion to approve the Purchase Tax Order relating to Aluminum Domestic Hollow-ware

JAMES STUART.

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13. The Budget Resolution

After the Chancellor of the Exchequer has delivered his Budget message, his proposals embodying new taxes are immediately put into effect through the summary passing of a series of resolutions which are agreed to without debate except one. This exception which is a general motion to hold the debate open is as follows:

" That it is expedient to amend the law with respect to the National Debt and the public revenue, and to make further provision in connection with finance."

Political Parties

Of the major political parties, the Labour party is the most disciplined and its constitution is specific with respect to organizational procedures. The following are extracts from the constitution of the party and the standing orders of the Parliamentary Labour Party.

14. The Constitution of the Labour Party

As Amended by the Annual Party Conference (Margate, 1947)

CLAUSE I.—NAME

The Labour Party.

CLAUSE II.—MEMBERSHIP

1. There shall be two classes of members, namely:—
   (a) Affiliated Members.
   (b) Individual Members.
2. Affiliated Members shall consist of:—
   (a) Trade Unions affiliated to the Trades Union Congress or recognised by the General Council of the Trades Union Congress as *bona fide* Trade Unions.
   (b) Co-operative Societies.
   (c) Socialist Societies.
   (d) Professional Organisations which, in the opinion of the National Executive Committee, have interests consistent with those of other affiliated organisations.
   (e) Constituency Labour Parties and Central Labour Parties in Divided Boroughs.
   (f) County or Area Federations of Constituency Labour Parties, hereinafter referred to as Federations.
3. Political Organisations not affiliated to or associated under a National Agreement with the party on January 1, 1946, having their own Programme, Principles and Policy for distinctive motion of Parliamentary or Local Government Candidatures, or owing allegiance

to any political organisation situated abroad, shall be ineligible for affiliation to the Party.

4. Individual Members shall be persons of not less than sixteen years of age who subscribe to the conditions of membership, provided they are not members of Political Parties or organisations ancillary or subsidiary thereto declared by the Annual Conference of the Labour Party (hereinafter referred to as "the Party") or by the National Executive Committee in pursuance of Conference decisions to be ineligible for affiliation to the Party.

5. British citizens temporarily resident abroad may become Individual Members, or retain such membership of the Party, by enrolment with the Head Office provided they accept the conditions of membership in Clause III.

CLAUSE III.—CONDITIONS OF MEMBERSHIP

1. Each affiliated organisation must
   (a) Accept the Programme, Principles, and Policy of the Party.
   (b) Agree to conform to the Constitution and Standing Orders of the Party.
   (c) Submit its Political Rules to the National Executive Committee.

2. Each Constituency Labour Party, Central Labour Party, and Federation must, in addition to the conditions mentioned in Section 1 of this Clause, adopt the Rules laid down by the Party Conference.

3. Each individual Member must

(a) Accept and conform to the Constitution, Programme, Principles, and Policy of the Party.

(b) If eligible, be a member of a Trade Union affiliated to the Trades Union Congress or recognised by the General Council of the Trades Union Congress as a *bona fide* Trade Union.

(c) Unless temporarily resident abroad, be a member of a Constituency Labour Party either (i) where he or she resides, or (ii) where he or she is registered as a Parliamentary or Local Government elector.

CLAUSE IV.—PARTY OBJECTS

National

1. To organise and maintain in Parliament and in the country a Political Labour Party.

2. To co-operate with the General Council of the Trades Union Congress, or other Kindred Organisations, in joint political or other action in harmony with the Party Constitution and Standing Orders.

3. To give effect as far as may be practicable to the principles from time to time approved by the Party Conference.

4. To secure for the workers by hand or by brain the full fruits of their industry and the most equitable distribution thereof that may be possible, upon the basis of the common ownership of the means of production, distribution, and exchange, and the best obtainable system of popular administration and control of each industry or service.

5. Generally to promote the Political, Social, and Economic Emancipation of the People and more particularly of those who depend directly upon their own exertions by hand or by brain for the means of life.

Inter-Dominion

6. To co-operate with the Labour and Socialist organisations in the Dominions and the Dependencies with a view to promoting the purposes of the Party, and to take common action for the promotion of a higher standard of social and economic life for the working population of the respective countries.

International

7. To co-operate with the Labour and Socialist organisations in other countries and to assist in organising a Federation of Nations for the maintenance of Freedom and Peace, for the establishment of suitable machinery for the adjustment and settlement of International disputes by Conciliation or Judicial Arbitration, and for such International Legislation as may be practicable.

CLAUSE V.—PARTY PROGRAMME

1. The Party Conference shall decide from time to time what specific proposals of legislative, financial or administrative reform shall be included in the Party Programme.

No proposal shall be included in the Party Programme unless it has been adopted by the Party Conference by a majority of not less than two-thirds of the votes recorded on a card vote.

2. The National Executive Committee and the Executive Com-

mittee of the Parliamentary Labour Party shall decide which items from the Party Programme shall be included in the Manifesto which shall be issued by the National Executive Committee prior to every General Election. The joint meeting of the two Executive Committees shall also define the attitude of the Party to the principal issues raised by the Election which are not covered by the Manifesto.

CLAUSE VI.—THE PARTY CONFERENCE

1. The work of the Party shall be under the direction and control of the Party Conference, which shall itself be subject to the Constitution and Standing Orders of the Party. The Party Conference shall meet regularly once in every year and also at such other times as it may be convened by the National Executive Committee.

2. The Party Conference shall be constituted as follows:—

(a) Delegates duly appointed by each affiliated Trade Union or other organisations to the number of one delegate for each 5,000 members or part thereof on whom affiliation fees were paid for the year ending December 31 preceding the Conference.

(b) Delegates duly appointed by Constituency Labour Parties (or Trades Councils acting as such) to the number of one delegate for each 5,000 individual members or part thereof on whom affiliation fees were paid for the year ending December 31 preceding the Conference; where the individual and affiliated women's membership exceeds 2,500 an additional woman delegate may be appointed.

(c) Delegates duly appointed by Central Labour Parties or Trades Council acting as such in Divided Boroughs not exceeding one for each Central Labour Party.

(d) Delegates duly appointed by Federations not exceeding one for each Federation.

(e) *Ex-officio* Members of the Party Conference as follows:—

(i) Members of the National Executive Committee.

(ii) Members of the Parliamentary Labour Party.

(iii) Parliamentary Labour Candidates whose candidatures have been duly endorsed by the National Executive Committee.

(iv) The Secretary of the Party.

(v) The Chairman and one delegate appointed by the Annual Conference of the Labour Party League of

Youth held next preceding the Annual Party Conference.

Ex-officio Members of the Party Conference shall have no voting power unless they are also duly-appointed delegates.

(f) Any special Party Conference shall be called on the same basis of representation as that upon which the last Annual Party Conference was convened.

3. In the event of a duly appointed delegate being elected as Treasurer or as a member of the National Executive Committee, the Affiliated Organisation responsible for his or her appointment as a delegate may claim authority at subsequent Party Conferences during his or her period of Office, to appoint a delegate additional to the number applicable to it under Paras. (a), (b) and (c) of Section 2 of this Clause, provided the delegate elected as Treasurer or as a member of the National Executive Committee:

(i) Remains qualified to be appointed as a delegate under Clause VII; and

(ii) Continues to be duly appointed as a delegate by the Affiliated Organisation claiming authority to appoint an additional delegate within the provisions of this Section.

CLAUSE VII.—APPOINTMENT OF DELEGATES TO THE PARTY CONFERENCE

1. Every delegate must individually accept and conform to the Constitution, Programme, Principles, and Policy of the Party.

2. Delegates must be *bona fide* members or paid permanent officials of the organisation appointing them, except in the case of Members of the Parliamentary Labour Party or duly-endorsed Parliamentary Labour Candidates appointed to represent Constituencies in accordance with Section 4 of this Clause.

3. Delegates appointed by Federations or Central Labour Parties must be resident within the area of the organisation concerned or be registered therein as Parliamentary or Local Government electors.

4. Members of the Parliamentary Labour Party and duly-endorsed Parliamentary Labour Candidates may be appointed as delegates by Constituency Labour Parties responsible for their candidatures; otherwise, delegates appointed by Constituency Labour Parties must be resident in the Constituency appointing them, or registered as Parliamentary or Local Government electors therein.

5. Members of University Labour Parties may be appointed as delegates by such Parties if they are registered as electors for the University concerned.

6. No person shall act as a delegate for more than one organisation.

7. No person shall act as a delegate who does not pay the political levy of his or her Trade Union.

8. Members of Parliament not members of the Parliamentary Labour Party are ineligible to act as delegates.

9. The following are also ineligible to act as delegates:—

(a) Persons acting as candidates or supporting candidates in opposition to duly-endorsed Labour Candidates.

(b) Persons who are members of political parties or organisations ancillary or subsidiary thereto declared by the Annual Party Conference or by the National Executive Committee in pursuance of the Conference decisions to be ineligible for affiliation to the Labour Party.

CLAUSE VIII.—THE NATIONAL EXECUTIVE COMMITTEE

1. There shall be a National Executive Committee of the Party consisting of 25 members and a Treasurer, elected by the Party Conference at its regular Annual Meeting in such proportion and under such conditions as may be set out in the Standing Orders for the time being in force. The Leader of the Parliamentary Labour Party shall be an *ex-officio* member of the National Executive Committee. The Executive Committee shall, subject to the control and directions of the Party Conference, be the Administrative Authority of the Party.

2. The duties of the National Executive Committee shall include the following:—

(a) To ensure the establishment of and to keep in active operation a Constituency Labour Party in every Constituency, a Central Labour Party in every Divided Borough, and a Federation in every suitable area, in accordance with the rules laid down by the Party Conference for the purpose.

(b) To enforce the Constitution, Standing Orders, and Rules of the Party and to take any action it deems necessary for such purpose, whether by way of disaffiliation of an organisation, or expulsion of an individual, or otherwise. Any such action shall be reported to the next Annual Conference of the Party.

(c) To confer with the Parliamentary Labour Party at the opening of each Parliamentary Session, and at any other time when it or the Parliamentary Party may desire a Conference on any matters relating to the work and Progress of the Party.

(d) To see that all its officers and members conform to the Constitution and Standing Orders of the Party.

(e) To present to the Annual Party Conference a Report covering the work and progress of the Party during its year of office, together with a Financial Statement and Accounts duly audited. The Report, Financial Statement and Accounts shall be sent to affiliated organisations at least two clear weeks before the opening of the Annual Party Conference.

(f) To propose to the Annual Party Conference such amendments to the Constitution and Standing Orders as may be deemed desirable, and to submit to the Annual Party Conference, or to any Special Party Conference called in accordance with the Standing Orders, such resolutions and declaration affecting the Programme, Policy, and Principles of the Party as in its view may be necessitated by political circumstances.

(g) To organise and maintain a Fund to finance Parliamentary By-Elections.

(h) To organise an Insurance Scheme against the forfeiture of Returning Officer's Deposits at every Parliamentary General Election.

3. The decision of the National Executive Committee, subject to any modification by the Party Conference, as to the meaning and effect of any rule or any part of this Constitution and Standing Orders, shall be final.

4. The National Executive Committee shall have power to adjudicate in disputes that may arise between affiliated and other Party organisations, and in disputes which occur within the Party's Regional, Federation, or Constituency Machinery, and its decisions shall be binding on all organisations concerned.

CLAUSE IX.—PARLIAMENTARY CANDIDATURES

1. The National Executive Committee shall co-operate with the Constituency Labour Party for each Constituency in selecting a Labour Candidate for any Parliamentary Election.

2. The selection of Labour Candidates for Parliamentary Elections shall be made in accordance with the procedure laid down by the Annual Party Conference in the Rules which apply to Constituency and Central Labour Parties.

3. The selection of Labour Candidates for Parliamentary Elections shall not be regarded as completed until the name of the person selected has been placed before a meeting of the National Executive Committee, and his or her selection has been duly endorsed.

4. No Parliamentary Candidature shall be endorsed until the National Executive Committee has received an undertaking by one of its affiliated organisations (or is otherwise satisfied) that the election expenses of the Candidate are guaranteed.

5. Labour Candidates for Parliamentary Election duly endorsed by the National Executive Committee shall appear before the electors under the designation of "Labour Candidate" only. At any Parliamentary General Election they shall include in their Election Addresses and give prominence in their campaigns to the issues for that Election as defined by the National Executive Committee in its Manifesto.

6. At a Parliamentary By-Election a duly-endorsed Labour Candidate shall submit his or her Election Address to the National Executive Committee for approval. The National Executive Committee, whenever it considers it necessary, shall give advice and guidance on any special issue to be raised, or in the conduct of the Campaign during such By-Election.

7. No person may be selected as a Parliamentary Labour Candidate by a Constituency Labour Party, and no Candidate may be endorsed by the National Executive Committee, if the person concerned:—

(a) is not an Individual Member of the Party and, if eligible, is not a member of a Trade Union affiliated to the Trades Union Congress or recognised by the General Council of the Trades Union Congress as a *bona fide* Trade Union; or

(b) is a member of a Political Party or organisation ancillary or subsidiary thereto declared by the Annual Party Conference or by the National Executive Committee in pursuance of Conference decisions to be ineligible for affiliation to the Labour Party; or

(c) does not accept and conform to the Constitution, Programme, Principles, and Policy of the Party; or

(d) does not undertake to accept and act in harmony with the Standing Orders of the Parliamentary Labour Party.

8. Any Candidate who, after election, fails to accept or act in harmony with the Standing Orders of the Parliamentary Labour Party shall be considered to have violated the terms of this Constitution.

* * *

CLAUSE XIII.—ALTERATION TO CONSTITUTION

The existing Constitution, or any part thereof, may be amended, rescinded, altered, or additions made thereto, by Resolution carried on a card vote at an Annual Party Conference (in manner provided in the Standing Orders appended hereto) held in every third year following the year 1937, unless the National Executive Committee advises that amendments shall be specially considered at any Annual Party Conference. Notice of Resolutions embodying any such proposals must be sent in writing to the Secretary at the Offices of the Party, as provided in Standing Orders.

CLAUSE XIV.—STANDING ORDERS

The Standing Orders of the Party Conference shall be considered for all purposes as if they form part of this Constitution and shall have effect accordingly. New Standing Orders may be made when required, or the existing Standing Orders amended, rescinded, or altered by Resolution in the same manner as provided for alterations in the Constitution itself.

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15. Standing Orders of the Labour Party

STANDING ORDER I.—ANNUAL PARTY CONFERENCE

1. The National Executive Committee shall convene the Annual Party Conference at Whitsuntide in each year, in accordance with the conditions laid down in the Constitution and these Standing Orders. It may also convene Special Sessions of the Party Conference when it deems necessary.

2. When a Party Conference is called at short notice, the Secretaries of affiliated organisations shall, on receiving the summons, instantly take steps to secure representation of their organisations, in accordance with the Constitution and these Standing Orders.

3. Any Session of the Party Conference summoned with less than ten days' notice shall confine its business strictly to that relating to the emergency giving rise to the Special Session.

4. A delegation fee of £1 per Delegate shall be payable by affiliated organisations sending Delegates to the Party Conference. *Ex officio* members of the Party Conference in attendance shall pay a fee of 10s. Such fees must be paid to the Secretary of the Party before credentials are issued.

5. To secure the publication of an Official List of Delegates attending the Annual Party Conference, the names and addresses of Delegates appointed by affiliated organisations must be sent to the Secretary not later than two clear weeks before the opening of the Annual Party Conference. In case of a Special Conference called under Clause VI, the National Executive Committee may appoint a date prior to which such names and addresses shall be sent to the Secretary.

6. The National Executive Committee shall make arrangements each year for the pooling of railway fares in respect of delegations appointed by Federations, Central Labour Parties, and Constituency Labour Parties.

STANDING ORDER 2.—AGENDA

1. Notice of Resolutions for the Annual Party Conference, not exceeding one from any one affiliated organisation, shall be sent in writing to the Secretary at the offices of the Party not later than twelve clear weeks before the opening of the Conference, for inclusion in the first Agenda, which shall be forthwith issued to the affiliated organisations. In the case of a Special Conference called under Clause VI, the National Executive Committee may appoint a date prior to which such notices shall be sent to the Secretary.

2. Notice of amendments to the Resolutions in the First Agenda, not exceeding one from any one affiliated organisation (consequential amendments to a main amendment shall not be counted), and nominations for the National Executive Committee, Treasurer, Auditors, and Annual Conference Arrangements Committee, shall be forwarded in writing to the Secretary not later than six clear weeks before the opening of the Conference, for inclusion in the Final Agenda of the Conference. In the case of a Special Conference called under Clause VI, the National Executive Committee may appoint a date prior to which such notices shall be forwarded to the Secretary.

3. No business which does not arise out of the Resolutions on the

Agenda shall be considered by the Party Conference, unless recommended by the National Executive Committee or the Conference Arrangements Committee.

4. When the Annual Party Conference has, by Resolution, made a declaration of a general Policy or Principle, no Resolution or motion concerning such Policy or Principle shall appear on the Agenda for a period of three years from the time such declaration was made, except such Resolutions or motions as are, in the opinion of the National Executive Committee, of immediate importance.

STANDING ORDER 3.—VOTING

Voting at the Annual Party Conference shall be by cards on the following bases:—

(a) National and Constituency Organisations: One voting card for each 1,000 members or part thereof on whom affiliation fees were paid for the year ending December 31 preceding the Conference.

(b) Federations and Central Labour Parties: One voting card each.

Voting at any Special Party Conference shall be on the same bases as those upon which voting took place at the preceding Annual Party Conference.

STANDING ORDER 4.—ELECTION OF THE NATIONAL EXECUTIVE COMMITTEE

1. For the purpose of nomination and election the National Executive Committee shall be divided into four Divisions:—

Division I shall consist of twelve members, to be nominated by Trade Unions, and elected by their delegations at the Annual Party Conference.

Division II shall consist of one member, to be nominated by Socialist, Co-operative, and Professional Organisations, and elected by their delegations at the Annual Party Conference.

Division III shall consist of seven members, to be nominated by Federations, Constituency Labour Parties, and Central Labour Parties, and elected by their delegations at the Annual Party Conference.

Division IV shall consist of five women members, to be nominated by any affiliated organisation, and elected by the Annual Party Conference as a whole.

2. The election for each Division shall be made by means of ballot vote on the card bases as provided in these Standing Orders.

3. Nominations for the National Executive Committee shall be made in accordance with the following conditions:—

(a) Except in the case of Members of Parliament and duly-endorsed Candidates representing Constituency Labour Parties, nominees must be *bona fide* paying members of the organisations submitting their nominations.

(b) Except where a Constituency Labour Party desires to nominate its Member of Parliament or its duly-endorsed Candidate, the nominees of Federations, Constituency Labour Parties, and Central Labour Parties must either reside in or be registered as Parliamentary or Local Government Electors in the area of the Federation or Party submitting the nomination. The nominees of University Labour Parties must be registered as electors for the University concerned.

(c) Only persons appointed to attend the Annual Party Conference as Delegates shall be eligible for nomination for a seat on the National Executive Committee. Nominees who do not attend the Annual Party Conference shall be deemed to have withdrawn their nominations, unless they send to the Secretary on or before the day on which the Conference opens an explanation in writing of their absence, satisfactory to the Conference Arrangements Committee.

(d) Members of the General Council of the Trades Union Congress are not eligible for nomination to the National Executive Committee.

(e) Before sending in nominations affiliated organisations must secure the consent in writing of their nominees. Unless such consent is obtained and is attached to the nomination paper, nominations will be rendered null and void.

(f) Each affiliated organisation may make one nomination for its appropriate Division of the National Executive Committee. Where an affiliated organisation pays fees on 500,000 members or more it may make one additional nomination (either man or woman) for such Division.

(g) Each affiliated organisation may make one nomination for Division IV of the National Executive Committee.

4. Any vacancy which occurs amongst members of the National Executive Committee between Annual Party Conferences shall be filled by that Committee by co-opting the highest unsuccessful nominee in the Division concerned as shown in the results of the Election for the National Executive Committee at the Annual Party Conference immediately preceding the vacancy.

STANDING ORDER 5.—ELECTION OF OFFICERS

1. The National Executive Committee shall elect its own Chairman and Vice-Chairman at its first meeting each year.

2. The Treasurer shall be nominated and elected separately by the Annual Party Conference. Every affiliated organisation may nominate a person for Treasurer who is a duly-appointed Delegate to the Annual Party Conference.

3. The Secretary shall be elected by the Annual Party Conference, on the recommendation of the National Executive Committee, and be *ex-officio* a member of the Conference. He shall devote his whole time to the work of the Party and shall not be eligible as a Candidate for, or a Member of, Parliament. He shall remain in office so long as his work gives satisfaction to the National Executive Committee and Party Conference. Should a vacancy in the office occur between two Annual Party Conferences the National Executive Committee shall have full power to fill the vacancy, subject to the approval of the Annual Party Conference next following.

4. Every affiliated organisation may nominate one duly-appointed Delegate for a seat on the Party Conference Arrangements Committee, who, if elected, must be a Delegate to any Party Conference held during his or her period of office. In the event of a member of the Party Conference Arrangements Committee being unable to fulfil his or her duties the Delegate who received the highest number of votes amongst those not elected shall be called upon, but should the voting list be exhausted the affiliated organisation to which the elected Delegate belonged shall nominate a substitute.

5. Every affiliated organisation may nominate one duly-appointed Delegate to act as Auditor in the event of an Auditor being unable to perform the duties, the same procedure shall be followed as in the case of the Party Conference Arrangements Committee.

No Delegate shall be eligible for nomination to more than one position to be filled by election at any Annual Party Conference. In the event of any Delegate being nominated for more than one such position, the Delegate shall be requested to select the position for which he or she desires to remain nominated. After the selection has been made the Delegate's name shall be omitted from the nominations for all other positions. Should no selection of position be made not later than six clear weeks before the opening of the Conference, all nominations made on behalf of the Delegate shall become null and void.

STANDING ORDERS OF THE PARLIAMENTARY LABOUR PARTY

(Revised, Session 1945–46)

The Parliamentary Party have the authority to withdraw the Whip on account of things said or done by Members of the Party in the House, such decision to be reported to the National Executive Committee.

Outside activities, whether in writing or speech, which are contrary to the discipline or constitution of the Party shall be dealt with by the National Executive Committee.

STANDING ORDERS:

1. For the purpose of securing concerted action in the House, Members shall consult the Officers of the Parliamentary Party before tabling any Motion, Amendment or Prayer, or other proposal which may involve Party Policies or decisions; and shall not vote for any Motion, Amendment or Prayer contrary to the decision of the Party Meeting.

2. Where there is persistent refusal to observe the decisions of the Parliamentary Party, it shall be the duty of the Liaison Committee to bring a recommendation to the Party Meeting to report the Member to the National Executive Committee, who shall consider the matter in its constituency and other aspects with which the National Executive Committee is concerned. The Member concerned shall have the right to be heard both by the Parliamentary Party and the National Executive Committee.

3. It is recognised that on certain matters, for example religion and

temperance, Members may have good grounds for conscientious scruples, and in such cases they may abstain from voting.

(The above Standing Orders may be amended, rescinded, altered, added to or suspended for such period and under such conditions as may be determined upon by a duly constituted meeting of the Parliamentary Labour Party.)

NOTE.—Members should take advantage of Party Meetings in suitable instances to raise questions of Party policy concerning which they may have doubts.

INSURANCE AGAINST THE FORFEITURE OF RETURNING OFFICERS' DEPOSITS AT A GENERAL ELECTION

At the General Election, 1929, the National Executive Committee imposed upon Parliamentary Candidates an obligation to contribute the sum of £10 to an Insurance Fund, and in return guaranteed Candidates against the forfeiture of their Deposits.

By passing of the attached paragraph in the National Executive Committee's Report at the Annual Party Conference at Brighton, 1929, authority has been given to the Committee to make the payment of a premium to a Scheme of Insurance a condition of endorsement:—

"The National Executive Committee desire to continue the principle of insurance at future Elections, either on the same basis or in some modified form. In order to make future funds effective, it proposes to make it a condition of endorsement that Candidates must contribute their quotas to the Fund."

Henceforth the National Executive Committee will not endorse the selection of a Parliamentary Candidate until the obligation to pay a premium is acknowledged and agreed to by an affiliated organisation on behalf of its Candidate.

The continuance of this scheme of insurance is now one of the duties placed on the National Executive Committee by Clause 8, 2(h) of the Party Constitution.

16. Tables of Elections

1929

Parties	*Vote*	*% Vote*	*Seats*	*% Seats*
Labor	8,112.2	37.50	289	47.07
Conservative	8,211.8	37.97	262	42.6
Liberal	5,053.4	23.4	58	9.4
Total	21,629.2		614	

Parties	*Vote*	*% Vote*	*Seats*	*% Seats*
	1931			
Labor	6,370.9	30.77	61	9.93
Conservative	12,388.9	59.83	511	83.3
Liberal	1,594.4	7.7	36	5.9
Total	20,705.5		614	
	1935			
Labor	7,959.8	38.04	151	24.59
Conservative	11,182.6	53.44	434	70.0
Liberal	1,405.0	6.7	22	3.6
Total	20,923.8		614	
	1945			
Labor	11,992,292	48.00	393	61.400
Conservative	8,665,566	34.7	189	29.600
Liberal	2,245,319	8.97	12	1.875
I. L. P.	46,679	0.187	3	.470
Communist	102,780	0.412	2	.331
Commonwealth	110,634	0.443	1	.156
Irish National	148,078	0.594	2	.313
Ulster Unionist	392,454	1.570	9	1.410
National	142,906	0.571	2	.313
Liberal National	759,883	3.04	13	2.030
Welsh National	14,751	.059	—	—
Democratic	1,809	.007	—	—
Scottish National	30,595	0.123	—	—
Independents	325,203	1.300	14	2.187
Total	24,978,949		640	
	*1950**			
Labor	13,265,610	46.2	315	50.40
Conservative & U. U.	11,518,360	40.2	281	45.00
Liberal	2,621,489	9.1	9	1.44
Communist	91,816	0.32	—	—
National Liberal	40,287	0.14	2	0.32
Conservative & Liberal	124,642	0.43	2	0.32
Conservative & National Liberal	350,538	1.22	4	0.64
Liberal & Conservative	60,830	0.21	2	0.32
National Liberal & Conservative	407,326	1.42	7	1.12
Nationalist	93,421	0.32	2	0.32
I. L. P.	4,112	0.01	—	—
Labor Independent Group	26,014	0.09	—	—
Independents & Others	165,033	0.57	1	0.16
Total	28,769,477		625	

* Editorial Note: The figures for the 1950 election at the time of going to press are not final or official. The statistics given above for 1945 and 1950 are adapted from the tables given in *The Times House of Commons 1950*. However, the 1950 Table above differs in that the I. L. P. and Labor Independent vote is listed separately. Votes cast for the Speaker (24,703) who was given no party designation are included in the Independents.

Administrative Jurisdiction

"The King can do no wrong" is a maxim of British constitutionalism. Unlike the situation in France where a system of administrative courts exists, there has been no such provision in Great Britain for redress against the Crown except as it permits actions in ordinary courts. *The Crown Proceedings Act of 1947,* accordingly provides a remedy for this situation.

17. Crown Proceedings Act (1947)

(10 & 11 Geo. 6., c. 44.)

PART I.

SUBSTANTIVE LAW

1.—Where any person has a claim against the Crown after the commencement of this Act, and, if this Act had not been passed, the claim might have been enforced, subject to the grant of His Majesty's fiat, by petition of right, or might have been enforced by a proceeding provided by any statutory provision repealed by this Act, then, subject to the provisions of this Act, the claim may be enforced as of right, and without the fiat of His Majesty, by proceedings taken against the Crown for that purpose in accordance with the provisions of this Act.

2.—(1) Subject to the provisions of this Act, the Crown shall be subject to all those liabilities in tort to which, if it were a private person of full age and capacity, it would be subject:—

(a) in respect of torts committed by its servants or agents;

(b) in respect of any breach of those duties which a person owes to his servants or agents at common law by reason of being their employer; and

(c) in respect of any breach of the duties attaching at common law to the ownership, occupation, possession or control of property:

Provided that no proceedings shall lie against the Crown by virtue of paragraph (a) of this subsection in respect of any act or omission of a servant or agent of the Crown unless the act or omission would apart from the provisions of this Act have given rise to a cause of action in tort against that servant or agent or his estate.

(2) Where the Crown is bound by a statutory duty which is binding also upon persons other than the Crown and its officers, then, subject to the provisions of this Act, the Crown shall, in respect of a failure to comply with that duty, be subject to all those liabilities in

tort (if any) to which it would be so subject if it were a private person of full age and capacity.

(3) Where any functions are conferred or imposed upon an officer of the Crown as such either by any rule of the common law or by statute, and that officer commits a tort while performing or purporting to perform those functions, the liabilities of the Crown in respect of the tort shall be such as they would have been if those functions had been conferred or imposed solely by virtue of instructions lawfully given by the Crown.

(4) Any enactment which negatives or limits the amount of the liability of any Government department or officer of the Crown in respect of any tort committed by that department or officer shall, in the case of proceedings against the Crown under this section in respect of a tort committed by that department or officer, apply in relation to the Crown as it would have applied in relation to that department or officer if the proceedings against the Crown had been proceedings against that department or officer.

(5) No proceedings shall lie against the Crown by virtue of this section in respect of anything done or omitted to be done by any person while discharging or purporting to discharge any responsibilities of a judicial nature vested in him, or any responsibilities which he has in connection with the execution of judicial process.

(6) No proceedings shall lie against the Crown by virtue of this section in respect of any act, neglect or default of any officer of the Crown, unless that officer has been directly or indirectly appointed by the Crown and was at the material time paid in respect of his duties as an officer of the Crown wholly out of the Consolidated Fund of the United Kingdom, moneys provided by Parliament, the Road Fund, or any other Fund certified by the Treasury for the purposes of this subsection or was at the material time holding an office in respect of which the Treasury certify that the holder thereof would normally be so paid.

* * *

10.—(1) Nothing done or omitted to be done by a member of the armed forces of the Crown while on duty as such shall subject either him or the Crown to liability in tort for causing the death of another person, or for causing personal injury to another person, in so far as the death or personal injury is due to anything suffered by that other person while he is a member of the armed forces of the Crown if—

(a) at the time when that thing is suffered by that other person, he is either on duty as a member of the armed

forces of the Crown or is, though not on duty as such, on any land, premises, ship, aircraft or vehicle for the time being used for the purposes of the armed forces of the Crown; and

(b) the Minister of Pensions certifies that his suffering that thing has been or will be treated as attributable to service for the purposes of entitlement to an award under the Royal Warrant, Order in Council or Order of His Majesty relating to the disablement or death of members of the force of which he is a member:

Provided that this subsection shall not exempt a member of the said forces from liability in tort in any case in which the court is satisfied that the act or omission was not connected with the execution of his duties as a member of those forces.

(2) No proceedings in tort shall lie against the Crown for death or personal injury due to anything suffered by a member of the armed forces of the Crown if—

(a) that thing is suffered by him in consequence of the nature or condition of any such land, premises, ship, aircraft or vehicle as aforesaid, or in consequence of the nature or condition of any equipment or supplies used for the purposes of those forces; and

(b) the Minister of Pensions certifies as mentioned in the preceding subsection;

nor shall any part or omission of an officer of the Crown subject him to liability in tort for death or personal injury, in so far as the death or personal injury is due to anything suffered by a member of the armed forces of the Crown being a thing as to which the conditions aforesaid are satisfied.

(3) The Admiralty or a Secretary of State, if satisfied that it is the fact:—

(a) that a person was or was not on any particular occasion on duty as a member of the armed forces of the Crown; or

(b) that at any particular time any land, premises, ship, aircraft, vehicle, equipment or supplies was or was not, or were or were not, used for the purposes of the said forces;

may issue a certificate certifying that to be the fact; and any such

certificate shall, for the purposes of this section, be conclusive as to the fact which it certifies.

11.—(1) Nothing in Part I of this Act shall extinguish or abridge any powers or authorities which, if this Act had not been passed, would have been exercisable by virtue of the prerogative of the Crown, or any powers or authorities conferred on the Crown by any statute, and, in particular, nothing in the said Part I shall extinguish or abridge any powers or authorities exercisable by the Crown, whether in time of peace or of war, for the purpose of the defence of the realm or of training, or maintaining the efficiency of, any of the armed forces of the Crown.

* * *

16.—The Crown may obtain relief by way of interpleader proceedings, and may be made a party to such proceedings, in the same manner in which a subject may obtain relief by way of such proceedings or be made a party thereto, and may be made a party to such proceedings notwithstanding that the application for relief is made by a sheriff or other like officer; and all rules of court and county court rules relating to interpleader proceedings shall, subject to the provisions of this Act, have effect accordingly.

17.—(1) The Treasury shall publish a list specifying the several Government departments which are authorised departments for the purposes of this Act, and the name and address for service of the person who is, or is acting for the purposes of this Act as, the solicitor for each such department, and may from time to time amend or vary the said list.

Any document purporting to be a copy of a list published under this section and purporting to be printed under the superintendence or the authority of His Majesty's Stationery Office shall in any legal proceedings be received as evidence for the purpose of establishing what departments are authorised departments for the purposes of this Act, and what person is, or is acting for the purposes of this Act as, the solicitor for any such department.

(2) Civil proceedings by the Crown may be instituted either by an authorised Government department in its own name, whether that department was or was not at the commencement of this Act authorised to sue, or by the Attorney General.

18.—All documents required to be served on the Crown for the purpose of or in connection with any civil proceedings by or against

the Crown shall, if those proceedings are by or against an authorised Government department, be served on the solicitor, if any, for that department, or the person, if any, acting for the purposes of this Act as solicitor for that department, or if there is no such solicitor and no person so acting, or if the proceedings are brought by or against the Attorney General, on the Solicitor for the affairs of His Majesty's Treasury.

* * *

21.—(1) In any civil proceedings by or against the Crown the court shall, subject to the provisions of this Act, have power to make all such orders as it has power to make in proceedings between subjects, and otherwise to give such appropriate relief as the case may require:

Provided that:—

(a) where in any proceedings against the Crown any such relief is sought as might in proceedings between subjects be granted by way of injunction or specific performance, the court shall not grant an injunction or make an order for specific performance, but may in lieu thereof make an order declaratory of the rights of the parties; and

(b) in any proceedings against the Crown for the recovery of land or other property the court shall not make an order for the recovery of the land or the delivery of the property, but may in lieu thereof make an order declaring that the plaintiff is entitled as against the Crown to the land or property or to the possession thereof.

(2) The court shall not in any civil proceedings grant any injunction or make any order against an officer of the Crown if the effect of granting the injunction or making the order would be to give any relief against the Crown which could not have been obtained in proceedings against the Crown.

* * *

25.—(1) Where in any civil proceedings by or against the Crown, or in any proceedings on the Crown side of the King's Bench Division, or in connection with any arbitration to which the Crown is a party, any order (including an order for costs) is made by any court in favour of any person against the Crown or against a Government department or against an officer of the Crown as such, the proper officer of the court shall, on an application in that behalf made by or on behalf of that person at any time after the expiration of twenty-one days from

the date of the order or, in case the order provides for the payment of costs and the costs require to be taxed, at any time after the costs have been taxed, whichever is the later, issue to that person a certificate in the prescribed form containing particulars of the order:

Provided that, if the court so directs, a separate certificate shall be issued with respect to the costs (if any) ordered to be paid to the applicant.

* * *

(3) If the order provides for the payment of any money by way of damages or otherwise, or of any costs, the certificate shall state the amount so payable, and the appropriate Government department shall, subject as hereinafter provided, pay to the person entitled or to his solicitor the amount appearing by the certificate to be due to him together with the interest, if any, lawfully due thereon:

Provided that the court by which any such order as aforesaid is made or any court to which an appeal against the order lies may direct that, pending an appeal or otherwise, payment of the whole of any amount so payable, or any part thereof, shall be suspended, and if the certificate has not been issued may order any such directions to be inserted therein.

* * *

28.—(1) Subject to and in accordance with rules of court and county court rules:—

(a) in any civil proceedings in the High Court or a county court to which the Crown is a party, the Crown may be required by the court to make discovery of documents and produce documents for inspection; and

(b) in any such proceedings as aforesaid, the Crown may be required by the court to answer interrogatories:

Provided that this section shall be without prejudice to any rule of law which authorises or requires the withholding of any document or the refusal to answer any question on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest.

Any order of the court made under the powers conferred by paragraph (b) of this subsection shall direct by what officer of the Crown the interrogatories are to be answered.

(2) Without prejudice to the proviso to the preceding subsection, any rules made for the purposes of this section shall be such as

to secure that the existence of a document will not be disclosed if, in the opinion of a Minister of the Crown, it would be injurious to the public interest to disclose the existence thereof.

29.—(1) Nothing in this Act shall authorise proceedings in rem in respect of any claim against the Crown, or the arrest, detention or sale of any of His Majesty's ships or aircraft, or of any cargo or other property belonging to the Crown, or give to any person any lien on any such ship, aircraft, cargo or other property.

Nationalization

18. Bank of England Act (1946)

(9 & 10 Geo. 6., c. 27.)

An Act to bring the capital stock of the Bank of England into public ownership and bring the Bank under public control, to make provision with respect to the relations between the Treasury, the Bank of England and other banks and for purposes connected with the matters aforesaid.

[*14th February 1946.*]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:—

1.—(1) On the appointed day—

(a) the whole of the existing capital stock of the Bank (hereinafter referred to as "Bank stock") shall, by virtue of this section, be transferred, free of all trusts, liabilities and incumbrances, to such person as the Treasury may by order nominate, to be held by that person on behalf of the Treasury;

(b) the Treasury shall issue, to the person who immediately before the appointed day is registered in the books of the Bank as the holder of any Bank stock, the equivalent amount of stock created by the Treasury for the purpose (hereinafter referred to as the "Government stock").

(2) The Government stock shall bear interest at the rate of three percent. per annum; and the equivalent amount of Government stock shall, in relation to any person, be taken to be such that the sum payable annually by way of interest thereon is equal to the average annual gross dividend declared during the period of twenty years immediately preceding the thirty-first day of March, nineteen hundred and forty-five, upon the amount of Bank stock of which that person was the registered holder immediately before the appointed day.

(3) The Government stock may be redeemed at par by the Treasury on or at any time after the fifth day of April, nineteen hundred and sixty-six, after giving not less than three months' notice in the London Gazette of their intention to do so.

(4) After the appointed day, no dividends on Bank stock shall be declared but in lieu of any such dividends the Bank shall pay to the Treasury, on every fifth day of April and of October, the sum of eight hundred and seventy-three thousand, one hundred and eighty pounds, or such less or greater sum as may from time to time be agreed upon between the Treasury and the Bank.

(5) The incidental and supplemental provisions set out in the First Schedule to this Act shall have effect with respect to the Government stock and to the sums payable to the Treasury under the last foregoing subsection.

2.—(1) On the appointed day, all persons who are, immediately before that day, holding office as Governor, Deputy Governor or director of the Bank shall vacate their office, and on and after that day there shall be a Governor, a Deputy Governor and sixteen directors of the Bank, who shall be the court of directors.

(2) The Governor, Deputy Governor and other members of the court or directors shall be appointed by His Majesty.

(3) The provisions of the Second Schedule to this Act shall have effect as respects the tenure of office, qualifications and employment of members of the court of directors and meetings of the court.

3.—(1) So much of any enactment as limits the duration of the Bank as a body corporate shall cease to have effect.

(2) As from the appointed day every member of the court of directors of the Bank shall be a member of the said body corporate, notwithstanding that he holds no Bank stock, and accordingly the members of the said body shall be the members for the time being of that court together with the person who for the time being holds the Bank stock on behalf of the Treasury.

(3) As from the appointed day His Majesty may revoke all or any of the provisions of the charters of the Bank except in so far as they incorporate the Bank, and thereafter, subject to the provisions of this Act, the Bank shall be constituted and regulated in accordance with so much of the said charters as remains unrevoked and such other charters as may from time to time be granted by His Majesty and accepted on behalf of the Bank by the court of directors.

(4) The enactments set out in the Third Schedule are hereby repealed as from the appointed day to the extent specified in the third column of that Schedule.

4.—(1) The Treasury may from time to time give such directions to the Bank as, after consultation with the Governor of the Bank, they think necessary in the public interest.

(2) Subject to any such directions, the affairs of the Bank shall be managed by the court of directors in accordance with such provisions (if any) in that behalf as may be contained in any charter of the Bank for the time being in force and any byelaws made thereunder.

(3) The Bank, if they think it necessary in the public interest, may request information from and made recommendations to bankers, and may, if so authorised by the Treasury, issue directions to any banker for the purpose of securing that effect is given to any such request or recommendation:

Provided that:—

(a) no such request or recommendations shall be made with respect to the affairs of any particular customer of a banker; and

(b) before authorising the issue of any such directions the Treasury shall give the banker concerned, or such person as appears to them to represent him, an opportunity of making representations with respect thereto.

(4) If, at any time before any recommendations or directions are made or given in writing to a banker under the last foregoing subsection, the Treasury certify that it is necessary in the public interest that the recommendations or directions should be kept secret, and the certificate is transmitted to the banker together with the recommendations or directions, the recommendations or directions shall be deemed, for the purpose of section two of the Official Secrets Act, 1911, as amended by any subsequent enactment, to be a document entrusted in confidence to the banker by a person holding office under His

Majesty; and the provisions of the Official Secrets Acts, 1911 to 1939, shall apply accordingly.

(5) Save as provided in the last foregoing subsection, nothing in the Official Secrets Acts, 1911 to 1939, shall apply to any request, recommendations or directions made or given to a banker under subsection (3) of this section.

(6) In this section the expression "banker" means any such person carrying on a banking undertaking as may be declared by order of the Treasury to be a banker for the purposes of this section.

(7) Any order made under the last foregoing subsection may be varied or revoked by a subsequent order.

(8) This section shall come into operation on the appointed day.

5.—For the purposes of this Act—

(a) the expression "the Bank" means the Bank of England;

(b) the appointed day shall be such day as the Treasury may by order appoint, not being later than three months from the date of the passing of this Act.

6.—This Act may be cited as the Bank of England Act, 1946.

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19. Coal Industry Nationalization Act (1946)

(9 & 10 Geo. 6., c. 59.)

An Act to establish ownership and control of the coal-mining industry and certain allied activities; and for purposes connected therewith.

[*12th July 1946.*]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

THE NATIONAL COAL BOARD

1.—(1) There shall be a National Coal Board which shall, on and after the primary vesting date, be charged with the duties of—

(a) working and getting the coal in Great Britain, to the exclusion (save as in this Act provided) of any other person;

(b) securing the efficient development of the coal-mining industry; and

(c) making supplies of coal available, of such qualities and sizes, in such quantities and at such prices, as may seem to them best calculated to further the public interest in all respects, including the avoidance of any undue or unreasonable preference or advantage.

(2) The functions of the National Coal Board (in this Act referred to as "the Board") shall include the carrying on of all such activities as it may appear to the Board to be requisite, advantageous or convenient for them to carry on for or in connection with the discharge of their duties under the preceding subsection, and in particular, but without prejudice to the generality of this section,—

(a) searching and boring for coal in Great Britain, to the exclusion of any other person;

(b) treating, rendering saleable, supplying and selling coal;

(c) producing, manufacturing, treating, rendering saleable, supplying and selling products of coal;

(d) producing or manufacturing any goods or utilities which are of a kind required by the Board for or in connection with the working and getting of coal or any other of their activities, or which can advantageously be produced or manufactured by the Board by reason of their having materials or facilities for the production or manufacture thereof in connection with the working and getting of coal or any other of their activities, and supplying and selling goods or utilities so produced or manufactured;

(e) any activities which can advantageously be carried on by the Board with a view to making the best use of any of the assets vested in them by this Act;

(f) activities conducive to advancing the skill of persons employed or to be employed for the purposes of any of the activities aforesaid, or the efficiency of equipment and methods to be used therefor, including the

provision by the Board themselves, and their assisting the provision by others, of facilities for training, education and research.

(3) The Board shall have power to do any thing and to enter into any transaction (whether or not involving the expenditure, borrowing in accordance with the provisions of this Act in that behalf or lending of money, the acquisition of any property or rights, or the disposal of any property or rights not in their opinion required for the proper discharge of their functions) which in their opinion is calculated to facilitate the proper discharge of their duties under subsection (1) of this section or the carrying on by them of any such activities as aforesaid, or is incidental or conducive thereto.

(4) The policy of the Board shall be directed to securing, consistently with the proper discharge of their duties under subsection (1) of this section,—

(a) the safety, health and welfare of persons in their employment;

(b) the benefit of the practical knowledge and experience of such persons in the organisation and conduct of the operations in which they are employed;

(c) that the revenues of the Board shall not be less than sufficient for meeting all their outgoings properly chargeable to revenue account (including, without prejudice to the generality of that expression, provisions in respect of their obligations under sections twenty-eight and twenty-nine of this Act) on an average of good and bad years.

2.—(1) The Board shall be a body corporate by the name of "the National Coal Board," with perpetual succession and a common seal and power to hold land without licence in mortmain.

(2) The Board shall consist of a chairman and eight other members.

(3) The chairman and other members of the Board shall be appointed by the Minister of Fuel and Power (in this Act referred to as "the Minister") from amongst persons appearing to him to be qualified as having had experience of, and having shown capacity in, industrial, commercial or financial matters, applied science, administration, or the organisation of workers.

(4) A person shall be disqualified for being appointed or being

a member of the Board so long as he is a member of the Commons House of Parliament.

(5) The Minister shall appoint one of the members of the Board to act as deputy chairman.

(6) There shall be paid to the members of the Board such salaries and allowances as may be determined by the Minister with the approval of the Treasury, and, on the retirement or death of any of them as to whom it may be so determined to make such provision, such pensions and gratuities to them or to others by reference to their service as may be so determined.

The said salaries and allowances, and any such pensions and gratuities as aforesaid, shall be paid out of the revenues of the Board.

(7) The Minister may make regulations with respect to—

(a) the appointment of, and the tenure and vacation of office by, the members of the Board;

(b) the quorum, proceedings and meetings of the Board, and determinations of the Board; and

(c) the execution of instruments and the mode of entering into contracts by and on behalf of the Board, and the proof of documents purporting to be executed, issued or signed by the Board or a member, officer or servant thereof.

(8) Subject to the provisions of any regulations made under the last preceding subsection, the Board shall have power to regulate their own procedure.

3.—(1) The Minister may, after consultation with the Board, give to the Board directions of a general character as to the exercise and performance by the Board of their functions in relation to matters appearing to the Minister to affect the national interest, and the Board shall give effect to any such directions.

(2) In framing programmes of reorganisation or development involving substantial outlay on capital account, the Board shall act on lines settled from time to time with the approval of the Minister.

(3) In the exercise and performance of their functions as to training, education and research, the Board shall act on lines settled as aforesaid.

(4) The Board shall afford to the Minister facilities for obtaining information with respect to the property and activities of the Board, and shall furnish him with returns, accounts and other information

with respect thereto and afford to him facilities for the verification of information furnished, in such manner and at such times as he may require.

4.—(1) There shall be established for the purposes mentioned in this section two consumers' councils, to be known respectively as the Industrial Coal Consumers' Council and the Domestic Coal Consumers' Council.

(2) Each of the said councils shall consist of such number of persons as the Minister may think fit, appointed by him to represent the Board, ...

(3) The Industrial Coal Consumers' Council shall be charged with the duties—

(a) of considering any matter affecting the sale or supply, whether for home use or for export, of coal, coke or manufactured fuel. . . .

(b) of considering, and reporting to the Minister on, any such matter which may be referred to them by the Minister.

(4) The Domestic Coal Consumers' Council shall be charged with the like duties in relation to the sale or supply of coal, coke and manufactured fuel. . . .

(5) On the notification or making to the Minister by either of the said councils of their conclusions or report on any matter, if it appears to him, after consultation with the Board, that a defect is disclosed in the Board's general arrangements for the production, sale or supply of coal, coke or manufactured fuel, as the case may be, he may give to the Board such directions as he may think requisite for remedying the defect, and the Board shall give effect to any such directions.

* * *

(8) Each of the said councils shall make up an annual report to the Minister, and the Minister shall lay the reports before each House of Parliament.

(9) A regional industrial coal consumers' council or a regional domestic coal consumers' council may be appointed by the Minister for any prescribed locality for which such appointment appears to him to be expedient, whether in consequence of or apart from a recommendation in that behalf of the Industrial Council or the Domestic Council, as the case may be, established under subsection (1) of this

section, and provision may be made by regulations for the dissolution of a regional council appointed for any locality if it appears to the Minister that such a council is no longer needed for that locality, or for the variation of the locality for which such a council is to act.

* * *

Transfer of assets to the Board[1]

5.— . . . .

(3) . . . .

In considering any question which is to be determined by arbitration under this subsection the arbitrator shall have regard to all the circumstances, and in particular, where the exercise of the option in question is by the Board, to the importance to the Board, for the purposes of any activities which they are required or authorised to carry on, of the assets being vested in them, and, where the exercise of the option is by the owner, to the extent to which the severance of the assets in question from other assets of his which are vested or to be vested in the Board affects the usefulness to him of the assets in question.

* * *

9.— . . . .

(4) Regulation may be made—

(a) for securing that, when compensation has been made under this Act on the basis that any assets, property, rights or liabilities have vested in or been transferred to the Board or have vested in them free from any charge or lien, restriction, right or liability, or when particulars of transferred interests for compensation have been taken on that basis and the particulars or other proceedings have become conclusive for those purposes, persons shall be estopped from questioning the vesting in or transfer to the Board of the assets, property, rights or liabilities, or the vesting thereof in them free from that charge or lien, restriction, right or liability; and

10.— . . . .

(3) The aggregate amount of the compensation to be made in respect of the coal industry value of all the transferred interests shall

[1] Editorial Note.—Here follow sections relating to transfer of assets to the Board and provision for arbitration.

be a sum fixed, in accordance with the terms of reference specified in the agreement made in that behalf before the passing of this Act between the Minister and the Mining Association of Great Britain, by a tribunal constituted as therein specified.

(4) The said sum shall be apportioned as hereinafter provided as between the districts that are to be valuation districts for the purposes of this Act.

11.—(1) The Minister shall prescribe the districts that are to be valuation districts for the purposes of this Act. The said districts shall be districts corresponding in general with those for which district wages ascertainments were made for the purposes of the adjustment of wages payable in the year nineteen hundred and thirty-nine, and shall be shown on a map to be kept available by the Minister for public inspection in accordance with regulations during usual business hours: . . . .

* * *

(4) The Minister shall also determine, as to each transferred interest, whether its value is attributable in whole or in part to usefulness for activities relevant to district wages ascertainments, and, if in part, to what extent:

Provided that provision shall be made by regulations for objection to the Minister's determination of any question under this subsection, and, if objection is duly made, for the determination of the question by two accountants being members respectively of firms of independent accountants which have acted for colliery owners and mineworkers respectively on district wages ascertainments, or, failing a determination by agreement of the accountants within a limited period, for determination of the question by arbitration under this Act. . . .

* * *

13.—. . . .

(4) For the purposes aforesaid the value of a compensation unit shall be taken to be the amount which it might have been expected to realise if this Act had not been passed and it had been sold on the primary vesting date in the open market by a willing seller to a willing buyer, no allowance being made on account of the vesting of the transferred interests comprised in the unit being compulsory: . . . .

* * *

16.—(1) When the District Valuation Board for any valuation district have sent to the Minister certificates stated by them to cover all compensation units allocated to that district in respect of which compensation is to be made and which have any coal industry value, the Minister shall publish in one or more newspapers circulating in the district a notice to the effect that the certification for that district has been completed as to such units, and the notice shall specify a place where the certificates may be seen at all reasonable hours by any person claiming to be concerned.

* * *

(3) If, within six weeks from the date of publication as mentioned in subsection (1) of this section of the notice therein mentioned as to any valuation district, any person makes an application to the High Court complaining, on the ground that any requirement of this Act or of regulations made thereunder has not been complied with, ... the Court may make any such interim order as appears to the Court to be requisite, and, if satisfied upon the hearing of the application that the interests of the applicant have been substantially prejudiced by reason of any requirement of this Act or of regulations made thereunder not having been complied with, may give any such directions as appear to the Court to be requisite for remedying the matter complained of and enabling the giving of a valid certificate as to any compensation unit allocated to the district in question in respect of which compensation ought to be made.

* * *

21.—(1) Compensation in respect of a transfer of transferred interests shall be satisfied by the issue of government stock (that is to say, stock the principal whereof and the interest whereon shall be charged on the Consolidated Fund). . . . .

* * *

(3) The amount of the government stock to be issued in satisfaction of any amount which is under this Act to be satisfied by the issue of such stock shall be such as, in the opinion of the Treasury, is of a value equal on the date of the issue to the amount to be satisfied, having due regard to market values of other government securities existing at such date.

* * *

Financial provisions

26.—For the purpose of enabling the Board to defray expenditure properly chargeable to capital account, including the provision of working capital, the Minister may make advances to the Board of sums not exceeding in the aggregate—

(a) in the case of sums advanced at any time within five years from the commencement of this Act, one hundred and fifty million pounds;

(b) in the case of sums advanced during any subsequent period, such amount as Parliament may hereafter determine.

* * *

30.—Any excess of the Board's revenues for any financial year of the Board over their outgoings for that year properly chargeable to revenue account . . . . shall be applied for such purposes as the Board may determine:

Provided that—

(a) no part of any such excess shall be applied otherwise than for purposes of the Board; and

(b) the power of the Minister to give directions to the Board shall extend to the giving to them, with the approval of the Treasury, of directions as to the application of any such excess, notwithstanding that the directions may be of a specific character.

31.—. . .

(3) So soon as the accounts of the Board have been audited, they shall send a copy of the statement of accounts referred to in subsection (1) of this section to the Minister together with a copy of any report made by the auditors on that statement or on the accounts of the Board.

(4) The Minister shall lay a copy of every such statement and report before each House of Parliament.

32.—(1) The Treasury shall have power to issue to the National Debt Commissioners such an amount of government stock of such value on the date of issue thereof as is requisite for fulfilling any agreement made between them for the exchange of Coal Commission Stock for stock of His Majesty's Government in the United Kingdom.

(2) The Treasury may cancel any Coal Commission Stock surrendered to them in pursuance of any such agreement.

33.—. . . .

(4) Interest on such stock shall be paid out of the permanent annual charge for the National Debt.

* * *

47.—Nothing in this Act shall be deemed to exempt the Board from liability for any tax, duty, rate, levy, or other charge whatsoever, whether general or local.

* * *

50.—Section one of the Workmen's Compensation (Coal Mines) Act, 1934 (which prohibits the owner of a coal mine from employing workmen for the purposes of the undertaking carried on at that mine unless there is in force either a contract of insurance insuring him against all liability under the Workmen's Compensation Act, 1925, in respect of the employment of workmen by him or any other person for those purposes or a compensation trust for securing the discharge of all his liability as aforesaid) shall not apply to the Board.

* * *

54.—(1) The Board shall, as soon as possible after the end of each financial year of the Board make to the Minister a report on the exercise and performance by them of their functions during that year and on their policy and programmes, and the Minister shall lay a copy of every such report before each House of Parliament.

(2) The report for any year shall set out any direction given by the Minister to the Board during that year unless the Minister has notified to the Board his opinion that it is against the national interest so to do.

* * *

61.—(1) For the purposes of the determination of any question as to which this Act or any regulation made thereunder provides that it is to be determined by arbitration under this Act, a panel of persons to act as arbitrators shall be appointed by the Lord Chancellor, and the Lord Chancellor shall nominate two members of the panel as chairman thereof and as deputy chairman respectively.

(2) Any such question as aforesaid shall be determined by the arbitration of such member of the panel as the chairman, or, in the event of the chairman's being temporarily absent or unable to act, the deputy chairman, may select.

France

CONSTITUTIONAL BACKGROUND

20. Declaration of the Rights of Man and Citizen (1789)
21. Constitutional Laws of 1875
22. Amendment upon the Seat of Government (1879)
23. The Amendments of 1884
24. Amendment of August 10, 1926

VICHY INTERLUDE

25. The National Assembly Adoption (1940)
26. Constitutional Acts (1940)

THE FOURTH REPUBLIC

27. Referendum of October 21, 1945, with Law Draft for the Provisional Organization of the French Government
28. Excerpts from the First Draft Constitution (April, 1946)
29. Constitution of the French Republic (October, 1946)
30. Law (Excerpts) on the Election of Members of the National Assembly (1946)
31. Law (Excerpts) on the Election of the Councillors of the Republic (1948)
32. Law (Excerpts) on the Composition and Functioning of the Economic Council (1946)
33. Law (Excerpts) on the Constitution and Functioning of the High Court of Justice (1946)
34. Law (Excerpts) on the Composition and Election of the Assembly of the French Union (1946)
35. Rules Regarding the Internal Business of the Government (1947)
36. Law (Excerpts) Concerning the General Status of Civil Servants (1946)
37. National Credit Council (1945)
38. Treaty for the Establishment of a Customs Union between France and Italy (1949)

France

Constitutional Background

On August 26, 1789, the Constituent Assembly of France voted the Declaration of the Rights of Man and Citizen. A representative body expressed for the first time in France and in Continental Europe principles of popular self-government and human rights that are still today an integral part of Western political democracy. The new French Constitution of October 27, 1946, reaffirms the rights and freedoms of man and of the citizen by referring to the Declaration of Rights of 1789 in its Preamble.

20. Declaration of the Rights of Man and Citizen[1]

(August 26, 1789)

The representatives of the French people, organized in National Assembly, considering that ignorance, forgetfulness or contempt of the rights of man, are the sole causes of the public miseries and of the corruption of governments, have resolved to set forth in a solemn declaration the natural, inalienable, and sacred rights of man, in order that this declaration, being ever present to all the members of the social body, may unceasingly remind them of their rights and their duties, in order that the acts of the legislative power and those of the executive power may be each moment compared with the aim of every political institution and thereby may be more respected; and in order that the demands of the citizens, grounded henceforth upon simple and incontestable principles, may always take the direction of maintaining the constitution and the welfare of all.

In consequence, the National Assembly recognizes and declares, in the presence and under the auspices of the Supreme Being, the following rights of man and citizen.

1. Men are born and remain free and equal in rights. Social distinctions can be based only upon public utility.

[1] From Frank Maloy Anderson: *The Constitutions and Other Select Documents Illustrative of the History of France 1789–1907*, p. 15, 59–61. (2nd ed., Minneapolis, 1908.)

2. The aim of every political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression.

3. The source of all sovereignity is essentially in the nation; no body, no individual can exercise authority that does not proceed from it in plain terms.

4. Liberty consists in the power to do anything that does not injure others; accordingly, the exercise of the natural rights of each man has no limits except those that secure to the other members of society the enjoyment of these same rights. These limits can be determined only by law.

5. The law has the right to forbid only such actions as are injurious to society. Nothing can be forbidden that is not interdicted by the law, and no one can be constrained to do that which it does not order.

6. Law is the expression of the general will. All citizens have the right to take part personally, or by their representatives, in its formation. It must be the same for all, whether it protects or punishes. All citizens being equal in its eyes, are equally eligible to all public dignities, places, and employments, according to their capacities, and without other distinction than that of their virtues and their talents.

7. No man can be accused, arrested, or detained, except in the cases determined by the law and according to the forms that it has prescribed. Those who procure, expedite, execute, or cause to be executed arbitrary orders ought to be punished: but every citizen summoned or seized in virtue of the law ought to render instant obedience; he makes himself guilty by resistance.

8. The law ought to establish only penalties that are strictly and obviously necessary, and no one can be punished except in virtue of a law established and promulgated prior to the offence and legally applied.

9. Every man being presumed innocent until he has been pronounced guilty, if it is thought indispensable to arrest him, all severity that may not be necessary to secure his person ought to be strictly suppressed by law.

10. No one should be disturbed on account of his opinions, even religious, provided their manifestation does not derange the public order established by law.

11. The free communication of ideas and opinions is one of the most precious of the rights of man; every citizen then can freely

speak, write, and print, subject to responsibility for the abuse of this freedom in the cases determined by law.

12. The guarantee of the rights of man and citizen requires a public force; this force then is instituted for the advantage of all and not for the personal benefit of those to whom it is entrusted.

13. For the maintenance of the public force and for the expenses of administration a general tax is indispensable; it ought to be equally apportioned among all the citizens according to their means.

14. All the citizens have the right to ascertain, by themselves or by their representatives, the necessity of the public tax, to consent to it freely, to follow the employment of it, and to determine the quota, the assessment, the collection, and the duration of it.

15. Society has the right to call for an account of his administration from every public agent.

16. Any society in which the guarantee of the rights is not secured, or the separation of powers not determined, has no constitution at all.

17. Property being a sacred and inviolable right, no one can be deprived of it, unless a legally established public necessity evidently demands it, under the condition of a just and prior indemnity.

The National Constituent Assembly, elected in February 1871, adopted after many years of work the three Constitutional Laws of 1875 which became the Constitution of the Third Republic; a Constitution not expressed in a single law, but in reality a compilation of related acts of fragmentary and incomplete character. It does not include, for instance, any reference to judicial power or to civil rights. The Constitution was amended only three times: in 1879, 1884, and in 1926.

21. Constitutional Laws of 1875[1]

Law upon the Organization of the Senate, February 24, 1875

Art. 1—The Senate is composed of 300 members, 225 of whom are elected by the departments and colonies, and seventy-five by the National Assembly.

[1] This translation is taken from Henry C. Lockwood, *Constitutional History of France* (Chicago and New York, 1890) Appendix X, pp. 403ff.

ART. 2—The departments of the Seine and du Nord elect each five senators. The departments of the Seine-Inférieure, Pas-de-Calais, Gironde, Rhône, Finistère, Côtes-du-Nord, each four senators. The departments of the Loire-Inférieure, Saône-et-Loire, Ille-et-Vilaine, Seine-et-Oise, Isère, Puy-de-Dôme, Somme, Bouches-du-Rhône, Aisne, Loire, Manche, Maine-et-Loire, Morbihan, Dordogne, Haute-Garonne, Charente-Inférieure, Calvados, Sarthe, Hérault, Basses-Pyrénées, Gard, Aveyron, Vendée, Orne, Oise, Vosges, Allier, each three senators. All the other departments, each two senators.

The territory of Belfort, the three departments of Algérie the four colonies of Martinique, of Guadeloupe, of Réunion, and French India elect each one senator.

ART. 3—No one can be a senator unless he is a Frenchman, and is at least forty years of age, and vested with civil and political rights.

ART. 4—The senators of the departments and of the colonies shall be elected on a general ticket by an absolute majority, by an electoral college assembled in the capital of the department or colony, and composed of the following members: 1. Of the deputies. 2. The councilors-general. 3. The councilors of arrondissement. 4. The delegates elected by the electors of the commune, one by each municipal council.

In French India, the members of the colonial council or of the local councils shall be substituted for the councilors-general, the councilors of arrondissement, and for the delegates of the municipal councils. They vote in the capital of each settlement.

ART. 5—The senators named by the Assembly shall be elected by *scrutin de liste,* and by an absolute majority of votes.

ART. 6—The senators of the departments and of the colonies shall be elected for nine years, and renewable by one-third every three years. At the end of the first session, the departments shall be divided into three series, containing each an equal number of senators. It shall then proceed by lot to designate the series which shall be renewed at the expiration of the first and second triennial periods.

ART. 7—The senators elected by the Assembly are unremovable. In the event of a vacancy by death, resignation, or other cause, it shall, within two months, be filled by the Senate itself.

ART. 8—The Senate has concurrently with the Chamber of Deputies, the initiation and the making of the laws. The laws relating to the finances, however, must, in the first instance, be presented to and voted by the Chamber of Deputies.

ART. 9—The Senate can be constituted a court of justice to try either the President of the Republic or the ministers, and to take cognizance of attempts (*attentats*) committed against the safety of the State.

ART. 10—The election of the Senate shall be proceeded with one month before the time fixed by the National Assembly for its adjournment. The Senate shall enter upon its duties and organize the same day the National Assembly adjourns.

ART. 11—The present law shall not be promulgated until after the law upon the public powers shall have been definitely voted.

LAW UPON THE ORGANIZATION OF THE PUBLIC POWERS, FEBRUARY 25, 1875

ART. 1—The legislative power shall be exercised by two assemblies, the Chamber of Deputies and the Senate. The Chamber of Deputies shall be chosen by universal suffrage, under the conditions determined by the electoral law. The composition and the mode of choosing, and the power and privileges of the Senate, shall be regulated by a special law.

ART. 2—The President of the Republic shall be elected by an absolute majority of votes, by the Senate and by the Chamber of Deputies, united in National Assembly. He shall be elected for seven years, and be re-eligible.

ART. 3—The President of the Republic has the initiative of the laws, concurrently with the members of the two Chambers; he promulgates the laws when they shall have been voted by the two Chambers, and he superintends and assures the execution of the laws. He has the power to grant pardons, but amnesties can only be accorded by law. He disposes of the armed forces. He appoints all the civil and military employes. He presides on all occasions of national solemnity; envoys and ambassadors from foreign powers are accredited to him. Each of the acts of the President of the Republic shall be countersigned by a minister.

ART. 4—As soon as vacancies shall be produced after the promulgation of the present law, the President of the Republic shall appoint, in council of ministers, the councilors of State in ordinary service. The appointment of the councilors of State thus named can only be revoked by a decree passed in council of ministers. The councilors of State, appointed by virtue of the law of May 24, 1872, can not be removed until the expiration of their office, and according to the forms

determined by that law. After the adjournment of the National Assembly, the revocation can only be pronounced by a resolution of the Senate.

ART. 5—The President of the Republic can, with the advice of the Senate, dissolve the Chamber of Deputies before the legal expiration of its mandate. In this event, the electoral colleges shall, within three months, be convoked for a new election.

ART. 6—The ministers are responsible, as a whole, before the Chambers for the general policy of the government, and individually for their personal acts. The President of the Republic is only responsible for high treason.

ART. 7—In the event of a vacancy by reason of his death, or from other cause, the two assemblies, in joint session, shall immediately proceed to the election of a new President. The Council of Ministers, during the interval, shall be invested with executive power.

ART. 8—The Chambers shall have the right, by separate deliberations taken in each Chamber, by an absolute majority of votes, either voluntarily, or on the demand of the President of the Republic, to declare that there are substantial reasons for the revision of the constitutional laws. After each of the two Chambers shall have passed this resolution, they shall reunite in National Assembly and proceed to the revision. The laws enacting a revision of the constitutional laws, in whole or in part, shall be passed by an absolute majority of the members composing the National Assembly. During the period for which the law of November 20, 1873, confers power upon Marshal McMahon, this revision can only take place on the proposition of the President of the Republic.

ART. 9—The seat of the executive power and of the two Chambers shall be at Versailles.

LAW UPON THE RELATIONS OF THE PUBLIC POWERS, JULY 16, 1875

ART. 1—The Senate and the Chamber of Deputies shall assemble annually on the second Tuesday of January, unless they are sooner called together by the President of the Republic. The two Chambers must remain annually in session at least five months. The session of one commences and terminates at the same time as the other. Public prayers shall, on the Sunday which shall follow the opening, be addressed to God, in the churches and temples, beseeching His aid in the labors of the assemblies.

ART. 2—The President of the Republic shall pronounce the closing of the session. On extraordinary occasions he has the right to convoke the Chambers. He must convoke them if, during the recess, a demand is made for a convocation by an absolute majority of the members composing each Chamber. The President can adjourn the Chambers; however, the adjournment can not exceed the term of one month, or take place more than twice during the same session.

ART. 3—At least one month before the legal term of the powers of the President of the Republic shall terminate, the Chambers shall be united in National Assembly in order to proceed to the election of a new President. In default of convocation, this meeting shall take place, by its own right, on the fifteenth day before the expiration of the executive term. In the event of the death or resignation of the President of the Republic, the two Chambers shall immediately reassemble by their own right. In the event that, by application of Article 5 of the law of February 25, 1875, the Chamber of Deputies should be dissolved at the time the presidency of the Republic should become vacant, the electoral colleges shall immediately be convoked, and the Senate shall reassemble by its own right.

ART. 4—All sessions of either of the two Chambers which shall be held out of the time of the regular session are illegal and void, except in the case provided for in the preceding article and that where the Senate is assembled as a court of justice, and in this last case it can only exercise judicial functions.

ART. 5—The sessions of the Senate and those of the Chamber of Deputies are public. Nevertheless, each Chamber can form itself into a secret committee, upon the demand of a certain number of its members, fixed by the rules. It then decides, by an absolute majority, if the session should be resumed in public upon the same subject.

ART. 6—The President of the Republic communicates with the Chambers by messages, which are read on the tribune by a minister. The ministers have a seat in the two Chambers, and must be heard when they demand it. They may be assisted in the discussion of a bill by commissioners appointed by a decree of the President of the Republic.

ART. 7—The President of the Republic promulgates the laws within the month which follows the transmission to the government of a regularly enacted law. He must, within three days, promulgate the laws whose promulgation shall have been declared urgent by an express vote

of one or the other Chamber. In the interim fixed for the promulgation, the President of the Republic may, by a message which shall state his motives therefor, demand of the two Chambers a new deliberation, which can not be refused.

ART. 8—The President of the Republic negotiates and ratifies treaties. As soon as the interest and safety of the State shall permit, he shall give information of their contents to the Chambers. Treaties of peace, of commerce, treaties which involve the finances of the State, those which refer to the condition of persons, and to the rights of property of Frenchmen in foreign countries, are not final until voted by the two Chambers. No cession, no exchange, no annexation of territory can take place except by virtue of law.

ART. 9—The President of the Republic can not declare war except with the previous consent of the two Chambers.

ART. 10—Each of the Chambers is judge of the eligibility of its members and of the regularity of their election; it alone can accept their resignation.

ART. 11—The bureau of each of the two Chambers shall be elected annually for the duration of the session, and for all extraordinary sessions which shall take place before the ordinary session of the following year. When the two assemblies shall unite in National Assembly, their bureau shall be composed of the president, vice-presidents, and secretaries of the Senate.

ART. 12—The President of the Republic can not be impeached except by the Chamber of Deputies, and can not be tried except by the Senate. The ministers can be impeached by the Chamber of Deputies for crimes committed in the exercise of their functions. In this case they are tried by the Senate.

The Senate may be constituted a court of justice by a decree of the President of the Republic, made in council of ministers, to try all persons charged with attempts (*attentat*) against the safety of the State. If the examination of the case has already been commenced in the ordinary courts of justice, the decree convening the Senate may be issued at any time before indictment. A law shall determine the mode of procedure in the matter of the complaint, examination, and trial in such cases.

ART. 13—No member of either Chamber can, during its session, be prosecuted or arrested in any correctional or criminal matter except with the authorization of the Chamber of which he is a member,

or in case he is taken in the act. The detention or the prosecution of a member of either Chamber is suspended during the session, and for the whole of its duration, if the Chamber so require.

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22. Amendment upon the Seat of Government[1]

(June 21, 1879)

Article 9 of the constitutional law of February 25, 1875, is repealed.

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23. The Amendments of 1884

(August 14, 1884)

1. Paragraph 2 of article 5 of the constitutional law of February 25, 1875, on the organization of the public powers, is amended as follows:

"In that case the electoral colleges meet for new elections within the space of two months, and the chambers within the ten days following the close of the elections."

2. Paragraph 3 of article 8 of the same law of February 25, 1875, is completed as follows:

"The republican form of government cannot be made the subject of a proposition for revision.

"Members of families that have reigned in France are ineligible to the presidency of the Republic."

3. Article 1 to 7 of the constitutional law of February 24, 1875, on the organization of the Senate, shall no longer have a constitutional character.

4. Paragraph 3 of Article 1 of the constitutional law of July 16, 1875, on the relation of the public powers, is repealed.

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[1] The translation of the Amendments of 1879 and 1884 is taken from F. M. Anderson, *op. cit.*, p. 639f.

24. Amendment of August 10, 1926[1]

(*Journal Officiel, August 11, 1926*)

Only Article: The constitutional law of February 25, 1875 in regard to the organization of the public powers is completed by this article:

"The autonomy of the fund for the administration of the national defense bonds of the public debt has a constitutional character. There will be affected by this fund, until the complete amortization of national defense bonds and securities created by this fund:

(1) The net receipts from the sale of tobacco;

(2) the proceeds of the complementary and exceptional tax on the first change (*sur la première mutation*), of inheritance taxes and voluntary contributions.

The proceeds of the above enumerated resources in the course of the first fiscal year, which will follow the promulgation of this law, shall constitute the minimum annual endowment of the amortization fund. In the case of the subsequent decrease of these resources, a credit at least equal to this deficit shall be inserted in the budget."

Vichy Interlude

The military defeat of France by the German armies in 1940, brought to France the Vichy Government. It came into existence after the National Assembly granted all power to the Government of Marshal Pétain (July 10, 1940).

The Vichy Government did not succeed in writing a new Constitution, but some of the Constitutional Acts indicate very clearly the dictatorial features of this Government under the control of Germany.

25. The National Assembly Adoption

The National Assembly has adopted,

The President of the Republic promulgates the Constitutional Law, the text of which follows:

Single Article:—The National Assembly grants all power to the Government of the Republic, under the authority and the signature of Marshal Pétain, with a view to promulgation, through one or more

[1] Translated by Manfred C. Vernon.

acts, of a new constitution for the French State. This constitution shall guarantee the rights of work, family, and native country.

It shall be ratified by the Nation and applied by the Assemblies which it shall create.

The present Constitutional Law, passed and adopted by the National Assembly, shall be executed as a statute of the State.

Done at Vichy, July 10, 1940.

ALBERT LEBRUN

By the President of the Republic:
Marshal of France, President of the Council,

PH. PÉTAIN

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26. Constitutional Acts

CONSTITUTIONAL ACT NO. 1

We, Philippe Pétain, Marshal of France,

By authority of the Constitutional Law of July 10, 1940,

Declare that we assume the functions of Head of the French State.

Therefore, we decree:

ARTICLE 2 of the Constitutional Law of February 25, 1875 shall be repealed.

Done at Vichy, July 11, 1940.

PH. PÉTAIN

CONSTITUTIONAL ACT NO. 2

Defining the Powers of the Head of the French State

We, Marshal of France, Head of the French State,

By authority of the Constitutional Law of July 10, 1940,

Decree:

ART. 1—1—The Head of the French State shall have plenary governmental powers. He shall appoint and remove Ministers and Secretaries of State, who shall be responsible only to him.

2—He shall in ministerial council exercise legislative power:

1. Until the formation of new Assemblies;

2. After such formation, in case of foreign tension or of grave internal crisis, upon his decision alone and in the same form.

In the same circumstances, he shall have power to decree all stipulations of a budgetary and fiscal nature.

3—He shall promulgate the laws and see to their execution.

4—He shall fill all civil and military positions for which no other method of choice has been provided by law.

5—He shall command the armed forces.

6—He shall have the right of pardon and amnesty.

7—Envoys and ambassadors of foreign powers shall be accredited to him.

He shall negotiate and ratify treaties.

8—He shall have power to declare martial law in one or more parts of the land.

9—He shall not have power to declare war without the previous assent of the Legislative Assemblies.

ART. 2—There shall be repealed all stipulations of the Constitutional Laws of February 24, 1875, February 25, 1875, and July 16, 1875, inconsistent with the present act.

Done at Vichy, July 11, 1940.

PH. PÉTAIN

CONSTITUTIONAL ACT No. 3

Relative to the Head of the French State

We, Marshal of France, Head of the French State,

By authority of the Constitutional Law of July 10, 1940,

Decree:

ART. 1—The Senate and the Chamber of Deputies shall continue to exist until there shall have been formed the Assemblies provided for by the Constitutional Law of July 10, 1940.

ART. 2—The Senate and the Chamber of Deputies shall be adjourned until further order.

They shall hereafter be convened only on call of the Head of the State.

ART. 3—Article 1 of the Constitutional Law of July 16, 1875 shall be repealed.

Done at Vichy, July 11, 1940.

PH. PÉTAIN

THE FOURTH REPUBLIC

On October 21, 1945, the French people were asked to decide by referendum whether they wanted to continue with the Constitution of 1875, or whether a new Constitution should be drafted by a Constituent Assembly. At the same time, they were asked to vote on a provisional organization of government. The voters decided by a majority of 18,584,746 to 699,136 to give France a new Constitution.

27. Referendum of October 21, 1945[1]

1. Do you want the Assembly which will be elected on this day to be a Constituent Assembly?

2. Up until the time the new Constitution is ready to be enforced, are you in favor of the Government's being organized in conformance to the provisions of the draft of the law which appears on the reverse of this sheet?

Law Draft for the Provisional Organization of the French Government (October 21, 1945)[1]

ART. 1—The Constituent Assembly, which will be elected on October 21, 1945, will proceed immediately with the election of the President of the Provisional Government of the French Republic, by an absolute majority and public vote of Assembly members. The President will form his cabinet, and will submit it to the Assembly for approval, together with the Government program. The Government shall be responsible to the Assembly, but the rejection of a bill, or the refusal to grant a credit, shall not lead to its resignation. The Government's resignation shall become compulsory, only after taking a separate vote on a motion of lack of confidence. Such a vote is not to take place until two days after the motion has been deposited before the Bureau of the Assembly, and adopted through a public vote before the Chair, by an absolute majority vote of the members of the Assembly.

ART. 2—The Assembly shall draw up the new Constitution.

ART. 3—The Constitution, adopted by the Assembly, shall be submitted to the electoral body of French citizens for approval, through a referendum, within a month following its adoption by the Assembly.

ART. 4—The Assembly shall have legislative powers. It shall initiate

[1] From *Free France* Vol. 8, November–December 1945, no. 9–12.

laws, concurrently with the Government. Within a period of one month, allowed for the promulgation of laws, the Government is entitled to request a second deliberation. If, following this deliberation, the first vote is confirmed by an absolute majority vote of the members of the Assembly, then the law shall be promulgated within three days.

ART. 5—The Assembly may pass on the budget, but cannot initiate it.

ART. 6—The powers of the Assembly shall expire on the day when the new Constitution is put into effect; at the latest, seven months after the first meeting of the Assembly.

ART. 7—In the event that the electoral body reject the Constitution drawn up by the Assembly, or if the latter has been unable to draw up a Constitution in the length of time prescribed in Article 6, the election of another Constituent Assembly would take place immediately, following the same procedure. The new Assembly would have the same powers, and would meet automatically on the second Tuesday after its election.

ART. 8—The present law, adopted by the French people, shall have constitutional power, and shall be enforced as a State law.

The Constituent Assembly drafted a new Constitution, which was adopted by the Socialist-Communist majority of the Assembly on April 19, 1946, by a vote of 309 to 249. In a national referendum, however, the French people on May 5, 1946, rejected this draft by a majority of 10,584,035 to 9,454,034.

28. Excerpts from the First Draft Constitution (April, 1946)[1]

PREAMBLE:

On the day following the victory brought about by free peoples over the regimes which tried to enslave and debase man and which have just covered the world with blood, the French people, faithful to the principles of 1789—charter of its liberation—proclaims anew that each

[1] These excerpts are taken from *A Constitution for the Fourth Republic,* Foundation Pamphlet No. 2 (Foundation For Foreign Affairs, Washington, D.C., 1947) pp. 85ff.

human being possesses inalienable and sacred rights, which no law may assail, and has decided, as in 1793, 1795, and 1848, to write them at the head of its Constitution.

The Republic guarantees to all men and all women living in the French Union the individual or collective exercise of the following liberties and rights:

* * *

ART. 47—The French people exercises its sovereignty through its deputies in the National Assembly, elected by universal, equal, direct and secret suffrage.

The Constitution can only be modified by means of a referendum, in conformity with Article 119.

ART. 48—The overseas territories, under the conditions fixed by the electoral laws, elect deputies to the National Assembly.

ART. 49—The electorate is composed of all French nationals and subjects of both sexes who have reached their majority and enjoy civil and political rights.

The age of majority is fixed at 20 years of age.

* * *

ART. 51—The National Assembly elects the president of the Council of Ministers in conformity with Articles 73 and 91 below.

ART. 52—War cannot be declared without the previous consent of the National Assembly and the previous advice of the Council of the French Union.

* * *

ART. 57—When the Assembly is not in session, its officers supervise the actions of the cabinet. They may convene the Assembly; they must do so upon the request of one third of the deputies or upon that of the Council of Ministers.

* * *

ART. 66—The National Assembly alone has the right to legislate. It may not delegate this right to anyone in whole or in part.

* * *

ART. 69—The National Assembly votes on the budget. Its members have the right to initiate appropriations.

* * *

ART. 73—The National Assembly elects the president of the Council

of Ministers at the beginning of each legislative term by open ballot and an absolute majority of the deputies. . . . .

* * *

ART. 75—The president of the Council and the ministers chosen by him are appointed by decree of the President of the Republic.

* * *

ART. 77—The structure, composition and program of the cabinet are submitted to the National Assembly, which gives or refuses a vote of confidence.

The Assembly must be summoned for this purpose the fourth day following the formation of the cabinet at the latest.

* * *

ART. 79—The request for a vote of confidence may only be made after deliberation of the Council of Ministers; it may only be made by the President of the Council.

The actual vote can only come one full day after the request has been placed before the Assembly. It takes place by open ballot.

The vote of confidence may only be refused to the cabinet by the absolute majority of the Deputies in the Assembly.

This refusal carries with it the collective resignation of the cabinet.

ART. 80—If the National Assembly votes a motion of censure, the collective resignation of the cabinet ensues.

This vote may only take place two full days after the motion has been made in the Assembly. It takes place by open ballot and roll call.

The motion of censure can only be adopted by the absolute majority of the Deputies in the Assembly.

ART. 81—The National Assembly has the right to declare itself dissolved by a resolution voted by a two-thirds majority of the deputies.

ART. 81 *bis*—If, in the course of the same annual session, two ministerial crises occur under the conditions provided for in Articles 79 and 80, the dissolution of the National Assembly may be decided by the Council of Ministers upon the recommendation of the President of the Assembly. The dissolution will be pronounced in conformity with this decision by a decree of the President of the Republic.

This provision is not applicable during the first half of the legislative term.

ART. 82—The President of the Republic appoints the president of

the National Assembly as new president of the Council of Ministers. The latter forms the cabinet by assigning the different ministerial departments to the presidents of the corresponding parliamentary commissions. . . . .

* * *

ART. 90—The President of the Republic is elected by the National Assembly. This election takes place by open ballot and roll call requires a two-thirds majority of the Deputies in the Assembly. If after three attempts this majority cannot be secured, the election is postponed until the next day. It takes place then in the same manner, a three-fifths majority being required.

The President of the Republic is elected for a term of seven years. He can only be reelected once.

* * *

ART. 99—He promulgates laws within the ten days following their transmission by the National Assembly. In order to provide for their execution, he signs implementing decrees.

The period foreseen in the preceding paragraph is reduced to two days when a special need has been declared.

If the President of the Republic does not promulgate laws within the stipulated period, the President of the National Assembly provides for their promulgation.

* * *

ART. 119—The present Constitution, adopted by the French people, can only be revised by the people.

Revision takes place in the following manner:

The National Assembly, by a resolution taken by open ballot and roll call with the majority of Deputies assenting, declares that the Constitution should be revised.

The resolution will specify the object of the revision.

It is submitted to a second reading after a minimum period of three months. After this second reading, the National Assembly drafts a law revising the Constitution. This draft is passed by a majority and in the form prescribed for an ordinary law.

This draft is submitted to a referendum.

In case of adoption by the people, it is promulgated as a constitutional law by the President of the Republic within the eight days following the date of the referendum.

On June 2, 1946, the people of France elected a second Constituent Assembly to draft a Constitution. This draft was adopted on September 28, 1946 by the three principal political parties: the Popular Republican Movement, the Communists, and the Socialists. In the ensuing referendum on October 13, 1946, the people voted for the acceptance of this Constitution by a vote of 9,297,470 to 8,165,459; approximately one-third of the electorate did not participate in this vote.

29. Constitution of the French Republic[1]

The National Constituent Assembly has adopted,
The French people has approved,
The President of the Provincial Government of the Republic promulgates the Constitution that follows:

Preamble

On the morrow of the victory of the free peoples over the regimes that attempted to enslave and degrade the human person, the French people proclaims once more that every human being, without distinction of race, religion or belief, possesses inalienable and sacred rights. It solemnly reaffirms the rights and freedoms of man and of the citizen consecrated by the Declaration of Rights of 1789 and the fundamental principles recognized by the laws of the Republic.

It further proclaims as most vital in our time the following political, economic and social principles:

The law guarantees to women equal rights with men in all domains.

Anyone persecuted because of his activities in the cause of freedom has the right of asylum within the territories of the Republic.

Everyone has the duty to work and the right to obtain employment. No one may suffer in his work or his employment because of his origin, his opinions or his beliefs.

Everyone may defend his rights and interests by trade-union action and may join the union of his choice.

The right to strike may be exercised within the framework of the laws that govern it.

Every worker through his delegates may participate in collective bargaining to determine working conditions, as well as in the management of business.

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[1] Text as given by the Information Division of the French Embassy.

All property and all enterprises that now have or subsequently shall have the character of a national public service or a monoply in fact must become the property of the community.

The nation ensures to the individual and the family the conditions necessary to their development.

It guarantees to all, and notably to the child, the mother and the aged worker, protection of health, material security, rest and leisure. Every human being who, because of his age, his physical or mental condition, or because of the economic situation, finds himself unable to work, has the right to obtain from the community the means to lead a decent existence.

The nation proclaims the solidarity and equality of all Frenchmen with regard to the burdens resulting from national disasters.

The nation guarantees equal access of children and adults to education, professional training and culture. The establishment of free, secular, public education on all levels is a duty of the State.

The French Republic, faithful to its traditions, abides by the rules of international public law. It will not undertake wars of conquest and will never use its arms against the freedom of any people.

On condition of reciprocity, France accepts the limitations of sovereignty necessary to the organization and defense of peace.

France forms with the people of its overseas territories a Union based upon equality of rights and duties without distinction of race or religion.

The French Union is composed of nations and peoples who wish to place in common or coordinate their resources and their efforts in order to develop their civilization, increase their well-being and ensure their security.

Faithful to her traditional mission, France proposes to guide the peoples for whom she has assumed responsibility toward freedom to govern themselves and democratically to manage their own affairs; putting aside any system of colonization based upon arbitrary power, she guarantees to all equal access to public office and the individual or collective exercise of the rights and liberties proclaimed or confirmed above.

The Institutions of the Republic

TITLE I

SOVEREIGNTY

ART. 1—France is a republic, indivisible, secular, democratic and social.

ART. 2—The national emblem is the tricolor flag—blue, white and red—in three vertical bands of equal dimensions.

The national anthem is the "Marseillaise."

The motto of the Republic is—"Liberty, Equality, Fraternity."

Its principle is: government of the people, for the people and by the people.

ART. 3—National sovereignty belongs to the French people.

No section of the people nor any individual may assume its exercise.

The people shall exercise it in constitutional matters by the vote of their representatives or by the referendum.

In all other matters they shall exercise it through their deputies in the National Assembly, elected by universal, equal, direct and secret suffrage.

ART. 4—All French citizens and nationals of both sexes, who are majors and enjoy civil and political rights, may vote under conditions determined by the law.

TITLE II

THE PARLIAMENT

ART. 5—The Parliament shall be composed of the National Assembly and the Council of the Republic.

ART. 6—The duration of the powers of each Assembly, its mode of election, the conditions of eligibility and the bases of ineligibilities and incompatibilities[2] shall be determined by the law.

However, the two Chambers shall be elected on a territorial basis, the National Assembly by universal, direct suffrage, the Council of the Republic by the communal and departmental bodies by universal, indirect suffrage. The Council of the Republic is renewable one-half at a time.

Nevertheless, the National Assembly may itself elect by proportional representation councillors whose number shall not exceed one-sixth of the total number of members of the Council of the Republic.

The number of members of the Council of the Republic may not be less than 250 nor more than 320.

ART. 7—War may not be declared without a vote of the National Assembly and the concurrent opinion of the Council of the Republic.

ART. 8—Each of the two Chambers shall pass upon the eligibility of

[2] Of offices.

its members and the regularity of their elections; it alone may receive their resignation.

ART. 9—The National Assembly shall convene by right every year on the second Tuesday in January.

The total duration of the interruptions of each session may not exceed four months. Adjournments of more than ten days shall be considered as interruptions.

The Council of the Republic shall sit at the same time as the National Assembly.

ART. 10—The meetings of the two chambers shall be public. Reports of the debates in extenso, as well as the parliamentary documents, shall be pubished in the "Journal Officiel."

Each of the two Chambers may convene as a secret committee.

ART. 11—Each of the two Chambers shall elect its secretariat every year, at the beginning of the session, by proportional representation of party groups.

When the two Chambers meet together to elect the President of the Republic, their secretariat shall be that of the National Assembly.

ART. 12—When the National Assembly is not sitting, its secretariat, exercising control over the actions of the Cabinet, may convoke the Parliament; it must do this upon the request of one-third of the deputies or of the President of the Council of Ministers.

ART. 13—The National Assembly alone shall adopt the laws. It may not delegate this right.

ART. 14—The President of the Council of Ministers and the members of the Parliament shall have the initiative in legislation.

Bills and proposed laws introduced by members of the National Assembly shall be filed with its secretariat.

Proposed laws introduced by members of the Council of the Republic shall be filed with its secretariat and sent without debate to the secretariat of the National Assembly. They may not be received if they would result in the reduction of revenues or the creation of new expenditures.

ART. 15—The National Assembly shall study the bills and proposed laws submitted to it in its committees, of which it shall determine the number, the composition and the jurisdiction.

ART. 16—The proposed budget shall be submitted to the National Assembly.

This bill may include only such provisions as are strictly financial.

An organic law shall regulate the method of presentation of the budget.

ART. 17—The deputies of the National Assembly shall have the right to initiate appropriations.

However, no proposals which would tend to increase appropriations already decided upon or create new ones may be presented during the discussion of the budget and of prospective or supplementary appropriations.

ART. 18—The National Assembly shall regulate the accounts of the nation.

It shall be assisted in this task by the "Cour des Comptes."[3]

The National Assembly may entrust to the "Cour des Comptes" all investigations or studies concerning public revenues and expenditures or the administration of the treasury.

ART. 19—Amnesty may not be granted except by a law.

ART. 20—The Council of the Republic shall examine, in order to give its opinion thereon, the bills and proposed laws passed on first reading by the National Assembly.

It shall give its opinion not more than two months after a measure is sent to it by the National Assembly. When the budget law is under discussion, this time may be reduced, if need be, to such time as does not exceed that taken by the National Assembly for its consideration and vote. When the National Assembly has adopted a rule for emergency procedure, the Council of the Republic shall give its opinion within the same time as that provided for debate by the rule of the National Assembly. The time limit specified in the present article shall be suspended during interruptions of the session. It may be extended by a decision of the National Assembly.

If the opinion of the Council of the Republic is in agreement with that of the National Assembly or if it has not been given within the time limit specified in the preceding paragraph, the law shall be promulgated as passed by the National Assembly.

If this opinion is not in agreement with that of the National Assembly, the latter body shall examine the bill or proposed law on second reading. It shall dispose definitively and absolutely of the amendments proposed by the Council of the Republic, accepting or rejecting them in whole or in part. When these amendments are completely or partially rejected, the vote on second reading of the law shall be by roll call and

[3] Highest Court of Accounts.

by an absolute majority of the members of the National Assembly, if the vote on the whole has been taken under the same conditions by the Council of the Republic.

ART. 21—No member of the Parliament may be prosecuted, sought by the police, arrested, detained or tried because of opinions expressed or votes cast by him in the exercise of his function.

ART. 22—No member of the Parliament may be prosecuted or arrested during his term of office for a criminal offense except with the authorization of the Chamber of which he is a member, or in the case of a major crime. The detention or prosecution of a member of the Parliament shall be suspended if the Chamber of which he is a member requests it.

ART. 23—Members of the Parliament shall receive compensation fixed in relation to that of a given grade of civil servants.

ART. 24—No-one may be a member both of the National Assembly and of the Council of the Republic. Members of the Parliament may not be members of the Economic Council nor of the Assembly of the French Union.

TITLE III

THE ECONOMIC COUNCIL

ART. 25—An Economic Council whose statutes shall be determined by law, shall examine the bills and proposed laws within its purview in order to give its opinion thereon. The National Assembly shall send such bills to this Council before considering them.

The Economic Council may also be consulted by the Council of Ministers. It must be consulted by that body concerning the establishment of a national economic plan for full employment and the rational utilization of our material resources.

TITLE IV

DIPLOMATIC TREATIES

ART. 26—Diplomatic treaties duly ratified and published shall have the force of law even when they are contrary to internal French legislation; they shall require for their application no legislative acts other than those necessary to ensure their ratification.

ART. 27—Treaties relative to international organization, peace treaties, commercial treaties, treaties that involve national finances, treaties relative to the personal status and property rights of French citizens abroad, and those that modify French internal legislation, as

well as those that involve the cession, exchange or addition of territories shall not become final until they have been ratified by a legislative act.

No cession, no exchange and no addition of territory shall be valid without the consent of the populations concerned.

ART. 28—Since diplomatic treaties duly ratified and published have superior authority to that of French internal legislation, their provisions shall not be abrogated, modified or suspended without previous formal denunciation through diplomatic channels. Whenever a treaty such as those mentioned in Article 27 is concerned, such denunciation must be approved by the National Assembly, except in the case of commercial treaties.

TITLE V

THE PRESIDENT OF THE REPUBLIC

ART. 29—The President of the Republic shall be elected by the Parliament.

He shall be elected for seven years. He shall be eligible for reelection only once.

ART. 30—The President of the Republic shall appoint in the Council of Ministers the Councillors of State, the Grand Chancellor of the Legion of Honor, the ambassadors and special envoys, the members of the Superior Council and the Committee for National Defense, the rectors of the universities, the prefects, the chiefs of the central administrative services, the general officers and the Government representatives in the overseas territories.

ART. 31—The President of the Republic shall be kept informed of the progress of international negotiations. He shall sign and ratify all treaties.

The President of the Republic shall accredit ambassadors and special envoys to foreign powers; foreign ambassadors and special envoys shall be accredited to him.

ART. 32—The President of the Republic shall preside over the Council of Ministers. He shall order the minutes of their meetings to be recorded and shall keep them in his possession.

ART. 33—The President of the Republic shall preside in the same capacity over the Superior Council and the Committee for National Defense, and shall have the title of Commander-in-Chief of the armed forces.

ART. 34—The President of the Republic shall preside over the Superior Council of the Judiciary.

ART. 35—The President of the Republic shall have the right of pardon in the Superior Council of the Judiciary.

ART. 36—The President of the Republic shall promulgate the laws within ten days after their text, as finally adopted, has been sent to the Government. This interval may be reduced to five days if the National Assembly declares an emergency.

Within the time limit fixed for promulgation of a law, the President of the Republic, in a message stating his reasons, may ask that it be reconsidered by both Chambers; this reconsideration may not be refused.

If the President of the Republic does not promulgate a law within the time limit fixed by the present Constitution, the President of the National Assembly shall promulgate it.

ART. 37—The President of the Republic shall communicate with the Parliament by means of messages addressed to the National Assembly.

ART. 38—Every act of the President of the Republic must be countersigned by the President of the Council of Ministers and by a Minister.

ART. 39—Not more than thirty and not less than fifteen days before the expiration of the term of office of the President of the Republic, the Parliament shall elect a new President.

ART. 40—If, in the application of the preceding article, the election must take place during the period when the National Assembly is dissolved in conformity with Article 51, the powers of the then President of the Republic shall be extended until such time as a new President is elected. The Parliament shall elect this new President within ten days after the election of the National Assembly.

In this case, the President of the Council of Ministers shall be designated within fifteen days after the election of the new President of the Republic.

ART. 41—If the President of the Republic is not able to exercise his office for reasons duly noted by a vote of the Parliament, or in the event of a vacancy caused by death, resignation or any other circumstance, the President of the National Assembly shall assume the interim functions of the President of the Republic. He shall be replaced in his own duties by a Vice-President.

The new President of the Republic shall be elected within ten days, except under the conditions specified in the preceding article.

ART. 42—The President of the Republic may not be tried except for high treason.

He may be indicted by the National Assembly and arraigned before the High Court of Justice under the conditions set forth in Article 57 below.

ART. 43—The office of President of the Republic is incompatible with any other public office.

ART. 44—Members of families that once reigned over France shall not be eligible for the Presidency of the Republic.

TITLE VI

THE COUNCIL OF MINISTERS

ART. 45—At the opening of each legislative session, the President of the Republic, after the customary consultations, shall designate the President of the Council.

The latter shall submit to the National Assembly the program and the policy of the Cabinet he intends to constitute.

The President of the Council and the Ministers may not be formally appointed until the President of the Council receives a vote of confidence from the National Assembly by a roll call vote and by an absolute majority of the deputies, except when force majeure prevents the National Assembly from meeting.

The same procedure shall be followed during a legislative session in the event of a vacancy caused by death, resignation or any other circumstance, except in the case set forth in Article 52 below.

No ministerial crisis occurring within the fifteen-day period after the appointment of the ministers shall require the application of Article 51.

ART. 46—The President of the Council and the Ministers chosen by him shall be formally appointed by a decree of the President of the Republic.

ART. 47—The President of the Council shall ensure the execution of the laws.

He shall appoint all civil and military officials except those specified in articles 30, 46 and 84.

The President of the Council shall assume the direction of the armed forces and shall coordinate all measures necessary for national defense.

The acts of the President of the Council mentioned in the present article shall be countersigned by the Ministers concerned.

ART. 48—The Ministers shall be collectively responsible to the National Assembly for the general policy of the Cabinet and individually responsible for their personal actions.

They shall not be responsible to the Council of the Republic.

ART. 49—A question of confidence may not be put except after discussion by the Council of Ministers; it can be put only by the President of the Council.

The vote on a question of confidence may not be taken until one full day after it has been put before the Assembly. It shall be taken by a roll call.

The Cabinet may not be refused a vote of confidence except by an absolute majority of the Deputies in the Assembly.

Refusal to give such a vote shall automatically result in the collective resignation of the Cabinet.

ART. 50—Passage of a motion of censure by the National Assembly shall automatically result in the collective resignation of the Cabinet.

The vote on such a motion cannot be taken until one full day after it has been made. It must be taken by a roll call.

A motion of censure may be adopted only by an absolute majority of the Deputies in the Assembly.

ART. 51—If in the course of an eighteen-month period two ministerial crises occur under the conditions set forth in Article 49 and 50, the Council of Ministers, with the concurrence of the President of the Assembly, may decide to dissolve the National Assembly. Its dissolution shall be proclaimed by a decree of the President of the Republic in accordance with such decision.

The provisions of the preceding paragraph may not be applied before the expiration of the first eighteen months of the Legislature.

ART. 52—In case of dissolution, the Cabinet, with the exception of the President of the Council and the Minister of the Interior, shall remain in office to carry on current business.

The President of the Republic shall appoint the President of the National Assembly as President of the Council. The latter shall appoint the new Minister of the Interior with the approval of the secretariat of the National Assembly. He shall appoint as Ministers of State members of party groups not represented in the Government.

General elections shall take place not less than twenty and not more than thirty days after the dissolution.

The National Assembly shall convene by right on the third Thursday after its election.

ART. 53—The Ministers shall have access to the two Chambers and to their Committees. They must be heard when they request it.

In discussions before the Chambers they may be assisted by representatives designated by decree.

ART. 54—The President of the Council of Ministers may delegate his powers to a Minister.

ART. 55—In the event of a vacancy caused by death or any other circumstance, the Council of Ministers shall call upon one of its members to exercise the functions of President of the Council of Ministers temporarily.

TITLE VII

THE LEGAL RESPONSIBILITY OF MINISTERS

ART. 56—The Ministers shall be legally responsible for crimes and misdemeanours committed in the exercise of their functions.

ART. 57—The Ministers may be indicted by the National Assembly and arraigned before the High Court of Justice.

The National Assembly shall vote upon this question by secret ballot and by an absolute majority of its members, with the exception of those who may be called upon to participate in the prosecution, investigation or judgment of the case.

ART. 58—The High Court of Justice shall be elected by the National Assembly at the opening of each legislative session.

ART. 59—The organization of the High Court of Justice and the procedure to be followed before it shall be determined by a special law.

TITLE VIII

THE FRENCH UNION

Section I: Principles

ART. 60—The French Union shall be composed, on the one hand, of the French Republic which comprises Metropolitan France and the overseas departments and territories, and, on the other hand, of the Associated Territories and States.

ART. 61—The position of the Associated States within the French Union shall in each case depend upon the act which defines its relationship with France.

ART. 62—The members of the French Union shall place in common all their resources to guarantee the defense of the whole Union. The Government of the Republic shall coordinate these resources and direct such policies as will prepare and ensure this defense.

Section II: Organization

ART. 63—The central organs of the French Union shall be: the Presidency, the High Council and the Assembly.

ART. 64—The President of the French Republic shall be the President of the French Union whose permanent interests he shall represent.

ART. 65—The High Council of the French Union, under the chairmanship of the President of the Union, shall be composed of a delegation of the French Government and of the representatives that each associated State is permitted to accredit to the President of the Union.

Its function shall be to assist the Government in the general conduct of the affairs of the Union.

ART. 66—The Assembly of the French Union shall be composed half of members representing Metropolitan France and half of members representing the overseas departments and territories and the Associated States.

An organic law shall determine the mode of representation of the different sections of the population.

ART. 67—The members of the Assembly of the Union shall be elected by the regional assemblies for the Overseas departments and Territories; for Metropolitan France, they shall be elected two-thirds by the National Assembly representing the home country and one-third by the Council of the Republic representing the home country.

ART. 68—The Associated States may appoint delegates to the Assembly of the Union within the limitations and conditions determined by a law and an internal legislative act of each State.

ART. 69—The President of the French Union shall convoke the Assembly of the French Union and shall close its sessions. He must convoke it upon the request of half of its members.

The Assembly of the French Union may not sit during interruptions of the sessions of the Parliament.

ART. 70—The rules set forth in Articles 8, 10, 21, 22 and 23 shall be applicable to the Assembly of the French Union under the same conditions as to the Council of the Republic.

ART. 71—The Assembly of the French Union shall examine the bills or proposals submitted to it by the National Assembly or the Government of the French Republic or the Governments of the Associated States in order that it may give its opinion thereon.

The Assembly shall have the power to express its opinion on resolutions submitted to it by one of its members and, if they meet with its

approval, to instruct its secretariat to send them to the National Assembly. It may submit proposals to the French Government and to the High Council of the French Union.

In order to be admissible, the proposed resolutions referred to in the preceding paragraph must relate to legislation concerning the Overseas Territories.

ART. 72—Legislative power with regard to penal law, civil liberties and political and administrative organization in the Overseas Territories, shall rest with the Parliament.

In all other matters, French laws shall be applicable in the Overseas Territories only by an express provision to this effect or if they have been extended to the Overseas Territories by decree after consultation with the Assembly of the Union.

Moreover, as an exception to Article 13, special provisions for each territory may be enacted by the President of the Republic in the Council of Ministers after consultation with the Assembly of the Union.

Section III: The Overseas Departments and Territories

ART. 73—The legislative regime of the overseas departments shall be the same as that of the metropolitan departments save for exceptions determined by the law.

ART. 74—The Overseas Territories shall be given special status which takes into account their particular interests within the framework of the general interests of the Union.

This status and the internal organization of each overseas territory or group of territories shall be determined by law after the Assembly of the French Union has expressed its opinion thereon and after consultation with the Territorial Assemblies.

ART. 75—The respective status of the members of the French Republic and of the French Union shall be subject to modifications.

Modifications of status and passage from one category to another within the framework established in Article 60 may take place only as the result of a law passed by the Parliament after consultation with the Territorial Assemblies and the Assembly of the Union.

ART. 76—The representative of the Government in each territory or group of territories shall be the repository of the powers of the Republic. He shall be the Administrative head of the territory.

He shall be responsible to the Government for his acts.

ART. 77—An elective Assembly shall be instituted in each territory. The electoral regime, composition and powers of this Assembly shall be determined by law.

ART. 78—In the groups of territories, the management of matters of common interest shall be entrusted to an Assembly composed of members elected by the Territorial Assemblies.

Its composition and its powers shall be determined by law.

ART. 79—The Overseas Territories shall elect representatives to the National Assembly and to the Council of the Republic under the conditions determined by the law.

ART. 80—All nationals of the Overseas Territories shall have the status of citizens, in the same capacity as French nationals of Metropolitan France or the Overseas Territories. Special laws shall determine the conditions under which they may exercise their rights as citizens.

ART. 81—All citizens and nationals of territories within the French Union shall have the status of citizens of the French Union, which ensures them the enjoyments of the rights and liberties guaranteed by the Preamble of the present Constitution.

ART. 82—Those citizens who do not have French civil status shall retain their personal status so long as they do not renounce it.

This status may in no case constitute a ground for refusing or restricting the rights and liberties pertaining to the status of French citizen.

TITLE IX

THE SUPERIOR COUNCIL OF THE JUDICIARY

ART. 83—The Superior Council of the Judiciary shall be composed of fourteen members:

—The President of the Republic, President;
—The Keeper of the Seals or Minister of Justice, Vice-President;
—Six persons elected for six years by the National Assembly, by a two-thirds majority and chosen outside its membership, and six alternates elected under the same conditions;
—Six persons designated as follows:
—Four judges elected for six years under the conditions determined by the law, and representing each category of the judiciary, and four alternates elected under the same conditions;
—Two members appointed for six years by the President of the Re-

public and chosen outside the membership of the Parliament and the judiciary, but from among the members of the legal profession, two alternates being designated under the same conditions.

The decisions of the Superior Council of the Magistracy shall be taken by majority vote. In case of a tie the President shall cast the deciding vote.

ART. 84—The President of the Republic shall appoint the judges whose names are submitted to him by the Superior Council of the Judiciary with the exception of those in the Office of the Public Prosecutor.

The Superior Council of the Judiciary, according to the law, shall ensure the discipline of these judges, their independence and the administration of the courts.

The presiding judges shall not be removable.

TITLE X

LOCAL ADMINISTRATIVE UNITS

ART. 85—The French Republic, one and indivisible, recognizes the existence of local administrative units.

These units are the communes, the departments and the overseas territories.

ART. 86—The framework, the scope, the eventual regrouping and the organization of the communes, the departments and the overseas territories, shall be determined by law.

ART. 87—The local administrative units shall be governed freely by councils elected by universal suffrage.

The mayor or the president of these councils shall ensure the carrying out of their decisions.

ART. 88—The coordination of the activities of Government officials, the representation of the national interests and the administrative control of these units shall be ensured within the departmental framework by delegates of the Government appointed in the Council of Ministers.

ART. 89—Organic laws will further extend the liberties of the departments and municipalities; for certain large cities they may establish rules of operation and an administrative structure different from those of small towns, and include special provisions for certain departments; they will determine the conditions under which Articles 85 and 88 above are to be applied.

Laws will likewise determine the conditions under which local agencies of central administrations are to function, in order to bring the central administration closer to the people.

TITLE XI

AMENDMENT OF THE CONSTITUTION

ART. 90—Amendment of the Constitution shall take place in the following manner:

Amendment must be decided upon by a resolution adopted by an absolute majority of the members of the National Assembly.

This resolution shall stipulate the purpose of the amendment.

Not less than three months later this resolution shall have a second reading under the same rules of procedure as the first, unless the Council of the Republic, to which the resolution has been referred by the National Assembly, has adopted the same resolution by an absolute majority.

After this second reading, the National Assembly shall draw up a bill to amend the Constitution. This bill shall be submitted to the Parliament and adopted by the same majority and according to the same rules established for any ordinary act of the Legislature.

It shall be submitted to a referendum unless it has been adopted on second reading by a two-thirds majority of the National Assembly or by a three-fifths majority of each of the two assemblies.

The bill shall be promulgated as a constitutional law within eight days after its adoption.

No constitutional amendment relative to the existence of the Council of the Republic may be made without the concurrence of this Council or resort to a referendum.

ART. 91—The Constitutional Committee shall be presided over by the President of the Republic.

It shall include the President of the National Assembly, the President of the Council of the Republic, seven members elected by the National Assembly at the beginning of each annual session by proportional representation of party groups and chosen outside its own membership and three members elected under the same conditions by the Council of the Republic.

The Constitutional Committee shall determine whether the laws passed by the National Assembly imply amendment of the Constitution.

ART. 92—Within the period allowed for the promulgation of the law, the Committee shall receive a joint request that it examine said law from the President of the Republic and the President of the Council of the Republic, the Council having decided the matter by an absolute majority of its members.

The Committee shall examine the law, shall strive to bring about agreement between the National Assembly and the Council of the Republic and, if it does not succeed in this shall decide the matter within five days after it has received the request. This period may be reduced to two days in case of emergency.

The Committe shall be competent to decide on the possibility of amending only Titles I through X of the present Constitution.

ART. 93—A law which, in the opinion of the Committee, implies amendment of the Constitution shall be sent back to the National Assembly for reconsideration.

If the Parliament adheres to its original vote, the law may not be promulgated until the Constitution has been amended according to the procedure set forth in Article 90.

If the law is considered to be in conformity with Title I through X of the present Constitution, it shall be promulgated within the period specified in Article 36, said period being prolonged by the addition of the period specified in article 92 above.

ART. 94—In the case of occupation of all or part of the metropolitan territory by foreign forces, no procedure of amendment may be undertaken or continued.

ART. 95—The republican form of government may not be the subject of any proposal to amend the Constitution.

TITLE XII

TEMPORARY PROVISIONS

ART. 96—The secretariat of the National Constituent Assembly shall be responsible for ensuring the continuity of national representation until the meeting of the deputies of the new National Assembly.

ART. 97—In case of exceptional circumstances, the deputies of the National Constituent Assembly may, until the time specified in the preceding article, be called together by the secretariat of the Assembly, either on its own initiative or upon the request of the Government.

ART. 98—The National Assembly will meet automatically on the third Thursday following the general elections.

The Council of the Republic will meet on the third Tuesday following its election. The present Constitution will take effect on that date.

Until the meeting of the Council of the Republic, the organization of public powers will be governed by the law of November 2, 1945, the National Assembly having the attributes conferred by that law on the National Constituent Assembly.

ART. 99—The Provisional Government constituted under the terms of Article 98, will hand its resignation to the President of the Republic as soon as the latter is elected by the Parliament under the conditions set forth in Article 29 above.

ART. 100—The secretariat of the National Constituent Assembly shall be responsible for preparing the meeting of the Assemblies created by the present Constitution and especially for providing, before the meeting of their respective secretariats, the meeting places and administrative facilities necessary to their functioning.

ART. 101—During a period of not more than one year after the meeting of the National Assembly, the Council of the Republic may officially deliberate as soon as two-thirds of its members shall have been proclaimed elected.

ART. 102—The first Council of the Republic will be renewed entirely within the year following the renewal of the municipal councils, which renewal will take place within one year after the promulgation of the Constitution.

ART. 103—Until the organization of the Economic Council and during a maximum period of three months dating from the meeting of the National Assembly the application of Article 25 of the present Constitution will be suspended.

ART. 104—Until the meeting of the Assembly of the French Union and during a maximum period of one year dating from the meeting of the National Assembly, the application of Articles 71 and 72 of the present Constitution will be suspended.

ART. 105—Until the promulgation of the laws provided for in Article 89 of the present Constitution, and without prejudice to the provisions fixing the status of the various departments and overseas territories, the departments and communes of the French Republic

will be administered in accordance with the laws now in force, except for Paragraphs 2 and 3 of Article 97 of the law of April 5, 1884, for the enforcement of which the State police shall be placed at the disposal of the mayors.

However, the acts of the prefect in his capacity of representative of the department, will be carried out by him under the permanent supervision of the president of the departmental assembly.

The provisions of the preceding paragraph shall not be applicable to the department of the Seine.

ART. 106—The present Constitution will be promulgated by the President of the Provisional Government of the Republic within two days after the date of the proclamation of the results of the referendum and in the following form:

"The National Constituent Assembly has adopted,

"The French people has approved,

"The President of the Provisional Government of the Republic promulgates the Constitution that follows:

(Text of the Constitution)

The present Constitution, considered and adopted by the National Constituent Assembly and approved by the French people, shall become the law of the land.

Paris, October 27, 1946.

(*Journal Officiel, October 28, 1946*)

Special laws for the election of the members of the National Assembly and of the Council of the Republic were adopted by the Constituent Assembly in October, 1946; the law on the election of the members of the Council of the Republic was changed in September, 1948.

30. Excerpts from Law No. 46-2151 of October 5, 1946 on the Election of the Members of the National Assembly[1]

TITLE I

GENERAL PROVISIONS

ART. 1—The Deputies to the National Assembly from Metropolitan France and the Departments of Guadeloupe, Martinique and

[1] These excerpts are taken from the text of the Information Division of the French Embassy.

Reunion shall be elected by list with one ballot, by proportional representation, without splitting of votes and without incomplete lists, in accordance with the provisions of the present law.

ART. 2—The Department of Guiana shall constitute one electoral district electing one Deputy.

The election shall be by uninominal list with one ballot.

ART. 3—The voting shall be by electoral districts.

Each department shall constitute one district, with the exception of the Bouches-du-Rhône, Nord, Pas-de-Calais, Rhône, Seine, Seine-et-Oise and Seine-Inférieure Departments, which are divided into several districts . . .

ART. 4—The elections shall take place on the fifth Sunday after the publication of the decree calling upon the voters to come to the polls.

The election campaign shall open twenty days before the date of the elections.

TITLE II

PRESENTATION OF CANDIDATES

ART. 5—The candidates of each list in each electoral district must file a declaration of candidacy to which they shall affix their duly attested signature. . . . .

ART. 6—Within the same district, several lists may not have the same designation nor be affiliated with the same party or organisation.

Each list nominated in pursuance of the preceding articles must contain a number of candidates equal to the number of seats allocated to the district . . .

No withdrawal of candidacy will be accepted after the list has been filed. . .

. . . . No one may be a candidate on several lists in the same district.

No one may be a candidate in more than one district; the Law of July 17, 1889 on multiple candidacies shall be applicable to the election for the National Assembly.

If, in contravention of the present article, a candidate presents himself on several lists in several districts, he may not be proclaimed elected in any district.

Any list constituted in violation of the present article is forbidden. Such a list may not be registered and ballots cast for it shall be declared null and void. . . .

* * *

TITLE III

ELECTION PROCEDURES AND DISTRIBUTION OF SEATS

Chapter I: Election Procedures

ART. 9—Each voter may cast one vote for one of the lists presented in each district.

ART. 10—The general counting of the votes for the lists . . . shall be completed, at the latest, on the Wednesday after the elections. . . .

Chapter II: Distribution of the Seats Among the Lists

ART. 11—The number of Deputies from Metropolitan France shall be 544.

* * *

ART. 13—The seats shall be distributed in each district among the various lists according to the rule of the highest average. This rule consists in granting seats successively to that list for which the division of the number of votes for the list by the number of seats already granted to that list, plus one, gives the highest result.

Chapter III: Distribution of the Seats Among the Candidates

ART. 14—Voters may use one of the ballots printed by the candidates or write their own ballot. Any printed ballot different from the one printed by the candidates shall be considered null and void.

ART. 15—The seats to which each list is entitled shall be assigned according to the order determined by the voters.

The list shall be drawn up according to a certain order of preference, but the voter may modify it as he pleases by writing an order number opposite the name of one, several or all the candidates on the list.

* * *

ART. 18—In the event that the elections are declared null and void or the district is completely lacking in representation, a partial election shall be held within two months.

* * *

TITLE IV

PROVISIONS RELATIVE TO ALGERIA

ART. 21—The number of seats allocated to Algeria shall be 30, of which 15 shall be assigned to the first college and 15 to the second college.

The following groups of persons shall be included in the first college: Non-Moslem French citizens and Moslem French citizens already so defined by Article 3 of the Regulation of March 7, 1944, holders of a combattant's card in the War of 1914–1918, holders of the Croix de Guerre 1939–1940 for personal feats of arms, holders of the Croix de Guerre for the campaigns of Liberation, holders of the primary education certificate, alumni of secondary educational institutions who have completed the 6th to the 4th classes inclusively, and present or former elected members of the administrative councils of native benefit societies, artisans' guilds or agricultural organizations.

ART. 22—The seats shall be distributed in the following manner:

First college:	Department of Algiers	6;
	Department of Oran	5;
	Department of Constantine	4;
Second college:	Department of Algiers	5;
	Department of Oran	3;
	Department of Constantine	7;

* * *

TITLE V

ELECTION CAMPAIGNS

* * *

ART. 29—Within forty-eight hours after the filing of the declaration of candidacy provided for in Article 5, the representative of each district list must pay to the Paymaster-Treasurer General of the Department, acting as the superintendent of the Deposit and Consignment Office, a bond of twenty thousand francs (Fr. 20,000) per candidate.

ART. 30—The State shall bear the cost of the paper allocated to the candidates, of the envelopes, of the printing of the posters, ballots and circulars specified in Article 25, as well as of sending these ballots and circulars.

Candidates shall be reimbursed for moneys expended to post notices according to a scale established by decree and which takes into account the number of places in the district where notices may be posted.

Candidates shall be reimbursed for moneys expended for gasoline according to a scale established by decree and which takes into account the size of the district.

However, candidates shall not be reimbursed for moneys expended

DISTRIBUTION OF SEATS IN 1936 CHAMBER AND 1945 AND 1946 ASSEMBLIES*

	1936 Chamber 618 Seats			*1945 Assembly 586 Seats*			*1946 Assembly 586 Seats*			*1946 National Assembly 618 Seats*		
	Metropolitan France Seats	*Empire Seats*	*Total Seats*	*Metropolitan France Seats*	*Empire Seats*	*Total Seats*	*Metropolitan France Seats*	*Empire Seats*	*Total Seats*	*Metropolitan France Seats*	*Empire Seats*	*Total Seats*
Communist Party and affiliate groups	74	—	74	145	14	159	148	5	153	164	19	183
Socialist Party	144	1	145	127	12	139	120	9	129	90	15	105
The Algerian Moslem Group	—	—	—	—	7	7	—	—	—	—	—	—
Total Socialists	144	1	145	127	19	146	120	9	129	90	15	105
Popular Republican Movement / Popular Democratic Group / Popular Republican Union	24	—	24	146	4	150	161	6	167	157	9	164[2]
Total Christian Democrats—Popular Republican Movement	24	—	24	146	4	150	161	6	167	157	9	164
Total Center Groups	154	6	—	42	18	60	41	12	53	55	9	64
Rightists[1]	201	13	214	60	4	64	66	1	67	78	4	82
Algerian Groups	—	—	—	—	—	—	—	11	11	—	12	12[3]
Miscellaneous	—	—	—	—	—	—	—	—	—	—	7	7[4]

* This chart is taken from *A Constitution for the Fourth Republic* (Foundation For Foreign Affairs, Washington, 1947) App. VI, p. 84. These elections have dealt with national and direct voting.

[1] Comprising 1945 and 1946 Peasant groups.

[2] Includes eight Peasant groups.

[3] Trimophe des lib. dem. (Messali Hadj)—5 and independent (cooperative) Moslems—7.

[4] Manifest Alger.

for posting notices and for gasoline, and the bond posted in the name of a list shall revert to the State if that list does not obtain at least 3% of the votes cast in the district; in the opposite case, the bond posted by the candidates shall be returned to them.

* * *

ART. 36—The National Assembly shall be elected for five years.

ART. 37—A decree issued by the Council of Ministers shall determine the conditions under which the present law shall be applied.

31. Excerpts from Law No. 48-1471 of September 23, 1948 on the Election of the Councillors of the Republic[1]

TITLE I

COMPOSITION OF THE COUNCIL OF THE REPUBLIC

ART. 1—The Council of the Republic shall comprise 320 members:

(1) 253 Councillors elected by the departments of Metropolitan France and the departments of Guadeloupe, Guiana, Martinique, and Reunion;

(2) 14 Councillors elected by the Algerian departments;

(3) 44 Councillors elected by the Overseas Territories and territories under trusteeship;

(4) 1 Councillor representing the French citizens residing in Indochina;

(5) 5 Councillors representing the French citizens residing in Tunisia and in Morocco—2 for Tunisia and 3 for Morocco;

(6) 3 Councillors representing the French citizens living abroad.

ART. 2—The members of the Council of the Republic shall be elected for six years.

The Council shall be renewable half at a time. For this purpose, the Councillors of the Republic shall be divided into two series, A and B, equal in numbers . . . .

ART. 3—The first election of the two series, A and B, shall take place on the same day.

By way of exception, the mandates of the Councillors belonging to the first outgoing series shall be renewable in May 1952; those belonging to the other series shall be renewable in May 1955. . . .

ART. 4—No one may be elected Councillor of the Republic unless

[1] The text of this law was taken from the translation of the Information Division of the French Embassy.

he has completed his thirty-fifth year of age. The reasons for ineligibility and incompatibility shall be the same as in the elections to the National Assembly.

TITLE II

ELECTION OF THE COUNCILLORS OF THE REPUBLIC REPRESENTING THE DEPARTMENTS OF METROPOLITAN FRANCE AND THE DEPARTMENTS OF GUADELOUPE, GUIANA, MARTINIQUE, AND REUNION

Chapter I: General Provisions

ART. 5—The 253 seats of the Councillors of the Republic representing the departments of Metropolitan France and the departments of Guadeloupe, Guiana, Martinique, and Reunion shall be distributed in accordance with Table No. 1 appended to the present Law.

Each department shall be entitled to one Councillor's seat for a population of up to 154,000 inhabitants, and to one seat for every additional 250,000 inhabitants or fraction thereof.

ART. 6—The members of the Council of the Republic representing the departments of Metropolitan France and the departments of Guadeloupe, Guiana, Martinique, and Reunion shall be elected in each department by an electoral college composed of

(1) The Deputies of the department;

(2) The General Councillors of the department;

(3) Delegates or alternate delegates of the Municipal Councils of the department.

* * *

Chapter II: Election of the Delegates of the Municipal Councils

ART. 8—The Municipal Councils of communes of less than 9,000 inhabitants shall elect:

One delegate for Municipal Councils of eleven members;

three delegates for Municipal Councils of thirteen members;

five delegates for Municipal Councils of seventeen members;

seven delegates for Municipal Councils of twenty-one members;

fifteen delegates for Municipal Councils of twenty-three members.

In communes of 9,000 inhabitants or more, as well as in all the communes of the department of the Seine, all the Municipal Councillors shall be delegates by virtue of their office.

Furthermore, in communes of more than 45,000 inhabitants, the Municipal Councils shall elect supplementary delegates, one delegate

being chosen for every 5000 inhabitants or fraction thereof, in excess of 45,000.

The population of the war-devastated communes shall be calculated on the basis of the 1936 census.

ART. 9—The choice of the Municipal Councils may not fall on a Deputy to the National Assembly nor on a General Councillor.

If a Deputy to the National Assembly or a General Councillor should be a delegate by virtue of his office as a Municipal Councillor, the Municipal Council shall designate an alternate for him upon his recommendation.

ART. 10— . . .

If a General Councillor should be a member of the National Assembly, his alternate shall be designated upon his recommendation by the President of the General Council.

* * *

TITLE III

NOMINATION OF CANDIDATES TO THE COUNCIL OF THE REPUBLIC

ART. 21—In the departments in which four or more Councillors' seats must be filled and which fall under the provisions of Article 27, the candidates of a list shall be obliged to file a declaration of candidacy to which they shall affix their signature, duly legalized. The list must comprise as many names as there are seats to be filled. . . .

No withdrawal of candidacy will be allowed after the final date set for filing candidacies.

In the event of the decease of one of the candidates on a list during the electoral campaign, the candidates who have presented the list shall have the right to replace him, before the opening of the poll, by a new candidate whose rank they shall determine as they see fit.

ART. 22—*Multiple candidacies* shall be prohibited: no one may be a candidate on several lists in the same electoral district, nor in several electoral districts. . . .

* * *

TITLE IV

ELECTORAL PROCEEDINGS AND ALLOCATION OF SEATS

ART. 26—In the departments that are entitled to less than four Councillors' seats, the election shall take place by majority vote on two ballots.

No one shall be elected Councillor of the Republic on the first ballot, unless he obtains:

(1) The absolute majority of the votes cast;

(2) A number of votes equal to one-fourth of the registered electors.

On the second ballot, a relative majority shall be sufficient, and in the event of a tie, the oldest candidate shall be declared elected.

ART. 27—In the departments that are entitled to four or more Councillors of the Republic, the election shall take place by proportional representation, in accordance with the rule of the highest average, without split votes or preferential votes.

On each list, the seats shall be assigned to the candidates in accordance with the order of their nomination.

* * *

Chapter VI: On Election Propaganda

* * *

ART. 35—For the election of the Councillors of the Republic, each candidate or each list will be entitled to one circular and three ballots per member of the electoral college.

The expense of the printing and distribution of the circulars and ballots and the cost of the paper shall be defrayed by the State for the candidates who fulfill the formalities defined in the following paragraph.

Every candidate or every list of candidates wishing to benefit from the provisions of the foregoing paragraph must file a declaration to this effect at the Prefecture twelve full days before the day of the elections and post a bond of 10,000 francs with the Paymaster-Treasurer General acting as official receiver. . . .

The bond will be reimbursed to those candidates or lists of candidates who have obtained, on one of the ballots, at least 5 per cent of the votes cast, or who have one member elected. . . .

* * *

The Constitution provided for the institution of an Economic Council (Art. 25), the French Union (Art. 60–82), and a High Court of Justice (Art. 42, 57–59). Special statutes were to be determined for the Economic Council and the High Court of Justice.

These basic laws and a law on the composition and election of the Assembly of the French Union were adopted in October, 1946. Some changes of these laws were made after 1946.

32. Excerpts from Law No. 46-2384 of October 27, 1946 on the Composition and Functioning of the Economic Council[1]

ART. 1—The Economic Council shall be empowered to examine bills and proposals of an economic and social character, excluding the budget, and international agreements of an economic or financial character submitted to the National Assembly for its approval.

The Economic Council may be asked to give its opinion on drafts of ordinary decrees and decrees containing public administrative regulations that affect the national economy. It must be consulted in the drafting of decrees and public administrative regulations issued in application of laws which have been submitted to it in order that it might give its opinion thereon.

It can itself decide to study economic, social and financial questions, undertake the necessary investigations and state the opinions and proposals formulated as a result of its study.

ART. 2—The Economic Council shall give its opinion upon:

(1) The Plan, as well as upon the bills and questions about which the Government seeks its advice. In such cases, the Government shall determine the length of time allowed to the Council for its study;

(2) The bills and proposals submitted to it by the National Assembly or the committees of the Assembly or the bills and proposals within its province that it takes up on its own initiative. It must give its opinion concerning these within twenty days. If an emergency is declared by the National Assembly, this time limit shall be reduced to two days;

(3) Public administrative regulations issued in application of laws which have been submitted to it in order that it might give its opinion thereon. It must give its opinion concerning these within thirty days.

ART. 3—When a bill or proposal within the province of the Economic Council is being considered, the National Assembly shall hear the rapporteur of the Economic Council on the question in its committee meetings. The rapporteur must express the opinion of the Council and, if said opinion was not unanimous, he must report both the majority and the minority opinions.

[1] The texts of these laws were taken from translations of the Information Division of the French Embassy.

The opinion of the Economic Council shall be printed and distributed to all the members of the Parliament. It shall be read to the Assembly before the opening of general debate. Moreover, upon the request of the committee concerned or of the interested Minister, the rapporteur of the Council may attend the debates of the National Assembly, in order to present to it, if necessary, the opinion of the Council.

ART. 4—Upon the request of the parties concerned and with the consent of the interested Ministers, the Economic Council may be asked to study any question relating to economic and social conflicts and eventually to arbitrate them.

* * *

ART. 6—The opinions and reports of the Economic Council shall be addressed to the President of the National Assembly and to the President of the Council of Ministers.

ART. 7—The Council shall appoint, from among its own membership, committees dealing with special economic questions, as well as committees dealing with general economic questions. Moreover, it can constitute committees of a permanent character. . . .

The Council shall appoint a secretariat whose composition it shall determine and whose powers it shall specify. . . .

ART. 8—The Economic Council shall draw up its own statutes, based on the recommendations of its secretariat.

ART. 9—The Ministers and Under-Secretaries of State and representatives designated by them shall have the right to attend the meetings of the Economic Council. They must be heard when they request it.

Members of the Parliament may attend the meetings of the Council. The chairmen and rapporteurs of parliamentary committees may attend the meetings of the Council committees.

ART. 10—The minutes of the meetings of the Council shall be printed in a special bulletin.

The opinions and reports of the Economic Council shall be published in the *Journal Officiel.*

ART. 11—The members of the Economic Council shall be appointed for three years.

* * *

33. Excerpts from Law No. 46-2386 of October 27, 1946 on the Constitution and Functioning of the High Court of Justice

TITLE I

COMPOSITION OF THE HIGH COURT

ART. 1—The High Court of Justice shall be composed of a President, 2 Vice-Presidents, 30 regular judges and 30 alternate judges.

Its investigating committee shall have 9 members.

ART. 2—At the beginning of each legislative session and within a month after its first meeting, the National Assembly shall elect the judges of the High Court.

Twenty judges shall be chosen within the Assembly by proportional representation of groups, their names to be taken from lists presented by each group and including twice as many candidates as there are judges to be chosen. Several groups may together present a joint list.

Ten judges shall be chosen by the Assembly from outside its own membership by a two-thirds majority and a secret ballot.

Thirty alternate judges shall be elected under the same conditions.

ART. 3—The National Assembly shall elect the President and the two Vice-Presidents of the High Court by a two-thirds majority and a secret ballot.

ART. 4—Within the same period, the National Assembly shall elect, by a two-thirds majority and a secret ballot, six members of the Parliament who shall serve as judges on the investigating committee.

The Superior Council of the Judiciary shall designate the chairman of this committee and two assessors.

ART. 5—Within the same period, the National Assembly shall elect, from among its own membership or outside its own membership, by a secret ballot and a two-thirds majority, the Attorney General and the two Advocates General of the High Court of Justice.

ART. 6—Within fifteen days after their election, the judges of the High Court, the judges of the investigating committee, the Attorney General and the Advocates General shall take the following oath before the National Assembly:

"I swear and promise to fulfill my duties well and faithfully, to maintain absolute secrecy concerning all discussions and votes, and to conduct myself in all things as a worthy and honest magistrate."

Those convicted of violating this oath shall be prosecuted under the terms of Article 378 of the Penal Code.

ART. 7—The duties of clerk of this court shall be exercised by a civil servant attached to the Assembly who shall be designated at the beginning of each legislative session by the President of the Assembly. He must maintain secrecy concerning his work.

TITLE II

INDICTMENT AND INVESTIGATION

ART. 8—In the event that the President of the Republic or the President of the Council of Ministers or one or several Ministers are indicted, the President of the Assembly shall lay the matter before the High Court by means of a note addressed to the President of the High Court and to the Attorney General of the said Court.

The note shall contain the text of the motion of indictment.

The President of the Assembly shall order a record to be made of these notifications.

ART. 9—Within twenty-four hours after receiving the notification, the Attorney General shall refer the matter to the chairman of the investigating committee who shall immediately call the committee together and begin the investigation of the case. . . .

ART. 10—As soon as the investigation has been opened, or in case another person is indicted, the chairman of the committee shall ask each of the indicted persons to arrange for his defense by whomever he chooses. Should one of the accused fail to take advantage of this privilege, the chairman shall appoint defense counsel from among the registered lawyers.

* * *

ART. 12—The committee shall try to discover if the facts alleged against the accused can be established.

It shall settle all procedural questions and any irregularities in the investigation that may be laid before the clerk within twenty-four hours after the meeting of the committee as a basis for claiming that the investigation was invalid.

It shall approve or disapprove the warrants issued by the chairman before its meeting.

It shall issue warrants for detention or arrest and summonses; it shall decide whether certain individuals may remain temporarily at liberty.

ART. 13—The committee shall automatically consider all new facts that may arise concerning the accused. . . .

* * *

ART. 16—Before deciding whether to refer the case to the High Court or to dismiss the charges, the committee shall hear representatives of the prosecution and the defense in a public hearing. It shall retire to discuss its decision and shall decide separately in the case of each accused and on each count of the indictment. It shall render its decision at a public hearing.

If it decides to refer the indictment to the High Court, the committee shall declare that there appears to be sufficient evidence of crimes or misdemeanours, shall define said crimes and misdemeanours and shall indicate under what laws they are punishable.

The dossier shall then immediately be sent to the prosecutor of the High Court of Justice and the chairman of the committee shall inform the President of the High Court of Justice of this fact. . . .

ART. 17—In all cases, the Committee shall decide by majority vote and there shall be no appeal from its decision. In case of a tie, the chairman shall cast the deciding vote. The presence of seven members shall suffice to make a decision valid.

TITLE III

PROCEDURE BEFORE THE HIGH COURT

* * *

ART. 20—The hearings shall be public, unless secret hearings are ordered by the High Court of Justice. They shall be presided over by the President or, if he is not present, by one of the Vice-Presidents. They shall follow the procedure established for correctional cases by the code of criminal procedure, except as provided in the following articles.

* * *

ART. 23—When the public hearings are completed, the High Court shall retire to the council chamber. Discussion shall be opened, following which a vote shall be taken on the guilt or innocence of the accused. A separate vote shall be taken in the case of each accused, on each count of the indictment and on the question whether there are attenuating circumstances. Voting shall be by secret ballot. The decision shall be made by an absolute majority of those voting.

ART. 24—If the accused is declared guilty, the penalty to be imposed shall at once be voted upon, under the conditions set forth in Article 17. However, after two votes in which no penalty obtains a majority of the ballots, the most severe penalty proposed in these votes shall be

excluded from consideration in the next vote; this procedure shall be followed as many times as is necessary, the most severe penalty being dropped each time, until a penalty is agreed upon by an absolute majority of those voting.

ART. 25—The final decision shall state the reasons for which said decision has been agreed upon. It shall be drawn up by the President, adopted by the High Court in its council chamber and signed by the President and the clerk. It shall name the members of the High Court of Justice who have taken part in the proceedings.

It shall be read by the President at a public hearing.

ART. 26—The High Court of Justice may impose such penalties as are established by the regular penal laws, mitigated, if there be reason, by the provisions of Article 463 of the Penal Code.

* * *

ART. 28—The decisions of the High Court may not be questioned either in the Court of Appeal or in the Court of Cassation.

* * *

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34. Excerpts from Law No. 46-2385 of October 27, 1946 on the Composition and Election of the Assembly of the French Union

ART. 1—The Assembly of the French Union shall include an equal number of representatives of Metropolitan France, on the one hand, and of representatives of the Overseas departments, Overseas Territories and Associated States, on the other hand.

The Assembly of the French Union may not have more than 240 members.

ART. 2—The members of the National Assembly representing Metropolitan France shall elect 50 members of the Assembly of the French Union.

The members of the Council of the Republic representing Metropolitan France shall elect 25 members of the Assembly of the French Union.

In addition, the metropolitan members of the National Assembly and of the Council of the Republic shall elect a number of representatives to the Assembly of the French Union that is equal to the number of representatives of the Associated States, two-thirds of this group

being elected by the metropolitan members of the National Assembly and one-third by the metropolitan members of the Council of the Republic.

ART. 3—The members representing the Overseas departments and Territories of the French Republic shall number 75.

The number of members representing the Associated States shall be fixed by an internal act of each state and by public administrative regulations. It may not exceed 45 for all the Associated States taken together.

ART. 4—The 75 members of the Assembly of the French Union representing the Overseas departments and Territories of the French Republic shall be divided into three categories, as follows:

(1) Representatives of the Overseas departments of the French Republic [16], ...

(2) Representatives of the Overseas Territories of the French Republic [44], ...

(3) Representatives of the Overseas Territorial Zones of the French Republic [15], ...

ART. 5—The members elected by the metropolitan representatives in the National Assembly and the Council of the Republic shall be chosen by proportional representation of the groups to which these representatives belong.

No one may present himself as a candidate to the National Assembly or the Council of the Republic. Only the members of these assemblies have the right to nominate candidates.

The election procedure shall be that established by the Regulations of each assembly. Any member of the National Assembly or of the Council of the Republic who is elected to the Assembly of the French Union must choose between his two mandates within one month. If he fails to declare his choice, he is presumed to have renounced his mandate to the Assembly of the French Union.

* * *

ART. 9— . . . .

In order to be elected on the first ballot, a candidate must receive the votes of an absolute majority of the assembly composing the electoral college. On the second ballot, a relative majority shall be sufficient. In case of a tie, the oldest candidate shall be declared elected. . . .

ART. 10*—The metropolitan representatives in the Assembly of the French Union elected by the National Assembly or the Council of the Republic are elected for six years.

* * *

ART. 12—The members of the Assembly of the French Union covered by Article 4 shall be elected for six years.

Half of them shall be replaced every three years.

The Overseas departments and Territories shall be divided into two categories whose elections shall be held alternately. The date and conditions of renewal of the Assembly of the French Union must be fixed in relation to the date and conditions established for the renewal of the Council of the Republic.

ART. 13—Ineligibilities and incompatibilities shall be the same as those established for the elections to the National Assembly.

* * *

An interesting provision was deliberated in 1947 by the Council of Ministers. It dealt with the work of the Government, and related to the organizational procedure within the Cabinet. It also provided for the formal relationship of the Council of Ministers with the different Assemblies. The coordinating agency is the Secretariat General of the Government.

35. Excerpts from the Rules Regarding the Internal Business of the Government[1]

I. ORGANIZATION OF THE MEETINGS OF THE GOVERNMENT

(a) Council of Ministers

1. Proposed Agenda

The Secretariat General of the Government sends to the President of the Republic, to the President of the Council, and to the other members of the Government, as a rule two days before the meeting of the Council of Ministers, the list of matters which may

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* Modified by the Law of August 27, 1947 (No. 47-1607), translated by Manfred C. Vernon.

[1] La Documentation Francaise, Notes Documentaires Et Etudes No. 605, April 22, 1947. Translation by Manfred C. Vernon.

eventually be entered on the agenda of the next meeting of the Council.

2. The Agenda

The agenda is determined by the President of the Council, submitted to the President of the Republic, and addressed personally to all the members of the Government, as a rule not later than the day previous to the meeting.

The agenda of the meetings of the Government is divided into three parts.

(a) Part A comprises government bills (*projects de loi*) and decrees submitted to the Government, and for which deliberation is not necessary;

(b) Part B is devoted to communications of the President of the Republic, of the President of the Council, and the Ministers.

Requests concerning communications are addressed to the Secretary General of the Government not later than twenty-four hours previous to the meeting. They are accompanied, in every case possible, by a short explanatory note which is distributed before the meeting. Any member of the Government who initiates a communication must, previously, inform those of his colleagues who are particularly interested in its subject.

Appointments which must be deliberated in the Council of Ministers pursuant to laws in force or a decision of the President of the Council, are also the subject of communications.

(c) Part C is devoted to the deliberation of government bills and decrees relating to the general policy of the Government, or requiring, at the least, discussion.

3. Meeting of the Council

The secrecy of deliberations constitutes an obligation to the State to which all who attend the meetings of the Council of Ministers pledge their honor.

Attendance at the meetings of the Council of Ministers is absolutely necessary. Any Minister whose attendance is prevented shall so advise the President of the Republic and the President of the Council through the Secretary General of the Government.

The latter attends the meetings of the Council and is responsible for the functioning of the secretariat.

4. Minutes of the meetings

The minutes of the meetings are prepared by the Secretary General of the Government and submitted to the President of the Council. It is approved and signed by the President of the Republic who keeps it in his archives.

A list of the government bills deliberated and decrees adopted, as well as decisions made in the course of the meeting, is addressed to the members of the Government by the Secretary General.

(b) Council of the Cabinet

When the President of the Council decided to call together the members of the Government in a Council of the Cabinet, the latter are so advised by the Secretary General of the Government.

The rules relating to the preparation of the agenda and to the meetings of the Council of Ministers are applicable to Councils of the Cabinet.

(c) Committees, Conferences and Interministerial Commissions

Interministerial committees provided for by laws in force, and subject to conditions defined by their provisions, are appointed to study matters which are within their competence.

When it has not been possible to reach accord between the different ministers on a government bill or decree or any other question concerning several ministerial departments, the President of the Council has the power to summon a conference of the interested ministers accompanied, if necessary, by their chiefs of service (*chefs de service*). The Secretary General of the Government informs the Secretariat of these conferences.

The President can also call, particularly for the drafting of bills after agreement concerning their principles, a meeting of an interministerial commission composed of representatives of the interested ministries and of the Secretary General of the Government.

(d) Application of the decisions of the Government

The ministers send to the Secretariat General of the Government a copy of all orders, circulars or instructions of a general nature issued for the application of decisions of the Government.

II. PREPARATION AND PROMULGATION OF LAWS

(a) Preparation of government bills (projets de loi)

According to the terms of Article 13 [sic[2]] of the Constitution, the President of the Council has the power to introduce laws concurrently with the members of Parliament. On the other hand, Article 25 of the Constitution and the law of October 27, 1946, relating to the Economic Council, and Article 71 of the Constitution relating to the Assembly of the French Union, provide that the Government can submit to one or the other of these Assemblies, for their advice, government bills within their competence. Finally, pursuant to the ordinances of July 31, 1945, relating to the Council of State, government bills are submitted for the preliminary advice of the Assembly.

* * *

(b) Discussion, promulgation and publication of laws

1. Government bills *(Projets de loi)*

After deliberation in the Council of Ministers, every bill is the subject of a decree of presentation, directed to the National Assembly, signed by the President of the Council and countersigned by the interested minister or ministers.

This decree is sent to the Secretariat General of the National Assembly by the Secretariat General of the Government. The interested minister or ministers are immediately advised of this transmission.

When the bill presented has been the subject of advice by the Economic Council or by the Assembly of the French Union, a copy of this advice is sent to the competent Committee of the National Assembly.

2. Private member bills *(Propositions de loi)*

The position of the Government in regard to a proposed bill before the National Assembly, whether introduced by one of its members, or following transmission by the President of the Council of the Republic, is determined in the Council of Ministers on communication by the President of the Council or by the interested minister.

3. Promulgation of laws

(a) Normal procedure

The Secretary General of the Government receives from the

[2] It should be obviously Article 14.

National Assembly the text of laws passed. He immediately addresses to the Secretariat General of the Assembly a letter affirming the date of this transmission. A copy of the adopted text is sent by it to the President of the Republic and to the countersigning ministers.

Within the period of delay provided for by Article 36 of the Constitution (ten days, or in case of urgency certified by the National Assembly, five days), the Secretary General obtains the necessary countersignatures and submits the text to the President of the Republic for his signature. He notifies the Secretariat General of the Assembly by letter of the promulgation of the law, indicating therein the date on which this promulgation was effected.

(b) Request for a second deliberation

After examination in the Council of Ministers, the request for a second deliberation with countersignatures and the signature of the President of the Republic affixed thereto, is transmitted to the National Assembly by the Secretariat General of the Government.

In case of final adoption by the National Assembly, the text of the law is sent to the Secretariat General of the Government, then promulgated according to the rules provided above.

(c) Publication

The Secretary General of the Government ensures the publication of laws in the *Journal Officiel.*

* * *

IV. RELATIONS WITH THE ASSEMBLIES

(a) Relations with the National Assembly

1. Messages from the President of the Republic

Messages from the President of the Republic to the National Assembly are sent, after being signed and countersigned, to the President of the Assembly.

2. Dissolution of the Assembly

When the Government intends to make use of the provisions of Article 51 of the Constitution, advice is requested from the President of the Assembly after deliberation in the Council of Ministers. The request for advice is addressed to the President of the Assembly by the Secretary General of the Government.

The reply of the President of the Assembly is imparted to the President of the Republic and to the other members of the Government.

The President of the Council then has the proposed decree entered on the agenda of a following meeting of the Council of Ministers.

After deliberation, the decree with the countersignatures and the signature of the President of the Republic affixed thereto is sent to the President of the National Assembly and published in the *Journal Officiel.*

3. Interpellations

Requests of interpellation are sent by the Secretariat General of the Assembly to the Secretary General of the Government who sends them to the President of the Council and the interested ministers.

They can be made the subject of a communication within the Council of Ministers.

4. Written and oral questions

Written and oral questions are addressed by the Secretary General of the Assembly to the Secretary General of the Government who brings them to the attention of the President of the Council and the competent minister.

Written replies must be sent by the minister to the Secretary General of the Government who ensures their transmission to the Secretary General of the Assembly.

5. Appointment of Government Commissioners to assist a Minister

Decrees appointing government commissioners who, pursuant to Article 53 of the Constitution can assist ministers in discussions before the Assembly, are prepared and signed by the President of the Council in the customary manner.

They are then sent to the President of the Assembly before the first of the meetings which the government commissioner will attend.

(b) Relations with the Council of the Republic

The previous rules in regard to the National Assembly that relate to written and oral questions are applicable to the Council of the Republic.

(c) Relations with the Economic Council

Apart from government bills and decrees, when the Government submits to the Economic Council for advice any question within its competence, obligatory or optional, the request for advice becomes the subject of a previous communication with the Council of Ministers; it is then sent to the Economic Council by the Secretariat General of the Government.

The advice is sent to the latter which ensures its distribution to the President of the Republic and to the members of the Government.

When the Economic Council considers a matter upon its own initiative, the advice or desire which it expresses is sent to the Secretariat General of the Government which ensures its distribution in the same manner.

Commissioners who can assist the members of the Government in discussions before the Economic Council are appointed by order of the interested minister.

(d) Relations with the Assembly of the French Union

1. Convocation of the Assembly and the termination of its sessions

Convocation of the Assembly of the French Union and the termination of its sessions are the subject of deliberation in the Council of Ministers after consultation, if necessary, with the High Council of the Union.

The decree convoking or terminating its sessions is then prepared by the Secretary General of the Government who, after having obtained the countersignatures and the signature of the President of the French Union, sends it to the Secretariat of the Assembly of the Union.

When the convocation of the Assembly is demanded by one-half of its members, this demand is addressed by the Secretariat of the Assembly to the Secretary General of the Government who imparts it to the President of the French Union and to the members of the Government.

The decree is then prepared, signed and sent to the Secretariat of the Assembly in the manner indicated above.

* * *

A law on the general status of civil servants was promulgated in October 1946. In addition to general provisions, the law prescribes in detail the handling of recruitment, remuneration, promotion, discipline, etc.

36. Excerpts from Law No. 46-2294 of October 19, 1946, Concerning the General Status of Civil Servants

(Journal Officiel, October 20, 1946, pp. 8910–8918)[1]

ART. 1—This statute applies to persons who, appointed to permanent employment, have been placed in a grade within the hierarchy of the staff of a central department of the State, exterior services attached to them, or public establishments of the State.

It does not apply to judicial magistrates, military personnel, or to personnel of departments, services, and public establishments of the State of an industrial or commercial nature.

ART. 2—Rules of public administration setting forth particular regulations will specify the methods by which the provisions of this law shall be applied to the personnel of each department or service, as well as, if necessary, to personnel attached to several departments or services.

Particular regulations concerning the members of the Council of State, the Court of Accounts, the diplomatic and consular corps, prefectoral administration, teaching profession, and organizations recognized as having a technical character, may differ from certain provisions of this statute which are incompatible with the proper needs of these corps or services, following consideration of them by the Superior Council of the Civil Service provided by Article 19, below. . . .

* * *

ART. 4—Every appointment or promotion in rank which is not for the exclusive object of regularly filling a vacancy is forbidden.

ART. 5—The civil servant is, in relation to the administration, in a statutory and lawful position.

Magistrates of the Court of Accounts are, and remain, irremovable.

ART. 6—The right to form a union *(droit syndical)* is recognized for civil servants. Their professional unions . . . can plead before every jurisidiction. They can, in particular, within the administra-

[1] Translation by Manfred C. Vernon.

tive jurisdiction, appeal against regulations concerning the status of personnel or individual decisions which might affect the collective interest of the civil servants. . . .

ART. 7—No distinction in the application of this statute is made in regard to sex with the exception of special provisions set forth.

ART. 8—It is forbidden for any civil servant, whatever his position, to have directly or through an intermediary . . . interests, of such a nature as to jeopardize his independence, in an enterprise under the control of his department or service, or in relationship with his department or service.

ART. 9—It is forbidden for any civil servant to carry on, professionally, any private activity of a gainful nature. . . .

* * *

ART. 11—Every civil servant, whatever his rank in the hierarchy, is responsible for the execution of tasks which are assigned to him.

ART. 12—The civil servant charged with carrying out a service is responsible to his superiors for the authority which has been conferred upon him in that regard and for the execution of orders which he has given.

He is not relieved of any responsibilities incumbent upon him by the individual responsibility of his subordinates.

ART. 13—Independently of the rules in the penal code on matters of professional secrecy, every civil servant is under the obligation of professional discretion for everything that concerns facts and information of which he has knowledge in the exercise of his functions, or at the time of the exercise of his functions.

Any diversion, or any communication of papers or offical documents, against regulations, to third parties is formally forbidden.

ART. 14—Any mistake committed by a civil servant in the exercise of . . . his functions exposes him to disciplinary sanction, without prejudice to any penalties provided by penal law.

If a civil servant has been sued by a third party for an official mistake . . . the public collectivity must reimburse the civil servant for civil indemnities which have been assessed against him.

ART. 15—Civil servants have the right, conforming to the rules of the penal code and special laws, to protection against threats, insults, injuries, or defamations of which they might be the object.

The administration is obliged to protect civil servants against

threats and attacks of any kind, of which they might be the object while exercising their functions, and to make amends, if possible, for the injury which has resulted from them in any case not covered by legislation on pensions.

ART. 16—The personal file on the civil servant must contain all papers concerning his administrative position . . . No mention may appear in the file concerning the political, philosophic, or religious opinions of the interested party.

CHAPTER II

ORGANIC RULES

ART. 17—The President of the Council is in charge of the civil service.

Under his authority, the direction of the civil service . . . has as its principal objectives:

(1) To supervise the application of this statute and to assure, in particular, the conformity of the regulatory provisions of each department or service with the general principles set forth:

(2) To formulate, in agreement with the ministers, general rules relating to the recruitment of civil servants and to supervise the application of these rules;

(3) To attend to, in agreement with the Minister of Finance, the application of the principles relating to the organization of categories referred to in Article 24, to the remuneration and training program *(Prévoyance du personnel);*

(4) To proceed, in agreement with the ministers, to the organization or reorganization of departments or services and to the perfecting of methods of work; . . . .

ART. 18—The President of the Council signs or countersigns all regulations relating to the civil service or civil servants, as well as the individual orders concerning the situation of civil servants attached to departments or services under several ministries.

He can delegate his powers to a minister or to an under-secretary of State.

The Minister of Finance signs or countersigns regulations provided in the first paragraph of this article which have direct or indirect repercussions on the budget.

ART. 19—A Superior Council of the Civil Service is established, presided over by the President of the Council or his delegate and

comprising twenty-four members appointed by decree in the Council of Ministers, of whom twelve are appointed on proposal by union organizations of civil servants.

The jurisdiction of the Council is general in scope. It extends, in particular, to the determination of the minimum subsistence . . . The Council has laid before it by the President of the Council or by one of its members any questions of interest to the civil servants or the civil service.

It submits the results of its work to, or formulates recommendations for the President of the Council.

* * *

ART. 20—In each department or service, the interested minister institutes by order:

(1) One or more bipartisan administrative commissions *(commissions administratives paritaires)* having jurisdiction, within limits fixed by this statute and by the regulations for its application, in regard to recruitment, efficiency, ratings, promotions, distinction, discipline, and more generally, all questions on personnel;

(2) One or more bipartisan technical committees which on their own initiative, or on the initiative of the ministers or on that of the President of the Council, take up with the ministers to whom they are responsible problems relating to the organization or functioning of the department or service. They propose measures which they believe sufficient to resolve them, and are kept informed of the sequel of their proposals.

ART. 21—Personnel representatives on the administrative commissions are elected by secret and proportional ballot by the civil servants in active or detached service in the department or service considered.

Personnel representatives on the technical committees are designated by the most representative union organizations.

* * *

TITLE II

RECRUITMENT

* * *

ART. 24—So far as the jurisdiction of each department or service makes it possible, there are created by administrative rule four cate-

gories designated, in descending order of hierarchy, by the letters A, B, C, and D.

* * *

ART. 26—These staffs are recruited either separately for each department or service, or in common for a group of departments or services.

ART. 27—Apart from the exceptions provided for by legislation, regarding reserved employments and special rules appropriate to each department or service, civil servants of categories C and D are recruited by examinations suited to each professional specialty.

ART. 28—Candidates for offices in categories A and B are recruited by examinations in accordance with one of the methods below:

(1) Particular examinations *(concours)* are open, on the one hand, to candidates who have received certain diplomas or who have finished certain studies and, on the other hand, to candidates who are civil servants and have completed a certain period of public service;

(2) Examinations are reserved for civil servants who have completed a certain period of service and, if necessary, who have attained a certain rank.

Rules appropriate to each department must, in any case, assure to all civil servants, having the necessary aptitudes, facilities for training and entry into higher categories in the hierarchy.

The aforesaid regulations can, as an exceptional right and with the aim of assuring the normal development of the careers of the civil servants of certain staffs, authorize this entry either through professional examination or through listing on a promotional register.

* * *

Post-war France introduced laws concerning nationalization of some industries, banks, etc. In the field of finance, the French Government worked out a credit policy which was approved by the Constitutent Assembly when it passed the law of December 2, 1945, concerning the nationalization of the Bank of France and the great banks of deposit, and the creation of a National Credit Council. The composition and functions of this Council were defined in the following articles of the law.

37. National Credit Council (1945)[1]

ART. 12—A National Credit Council is created under the presidency of a Government-appointed Minister who may delegate his powers to the governor of the Bank of France who automatically acts as vice-president.

In addition to the president or vice-president, the National Credit Council shall include thirty-eight members, namely:

Seventeen representatives of the principal groups of economic producers of whom ten shall be appointed by a decree of the Minister of National Economy, (two proposed by the General Confederation of Agriculture, five proposed respectively by the farmers', the consumers', and the producers' cooperatives, the national center for foreign trade and the presidents of the chambers of artisans, two, one of whom shall be an industrialist, proposed by the assembly of the presidents of the chambers of commerce, and one by the union of chambers of maritime commerce); seven proposed by leading trade union organizations (three of whom shall represent the general interests of the said organizations and shall be appointed by the Minister of National Economy, and four of whom shall represent the supervisory personnel and employees of banks and shall be appointed by the Minister of Labor);

Seven representatives of the Ministries of National Economy, Industrial Production, Public Works and Transportation, Agriculture, Reconstruction and Urbanism, Overseas France, and the organization responsible for preparing the modernization plan;

Seven representatives appointed by the Minister of Finance . . . of whom three shall represent the nationalized banks, two the nonnationalized banks, one the foreign trade financing organizations, and one the syndic of Paris brokers;

Seven representatives of public or semi-public financial organizations, including the directors of the "Caisse des Dépots et Consignations" (Deposits and Consignments Office), the "Crédit Foncier de France," the "Crédit National," the "Caisse Nationale de Crédit Agricole," the "Caisse Centrale de France d'Outremer," the syndical chamber of people's banks, the postal checks division of the Ministry of the Post, Telegraph and Telephone.

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[1] Translation is taken from *News from France,* Fourth Year, No. 10, May 19, 1949.

The National Credit Council shall include four committees: the Deposits Committee, the Short-Term Loan Committee, the Medium and Long-Term Loan Committee and the Foreign Trade Committee.

The Director of the Treasury shall attend all sessions of the National Credit Council and its committees.

ART. 13—The National Credit Council shall recommend to the Minister of Finance all measures designed to increase deposits in banks and savings accounts, to reduce the hoarding of currency, to develop the use of paper money and to collect, in the general interest, all the resources available among the people.

It shall participate in drafting all bills relating to the concentration of banking and the reduction of the general expenses of banking operations through improved organization and methods. It shall propose a rate for the remuneration of private and nationalized banks.

It shall advise the Minister of Finance regarding the share of available resources to be reserved for the needs of the Treasury and disbursements in Metropolitan France, the Overseas Territories and abroad.

It shall propose all measures required to guarantee bank deposits and the safety of invested funds. . . .

It shall be consulted by the Minister of National Economy concerning the general credit policy especially with regard to the financing of reconstruction, of the modernization plan, and of import and export programs. For that purpose, it shall receive from the Minister of National Economy and from the organizations responsible for planning the modernization program, all the information necessary to enable it to draw up suitable investment programs. . . .

It shall give its opinion on all directives which concern the allocation of credit and on all questions submitted to it by the Minister of National Economy or the Minister of Finance.

It may propose to the Minister of National Economy the creation of regional credit councils of which the composition and functions shall be fixed by decree.

It shall study the eventual nationalization of banks which, because of the development of their deposits and business, or the extension of their agencies throughout France, take on the same characteristics as the banks nationalized in accordance with Article 6 of the present law.

Through the intermediary of the Bank of France, it shall exercise

the functions formerly entrusted to the permanent committee of bank organization which shall be dissolved as of the date of the promulgation of the present law.

The National Credit Council shall receive from all ministerial departments, from the Bank Control Commission and the Bank of France all the documents necessary for the performance of its duties.

It shall meet once a month when convened by its president or vice-president. It shall forward to the Ministers of National Economy and of Finance, during the first quarter of each year, a report on the credit situation and all related problems.

* * *

The countries of post-war Western Europe have seriously attempted to regulate economic relations with their neighbors. One of the consequences has been the arrangement of Customs or Economic Unions like Benelux. The Customs Union concluded between the Governments of France and Italy, in March, 1949, at Paris is given below.

38. Treaty for the Establishment of a Customs Union between France and Italy[1]

The President of the French Republic and the President of the Italian Republic,

Considering the declaration of 13 September, 1947, whereby the French and Italian Governments expressed their desire to study the material on the basis of which a Customs Union might be established between the two countries mainly with a view to reducing prime costs and selling prices, raising the standard of living and ensuring full employment;

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[1] Translation is taken from The Department of State *Bulletin,* Vol. XXI, No. 529, August 22, 1949, pp. 245–246, 263. "The customs union should have come into force on January 1, 1950. But the attitude to it in France was not considered as favorable. It was therefore not presented to the French Parliament for ratification. It has been decided by the French Government to resume negotiations in order to reach the widest agreements possible. It is expected that a future customs union, and finally an economic union, will follow the general principles of the above text." (New York Times, March 7, 1950)

And considering the favourable conclusions reached in its Report of 22nd December 1947, by the Joint Franco-Italian Commission charged with this study;

And considering the Protocol signed at Turin on 20 March 1948, whereby the two Governments adopted the said conclusions and signified their formal intention of establishing a Franco-Italian Customs Union;

And considering the Report dated 22 January 1949, drawn up by the Joint Franco-Italian Commission charged by the Turin Protocol to formulate the plan and the programme for the implementation of the said Union;

And considering the Final Act of the United Nations Conference on Trade and Employment of 24 March 1948, of which France and Italy are signatories, and Article 44 of the Havana Charter;

Have decided to promote the action necessary to establish a Customs Union regime between France and Italy, and have appointed as their Plenipotentiaries:

The President of the French Republic:

Mr. Robert Schuman, Minister for Foreign Affairs;

The President of the Italian Republic:

Mr. Carlo Sforza, Minister for Foreign Affairs;

who having exchanged their full powers, found in good and due form, have agreed on the following provisions:

ART. 1—A Customs Union is hereby constituted between Metropolitan France and the Departments of Algeria, of the one part, and Italy, of the other part.

TARIFF UNION

ART. 2—Within one year from the date of entry into force of the present Treaty, a common customs tariff shall be brought into application on the external frontiers of the Union in accordance with uniform legislation and regulations to be subsequently established.

ART. 3—From the date of application of this tariff, no customs duties shall be levied on the importation into any of the territories of the Union of national or nationalized goods originating in another territory of the Union.

As from the same date, no customs duties shall be levied on national

or nationalized goods exported from any of the territories of the Union for importation into another territory of the Union.

ART. 4—Pending the equalization of fiscal charges in the two countries, the goods referred to in the foregoing Article shall be entitled, in the exporting territory, to exemption from, or refund of, internal duties or charges levied on behalf of the State and shall remain liable in the importing territory to duties and charges other than customs duties.

ART. 5—The apportionment of customs receipts between the two countries shall be regulated by a subsequent agreement.

ECONOMIC UNION

ART. 6—As from the date of entry into force of the present Treaty, appropriate measures shall be taken to foster economic relations between France and Italy in such a way as eventually to achieve an Economic Union between the two countries.

Concurrently with the co-ordination of French and Italian legislation as provided under Article 15, paragraph 2, restrictions on the movement of goods and persons from one territory of the Union to another shall be progressively abolished.

Within two years of the date on which it takes up its functions, the body referred to in Article 9 shall make such proposals as it may deem expedient regarding the time-limit within which the Economic Union should be fully achieved, it being the desire of the two High Contracting Parties that this time-limit shall not exceed six years.

ART. 7—As from the date of the entry into force of the present Treaty, and during the period referred to in Article 6, countervailing measures, especially duties established exceptionally and provisionally by either of the two Governments, may be applied to the goods referred to in Article 3.

The object of such measures shall be either to offset the difference in charges resulting from disparities between the two legislations until such time as the latter have been co-ordinated, or to regularize and mitigate the effects of the abolition of quantitative restrictions.

The total incidence of these measures shall be such that the protection resulting therefrom is less than that provided in respect of the same goods originating from third countries.

ART. 8—The two Governments shall have the right to maintain monopolies established by them and at present in force.

Customs Union Council

Art. 9—A joint body to be known as the "Council of the Franco-Italian Customs Union" shall be set up within one month of the date of entry into force of the present Treaty.

Each State shall be represented thereon by a Delegate-General, a deputy Delegate-General and seven members chosen for their personal competence.

A joint administrative Secretariat shall be established, its members being appointed on the joint nomination of the two Delegates-General. The cost of maintaining the Secretariat shall be shared equally by the two Governments.

Art. 10—The Council shall meet at regular intervals. Extraordinary sessions may be held at the request of either of the Delegates-General.

Each of the two Delegates-General shall preside over the Council in turn for a period of one year.

No formal business may be conducted by the Council unless there is a quorum of at least two-thirds of the members of each Delegation.

The Council shall draw up its own rules of procedure and determine the manner in which its proceedings shall be organized and conducted.

Art. 11—The Council shall set up joint technical commissions to examine the various individual problems raised by the implementation of the Union.

Such commissions shall be placed under the authority of the Council, which shall determine their membership and powers.

The members of the commissions may be either representatives of the government department of each of the two States, or experts appointed by the Governments, whether directly or on the nomination of the trade associations or trade unions.

Art. 12—Each Delegate-General shall assign to the Delegation of the other country a representative responsible for liaison between the two Delegations. The said representative shall be appointed by his Government on the nomination of its Delegate-General.

Art. 13—A permanent section of the Council comprising the two deputy Delegates-General, delegates nominated jointly by them and the two representatives referred to in the previous Article, shall meet at intervals to be fixed by the Council, and more frequently if the need arises. The Permanent Section may invite experts to attend its meetings.

Art. 14—The Permanent Section shall examine and co-ordinate

the work of the technical commissions and at each of the Council's sessions, it shall submit reports on the items on the agenda and where necessary, on any other questions to which it deems it advisable to draw the Council's attention.

ART. 15—Whereas the power to take decisions and to execute them is reserved entirely for the respective Governments, the functions of the Council shall be as follows:

1. To prepare the tariff union and ensure its implementation within the time-limit laid down in Article 2.

2. To prepare the economic union and ensure its implementation. To this end, the Council shall submit to both Governments on 1 October of each year, and in the first instance on 1 October 1949, a programme of measures to be taken during the ensuing year, together with such texts as may need to be adopted to ensure its execution, with special reference to the co-ordination of agricultural, industrial, social, fiscal, monetary and customs, legislation, and in general of all legislation having a bearing on economic affairs.

3. To make such proposals as it may deem expedient for the achievement, *inter alia,* of the following ends:

—the fullest and most rational use of manpower with a view to raising the standard of living in both countries,

—the development of the economic activity of each country in accordance with the best interests of the Union,

—the adoption of measures for the development of trade between the two countries and with other countries.

4. To facilitate, promote and direct relations of every kind which the formation of the Customs Union is calculated to foster and develop between the government departments, public services and trade associations and trade unions of both countries.

5. To advise on measures referred to it by either of the two Governments. In particular, the measures envisaged in Article 7, shall in all cases be referred by each of the two Governments to the Council; the Council may make recommendations to the Governments on such measures, especially with regard to their duration, maintenance, amendment or abolition.

ART. 16—Each Delegate-General shall be responsible for liaison between his Government and the Council.

He shall acquaint his Government with the proposals of the Council and keep the Council informed of the action taken on them. He shall

submit to the Council his Government's requests for an advisory opinion and transmit the Council's replies to his Government.

He shall keep himself informed of all questions relating to the Customs Union and shall at all times be consulted upon them by his Government.

Final Clauses

Art. 17—Any dispute with regard to the interpretation of the present Treaty which it has not been possible to settle by direct negotiation shall be decided by arbitration in accordance with a procedure to be laid down in each case by mutual agreement.

Art. 18—The present Treaty, which is drawn up in two copies, one in the French language, the other in the Italian language, shall be ratified in accordance with the constitutional rules in force in each of the two States.

It shall come into force on the date of exchange of ratifications.

In faith whereof the undersigned Plenipotentiaries have signed the present Treaty.

Done at Paris, 26 March 1949

For France:
R. SCHUMAN

For Italy:
C. SFORZA

Italy

39. FUNDAMENTAL STATUTE (1848)
40. CONSTITUTION OF THE ITALIAN REPUBLIC (1947)
41. THE LATERAN AGREEMENTS (1929)
42. LAWS FOR THE ELECTION OF THE CHAMBER OF DEPUTIES (1948)
43. LAWS FOR THE ELECTION OF THE SENATE OF THE REPUBLIC (1948)
44. PARTY DIVISIONS, ELECTIONS TO THE ITALIAN PARLIAMENT (1948)
45. PLATFORM OF THE III CONGRESS OF THE CHRISTIAN DEMOCRATIC PARTY (1949)
46. PLATFORM OF THE VI CONGRESS OF THE ITALIAN COMMUNIST PARTY (1948)
47. PLATFORM OF THE XXI CONGRESS OF THE ITALIAN REPUBLICAN PARTY (1949)

Italy

The documents presented in this section are concerned primarily with post-war governmental institutions. However, the most significant articles of the 1848 *Statuto* are also included for their comparative value, and similarly, the basic clauses of the Lateran agreements of 1929 were considered necessary because of their recognition by Article 7 of the new Constitution. The eighteen transitional articles attached to the new Constitution are omitted since they are not of primary interest to the student. The important provisions of the new electoral laws for the Senate and Chamber of Deputies were selected from these lengthy documents and should prove helpful. Finally, it was felt that the most recent national election statistics and three representative party platforms would be of value to the student of Italian government.

39. Fundamental Statute (March 4, 1848)[1]

ART. 1—The Catholic, Apostolic, and Roman religion is the only religion of the state. Other cults now existing are tolerated, in conformity with the law.

ART. 2—The state is governed by a representative monarchical government. The throne is hereditary according to the Salic Law.

ART. 3—The legislative power shall be exercised collectively by the King and two houses, the Senate and the Chamber of Deputies.

ART. 4—The person of the King is sacred and inviolable.

ART. 5—To the King alone belongs the executive power. He is the supreme head of the state; commands all land and naval forces; declares war; makes treaties of peace, alliance, commerce and other treaties, communicating them to the houses as soon as the interest and security of the state permit, accompanying such notice with opportune explanations. Treaties involving financial obligations or alterations of the territory of the state shall not take effect until after they have received the approval of the houses.

[1] Translated originally by S. M. Lindsay and L. S. Rowe, *The Annals of The American Academy of Political and Social Science,* November, 1894. Used by permission of *The Annals.*

ART. 6—The King appoints to all of the offices of the state, and makes the necessary decrees and regulations for the execution of the laws, without suspending their execution or granting exemptions.

ART. 7—The King alone approves and promulgates the laws.

ART. 8—The King may grant pardons and commute sentences.

ART. 9—The King convokes the two houses every year. He may prorogue their sessions and dissolve the Chamber of Deputies, but in the latter case he shall convoke another within a period of four months.

ART. 10—The initiative in legislation shall belong both to the King and to each of the two houses. All bills, however, levying imposts or contributions or approving the budgets or accounts of the state shall first be presented to the Chamber of Deputies.

* * *

ART. 24—All inhabitants of the Kingdom, whatever their rank or title, are equal before the law.

All shall equally enjoy civil and political rights and shall be eligible to civil and military office, except as otherwise provided by law.

ART. 25—All shall contribute without distinction to the burdens of the state, in proportion to their possessions.

ART. 26—Individual liberty is guaranteed.

No one shall be arrested or brought to trial except in the cases provided by law and in the forms which it prescribes.

ART. 27—The domicile is inviolable. No domiciliary search shall take place except by virtue of law and in the forms which it prescribes.

ART. 28—The press shall be free, but the law may suppress abuses of this freedom.

Nevertheless, bibles, catechisms, liturgical and prayer books shall not be printed without the previous consent of the bishop.

ART. 29—All property, without exception, is inviolable.

Nevertheless, when the public interest, legally ascertained, requires it, a person may be bound to give it up, in whole or in part, upon payment of a just indemnity in accordance with the law.

ART. 30—No tax shall be levied or collected without the consent of the houses and the approval of the King.

ART. 31—The public debt is guaranteed.

All obligations of the state to its creditors are inviolable.

ART. 32—The right to assemble peaceably and without arms is recognized, subject, however, to the laws that may regulate its exercise in the interest of the public welfare.

This provision is not applicable to meetings in public places or places open to the public, which remain entirely subject to police laws.

ART. 33—The Senate shall be composed of members, appointed for life by the King without limit of numbers, who have attained the age of 40 years.

* * *

ART. 39—The elective house shall be composed of Deputies chosen by the electoral colleges in conformity with the law.

ART. 40—No Deputy shall be admitted to the Chamber who is not a subject of the King, 30 years of age, in the enjoyment of civil and political rights, and in the possession of the other qualifications required by law.

ART. 41—Deputies represent the nation as a whole, and not the several provinces in which they were elected.

No binding instructions shall be given to them by the electors.

ART. 42—Deputies are elected for five years; their mandate ceases *ipso facto* at the expiration of this period.

ART. 43—The President, Vice-Presidents, and secretaries of the Chamber of Deputies are chosen by the Chamber from among its own members at the beginning of each session, for the entire session.

ART. 44—If a Deputy ceases for any reason to perform his duties, the college which elected him shall be called upon at once to proceed with a new election.

ART. 45—During the sessions no Deputy shall be arrested except in case of *flagrante delicto,* nor be proceeded against in criminal matters without the previous consent of the Chamber.

ART. 46—No warrant of arrest for debts shall be executed against a Deputy during the sessions of the Chamber, nor within a period of three weeks preceding or following the same.

ART. 47—The Chamber of Deputies has the right to impeach ministers of the King and to bring them to trial before the High Court of Justice.

ART. 48—The sessions of the Senate and of the Chamber of Deputies begin and end at the same time.

Every meeting of one house at a time when the other is not in session is illegal and its acts are entirely void.

ART. 49—Senators and Deputies before being admitted to the exercise of their functions take the oath to be faithful to the King, to observe faithfully the Statute and the laws of the State, and to per-

form their functions with the inseparable welfare of King and country as the sole end in view.

ART. 50—The office of Senator or Deputy shall not carry with it any compensation or indemnity.

ART. 51—Senators and Deputies shall not be called to account for opinions expressed or votes given in the houses.

ART. 52—The sessions of the houses are public.

Nevertheless, upon the written request of 10 members secret sessions may be held.

ART. 53—Sessions and deliberations of the houses are not legal or valid if an absolute majority of their members is not present.

ART. 54—Action on any question shall be taken only by a majority of the votes cast.

* * *

ART. 60—Each house shall be the sole judge of the qualifications and elections of its own members.

ART. 61—The Senate and the Chamber of Deputies shall make their own rules and regulations respecting their methods of procedure in the performance of their respective duties.

* * *

ART. 64—No one shall at the same time be Senator and Deputy.

ART. 65—The King appoints and dismisses his ministers.

ART. 66—The ministers have no vote in either house unless they are members thereof.

They shall have entrance to both houses and shall be heard upon request.

ART. 67—The ministers are responsible.

Laws and governmental acts shall not take effect until they shall have received the signature of a minister.

ART. 68—Justice emanates from the King and shall be administered in his name by the judges whom be appoints.

ART. 69—Judges appointed by the King, except cantonal judges, shall be irremovable after three years of service.

* * *

40. Constitution of the Italian Republic[1]

The Provisional Head of the State,

Having seen the resolution of the Constituent Assembly which, in the meeting of 22 December, 1947, approved the Constitution of the Italian Republic; having seen the XVIIIth final disposition of the Constitution; promulgates the Constitution of the Italian Republic in the following text:

Fundamental Principles

Art. 1—Italy is a democratic Republic founded on work.

Sovereignty belongs to the people who exercise it within the form and the limits of the Constitution.

Art. 2—The Republic recognizes and guarantees the inviolable rights of man, whether as an individual or within that social organization where his personality is developed, and requires the fulfillment of the inalienable duty of political, economic and social solidarity.

Art. 3—All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, or personal and social condition.

It is the task of the Republic to remove obstacles of an economic and social order which, limiting in fact the liberty and equality of citizens, impede the full development of the human being and the effective participation by all the workers in the political, economic, and social organization of the country.

Art. 4—The Republic recognizes the right of all citizens to work and promotes the conditions which render effective this right.

Every citizen has the duty to develop, according to his own possibility and his own choice, an activity or function which may contribute to the material or spiritual progress of the society.

Art. 5—The Republic, one and indivisible, recognizes and promotes local autonomies; it gives effect to the widest administrative decentralization of the services which depend upon the State. It adjusts the principles and the methods of legislation to the requirements of autonomy and decentralization.

Art. 6—The Republic protects linguistic minorities with appropriate laws.

Art. 7—The State and the Catholic Church are, each in its own order, independent and sovereign.

[1] Translated and edited by Vincent A. Scanio and Manfred C. Vernon.

Their relationships are regulated by the Lateran Pacts. Modifications of the pacts, accepted by both parties, do not require the procedure of constitutional revision.

ART. 8—All religious creeds are equally free before the law.

Religious creeds different from the Catholic have the right to organize according to their own statutes insofar as they are not contrary to the Italian juridical system.

Their relationships with the State are regulated by law on the basis of understandings with the appropriate representatives.

ART. 9—The Republic fosters the development of culture and of scientific and technical research.

It protects the landscape and the historic and artistic patrimony of the nation.

ART. 10—The Italian juridical system conforms to the generally recognized rules of international law.

The juridical condition of the foreigner is regulated by law in conformity with international rules and treaties.

The foreigner, to whom has been denied in his country the effective exercise of the democratic liberties guaranteed by the Italian Constitution, has the right of asylum in the territory of the Republic according to conditions established by law.

The extradition of the foreigner for political crimes is not admitted.

ART. 11—Italy repudiates war as an instrument of offensive action against the liberty of other peoples and as the means of resolving international controversies; it agrees, on conditions of parity with other states, to the limitation of sovereignty necessary for a system which may assure peace and justice among nations. It fosters and favors international organizations directed toward this purpose.

ART. 12—The flag of the Republic is the Italian tri-color: green, white and red, with three vertical bands of equal dimensions.

PART I: RIGHTS AND DUTIES OF CITIZENS

Title I—Civil Relationships

ART. 13—Personal liberty is inviolable.

No form of detention, of inspection or personal search is admitted, nor any other kind of restriction of personal liberty except through an act of the judicial authority and only in those cases and in those ways provided by law.

In exceptional cases of necessity and emergency, indicated tacitly

by law, the police authorities may adopt temporary provisions which must be communicated within forty-eight hours to the judicial authority and, if the latter does not validate them within the succeeding forty-eight hours, they are considered to be revoked and are deprived of any effect.

Every physical and moral violence to persons, in whatever manner they may be subjected to restriction of their liberty, is punishable.

The law establishes the maximum limits of preventive imprisonment.

ART. 14—The home is inviolable.

Neither inspection nor searches nor distraints can be made except in cases and according to means established by law, and according to the guarantees prescribed for the protection of personal liberty.

Investigations and inspections for purposes of sanitation and for public safety or for economic and fiscal purposes are regulated by special laws.

ART. 15—Liberty and the secrecy of correspondence and of every form of communication are inviolable.

Their limitation may occur only by an act motivated by the judiciary authority, within the guarantees established by law.

ART. 16—Every citizen may move and travel freely in any part of the national territory, except for the limitations which the law establishes in a general way for sanitary and security reasons. No restriction may be set up because of political reasons.

Every citizen is free to leave the territory of the Republic and to enter therein, except for legal obligations.

ART. 17—Citizens have the right to assemble peacefully and without arms.

For meetings even in places open to the public, a notice is not required.

As for meetings in a public place, notice must be submitted to the authorities who can prohibit them only in the case of proved purposes of security and public safety.

ART. 18—Citizens have the right to form societies freely, without authorization, for purposes which are not prohibited to individuals by penal law.

Secret societies and those which pursue, even indirectly, political ends by means of organizations of military character are prohibited.

ART. 19—Everyone has the right to profess freely his own religious

faith in any form whatsoever, individually or associated; to propagate it and to worship either in private or in public, provided it is not a question of rites which are contrary to good custom.

ART. 20—The ecclesiastical character and the end of the religion or cult of a society or institution cannot be the cause for special legislative limitations nor of special fiscal burdens upon its constitution, legal capacity, or any form of its activity.

ART. 21—Everyone has the right to express freely his own thought, through the spoken and written word, or any other means of dissemination.

The press cannot be subjected to authorization or censure.

It is possible to proceed to a distraint only through an act originated by the judiciary authority in case of crimes, for which the law concerning the press expressly authorizes it, or in the case of the violation of the rules which the law itself prescribes for the indication of those responsible.

In such cases, when there is absolute urgency and the timely intervention of the judicial authority is not possible, distraints of the periodical press may be executed by the official officers of the judiciary police, who must immediately, and never beyond 24 hours, inform the judiciary authority. If the latter does not validate within the succeeding 24 hours, the distraint is understood to be revoked and deprived of every effect.

The law may provide, with rules of a general character, that the means of financing the press be made known.

Publications in the press, entertainments and other manifestations contrary to good custom are prohibited. The law establishes adequate provisions for the prevention and repression of the violations.

ART. 22—No one may be deprived for political reasons of his juridical capacity, of his citizenship, or of his name.

ART. 23—No personal or patrimonal tribute may be imposed except on the basis of law.

ART. 24—All may act in court for the protection of their own rights and legitimate interests.

Defence is an inviolable right in every form and degree of procedure.

Indigent persons are assured through appropriate institutions the means for acting in defending themselves before any court.

The law determines the conditions and the means for the reparation of judiciary errors.

ART. 25—No one may be removed from the judge assigned by law.

No one may be punished except under a law which has become effective before the crime was committed.

No one may be placed under security measures except in cases provided by law.

ART. 26—The extradition of a citizen may be permitted only where there is an express provision by international conventions.

In no case can it be permitted for political crimes.

ART. 27—Penal responsibility is personal.

The accused is not considered guilty until final conviction.

Penalties may not consist of treatment contrary to the sense of humanity and must tend toward the reeducation of the sentenced person.

The death penalty is forbidden except in cases provided by military law.

ART. 28—The officials and agents of the State and of public corporations are directly responsible, according to penal, civil, and administrative laws, for acts committed in violation of rights. In such cases, the civil responsibility extends to the state and to the public corporations.

Title II—Ethical-Social Relationships

ART. 29—The Republic recognizes the rights of the family as the natural society founded on matrimony.

Matrimony is established on the moral and juridical equalities of the spouses within the limits established by law for the guarantee of the unity of the family.

ART. 30—It is the duty and the right of parents to support, instruct, and educate their children, even if born out of wedlock.

In the case of the incapacity of the parents, the law provides for the removal of the responsibilities.

The law assures juridical and social protection, compatible with the rights of the members of a legitimate family, to all children born out of wedlock.

The law lays down the rules and limitations for the determination of paternity.

ART. 31—The Republic facilitates with economic measures and other provisions the formation of the family and the fulfillment of the attending tasks relative thereto, with particular regard to large families.

It protects motherhood, childhood and youth, encouraging the institutions necessary for such a purpose.

ART. 32—The Republic protects health as a fundamental right of the individual and as a fundamental concern of society and guarantees free medical care to indigent persons.

No one may be forced to undergo a prescribed sanitary treatment except through disposition of law. The law cannot under any circumstances violate the limits imposed by respect for the individual.

ART. 33—Art and science are free and there is freedom of the teaching of them.

The Republic dictates the general rules concerning instruction and institutes state schools for all orders and grades.

Corporations and individuals have the right to establish schools and institutions of education without any burden on the state.

The law, in fixing the rights and the obligations of nonstate schools which request parity, must assure full liberty to them and to their students a scholastic teaching equivalent to that of the state schools.

A state examination is prescribed for admission to and conclusion of various orders and grades of schools, and for qualifying for the various professions.

Institutions of advanced learning, universities and academies, have the right to set up autonomous provisions within limits established by the laws of the State.

ART. 34—The school is open to all.

Elementary instruction for at least eight years is obligatory and free.

Those who are capable and meritorious, even though deprived of means, have a right to obtain the highest degree or rank obtainable through study.

The Republic makes this right effective through scholarships, allowances to families, and other aids which are to be granted through competition.

Title III—Economic Relationships

ART. 35—The Republic protects work in all its forms and applications.

It concerns itself with the formation and professional advancement of the workers.

It promotes and favors international agreements and organizations which have the intention of affirming and regulating the rights of labor.

It recognizes freedom of emigration, except for obligations established by law in the general interest, and it protects Italian labor abroad.

ART. 36—The working man has the right to a compensation proportionate to the quantity and quality of his work and in every case sufficient to assure himself and to his family a free and dignified existence.

The maximum duration of the working day is established by law.

The worker has the right to weekly rest and to annual paid vacations, and he may not refuse them.

ART. 37—The working woman has the same rights, on the basis of equality of work, to the same compensation which applies to the working man. The working conditions must permit the fulfillment of her essential family functions and assure to mother and child a special adequate protection.

The law establishes the minimum age for paid work.

The Republic protects the work of minors with special rules, and guarantees to them, on the basis of equality of work, the right to equal wages.

ART. 38—Every citizen incapable of work and deprived of the necessary means for subsistence has the right to support and to welfare assistance.

Workers have the right to be assured and provided for by adequate means for their living requirements in case of misfortune, sickness, disability and old age, or involuntary unemployment.

Those who are incapacitated and minors have the right of education and professional training.

Organs and institutions properly qualified or integrated by the State provide for the measures concerned with in this Article.

Individual welfare is free.

ART. 39—Union organization is free.

The only obligation that can be imposed upon the union is that they register at the local or central public offices according to the rules established by law.

The necessary conditions for registration is that the union charter permit an internal organization based on democratic procedure.

Registered unions have a legal personality. They may, on the basis of units of representation in porportion to the number of their members, draw up collective work contracts with obligatory efficacy for all those who belong to the category to which the contract refers.

ART. 40—The right to strike may be exercised within the limit of the laws which regulate it.

ART. 41—Private economic enterprise is free.

It cannot be carried on in opposition to the social interest or in such a manner as to cause harm to security, liberty, or human dignity.

The law determines the appropriate programs and controls in order that public and private economic activity may be directed and coordinated toward social ends.

ART. 42—Property is public or private. Economic wealth belongs to the state, to corporations, or to individuals.

Private property is recognized and is guaranteed by law, which determines the means of its acquisition and enjoyment, and also its limits, for the purpose of assuring its social function and of making it accessible to all.

Private property may in cases provided for by law, and on the basis of indemnity, be appropriated for purposes of general interest.

The law establishes the rules and the limits of legitimate and testamentary succession and the rights of the state with regard to inheritance.

ART. 43—For purposes of general utility, the law may reserve from the beginning, or it may, by means of expropriations and with indemnity, transfer to the state, to public corporations, or to communities of workers, or of utilizers, designated categories of undertakings which may relate to essential public services or to sources of energy or to situations of monopoly and which may have the character of preeminent general interest.

ART. 44—For the purpose of obtaining a reasonable exploitation of the soil and of establishing just social relations, the law imposes obligations and restrictions on private land property; it fixes limits to its extension according to the region and the agrarian zone; it promotes and requires improvement of the land, the transformation of latifundia and the reconstitution of productive units; it assists the small and medium-scale property holdings.

The law makes provisions in favor of mountainous zones.

ART. 45—The Republic recognizes the social function of cooperation of a mutual aid character and without private speculative purposes. The law provides and favors its extension by the most suitable means and assures, with the most appropriate controls, its character and permanence.

The law makes provisions for the protection and the development of artisanship.

ART. 46—For the purposes of the economic and social advancement of labor and in harmony with the exigencies of production, the Republic recognizes the right of workers to collaborate within the means and the limits established by law, in the management of enterprise.

ART. 47—The Republic encourages and protects saving in all its forms; it disciplines, coordinates and controls the administration of credit.

It favors, through popular savings, the acquisition of home property, and of property which is directly cultivated, and the direct and indirect stock investment in the large productive organizations of the country.

Title IV—Political Relationships

ART. 48—All citizens, men and women, who have reached the age of majority are electors.

The vote is personal and equal, free and secret. Its exercise is a civic duty.

The right to vote cannot be limited except through civil incapacity, or as a result of irrevocable penal sentence, or in the case of moral unworthiness indicated by law.

ART. 49—All citizens have the right to associate themselves freely in a party in order to contribute through democratic methods to the shaping of a national political life.

ART. 50—All citizens may submit petitions to the legislative chambers in order to request legislative provisions or to expose general needs.

ART. 51—All citizens of either sex may hold public offices and elective positions on condition of equality, according to the requirements established by law.

The law may, for the admission to public offices and elective positions, consider as citizens Italians not belonging to the Republic.

Whoever is called to serve in an elected public function, has the right to devote the time necessary for the fulfillment of this function and to still retain his job.

ART. 52—The defense of the fatherland is a sacred duty of citizens.

Military service is obligatory within the limits and rules established by law. Its fulfillment does not prejudice the employment of the citizen nor his exercise of political rights.

The organization of the armed forces is formed according to the democratic spirit of the Republic.

ART. 53—All are required to contribute to public expenditures according to their taxable capacity.

The taxation system is based on the progressive ability to pay.

ART. 54—All citizens have the duty of being faithful to the Republic and to observe its Constitution and its laws.

Citizens to whom public offices have been entrusted have the duty of fulfilling them with discipline and honor, giving their oath in the cases established by law.

PART II: STRUCTURE OF THE REPUBLIC

Title I—Parliament

Section 1: The Chambers

ART. 55—Parliament consists of the Chamber of Deputies and of the Senate of the Republic.

Parliament convenes in joint session of the members of the two chambers only in cases established by the Constitution.

ART. 56—The Chamber of Deputies is elected by universal and direct suffrage, on the basis of one deputy per eighty thousand inhabitants or any fraction above forty thousand.

All electors who on the day of election have attained their twenty-fifth birthday are eligible to run as deputy.

ART. 57—The Senate of the Republic is elected on a regional basis.

For each Region there is to be one senator per two hundred thousand inhabitants, or a fraction over one hundred thousand.

No region may have a number of senators less than six. The Valle d'Aosta has only one senator.

ART. 58—Senators are elected by universal and direct suffrage by electors who have attained the age of twenty-five years.

Electors who have reached their fortieth year are eligible as senators.

ART. 59—Whoever has been a President of the Republic is a senator by right and for life except in the event that he renounces this title.

The President of the Republic may nominate as senators for life five citizens who have made their nation illustrious through lofty merits in the social, scientific, artistic or literary fields.

ART. 60—The Chamber of Deputies is elected for five years, the Senate of the Republic for six.

The term of each chamber should not be extended except by law and only in case of war.

ART. 61—The election of the new Chambers takes place within seventy days from the end of the preceding ones. The first meeting takes place not later than the twentieth day after the election.

Until the new Chambers have met, the powers of the preceding ones are extended.

ART. 62—The Chambers meet on the first day, which is not a holiday, in February and October.

Each Chamber may be called in special session, upon the initiative of its President, or of the President of the Republic, or of one-third of its members.

When one chamber meets in special session, the other meets also.

ART. 63—Each chamber elects from among its members of President and the Presidential office.

When Parliament meets in joint session, the President and the Presidential office are those of the Chamber of Deputies.

ART. 64—Each chamber adopts its own regulations by absolute majority of its members.

Meetings are public; however, each of the two Chambers and Parliament may decide to meet secretly.

The decisions of each Chamber and of Parliament are not valid unless there is a majority of their members present, and unless they are adopted by a majority of those present, except when the Constitution prescribes a special majority.

The members of the Government, even if they are not members of the chambers, have the right and if requested, the duty to attend the meetings. They have the right to be heard each time that they request it.

ART. 65—The law determines the cases of ineligibility and of incompatibility insofar as the office of deputy or of senator is concerned.

No one may belong to both houses at the same time.

ART. 66—Each Chamber is to judge the credentials of admission of its members and the causes which may lead to ineligibility and incompatibility.

ART. 67—Each member of Parliament represents the nation and exercises his functions without restriction of obligation mandate.

ART. 68—Members of Parliament cannot be prosecuted for opinions expressed and votes cast in the exercise of their functions.

Without authorization of the Chamber to which he belongs, no member of Parliament can be subjected to a penal trial, nor can he be arrested or otherwise deprived of his personal liberties, or subjected to personal search or search of his home, unless he should be caught in the act of committing a crime for which a warrant or order of arrest is obligatory.

The same authorization is required in order to arrest and detain a member of Parliament in the execution of even an irrevocable sentence.

ART. 69—Members of Parliament receive a compensation established by law.

Section 2: Formation of Laws

ART. 70—The legislative function is exercised collectively by the two chambers.

ART. 71—The initiative of legislation belongs to the Government, to each member of the Chambers, and to organs and bodies to whom such initiative has been conferred by constitutional law.

The people may exercise the initiative in legislation by means of a proposal in the form of a project drawn up in articles, coming from at least fifty thousand electors.

ART. 72—Every bill presented to a Chamber is, according to the rules of its organization, examined by a committee and then by the Chamber itself which approves it article by article and finally by a final vote.

Regulations establish abbreviated procedures for bills for which there is a declared urgency.

Regulations may also establish in what cases and forms the examination and approval of bills are to be deferred to committees, even to permanent ones, composed in such a way as to reflect the proportions of the parliamentary groups. Even in such cases, up to the moment of its definitive approval the proposed law may be placed before the Chamber if the Government, or a tenth of the members of one Chamber, or a fifth of the committee request that it be discussed and voted upon by the Chamber itself, or that it be submitted to its final approval only by roll call. Regulations determine the forms of publicity of the work done by the committees.

The normal procedure for examination and direct approval by the Chamber is always adopted for bills concerning Constitutional and electoral matters and for those of legislative delegation, authorization

for the ratification of international treaties, and for the approval of expenditures.

ART. 73—Laws are promulgated by the President of the Republic within one month of their approval.

If the Chambers, with an absolute majority of their members, declare its urgency, a law may be promulgated within a limit of time established by it.

Laws are published immediately after promulgation and become operative the fifteenth day after publication, except in the case that the laws themselves establish another period of time.

ART. 74—The President of the Republic, before the promulgation of a law, may through a message directed to the Chambers request a new deliberation of the law.

If the Chambers again approve of the law, it must be promulgated.

ART. 75—A popular referendum is established in order to decide the total or partial abrogation of a law, or of an act having the force of law, when 500,000 electors request it or five regional Councils.

A referendum is not permitted for laws concerning taxes or the budget, or matters of amnesty and pardons, or for the authorization to ratify international treaties.

All citizens who are eligible to elect the Chamber of Deputies have the right to participate in a referendum.

The proposal submitted to a referendum is approved if the majority of those having the right have participated in the voting and if it has received a majority of the votes validly cast.

The law determines the form that the referendum shall take.

ART. 76—The exercise of the legislative function cannot be delegated to the Government unless directive principles and criteria have been determined and only for a limited time and for definite purposes.

ART. 77—The Government cannot, without proper delegation from the Chambers, issue decrees which have the force of ordinary law.

When in extraordinary cases of necessity and urgency, the Government adopts, on its own responsibility, provisional measures with the force of law, it must that same day present them to the Chambers for conversion into law, and if the Chambers are in recess they must be called together and meet within five days.

The decrees lose their force from the date of issue unless they are converted into law within 60 days from their publication. The Chambers may, nevertheless, regulate by law juridical relations which had their origin in decrees not converted into law.

ART. 78—The Chambers decide on the state of war and confer on the Government the necessary powers.

ART. 79—Amnesties and pardon are granted by the President of the Republic on the basis of a law of delegation by the Chambers.

They cannot be applied to crimes committed after the proposal of delegation.

ART. 80—The Chambers authorize by law the ratification of international treaties which are of a political nature, or which provide for arbitration or judicial regulations, or which concern changes of the territory or financial matters or modifications of law.

ART. 81—The Chambers approve each year the budget and the final report presented by the Government.

The provisional exercise of the budget cannot be granted except through law and for periods not to exceed, in all, four months.

Once the budget is approved, no new taxes or new expenditures may be established.

Every additional law which would create new or greater expense must give indication of the manner in which it is to be financed.

ART. 82—Each Chamber may start inquiries regarding matters of public interest.

For such a purpose the Chamber appoints from its own members a commission composed in such a manner as to reflect proportionately the various groups. The investigating commission proceeds to its investigation and examination with the same powers and under the same limitations as apply to the judicial authority.

Title II—The President of the Republic

ART. 83—The President of the Republic is elected by Parliament in joint session of its members.

In the election three delegates participate for each Region, elected by the Regional Council in such a manner that minority representation may be assured. The Valle d'Aosta has only one delegate.

The election of the President of the Republic takes place by secret ballot by a two-thirds majority of the Assembly. After the third ballot an absolute majority is sufficient for election.

ART. 84—Any citizen having reached fifty years of age and enjoying civil and political rights may be elected President of the Republic.

The office of President of the Republic is incompatible with any other office.

The salary and allowance of the President are determined by law.

ART. 85—The President of the Republic is elected for seven years.

Thirty days before the end of the term, the President of the Chamber of Deputies calls the Parliament in joint session and the regional delegates to elect the new President of the Republic.

If the Chambers are dissolved or if less than three months remain before their discontinuance, the election takes place within fifteen days after the meeting of the new chambers. In the meantime the powers of the President in office are continued.

ART. 86—The functions of the President of the Republic, whenever he is not able to fulfill them, are exercised by the President of the Senate.

In case of permanent inability, or death or resignation of the President of the Republic, the President of the Chamber of Deputies sets the election for the new President of the Republic within fifteen days, excepting the longer period provided for if the Chambers are not in session, or if less than three months remain before their discontinuance.

ART. 87—The President of the Republic is the head of the State and represents national unity.

He can send messages to the Chambers.

He calls the election of the new Chambers and fixes the date of their first meeting.

He authorizes the presentation to the Chambers of bills proposed by the Government.

He promulgates the laws, and issues decrees having the force of law and regulations.

He calls for a popular referendum in cases provided in the Constitution.

He nominates, in cases indicated by law, the State functionaries.

He accredits and receives diplomatic representatives, ratifies international treaties on the previous authorization, when necessary, of the Chambers.

He is in command of the Armed Forces, presides over the Supreme Council of Defence established by law, and declares the state of war determined upon by the Chambers.

He presides over the Superior Council of the Magistrature.

He may grant pardons and commute sentences.

He confers the honors of the Republic.

ART. 88—The President of the Republic may dissolve the Chambers, or one of them, after having conferred with their Presidents.

He cannot exercise this power during the last six months of his term.

ART. 89—No act of the President of the Republic is valid unless countersigned by the proposing ministers who assume full responsibility for it.

Acts which have legislative force and others indicated by law are countersigned also by the President of the Council of Ministers.

ART. 90—The President of the Republic is not responsible for acts committed in the exercise of his functions, except for high treason and for violation of the Constitution.

In such cases he is placed in a state of accusation by the Parliament in joint session by absolute majority of its members.

ART. 91—The President of the Republic, before assuming his functions, swears before Parliament in joint session allegiance to the Republic and observance of the Constitution.

Title III—The Government

Section 1: The Council of Ministers

ART. 92—The Government of the Republic is composed of the President of the Council and of the Ministers, who together constitute the Council of Ministers. The President of the Republic appoints the President of the Council of Ministers and, upon his proposal, the ministers.

ART. 93—The President of the Council of Ministers and the ministers, before assuming their functions, take the oath before the President of the Republic.

ART. 94—The Government must have the confidence of the two Chambers.

Each Chamber gives or revokes confidence by means of a motion motivated and voted upon by roll call.

Within ten days after its formation the Government presents itself to the Chambers in order to obtain confidence.

The contrary vote of one or both Chambers on a proposal of the Government does not mean that it must resign.

The motion of lack of confidence must be signed by at least a tenth of the members of the Chambers and cannot be submitted to discussion until three days after its presentation.

ART. 95—The President of the Council of Ministers directs the gen-

eral policy of the Government and is responsible for it. He maintains the unity of political and administrative directions by promoting and coordinating the activities of the Ministers.

The Minsiters are responsible collectively for the actions of the Council of Ministers and individually for the acts of their departments.

The law provides for the organization of the Presidency of the Council and determines the number, the functions and organization of the Ministries.

ART. 96—The President of the Council of Ministers and the Ministers may have charges brought against them by Parliament in joint session for offenses committed in the exercise of their functions.

Section 2: Public Administration

ART. 97—Public offices are organized according to provisions of the law in such a way that proper procedure and impartiality of administration be assured.

The spheres of authority, powers, and responsibility of functionaries are determined in the organization of offices.

Positions in public administration are obtained by competitive examinations except in cases established by law.

ART. 98—Public servants are in the exclusive service of the Nation.

If they are members of Parliament, they cannot obtain promotions except through seniority.

Through law limitations may be established to the right of enrolling in political parties for magistrates, career military personnel in active service, functionaries and agents of the police, and the diplomatic and consular representatives abroad.

Section 3: Auxiliary organs

ART. 99—The National Council of Economy and Labor is composed, in ways established by law, of experts and representatives of the productive category, in such a way that their numerical and qualitative importance be taken into account.

It is an advisory organ of the Chambers and of the Government for the matters and according to the functions attributed to it by law.

It has legislative initiative and can contribute to the elaboration of economic and social legislation according to the principles and within the limits established by law.

ART. 100—The Council of State is an organ for juridical-adminis-

trative consultation and one for the protection of justice in the administration.

The Court of Accounts exercises preventive control on the legality of the acts of the Government, and also reviews the management of the budget of the State. It participates, in cases and in the form established by law, in control over the financial management of bodies to which the State ordinarily contributes. It reports directly to the Chambers in regard to the results of its findings.

The law assures the independence of these two institutions and of their members before the Government.

Title IV—The Magistrature

Section 1: Judicial Organization

ART. 101—Justice is administered in the name of the people. The judges are subject only to the law.

ART. 102—The judicial function is exercised by regular magistrates, set up and appointed and regulated by the rules on the judiciary system.

Extraordinary or special judges cannot be appointed. Only specialized sections may be attached to ordinary judicial bodies for specific matters, with the participation also of properly qualified citizens who have nothing to do with the magistrature.

The law regulates the cases and the forms of direct participation of the people in the administration of justice.

ART. 103—The Council of State and the other organs of administrative justice have jurisdiction for the protection of legitimate interests in cases of dispute before the public administration, and also of subjective rights in particular matters indicated by law.

The Court of Accounts has jurisdiction in matters of public accounting and in other matters specified by law.

Military tribunals in time of war have the jurisdiction established by law. In time of peace, they have jurisdiction only over military offenses committed by members of the armed forces.

ART. 104—The Magistrature constitutes an organ which is autonomous and independent of any other power.

The Superior Council of the Magistrature is presided over by the President of the Republic.

The first President and the Prosecutor-General of the Court of Cassation are ex-officio members.

Two-thirds of the other members are elected by all the ordinary magistrates from members of the various categories, and one-third by Parliament in joint session from the university professors of juridical science and from lawyers who have practiced for fifteen years.

The Council elects a Vice-President from among the members designated by Parliament.

The elective members of the Council remain in office for four years and are not immediately reeligible.

As long as they are in office, they cannot be registered in professional lists nor be members of Parliament or of a Regional Council.

ART. 105—According to the rules of the judiciary system, it is the duty of the Superior Council of the Magistrature to concern itself with appointments, assignments, transfers, promotions, and disciplinary measures with respect to the magistrates.

ART. 106—Appointments of magistrates take place on the basis of competition.

The law concerning the judiciary system may permit the appointment and also the election of honorary magistrates for all functions attributed to individual judges.

Upon the recommendation of the Superior Council of the Magistrature the university professors of juridical sciences and lawyers who have practiced law for fifteen years and whose names are listed in the special registers for superior jurisdictions may for exceptional merit be appointed to the Office of Councilors of the Court of Cassation.

ART. 107—Magistrates are irremovable. They cannot be dismissed or suspended from service nor assigned to other offices or functions except following a decision of the Superior Council of the Magistrature adopted either for cause and with the guarantee of defense established by the judiciary system or with their own consent.

The Minister of Justice has the power to initiate disciplinary action.

Magistrates are distinguished from each other only through diversity of function.

The Public Prosecutor enjoys the established guarantees assured him by the rules concerning the judiciary system.

ART. 108—The rules concerning the judiciary system and every magistrature are established by law.

The law guarantees the independence of the judges of special jurisdiction, of the Public Prosecutor concerned therewith, and of outsiders who participate in the administration of justice.

ART. 109—The judiciary authority has at its direct disposition the judiciary police.

ART. 110—Except for the jurisdiction of the Superior Council of the Magistrature, it is the responsibility of the Minister of Justice to concern himself with the organization and the functioning of the services concerned with justice.

Section 2: Rules on Jurisdiction

ART. 111—There must be motives for all judicial measures.

Against sentences and measures affecting personal liberty pronounced by ordinary or special jurisdictional organs, appeal in Cassation for violation of the law is always permissible. Departure from this rule is permissible only in the case of sentences by military tribunals in time of war.

Against decisions of the Council of State and of the Court of Accounts appeal in Cassation is allowed only for reasons of a jurisdictional nature.

ART. 112—The Public Prosecutor is under obligation to carry out penal action.

ART. 113—Against the acts of the public administration the jurisdictional protection of rights and legitimate interests before the organs of ordinary or administrative jurisdiction is always permitted.

Such jurisdictional protection cannot be excluded or limited to specific means of attack (impugnation) or for special categories of acts.

The law determines which organs of jurisdiction may annul the acts of the public administration in cases and with the effects provided for by the law itself.

Title V—Regions, Provinces, Communes

ART. 114—The Republic is divided into Regions, Provinces, and Communes.

ART. 115—The Regions are constituted in autonomous bodies with their own powers and functions according to the principles defined in the Constitution.

ART. 116—To Sicily, Sardinia, Trentino-Alto Adige, Friuli-Venezia Giulia are granted special forms and conditions of automony according to special statutes adopted by constitutional law.

ART. 117—A region issues legislative rules for the following matters,

within the limits of the fundamental principles established by the laws of the State, as long as the rules are not in contrast with the national interests and with that of other Regions:

Organizations of offices and administrative bodies dependent on the Regions;
Communal administrative districts;
Local police, urban and rural;
Fairs and markets;
Public welfare and health and hospital assistance;
Artisan and professional instruction, and school assistance;
Museums and libraries of local bodies;
Cities;
Tourist trade and hotel industry;
Street cars and automobile lines of regional interests;
Roads, aqueducts, and public works of regional interests;
Lake navigation and ports;
Mineral and thermal waters;
Quarries and peat bogs;
Hunting;
Fishing in inland waters;
Agriculture and forests;
Artisanship;
And other matters indicated by constitutional laws.

The laws of the Republic may delegate to the Regions the power of issuing rules for their implementation.

ART. 118—The administrative functions, for the matters listed in the preceding article, are the concern of the Regions, with the exception of those matters of exclusively local interest, which may be assigned by the laws of the Republic to the Provinces, to the Communes, or to other local bodies.

The State may by law delegate to the Region the exercise of other administrative functions. The Region normally exercises its administrative functions by delegating them to the Provinces, to the Communes, or to other local bodies, or by making use of their offices.

ART. 119—Regions have financial automony within the form and the limits established by the laws of the Republic, which coordinate it with the finances of the State, of the Provinces, and of the Communes.

To the regions are assigned taxes of their own and a quota of State taxes in relation to the needs of the Regions for the necessary expenses to carry out their normal functions.

In order to provide for specific purposes and particularly in order to improve Southern Italy and the Islands, the State may grant by law special contributions to single Regions.

The region has a domain and patrimony of its own, according to the norms established by the laws of the Republic.

ART. 120—The Region cannot institute duties on imports, exports or transit between regions.

It cannot adopt provisions which obstruct in any way the free circulation of persons and goods among Regions.

It cannot limit the right of citizens to exercise in any part of the national territory their profession, trade, or work.

ART. 121—The organs of the Region are: the Regional Council, the Giunta, and its President.

The Regional Council exercises the legislative and regulatory powers granted to the Region and the other functions conferred upon it by the Constitution and by the laws. It may propose laws to the Chambers.

The Regional Giunta is the executive organ of the Region.

The President of the Giunta represents the region; he promulgates the regional laws and regulations; he directs the administrative function delegated by the State to the Region, following the instructions of the central Government.

ART. 122—The method for election, the number and the cases of ineligibility and incompatibility of the Regional Councilors are established by law of the Republic.

No one can belong at the same time to a Regional Council and to one of the Houses of Parliament or to another Regional Council.

The Council elects from among its own group a president and an office of presidency for its own work.

The Regional Councilors cannot be called upon to answer for the opinions expressed by them and for the votes cast in the exercise of their functions.

The President and the members of the Giunta are elected by the Regional Council from its members.

ART. 123—Every Region has a statute which, in harmony with the Constitution and with the laws of the Republic, establishes the rules relative to the internal organization of the Region. The statute regulates the exercise of the right of initiative and of referendum concerning the laws and administrative provisions of the Region and the publication of the regional laws and regulations.

The statute is decided upon by the Regional Council by an absolute majority of its members and is approved by law of the Republic.

ART. 124—A Commissioner of the Government, residing in the capital of the Region, supervises the administrative functions exercised by the State and coordinates them with those exercised by the Region.

ART. 125—The determination of legitimacy of administrative acts of the Region is exercised, in a decentralized form, by an organ of the State within the means and limits established by the laws of the Republic. The law can in specific cases permit control over the merits (of such acts) with the sole effect of promoting, upon request, a reexamination of the decision by the Regional Council.

In the Region are set up organs of administrative justice of first instance, according to the regulations established by the law of the Republic. Sections may be set up with a seat different from the capital of the Region.

ART. 126—The Regional Council may be dissolved when it performs acts contrary to the Constitution or grave violations of the law, or if it does not comply with the request of the Government to replace the Giunta or the President who have committed such acts or violations.

It may be dissolved when, through resignations or because of the impossibility of forming a majority, it is not in a position to function.

It may also be dissolved for reasons of public security.

Dissolution is accomplished by a decree initiated by the President of the Republic after conferring with a Commission of deputies and senators, appointed for regional questions, within the means established by law of the Republic.

Along with the decree of dissolution is appointed a Commission of three citizens, eligible to the regional council, which fixes the elections within three months and provides for the ordinary administration within the sphere of the Giunta and for acts which cannot be postponed, each act to be submitted for ratification to the new council.

ART. 127—Every law approved by the Regional Council is communicated to the Commissioner who except in case of opposition of the Government, must approve within a period of thirty days from this communication.

The law is promulgated within ten days of the approval and becomes effective no sooner than fifteen days from its publication. If a law is declared to be urgent by the Regional Council and the Government of

the Republic approves it, its promulgation and its becoming effective are not subjected to the time period indicated.

Whenever the Government of the Republic thinks that a law approved by the Regional Council goes beyond the authority of the region or is in opposition to national interests or to those of other regions, it sends it back to the Regional Council within the period of time fixed for the finding.

In the event that the Regional Council approves it again with an absolute majority of its members, the Government of the Republic can, within fifteen days after the communication, raise the question of legality before the Constitutional Court, or the question of merit, because of conflict of interest, before the Chambers. In case of doubt, the Court decides to whom the competence belongs.

ART. 128—The Provinces and Communes are autonomous bodies within the sphere of the principles established by the general laws of the Republic, which determine their functions.

ART. 129—The Provinces and Communes are also areas of authority of state and regional decentralization.

Provincial areas may be subdivided into districts with exclusively administrative functions for a further decentralization.

ART. 130—An organ of the Regions, constituted within the manner established by the law of the Republic, exercises also in a decentralized form control over the legality of the acts of the Provinces, the Communes and of other local bodies.

In cases determined by law, the determination of merit may be exercised in the form of a request, stating reasons, to the deliberating body to re-examine the decision.

ART. 131—The following regions are constituted:

Piemonte;
Valle d'Aosta;
Lombardia;
Trentino-Alto Adige;
Veneto;
Friuli-Venezia Giulia;
Liguria;
Emilia-Romagna;
Toscana;
Umbria;
Marche;

Lazio;
Abruzzi e Molise;
Campania;
Puglia;
Basilicata;
Calabria;
Sicily;
Sardinia.

ART. 132—Through constitutional law, after having conferred with the Regional Council, provisions can be made for the fusion of existing Regions or for the creation of new Regions with a minimum of one million inhabitants, whenever communal councils, representing at least one-third of the interested population, make such a request and if the proposal is approved through *referendum* by the majority of the populations themselves.

It is possible through a *referendum* and law of the Republic, after having conferred with the Regional Council, to permit Provinces and Communes, if they so request, to be detached from one Region and to be attached to another.

ART. 133—The changes of the provincial boundaries and the institution of new Provinces within the sphere of a Region are established by law of the Republic upon the initiative of the Communes after having conferred with the Region itself.

The Region, after having conferred with the interested populations, can with its laws institute within its own territory new Communes and modify their area and change their names.

Title VI—Constitutional Guarantees

Section 1: The Constitutional Court

ART. 134—The Constitutional Court judges:

Controversies concerning the Constitutional legality of the laws and of the acts having the force of law, of the States and of the Regions;

Conflicts of competence between the powers of the State, and those between the State and the Regions, and between the regions;

Accusations brought against the President of the Republic and the Ministers on the basis of the Constitution.

ART. 135—The Constitutional Court is composed of fifteen judges, one-third appointed by the President of the Republic, one-third by the

Parliament in joint session, and one-third by the Supreme ordinary and administrative magistratures.

The judges of the Constitutional Court are chosen from among the magistrates, even those in retirement, of the superior ordinary and administrative jurisdiction, from the university professors of law, and from lawyers who have had 20 years of practice.

The Court elects the President from among its members.

The judges are appointed for twelve years and are renewed partially according to the rule established by law and are not immediately re-eligible.

The Office of Judge of the Court is incompatible with that of a member of Parliament, or of a Regional Council, or with the legal profession or with any profession and office indicated by law.

In trials in which the President of the Republic or Ministers are concerned, in addition to the ordinary judges of the Court there shall take part also sixteen members elected at the beginning of every legislature by Parliament, in joint session, from citizens having the requisite eligibility to be a senator.

ART. 136—When the Court declares the Constitutional illegality of a law or of an act having the force of law, the law ceases to have effect from the day following the publication of the decision.

The decision of the Court is published and communicated to the Chambers and to the interested Regional Councils in order that they may, when they consider it necessary, issue provisions within the constitutional form.

ART. 137—A constitutional law establishes the conditions, the form, the time limits for considering the constitutional legality and the guarantees of the independence of judges of the Court.

Through ordinary law, other necessary rules for the formation and the functioning of the Court are established.

Against the decisions of the Constitutional Court no appeal is admitted.

Section 2: Revision of the Constitution—Constitutional Laws

ART. 138—The laws for the revision of the Constitution and the other constitutional laws are adopted by each Chamber with two successive deliberations at intervals of not less than three months, and are approved by an absolute majority of the members of each Chamber in the second voting.

The laws themselves are submitted to a popular referendum when

within three months of their publication one-fifth of the members of a Chamber or 500,000 voters or five Regional Councils request it. The law which is subject to a referendum is not promulgated unless it is approved by the majority of the valid votes.

There is not recourse to a referendum if the law has been approved in the second voting by each of the Chambers on the basis of two-thirds majority of its members.

ART. 139—The Republican form of government may not be an object of constitutional revision. . . .

Rome, December 27, 1947

ENRICO DE NICOLA

The President of the Constituent Assembly

UMBERTO TERRACINI

The President of the Council of Ministers

ALCIDE DE GASPERI

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41. The Lateran Agreements[1]

I

TREATY BETWEEN THE HOLY SEE AND ITALY ESTABLISHING THE VATICAN STATE, WITH FINANCIAL CONVENTION.—ROME, FEBRUARY 11, 1929. (RATIFICATION EXCHANGED AT THE VATICAN, JUNE 7, 1929)

In the name of the Most Holy Trinity:

Whereas the Holy See and Italy have recognized the desirability of eliminating every reason for discord which may exist between them and of arriving at a final settlement of their reciprocal relations which should be consistent with justice and the dignity of the two high contracting parties, and which, by permanently assuring to the Holy See a position *de facto* and *de jure* which will guarantee to it absolute independence for the fulfillment of its exalted mission in the world, and enable the Holy See to consider as finally and irrevocably settled the Roman question, which arose in 1870 by the

[1] British and Foreign State Papers, CXXX, Part I, pp. 791–814.

annexation of Rome to the Kingdom of Italy under the dynasty of the House of Savoy;

And whereas it is a duty, for the purpose of assuring the absolute and visible independence of the Holy See, to guarantee to it an indisputable sovereignty in the international domain, it has been recognized as necessary to constitute, under special conditions, the Vatican City and to recognize the full ownership, and the exclusive and absolute dominion and sovereign jurisdiction of the Holy See over the same;

His Holiness the Supreme Pontiff Pius XI and His Majesty Victor Emmanuel III, King of Italy have decided to conclude a treaty. . . .

ART. 1—Italy recognizes and reaffirms the principle embodied in article 1 of the statute of the Kingdom dated the 4th March, 1848, according to which the Roman Catholic Apostolic religion is the sole religion of the state.

ART. 2—Italy recognizes the sovereignty of the Holy See in the international domain as an attribute inherent in its nature and in conformity with its traditions and the requirements of its mission in the world.

ART. 3—Italy recognizes the full ownership and the exclusive and absolute dominion and sovereign jurisdiction of the Holy See over the Vatican, as at present constituted, together with all its appurtenances and endowments; by this means is created the Vatican City for the special purposes and under the conditions prescribed by the present treaty. The boundaries of the said City are indicated in the plan forming annex I to the present treaty, of which it forms an integral part. . . .

ART. 4—The sovereignty and exclusive jurisdiction over the Vatican City, which Italy recognizes as appertaining to the Holy See, precludes any intervention therein on the part of the Italian Government and any authority other than that of the Holy See.

* * *

ART. 6—Italy shall ensure, by the conclusion of the necessary agreements with the interested bodies, an adequate supply of water to the Vatican City in ownership. . . .

* * *

ART. 8—Considering the person of the Supreme Pontiff as sacred and inviolable, Italy declares any attempt against the same, and any

incitement to commit such an attempt, to be punishable with the same penalties as are prescribed in the case of an attempt, and incitement to commit such, against the person of the King. . . .

ART. 9—In accordance with the rules of international law all persons having permanent residence within the Vatican City shall be subject to the sovereignty of the Holy See.

* * *

ART. 11—The central bodies of the Catholic Church shall be exempt from any interference on the part of the Italian State (subject to the provisions of the Italian laws respecting the acquisitions of judicial persons) and from conversion as regards immovable property.

ART. 12—Italy recognizes the right of the Holy See to active and passive legation in accordance with the general rules of international law.

* * *

ART. 23—The rules of international law shall apply as regards the execution in Italy of judgments of the courts of the Vatican City.

On the other hand, judgments and orders of ecclesiastical authorities in spiritual or disciplinary matters regarding ecclesiastical or religious persons which are officially communicated to the civil authorities shall without further formality have full juridical effect in Italy for all civil purposes.

ART. 24—As regards the sovereignty appertaining to it in the international sphere, the Holy See declares that it desires to remain and will remain aloof from rivalries of a temporal nature between other states and from international congresses convened to deal with them, unless the contending parties make a joint appeal to its mission of peace. In any event the Holy See reserves the right to exercise its moral spiritual influence.

Consequently, the Vatican City shall always and in all circumstances be regarded as neutral and inviolable territory. . . .

II

ANNEX IV—FINANCIAL CONVENTION

Whereas in pursuance of the provisions of the treaty by which the Roman question has been finally settled the Holy See and Italy

have considered it necessary to regulate their financial relations by a separate convention which shall, however, form an integral part of the treaty. . . .

The high contracting parties, represented by the same plenipotentiaries, have agreed as follows:—

ART. 1—Italy undertakes to pay to the Holy See, upon the exchange of ratifications of the treaty, the sum of 750,000,000 Italian lire, and at the same time to hand over to the Holy See Italian 5 per cent. Consolidated Bearer Stock, with coupon payable on the 30th June next, to the nominal value of 1,000,000,000 Italian lire.

ART. 2—The Holy See declares that it accepts the foregoing in final settlement of its financial relations with Italy arising out of the events of 1870. . . .

III

CONCORDAT BETWEEN THE HOLY SEE AND ITALY

In the name of the Most Holy Trinity:

Whereas from the commencement of the negotiations between the Holy See and Italy for the settlement of the Roman question the Holy See itself proposed that the treaty relating to that question should be accompanied, as a necessary complement, by a concordat for the regulation of the conditions governing religion and the church in Italy. . . .

His Holiness Pius XI, the Supreme Pontiff, and His Majesty Victor Emmanuel III, King of Italy, have resolved to conclude a concordat. . . .

ART. 1—In accordance with article 1 of the treaty, Italy shall assure to the Catholic Church the free exercise of spiritual power and the free and public exercise of worship, as well as of its jurisdiction in ecclesiastical matters, in accordance with the provisions of the present concordat. Where it is necessary Italy shall afford to ecclesiastics the protection of her authorities for the acts of their spiritual ministry.

Having regard to the sacred character of the Eternal City, the Episcopal See of the Supreme Pontiff, the centre of the Catholic world and the goal of pilgrimages, the Italian Government shall adopt measures to prevent in Rome all that may conflict with that character.

ART. 2—The Holy See shall communicate and correspond freely with the bishops, the clergy and the whole Catholic world without any interference on the part of the Italian Government.

Similarly, so far as concerns their pastural ministry, the bishops shall communicate and correspond freely with their clergy and with all the faithful.

* * *

ART. 4—Ecclesiastical members of religious orders shall be exempt from service on juries.

* * *

ART. 19—The selection of archbishops and bishops shall appertain to the Holy See.

* * *

ART. 29—The Italian State will review its legislation as concerns ecclesiastical matters with a view to reforming the same and setting it in order, so as to bring it into harmony with the principles underlying the treaty concluded with the Holy See and with the present concordat.

The following is henceforward agreed between the two high contracting parties:—

(a) The juridical personality of the ecclesiastical bodies . . . . shall be recognized;

(b) The juridical personality of religious associations . . . . shall be recognized;

* * *

(f) Acts hitherto accomplished by ecclesiastical or religious bodies in contravention of the civil laws may be recognized and regularized by the Italian State;

* * *

(h) The privileges in respect of taxation already laid down in favor of ecclesiastical establishments by Italian laws hitherto in force shall remain in operation.

* * *

ART. 36—Instruction in Christian doctrine according to the form accepted by Catholic tradition is regarded by Italy as the foundation and crown of public instruction. She therefore agrees that the religious teaching now given in the public elementary schools shall be further developed in the secondary schools according to a programme to be settled between the Holy See and the State.

This instruction shall be given by means of teachers and professors, priests or members of religious orders, approved by the ecclesiastical authorities, with assistance from lay teachers and professors, who shall

for that purpose be furnished with a certificate of qualification issued by the ordinary of the diocese.

The revocation of this certificate by the ordinary shall forthwith deprive the teacher of the capacity to teach.

Only text-books approved by the ecclesiastical authorities shall be used for such religious teaching in the public schools. . . .

* * *

Rome, February 11, 1929

PIETRO CARDINAL GASPARRI
BENITO MUSSOLINI

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42. Text of the Laws for the Election of the Chamber of Deputies

(February 5, 1948)[1]

TITLE I: GENERAL PROVISIONS

ART. 1—The Chamber of Deputies is elected by universal suffrage with direct, free, and secret vote, cast for competing lists of candidates.

Representation is proportional.

ART. 2—The number of deputies is in the ratio of one to each 80,000 inhabitants or fraction greater than 40,000, calculated in each college on the basis of the resident population.

The colleges are constituted according to the voting districts established in Table A, attached to the present law.

The sum of the local voting districts forms the national single college, for the sole purpose of utilizing the residual votes.

The election in the "Val d'Aosta" college is regulated by the provisions of Section VI of the present law.

ART. 3—The exercise of the vote is an obligation which no citizen can evade without failing in his definite duty toward the country.

Every voter has one list vote.

He has the right to indicate preferences, so as to determine the order of the candidates appearing on the list voted, within the limits and according to the manner established by the present law.

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[1] Translation by the American Embassy, Rome, Italy, released April 7, 1948.

TITLE II: ELECTORATE

* * *

Part II—Eligibility

ART. 5—Voters who have attained the age of 25 years by election day are eligible to become deputies.

ART. 6—The following are not eligible:

(a) regional deputies and regional councillors;
(b) the presidents of the provincial deputations;
(c) the mayors of provincial capitals;
(d) the Chief and Assistant Chief of police and the inspectors general of public security;
(e) Ministers' chiefs of Cabinet;
(f) the High Commissioner for Sardinia, the Commissioner of the State in the Sicilian region, and the prefects or persons acting in their place;
(g) magistrates, except those pending new assignment at the time of acceptance of candidacy;
(h) vice-prefects and public security officials;
(i) generals, admirals, and senior officers of the Armed Forces of the State, in the local voting district of their territorial command.

The cases of ineligibility established in this article do not apply if the functions exercised have ceased at least 90 days before the date of the decree of convocation of the electoral meetings.

* * *

ART. 8—The following are also ineligible:

(1) Those who on their own account or as legal representatives of private companies or societies are bound to the State by work or supply contracts, or by administrative concessions or authorizations of considerable economic value, which involve the performance of specific duties or the observance of general or particular regulations protecting the public interest, to which (regulations) the concession or the authorization is subject;

(2) representatives, administrators and executives of companies and societies operated for private profit and subsidized by the State with continuing subsidies or with guarantee of allocations or interest, when these subsidies are not granted under a general law of the State;

(3) permanent legal and administrative advisers to the persons, companies, and societies mentioned in sub-paragraphs 1 and 2, bound to the State as above described.

Executives of cooperatives or cooperative unions, duly inscribed in the registers of the prefectures, are excluded from ineligibility.

TITLE III: PREPARATORY ELECTORAL PROCEDURE

ART. 9—The electoral meetings are convoked with a decree of the President of the Republic, after decision by the Council of Ministers.

The same decree fixes the day of the first meeting of the Chamber in accordance with Art. 61 of the Constitution.

The vote for the election of the Chamber takes place within 70 days from the end of the preceding Chamber.

The mayors of all the communes of the Republic notify the public of the decree convoking the electoral meetings by means of special notices.

ART. 10—The lists of candidates for each college must be presented by not less than 500 nor more than 1000 voters inscribed in the electoral lists of the college. . . .

Each list must contain a number of candidates not less than 3 and not more than the number of deputies to be elected in the college and must bear the surname, given name, father's name, and birthplace of each candidate.

ART. 11—The lists of candidates for the national single college must be presented by not less than 20 active delegates of lists having the same symbol as the list for the national single college. . . .

* * *

ART. 14—The Court of appeal or the Tribunal in whose jurisdiction the capital of the college lies exercises the function of central office for the district college, with the intervention of three judges, one of whom presides, appointed by the president within ten days from the publication of the decree convoking the electoral meetings. . . .

* * *

ART. 16—Organized parties or political groups may deposit with the Ministry of the Interior, not later than the sixty-second day prior to that of the voting, the symbol with which they declare they want to distinguish their lists of candidates, both in the district colleges and in the national single college.

* * *

ART. 18—By the thirtieth day following the day of publication of the decree fixing the election day, the mayor arranges for the preparation of the certificates of inscription on the electoral lists which must be delivered to the voters by the fortieth day after that of publication of the decree itself. The certificate indicates the voting district, the section to which the voter belongs, the voting place, and the day and hour of the vote and bears a stub which is torn off by the president of the electoral office when the vote is cast. . . .

ART. 19—The district electoral commission transmits to the mayor the section electoral lists for the vote at least ten days before election day.

* * *

ART. 24—In each section an electoral office is formed, made up of a president, five poll watchers, the oldest of whom assumes the functions of vice-president, and a secretary. . . . .

ART. 25—Between the fifteenth and the eighth day preceding the election, in public meeting, announced two days in advance with a poster affixed to the communal hall bulletin board, the communal electoral Committee, after hearing the list representatives, if already designated, proceeds to the appointment of the poll watchers from among the voters of the commune who are qualified for the function of poll watcher, always excluding the candidates. . . .

* * *

TITLE IV: THE VOTE . . . .

ART. 30—The election hall must have a single entrance door open to the public, except for the possibility of assuring a separate entrance for women. . . .

Every hall must have from two to four voting booths, or at least from two to four tables separated one from the other and placed against a wall at a suitable distance from the office table and from the partition, and provided with shelters on all sides so as to assure the absolute secrecy of the vote. . . .

ART. 31—Electoral meetings and meetings of direct or indirect electoral propaganda in public places or places open to the public are prohibited on election day.

All electoral propaganda within a radius of two hundred meters of the entrance to the electoral section is prohibited.

ART. 32—Only those voters who present the certificate of inscription in the respective section may enter the election hall.

The carrying of arms or offensive instruments is absolutely forbidden.

ART. 33—The president of the section supervises the polling place. He may order policemen or members of the Armed Forces to expel or arrest those who disturb the orderly procedure of the electoral operations or commit crimes.

* * *

ART. 41—The voter must go to one of the tables and, with no one near him, vote by drawing on the ballot, with the pencil, a mark over the symbol corresponding to the list chosen by him or over the rectangle which incloses it. With the same pencil he indicates his preference vote in the manner and within the limits established by Art. 42. . . . .

ART. 42—A valid ballot represents one list vote.

The voter may indicate preference exclusively for candidates of the list he votes. The number of preferences is three if the deputies to be elected are 15 or less; four, if 16 or more.

The preference vote is expressed by writing with the indelible pencil, on the proper lines traced on the central part of the ballot, the given name and surname or just the surname of the preferred candidates appearing on the list voted. . . .

The indication of preferences may be made by writing, instead of the surnames, the numbers marked alongside them on the list. . . .

* * *

TITLE V: THE SCRUTINY . . . .

ART. 53—The president declares the result of the scrutiny and makes certification of it in the report, which must be drawn up in duplicate. . . .

ART. 54—The Court of appeal or the Tribunal constituted in the district central office, proceeds as provided in Art. 14, within twenty-four hours after receipt of the documents, with the assistance of the court recorder, to execute the following operations:

(1) counts the ballots that may have been sent by the sections. . . .

(2) receiving assistance, if he considers it necessary, from one or more experts chosen by the president, determines the electoral figure of each list and the individual figure of each candidate.

The electoral list figure is equal to the sum of the valid votes obtained by each list in the individual sections of the college.

The individual figure is equal to the sum of the preference votes obtained by each candidate.

The electoral figure serves as a basis for assigning the number of deputies to each list. To do this, the total valid votes obtained by all the lists is divided by the number of deputies to be elected plus three, obtaining thus the electoral quotient. Each list is then attributed as many representatives as the number of times the electoral quotient is contained in the electoral figure of each list. The seats remaining unassigned are attributed to the national single college.

If, with the electoral quotient calculated as above, the number of seats to be attributed to the various lists surpasses the number of seats assigned to the college, the operations are reported with a new quotient obtained by diminishing the divisor by one.

After the number of deputies assigned to each list has been established, the district central office determines the graduated list of the candidates of each list, according to the respective individual figures. Where individual figures are equal, the order of presentation on the list prevails.

The central office of each district college must also establish the exact sum of the residual votes of each list, which it must communicate, together with the number of seats not attributable to any list owing to insufficiency of quotients or of candidates, to the national central office at the Court of cassation, according to the provisions of Art. 58. The determination of the sum of residual votes must be made even in case all the seats assigned to the district college are attributed.

Residual votes are understood to include even those of lists which have not attained any quotient and the votes which, even though reaching the quotient, remain ineffective owing to lack of candidates.

* * *

ART. 58—The number of seats not attributable to any list owing to insufficiency of quotients or of candidates, as well as the number of residual votes of each list and the indication of the national single college list to which each single list has declared itself joined for the utilization of the residual votes must be specified in the report [of the district central office]. . . .

ART. 59—The national central office constituted at the Court of

cassation, composed according to Article 15, as soon as it receives the reports of all the district central offices, determines the sum of the unattributed seats in all districts and the sum of the residual votes in all district colleges, in favor of individual lists joined with those of the national single college that have obtained at least one quotient in the district colleges. It divides the sum of the residual votes of all the lists admitted by the number of seats to be attributed. The result constitutes the electoral quotient for the national single college.

It then divides the sum of the residual votes given to each list of the national single college by this quotient; the result represents the number of seats to be assigned to each list of the national single college.

The remaining posts are respectively attributed to the lists for which these last divisions have given greater remainders and, in case of equality of remainders, to that list which received more residual votes in the national single college.

It then proclaims the candidates elected, according to their order on the list and in conformity with the number of seats attributed in the national single college to each list.

The provisions of Article 57 apply also to these elected candidates.

* * *

ART. 61—A seat that remains vacant for any reason whatever, including an unexpected event, is attributed to the candidate who, on the same list, immediately follows the last one elected in the order verified by the controlling body. . . .

ART. 62—Confirmation of the election of its own members is reserved to the Chamber of Deputies. It pronounces definitive judgment on the disputes, protests, and, in general, on all the complaints presented to the offices of the individual electoral sections or the central office during their activity or thereafter.

* * *

TITLE VI: SPECIAL PROVISIONS FOR THE "VAL D'AOSTA" COLLEGE. . . .

TITLE VII: PENAL PROVISIONS. . . .

TITLE VIII: FINAL PROVISIONS

ART. 90—A list of those who abstain from voting in the elections for the Chamber of Deputies without justified reason is displayed for the duration of one month on the communal hall bulletin board.

For a period of five years the observation "did not vote" is entered

on the good conduct certificates which are issued to those who have abstained from voting without justified reason.

A voter who has not exercised his right to vote must give justification therefor to the mayor of the commune on whose electoral lists he is inscribed within fifteen days following expiration of the time limit prescribed by the third from the last paragraph of Article 53 for depositing the extract of the section electoral lists.

The mayor, after having weighed the reasons which have prevented the exercise of the voting right, proceeds to the compilation of the list of those who abstained. . . . .

Publication of the list on the communal hall bulletin board is equivalent to personal notification.

The interested parties may, within fifteen days following the expiration of the time limit for publication, appeal against their inclusion on the list of abstainers to the prefect, who decides with his own decree. The prefect's ruling is definitive.

* * *

TITLE IX: TRANSITORY PROVISIONS

ART. 92—The number of members of the first Chamber of Deputies is determined on the basis of the resident population December 31, 1946, according to the official data of the Central Institute of Statistics.

ART. 93—The following are not eligible for five years following the coming into force of the Constitution, in addition to those who have been excluded for the same period of time from the active electoral right:

(1) ex-members of the federal directories of the national Fascist party, except those who were members by law or who performed exclusively administrative or welfare functions;

(2) ex-fiduciaries or vice-fiduciaries of the federations of the women's fasci;

(3) ex-political secretaries of the fasci of communes with a population of over 10,000 inhabitants (1936 census) and ex-secretaries of the women's fasci of the same communes;

(4) ex-prefects or questori appointed for fascist services;

(5) the Duce's ex-musketeers and ex-officers of the volunteer national security militia. . . .

(6) anyone having held political office in the republican Fascist party;

(7) ex-officers who have seen active service in the armed forces of the social pseudo-republic. . . .

(8) principals of provinces and mayors of communes with a population of over 10,000 inhabitants, except principals and mayors appointed after July 25, 1943, by the legitimate Italian Government;

(9) senior officers and generals of the Armed Forces of the State who, by a verdict of epuration, have been dismissed from service with or without loss of the right to a pension, and officers of all ranks who, because of having cooperated after September 8, 1943, with the armed forces which were fighting against Italy, have been canceled from the rolls with loss of rank;

(10) employees of public Administrations of a class higher than the 7th in the State classification of employees, or the equivalent, who, by a verdict of epuration, have been discharged from service with or without loss of the right to a pension;

(11) those who by penal sentence or by administrative decision representing a final judgment, have been recognized as collaborators with the German invader;

(12) members of the O.V.R.A.;

(13) editors, co-editors, vice-editors, and editors-in-chief of fascist political newspapers and magazines;

(14) prefectural commissioners of communes of over 10,000 inhabitants in the ambit of the so-called Adristic littoral and of the former Pre-Alps zone, during the period of the self-styled Italian social republic;

(15) authors of books and school texts of fascist propaganda and teachers of schools of fascist mystics. . . .

* * *

ART. 95—The vote for the first election of the Chamber of Deputies must take place within seventy days after the day of publication of the decree convoking the electoral meetings in the *Official Gazette* of the Republic.

The Minister of the Interior

SCELBA

43. Text of the Laws for the Election of the Senate of the Republic

(February 6, 1948)[1]

THE PRESIDENT OF THE REPUBLIC

Promulgates the following law approved by the Constituent Assembly:

TITLE I: GENERAL PROVISIONS

ART. 1—The Senate of the Republic is elected under the regulations established by the Constitution and by the present law.

The number of senators for each Region is determined on the basis of the resident population on December 31, 1946, in accordance with the official data of the Central Institute of Statistics, as shown in Table A of the appendix of the present law.

ART. 2—In each Region there are instituted as many colleges as there are senators assigned to the Region. . . .

* * *

ART. 4—Elections are called by decree of the President of the Republic, upon decision of the Council of Ministers.

ART. 5—Those eligible for election as senators are voters who, on the day of the elections, have completed their fortieth year of age and who do not fall within any of the conditions of ineligibility mentioned in Articles 6, 7, 8 and 93 of the definitive text of the laws for the election of the Chamber of Deputies, approved by Presidential Decree No. 26 of February 5, 1948.

TITLE II: CONCERNING THE DISTRICT AND REGIONAL ELECTORAL OFFICES

ART. 6—The Tribunal in the jurisdiction of which are located one or more colleges provided for in the table of districts forms as many district electoral offices as there are such colleges. . . .

* * *

TITLE III: CONCERNING CANDIDACY, DELEGATES, REPRESENTATIVES OF CANDIDATES AND REPRESENTATIVES OF GROUPS OF CANDIDATES

ART. 8—Candidacy is accepted in one Region only and in not more than three colleges. . . .

* * *

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[1] Translation by the American Embassy, Rome, Italy, released April 7, 1948.

ART. 14—Not later than noon of election day, each group of joint candidates has the right to name two representatives to the regional electoral office.

TITLE IV: CONCERNING VOTING

ART. 15—Elections of senators are participated in by those voters who have passed their twenty-fifth year. . . .

* * *

TITLE V: FUNCTIONS OF THE DISTRICT ELECTORAL OFFICE

ART. 17—The district electoral office, organized under the provisions of Article 6, carries out the following functions, with the assistance of the court recorder:

(1) collects the votes sent in by the sections;

(2) totals the votes obtained by each candidate in the individual sections, in accordance with the reports.

The president of the district electoral office, in accordance with the results computed, proclaims elected the candidate who has received a number of valid votes not less than 65 per cent of those cast.

* * *

TITLE VI: FUNCTIONS OF THE REGIONAL ELECTORAL OFFICE

ART. 19—As soon as it receives the reports of the notices of proclamation of election submitted by all the district electoral offices, the regional electoral office, established in the Court of Appeals or the Tribunal in accordance with Article 7, effects the following operations, with the assistance of the registrar and in the presence of the representatives of the groups of candidates:

determines the total vote for each individual group of candidates;

determines the individual total of the individual candidates of each group.

The total vote of each group of candidates is given by the total of the valid votes received by the candidates of the group itself who presented themselves in the colleges for which there was no proclamation made under the provisions of Article 17.

The individual total is computed by multiplying the number of the valid votes received by each candidate by one hundred and by dividing the product by the number of votes registered in the college.

In the case of candidacies presented in more than one of the above colleges, the largest individual total received by the candidate is adopted in the graduated list.

Assignment of the number of the seats to be filled is effected in the following manner:

each (group) electoral total is divided successively by one, two, three, four . . . until the number of senators to be elected is reached; thereupon, the highest in number equal to that of the senators to be elected are chosen from the quotients thus obtained and are arranged in a descending order. The seats will be assigned to the groups on the basis of the quotients contained in this graduated list.

In the event of equal quotients, the seat is given to the group which obtained the smaller electoral figure.

If a group is entitled to more seats than it had candidates, the extra seats are distributed according to the order of the graduated list of the quotients.

Next, on the basis of the seats assigned to each group, the regional electoral office proclaims the election of the candidates of that group, in accordance with the graduated list determined by their relative individual total. In the event of equal totals, the oldest is ranked first. The office serves notice of proclamation to the secretariat of the Senate and to the prefectures of the Region in order that, through the mayors, they may inform the voters thereof; the office also gives formal notice to the senators elected.

If proclamation in accordance with Article 17 did not take place in only one college, the president of the regional electoral office proclaims as elected the candidate who in that college had the greatest number of valid votes, and, in the event of a tie, the oldest candidate.

* * *

TITLE VIII: TRANSITIONAL AND FINAL MEASURES

ART. 24—Voting for the election of senators must take place within seventy days from the day of the publication in the Official Gazette of the Republic of the decree convoking the electoral meetings.

ART. 25—For the fulfillment of the duty to vote and for all situations not controlled by the present law, the provisions of the text of the law for the election of the Chamber of Deputies are followed, insofar as applicable. . . .

Signed in Rome, this February 6, 1948.

DE NICOLA
DE GASPERI-SCELBA

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44. Party Divisions, Elections to the Italian Parliament

(April 18–19, 1948)

	Senate			*Chamber*		
	*Vote**	*Per cent*	*Seats*	*Vote**	*Per cent*	*Seats*
Christian Democrats	10,740	47.9	151	12,752	48.7	307
Popular Front	6,955	31.0	115	8,026	30.7	182
Right-Wing Socialists	1,581	7.0	25	1,861	7.1	33
National Bloc	1,365	6.1	18	1,100	3.8	18
Independents	278	1.2	18			
Monarchists	437	2.0	6	730	2.8	14
Republicans	637	2.9	6	650	2.5	9
Other	428	1.9	11	1,144	4.4	11

* In thousands.

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45. Platform of the III Congress of the Christian Democratic Party

(Il Popolo, 23 June, 1949)

The Congress approves of the line followed by the National Council and by the Directorate of the Party; it expresses the consensus of the whole Party to all men who in government action place at the service of the country the renovating forces of Christian Democracy.

* * *

The National Council, in execution of the order received by the III Congress, emphasizes that, after the victory of April 18 and the success of the Party's management of public administration, in Parliament and in the government, Christian Democracy finds itself faced with a fundamental political task: the construction of the new democratic State, based on the consent and on the active participation of the working people.

Such a task may be realized principally in the following ways:

(1) to have Italy participate more and more in the collaboration and solidarity of all free peoples and, through the European Council,

make Italy a more efficient element of the reorganization of Europe on foundations of effective unity.

(2) to continue in the active work of defense of liberty against all the subversive aims of bolshevism and against the absurd dictatorial aspirations of neo-fascism.

(3) to accelerate the actuation and the development of the democratic institutions already provided for by the Constitution, and of others that might become necessary to better guarantee the efficacy and the timeliness of action of the basic organizations of the State, by means of: a more organic systemization of the rapports between legislative power and executive power; an acceleration of legislative activity to be realized through better coordination between the two Chambers, and with a perfection of the method of procedure by both these Chambers; and finally by means of a body of laws for reorganization of the administration of the State even through administrative decentralization and the actuation of the regional group.

(4) to orient economic policy to the objective of the maximum possible occupation of unemployed workers.

To such ends, it is deemed necessary:

(a) to actuate through taxation reform a more equitable distribution of fiscal burdens and to promote a more vivid understanding of fiscal duty;

(b) to intensify direct action that will bring about investments and the development of production even with an adequate credit policy, taking particularly into account the poorest zones;

(c) to reorganize and coordinate the organizations responsible for the economic life of the country;

(d) to intensify participation in international relations in order that an economic solidarity be realized that permits the promulgation abroad of our work;

(5) to actuate social reforms (for which the National Council reconfirms the previous deliberations of the Party), coordinating them so that they realize a general democratic renovation of the social structures, increasing the participation of the workers in the economic and social progress and promoting the understanding of their responsibility.

(6) to actuate, through the school reform, the development of popular education and of the technical and professional instruction of youths. Education, open to all, must provide study for the capable

and the worthy even if they lack the means. The democratic rebirth of the country is intimately tied to the freedom of education, to the development of scholastic institutions, to the progress of scientific activity and to the education of the citizen to his duties towards the community.

The impulse to the attainment of these objectives which we consider as essential for the democratic order to be constructed, can and must be given by an instrument freely desired by popular will, which instrument is in fact the Christian Democratic Party.

With the full understanding of this high responsibility, we affirm:

(1) the necessity that the Party respond, always with greater efficiency, to the moral and material exigencies of the people, and to its task of studying political and social problems.

(2) the necessity of maintaining free, in statutory discipline within the organs of the Party, the circulation of different opinions by way of guaranteeing to the Party substantial internal democratization and of stimulating the vitality of the Sections, contributing, in this way, to the formation of political awareness.

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46. Platform of the VI Congress of the Italian Communist Party

(L'Unita, 20 January, 1948)

The VI National Congress of the Italian Communist Party, having discussed fully in plenary session and in committees the statement of the central committee presented by comrade Togliatti, approves of the work accomplished between the V and VI Congress, by the Central Committee and by the Directorate of the Party, for the creation of a regime of progressive democracy; for the defense of regained democratic liberties, of the tenor of life of the working masses and peasants and of the working middle class; for the unity of the working class and of the forces of democracy; for the winning over of majority opinion; for the strengthening of the Party and the betterment of its work through criticism of its defects and of its shortcomings.

In particular the Congress emphasizes the historic importance of the republican victory brought about by the people against the coalition of all conservative forces, from the fascist to the demochristian;

it emphasizes the decisive value of the progress achieved in the creation of large democratic mass organizations (unions, cooperatives, etc.); the victories brought about by the workers of all groups in the struggles conducted by them, especially lately against the egoism and reactionary spirit of the ruling capitalist class.

The Congress emphasizes, however, that notwithstanding these successes, the development of Italian democracy has suffered this past year a dangerous interruption. Through foreign intervention, the parties most directly linked with the working class and the working masses have been excluded from the government in spite of their parliamentary strength. Following this exclusion the government has assumed more and more openly the physiognomy of a conservative government which acts in the interest of ruling capitalist groups. This government has encouraged not only the attacks of the big industrialists and of the landowners against the working masses and the small producers, but has also encouraged the attempts of revival on the part of terroristic fascist movements; it has oriented in an anti-popular and reactionary spirit the activity of the organizations that make up the apparatus of the State (the police, the army, the courts, etc.); it has allowed corruption to flourish in public administration; it has acted as a provocateur of discord, of economic and social conflicts, of serious threats against democratic liberties.

This, as was clearly resolved by the recent demochristian Congress, tends to push the advanced democratic and labor forces beyond the terrain of democracy and beyond the law. It tends to create an atmosphere of latent civil war, to render impossible a planned and progressive reform activity in the political, social and economic field.

This antidemocratic policy, which has not been attenuated in the slightest, and which has rather become worse after the support given the demochristian government by the parliamentary groups of the Republican and Saragat parties, is directly inspired not only by the ruling Italian capitalist groups but also by the ruling groups of American imperialism all of whom work in a systematic manner to make of Italy a base for their expansion and preparation of war against the new democracy countries of Eastern Europe and against the Soviet Union. The present Italian government is in fact an instrument in the hands of American imperialism which, while it says it wants to help Italy, in reality seriously threatens Italian independence, weighs down upon our country the nightmare of foreign armed

intervention and the concrete threat of being once more embroiled in a war of extermination.

Instead of defending our national dignity, our sovereignty, and the future of the nation against the brazen American imperialist declarations and activities, which go from intervention into our political and economic life to threats of landings on our coasts, the Italian government acts like a servant of the foreigner. The unconditional support given the Marshall Plan is the beginning of the economic transformation of the country as an appendage of a great imperialistic power and constitutes, therefore, a threat to the autonomous development of our industry, of our agriculture and of our international exchanges. In fact Italy is being dragged against its will into a bloc of reactionary powers, which tends to split Europe, to obstruct the progress of democracy, to cause the rebirth of fascism, to deny the independence of the peoples of Europe, to impede the fraternal collaboration of all the nations in freedom and in reciprocal respect, to prepare intervention against the new democracies and against the country of socialism. All this is against the deepest interests of the Italian nation, which only in peace and in free collaboration with all the peoples of Europe can find the road to its own rebirth and to its new affirmation in Europe and the world.

In this situation the VI Congress of the Italian Communist Party (which is the interpreter of the vital interests of the nation and of the more vivid preoccupations of all good democrats, the bearer of the sacred inspirations of tens of thousands of citizens killed while fighting against fascism and the foreign invader in order to make their fatherland free, great, and happy), denounces to all the country the mounting menace to peace, to independence, to the freedom of the Italian people, and once again proclaims the necessity of union of all popular forces for the salvation of Italian democracy.

The communists again call the attention of the people to the peace front which comprises States and peoples who wish to impede war by checking the imperialist inciters of war. This front comprises the great, invincible Soviet Union, the countries of the new democracy, the popular, democratic, and working forces of Europe and the entire world. If they want to save their future the Italian people have the duty of fighting for peace with all their forces, and of resisting the threatening plans of American imperialists. Today the defense

of peace, of the sovereignty of the Italian State, and of the independence of the Italian nation are fused in one cause which must become the cause of all citizens concerned over the welfare of the country.

The communists propose to the country a democratic foreign policy which will urge and organize economic and political collaboration with all countries for the reconstruction of Italy and Europe but which will neither permit violations of our autonomy and independence nor foreign interference in Italian politics; a policy which will defend the sovereignty of the Italian State, reject all preconceived hostility towards the countries of the new democracy and towards the Soviet Union, establish fraternal relations with bordering countries, will not consent to the division of Europe into two parts, and will oppose the presence or the reconstitution of imperialist and fascist centers of infection.

The defense of democratic and popular liberties against resurgent monarchists, fascists and reactionaries is today in Italy closely linked to those economic and social reforms which must render effective the exercise of the new rights of labor sanctioned by the Constitution of the Republic, and initiate a regime of social justice in the country. In fact only these reforms would destroy the roots of political power of the great monopolistic reactionary industrial and agrarian interests, would create the bases of a new democracy wherein the working class would have the effective direction of the country, the old and new economic and political privileges would be destroyed forever, and all the people would finally be masters of their own destinies.

The Italian communists struggle for this new regime of democracy. Towards this objective they orient the minor and general struggles of the workers and of the people, convinced that this is the road to follow at the present time in order to prevent democratic liberties from being destroyed once again by reactionary violence or limited and reduced to mockery within a police and clerical regime which under the protection of the foreigner would perpetuate social injustice, oppression, and misery for the people.

The communist Party moves on the ground of democracy and the liberties sanctioned by the Constitution of the Republic, but faced already by the apparent will of the conservative and reactionary forces (which are united around the Party of Christian Democracy) to obstruct by every means the rise of labor, the reforms and the re-

novation of the economic structure of the country even threatening to outlaw the party which most tenaciously fights for the rise of labor and for these reforms, it (the Communist Party) calls upon all workers, manual and skilled, of all categories, to unite and solidly organize in order to prepare for those social transformations in industry and agriculture of which Italy has need, and to be ready to push back every reactionary threat.

The VI Congress of the Italian Communist Party greets and approves the initiative of the Socialist Party for the creation of a democratic and popular Front to fight for peace, independence, and liberty. It reaffirms its adhesion, already given by the Directorate of the Party, to the Front. It urges all the organizations and all the comrades to give all their energy for the consolidation and the development of the Front as a true and wide formation in mass for the actuation of the democratic program already elaborated in its general lines through the great initiatives of the Congress of Administrative Councils, of the Congress of the South, of the Constituent of the Land, of the League of Democratic Communes. This is today the urgent and fundamental task of the Party. The congress gives mandate to the communist representatives on the Committee promoting the Front to maintain the necessity that the Front assert itself as the democratic battleline in unity in all the fields of political life, that the Front elaborate a precise program of social and economic reforms, a domestic and foreign policy, and with this program confront the next electoral battle with a view to gaining a solid majority. The Communist Party is favorable to the socialist proposal of a unifying roster which lists together the representatives of workers' parties, of democratic parties of the left, and of independent forces allied to these parties.

The political union of the working class and of the working masses continues to be the fundamental objective of the communists, who see in this union the strongest bulwark of democracy. It is the task of the communists to render the ties of collaboration with the socialists always more close and more fraternal, and to fight, together with the socialists and at the vanguard of all workers, for the defense of the unity of the Italian General Confederation of Labor which is being plotted against and undermined by the capitalistic forces and their agents within the bosom of the workers' movement.

The VI Congress of the Italian Communist Party, having examined the development and the present state of the organization of the Party and its work, notices with satisfaction the growing numerical efficiency and the solidity of suburban groups, the increase in the number of comrades endowed with leadership qualities in the Party itself and in mass organizations, the growing political maturity of the Party as a whole, the contribution it has made in all fields connected with the reconstruction of the country, the impetus with which our comrades have been leaders in strikes, in other demonstrations, and in the struggles of the people. We must employ all our strength in order to overcome serious deficiencies and shortcomings which continue to exist in our organization and in its work. In particular, only in part have problems been confronted and resolved. Such problems are: employing all of our comrades, entrusting them with concrete tasks in the Party and particularly in mass organizations. Important labor camps like those of local administrations and others are neglected. The ideological development of the ranks is not adequate to the necessity of the moment. Discussion, promotion and propaganda are not expansive, timely, and efficacious as they should be. The Central Committee and the Directorate of the Party are taking care of guiding the party in recognizing and overcoming its defects and the shortcomings in its work through the continuous criticism of its own activity and the activity of every individual comrade.

In the course of two years the Italian Communist Party has belied in full the assertion of those who saw in its rapid development a chance occurrence (a flash in the pan). The Party has asserted itself as the largest and most serious Italian political organization, as a great democratic, national, and popular party cognizant of its own responsibilities, guide of the working class and the people on the road to democracy and socialism. Upon the Communist Party is directed, in growing measure, the expectations and hopes of workers, peasants, laborers, white-collar workers, intellectuals of the forefront, of all the exploited, of all the underprivileged. Through the labor and self-sacrifice of its combatants the Party will be up to its duties, will give the necessary contribution to the direction of the struggle of the Italian people for freedom and peace, for national independence and sovereignty, for a future of well-being and happiness.

47. Platform of the XXI Congress of the Italian Republican Party

(La Voce Republicana, 10 February, 1949)

At 3 o'clock this morning, the XXI National Congress of the Italian Republican Party closed its session, approving by a large majority, the following political platform presented by Cifarelli, Calvi, and other delegates:

The XXI Congress of the Italian Republican Party convened in Rome on the 5th , 6th, 7th and 8th of February, 1949. Having heard and approved the political reports, the Congress declares: that the domestic and international conditions of democratic equilibrium and stability, conditions common to Italy and to the other nations of free Europe, require that the present political direction be maintained. While doing this the party should intensify the effort directed toward making it an ever more sensitive and efficient force of democratic construction, toward an ever increasing insistance in calling and urging the other parties of the majority to action responsive to the duties they have assumed, and above all to the exigent objectives of the country.

The Congress emphasizes that, by following these lines the Italian Republican Party becomes the party effecting the Republican order, in constant representation of the general interests of the country. These interests, in institutional and democratic legality, must find the equilibrium which would vouchsafe civil and social peace and find the impulse for the effective progress of the people.

The Congress gives mandate to the Directorate of the Party, to the parliamentary groups and to the representatives in the government, to expound in close and efficacious coordination their work which is directed towards the realization of the platform fixed by the Congress through the approval of the program of agrarian reform, of public administration, of taxation, of social security, of popular education, of public welfare and for a determined and responsible actuation of the regional structure.

The Congress affirms:

(1) that the international policy adopted by the government through the initiative and impetus of the Republican Party, a policy firmly directed towards conducting Italy into the organic mass of the European democracies, must be exercised in accordance with a line of development that is proper to it, so that Italy may become a found-

ing State of the nascent European Union which is the sure foundation of a future federal union, and that it may participate within the framework of this Union in the projected system of security and of organization for peace of all the democratic west;

(2) that the conduct of economic policy outside of every abstract and vain contraposition between liberals and "planners" in which it is mired today, must be given over to the united will to resolve in an efficient and organic way every problem of national production both in public and private enterprise. It must be resolved in such a way that the prevalence of private interests comes to a halt. These interests, availing themselves of different situations, place themselves above the general interests of the country, impede or decelerate the reconstruction and democratization of our economy and jeopardize the financial and monetary set-up itself;

(3) that the eventual opportunity of adjustments designed to obtain a greater efficiency and coherence in government action, does not tolerate problems of political revision while, as a necessity fully felt by the country, the activity of a stable and firm government is put into motion.

The Congress confirms that in all phases of national life the sacrifices and sufferings, which among large strata of people are caused by unemployment and the lack of fulfillment of basic needs like housing and social security, must constitute the urgent preoccupation of Italian democracy and, in the forefront, the Republican Party.

U.S.S.R.

LENIN'S REVOLUTION

The Emerging Soviet Power

Early Decrees and Declarations (1917–1918)

48. Declaration of the Rights of the Peoples of Russia
49. Supreme Board of National Economy
50. Church and State
51. Declaration of the Rights of the Toiling and Exploited People

"Proletarian Democracy"

52. From the Party Program (1919)

The First Union Constitution

53. The Federation of 1923

STALIN'S STATE

54. The 1936 Constitution
55. Election Rules (1937)
56. Composition of the Supreme Soviet (1937 and 1946)

THE GOVERNING PARTY

57. Reasons for the Amendments of 1939
From *the Resolution of the 18th Party Congress*
58. Rules of the C. P. S. U. (1939)
59. Growth and Change of the Party (1905–1946)

PEASANTS AND WORKERS

The Land Code (1935)

60. Standard Articles of Association of the Agricultural Artel

Reconstruction

61. The Fourth Five-Year Plan (1946–1950)

The Trade Unions

62. Statutes and By-Laws of 1949

U.S.S.R.

Lenin's Revolution

The Emerging Soviet Power

Early Decrees and Declarations (1917–1918)

Lenin's regime was officially born on November 8 (October 26 old style), 1917, when the Second All-Russian Congress of Soviets endorsed a "Provisional Workers' and Peasants' Government, " which was to hold power " until the Constituent Assembly[1] provides otherwise." On the same day, the new administration which was to be known as "The Soviet [Council] of the People's Commissaries" (Sovnarkom), issued a "Decree on Peace" and a "Decree on Land," the latter proclaiming the confiscation without indemnity of the large estates, again with the clause: "pending the decision of the Constituent Assembly." The new agrarian policy was restated in the "Statutory Law Concerning Land" of February 19, 1918, which affirmed the nationalization of land in principle, although it had already found expression in the "Declaration of the Rights of the Toiling and Exploited People," adopted earlier that year. (See Document 51 of this book, Article II, 1.)

One of the first measures of the new regime introduced the "temporary limitation of the freedom of the press" (decree of November 10, 1917). On November 15, the famous declaration granting the right of self determination to all the nationalities of the former Tsarist empire was issued over the signature of the People's Commissar of Nationality Affairs, Stalin. The "organization of the national economy and state finances" was the subject of a decree of December 1, 1917; it was preceded by a decree of November 11, introducing the eight-hour working day, and by a decree of November 27, sanctioning Workers' Control of Industry; it was followed by measures establishing

[1] The election of the Constituent, which had been called by the Provisional (Liberal) Government, was only grudgingly permitted by the victorious Bolsheviks who accused that body beforehand to represent "the public opinion of yesterday."

the state monopoly of foreign trade (April 22, 1918), and the nationalization of all large scale industry and commerce (June 30, 1918).

The important question of the relationship between communism and christianity was settled by a decree pronouncing the separation of church and state (January 20, 1918). The already mentioned "Declaration of the Rights of the Toiling and Exploited People" was drafted by Lenin, Bukharin and Stalin for consideration by the Constitutional Assembly, meeting on January 18, 1918. Rejected by that body, the declaration was adopted by the Third All-Russian Congress of Soviets on January 23, 1918, and it became the preamble of the Constitution of the Russian Socialist Federated Soviet Republic, which was enacted on July 10, 1918.

Throughout the first months and for three more years of War-Communism, the Sovnarkom continued to shower the country with literally hundreds of decrees. As to enforcing all, or even a small part of them, Lenin had few illusions. He regarded his law-making as a form of propaganda: "Our government may not last long," he avowed, "but these decrees will be part of history. Future revolutionaries will learn from them. We ourselves keep the decrees of the Paris Commune before our eyes as a model."[2]

48. Declaration of the Rights of the Peoples of Russia

(November 15—November 2, old style—1917)[1]

The October revolution of the workmen and peasants began under the common banner of emancipation.

The peasants are being emancipated from the power of the landowners, for there is no longer the landowner's property right in the land—it has been abolished. The soldiers and sailors are being emancipated from the power of autocratic generals, for generals will henceforth be elective and subject to recall. The workingmen are being emancipated from the whims and arbitrary will of the capitalists, for henceforth there will be established the control of the workers over mills and factories. Everything living and capable of life is being emancipated from the hateful shackles.

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[2] As quoted by Simon Liberman in *Building Lenin's Russia,* Chicago, 1945, p. 8.—See also below, p. 225, note 8.

[1] From *International Conciliation,* No. 136 (March, 1919), pp. 5–6.

There remain only the peoples of Russia, who have suffered and are suffering oppression and arbitrariness, and whose emancipation must immediately be begun, whose liberation must be effected resolutely and definitely.

During the period of czarism the peoples of Russia were systematically incited against one another. The results of such a policy are known: massacres and pogroms on the one hand, slavery of peoples on the other.

There can be and there must be no return to this disgraceful policy of instigation. Henceforth the policy of a voluntary and honest union of the peoples of Russia must be substituted.

In the period of imperialism, after the February revolution, when the power was transferred to the hands of the Cadet bourgeoisie, the naked policy of instigation gave way to one of cowardly distrust of the peoples of Russia; to a policy of fault-finding and provocation, of "freedom" and "equality" of peoples. The results of such a policy are known: the growth of national enmity, the impairment of mutual trust.

An end must be put to this unworthy policy of falsehood and distrust, of fault-finding and provocation. Henceforth it must be replaced by an open and honest policy which leads to complete mutual trust of the people of Russia. Only as the result of such a trust can there be formed an honest and lasting union of the peoples of Russia. Only as the result of such a union can the workmen and peasants of the peoples of Russia be cemented into one revolutionary force able to resist all attempts on the part of the imperialist-annexationist bourgeoisie.

Starting with these assumptions, the first Congress of Soviets, in June of this year, proclaimed the right of the peoples of Russia to free self-determination.

The second Congress of Soviets, in October of this year, reaffirmed this inalienable right of the peoples of Russia more decisively and definitely.

The united will of these Congresses, the Council of the People's Commissaries, resolved to base their activity upon the question of the nationalities of Russia, as expressed in the following principles:

1. The equality and sovereignty of the peoples of Russia.

2. The right of the peoples of Russia to free self-determination, even to the point of separation and the formation of an independent state.

3. The abolition of any and all national and national-religious privileges and disabilities.

4. The free development of national minorities and ethnographic groups inhabiting the territory of Russia.

The concrete decrees that follow from these principles will be immediately elaborated after the setting up of a Commission on Nationality Affairs.

In the name of the Russian Republic, Chairman of the Council of People's Commissars, V. ULIANOV (LENIN).

People's Commissar on Nationality Affairs, IOSEV DZHUGASHVILI-STALIN.

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49. Supreme Board of National Economy

(*December 1, 1917*)[1]

1. The Supreme Board of National Economy is established under the Council of the People's Commissaries.

2. The task of the Supreme Board of National Economy is the organization of the national economy and state finances. For that purpose the Supreme Board of National Economy elaborates general standards and a plan for the regulation of the economic life of the country, coordinates and unifies the activity of the central and local regulating institutions (fuel board, metal board, transport board, central supplies committee, etc., and the respective People's Commissaries of commerce and industry, supplies, agriculture, finances, war, and navy, etc.) of the All-Russian Board of Workmen's Control, and also of the corresponding activities of factory and trade organizations of the working class.

3. The Supreme Board of National Economy is given the right of confiscation, requisition, sequestration, and compulsory syndication of various branches of industry and commerce, and other measures in the domain of production, distribution, and state finances.

4. All existing institutions for the regulation of the national economy are subordinated to the Supreme Board of National Economy, which is given the right to reform them.

5. The Supreme Board of National Economy is formed: (a) of the All-Russian Board of Workmen's Control, whose personnel is deter-

[1] From *International Conciliation, No. 136* March, 1919, pp. 11–12.

mined by the decree of November 14,[2] 1917; (b) of representatives of all the People's Commissaries; (c) of learned persons, who are invited and have a consulting vote.

6. The Supreme Board of National Economy is divided into sections and departments (as fuel, metal, demobilization, finance, etc.), and the number and the sphere of activity of these sections and departments are determined by the entire Board.

7. The departments of the Supreme Board of National Economy conduct the work of regulating the separate branches of national economic life, and also prepare the measures of the respective People's Commissaries.

8. The Supreme Board of National Economy forms out of its membership a bureau of fifteen persons, for the coordination of the current work of the sections and departments and the performance of tasks which demand immediate attention.

9. All projects of law and large measures which have reference to the regulation of the national economy in its entirety are submitted to the Council of the People's Commissaries through the Supreme Board of National Economy.

10. The Supreme Board of National Economy unifies and directs the Soviets of Workmen's, Soldiers' and Peasants' Deputies, which include the local organs of workmen's control, and also the local commissaries of labor, commerce and industry, supplies, etc. In the absence of corresponding economic branches, the Supreme Board of National Economy forms local organs.

All decisions of the Supreme Board of National Economy are binding upon the economic departments of the local Soviets, which constitute the local organs of the Supreme Board of National Economy.

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50. Church and State

(January 20, 1918)[1]

1. The church is separated from the state.

2. Within the limits of the Republic, it is prohibited to pass any local laws or regulations which would restrict or limit the freedom of

[2] Old style. See introductory remarks on p. 214, paragraph 1.

[1] From *International Conciliation,* No. 136 (March, 1919), pp. 10–11.

conscience or establish any kind of privileges or advantages on the ground of the religious affiliation of citizens.

3. Every citizen may profess any religion or none at all. Any legal disabilities connected with the profession of any religion or none are abolished.

NOTE. From all official acts any indication of the religious affiliation or non-affiliation of citizens is to be omitted.

4. The proceedings of state and other public legal institutions are not to be accompanied by any religious customs or ceremonies.

5. The free observance of religious customs is guaranteed in so far as the same do not disturb the public order and are not accompanied by attempts upon the rights of the citizens of the Soviet Republic. The local authorities have the right to take all necessary measures for the preservation, in such cases, of public order and security.

6. No one may decline to perform his civil duties, giving as a reason his religious views. Exemptions from this law, conditioned upon the substitution of one civil duty for another, are permitted by decision of the people's court in each individual case.

7. Religious or judicial oaths are abolished. In necessary cases a solemn promise only is given.

8. Acts of a civil nature are performed exclusively by civil authorities, such as the departments of registration of marriages and births.

9. The school is separated from the church. The teaching of religious doctrines in all state and public, as well as in private, educational institutions in which general subjects are taught, is forbidden. Citizens may teach and study religion privately.

10. All church and religious societies are subject to the general regulations governing private associations and unions, and do not enjoy any privileges or subsidies either from the state or from its local autonomous and self-governing institutions.

11. Compulsory collection of payments and assessments for the benefit of church or religious societies, or as a means of compulsion or punishment of their co-members on the part of these societies, is not allowed.

12. No church or religious society has the right to own property. They have no rights of a juridical person.

13. All the properties of the existing church and religious societies in Russia are declared national property. Buildings and articles specially designated for religious services are, by special decisions of the local or

central state authorities, given for free use by corresponding religious societies.

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51. Declaration of the Rights of the Toiling and Exploited People

(January 23, 1918)[1]

The Central Executive Committee proclaims the following basic principles:

I

The Constituent Assembly resolves:[2]

1. Russia is declared to be a Republic of Soviets of Workmen's, Soldiers' and Peasants' Deputies. All the power in the centre and in the provinces belongs to these Soviets.

2. The Russian Soviet Republic is formed on the basis of a free union of free nations, as a federation of national Soviet republics.

II

Taking as its fundamental task the abolition of any exploitation of man by men, the complete elimination of the division of society into classes, the ruthless suppression of exploiters, the establishment of a socialistic organization of society and the victory of Socialism in all countries, the Constituent Assembly resolves, further:

1. To effect the socialization of the land, private ownership of land is abolished, and the whole land fund is declared common national property and transferred to the laborers without compensation, on the basis of equalized use of the soil.[3]

All forest, minerals, and waters of state-wide importance, as well as the whole inventory of animate and inanimate objects, all estates and agricultural enterprises are declared national property.

2. The Soviet law of labor control and the Supreme Board of National Economy are confirmed, with a view to securing the authority of the toilers over the exploiters, as the first step to the complete transfer of all factories, mills, mines, railways, and other means of produc-

[1] From *International Conciliation*, No. 136 (March, 1919), pp. 7–10.
[2] See introductory remarks on p. 214, paragraph 1.
[3] See introductory remarks on p. 213, paragraph 1.

tion and transportation to the ownership of the Workmen's and Peasants' Soviet Republic.

3. The transfer of all banks into the ownership of the Workers' and Peasants' state is confirmed, it being one of the conditions of the emancipation of the laboring masses from the yoke of capital.

4. With a view to the destruction of the parasitic classes of society and the organization of the national economy, universal labor service is established.

5. In the interest of securing all the power for the laboring masses and the elimination of any possibility of the reestablishment of the power of the exploiters, the arming of the toilers, the formation of a socialistic red army of workmen and peasants, and the complete disarmament of the wealthy classes are decreed.

III

1. Expressing its inflexible determination to wrest humanity from the talons of financial capital and imperialism, which have drenched the earth with blood in this most criminal of wars, the Constituent Assembly subscribes unanimously to the policy of abrogating secret treaties which has been adopted by the Soviet Government, the organization of the widest fraternization with the workmen and peasants of the armies now warring against each other, and the securing, at any cost and by revolutionary measures, of a democratic peace without annexations and indemnities, on the basis of free self-determination of peoples.

2. For these same purposes the Constituent Assembly insists upon a complete break with the barbarous policy of bourgeois civilization which built the prosperity of the exploiters among the few chosen nations upon the enslavement of hundreds of millions of the laboring population in Asia, in the colonies in general, and in the small countries.

The Constituent Assembly welcomes the policy of the Council of the People's Commissaries which has proclaimed the complete independence of Finland, which has begun the removal of the troops from Persia, and which has declared the freedom of self-determination of Armenia.

The Constituent Assembly views the Soviet law of the repudiation of the loans contracted by the Government of the Czar, the landowners and bourgeoisie, as the first blow to international banking, finance and

capital, and expresses its confidence that the Soviet authority will continue to pursue that course until the complete victory of the rising of international labor against the yoke of capital is attained.

IV

Having been elected on the basis of party lists made up before the October revolution, when the people could not yet rise *en masse* against the exploiters and did not know the strength of the opposition when the latter defends its class privileges, and when the people had not yet practically undertaken the creation of a socialistic society, the Constituent Assembly would deem it radically wrong, even from a formal point of view, to set itself in opposition to the Soviets.

In substance the Constituent Assembly considers that now, at the moment of the decisive battle of the people with their exploiters, there can be no place for the latter in any of the organs of government. The power must belong wholly and exclusively to the toiling masses and their plenipotentiaries, the Soviets of Workmen's, Soldiers', and Peasants' Delegates.

Supporting the Soviet Government and the decrees of the Council of the People's Commissaries, the Constituent Assembly recognizes that its tasks are completed when it has framed a general statement of the fundamental bases of a socialistic reconstruction of society.

At the same time, aiming at the creation of a really free and voluntary and, consequently, a more complete and lasting union of the laboring classes of all the nations of Russia, the Constituent Assembly confines itself to the establishment of the fundamental principles of federation of the Soviet Republic of Russia, leaving it to the workmen and peasants of each nation to decide independently, at their own representative Soviet Congress, whether they wish to participate in the Federal Government and in the other Soviet institutions, and on what basis. . . .

"Proletarian Democracy"

The October Revolution of October 25 (November 7), 1917, realized the dictatorship of the proletariat, which assisted by the poorest peasantry or semi-proletariat, began to lay the foundation of a communist society. The course of development

of revolutions in Germany and Austria-Hungary, the growth of the revolutionary movement of the proletariat in all advanced countries, the spreading of the Soviet form of this movement, that is, a form that is directed to the immediate realization of the dictatorship of the proletariat—all this proved that there had begun the era of a world-wide proletarian communist revolution.

52. From the Program of the All-Russian Communist Party[1] (Bolsheviks),[2] adopted at 8th Party Congress on March 18–23. 1919

The All-Union Communist Party, developing the concrete aims of the dictatorship of the proletariat with reference to Russia, the chief characteristic of which is that the majority of the population consists of petty-bourgeois strata, defines these aims as follows:

GENERAL POLITICS

1. A bourgeois republic, even the most democratic, sanctified by such watch-words as "will of the people," "will of the nation," "no class privilege," remains in fact, owing to the existence of private property in land and other means of production, the dictatorship of the bourgeoisie, an instrument for exploitation and oppression of the broad masses of workers by a small group of capitalists. In opposition to this, proletarian or Soviet democracy transformed mass organizations precisely of the classes oppressed by capitalism, of proletarians and poorest peasantry or semi-proletarians, i.e., the vast majority of the population, into a single and permanent basis of the state apparatus, local and central. By this act, the Soviet State realized among other things local and regional autonomy without the appointment of authorities from above, on a much wider scale than is practised anywhere. The aim of the Party is to exert the greatest efforts in order to realize fully this highest type of democracy, which to function accurately requires a continually rising standard of culture, organization and activity on the part of the masses.

2. In contrast to bourgeois democracy, which concealed the class character of the state, the Soviet authority openly acknowledges that every state must inevitably bear a class character until the division of society into classes has been abolished and all government authority

[1] From the text published by the Executive Committee of the Communist International (Moscow, 1920?) pp. 24. Communist Library, No. 6.

[2] "All-Union Communist Party (Bolsheviks)" since the 14th Party Congress, December 18–31, 1925.

disappears. By its very nature, the Soviet state directs itself to the suppression of the resistance of the exploiters, and the Soviet constitution does not stop at depriving the exploiters of their political rights, bearing in mind that any kind of freedom is a deception if it is opposed to the emancipation of labor from the yoke of capital. The aim of the Party of the proletariat consists in carrying on a determined suppression of the resistance of the exploiters, in struggling against the deeply rooted prejudices concerning the absolute character of bourgeois rights and freedom, and at the same time explaining that deprivation of political rights and any kind of limitation of freedom are necessary as temporary measures in order to defeat the attempts of the exploiters to retain or to re-establish their privileges. With the disappearance of the possibility of the exploitation of one human being by another, the necessity for these measures will also gradually disappear[3] and the Party will aim to reduce and completely abolish them.

* * *

5. The Soviet Government, guaranteeing to the working masses incomparably more opportunities to vote and to recall their delegates in the most easy and accessible manner, than they possessed under bourgeois democracy and parliamentarism, at the same time abolishes all the negative features of parliamentarism, especially the separation of legislative and executive powers,[4] the isolation of the representative institutions from the masses, etc.

In the Soviet state not a territorial district, but a productive unit (factory, mill) forms the electoral unit[5] and the unit of the state. The state apparatus is thus brought near to the masses.

* * *

7. The urban industrial proletariat, being the more concentrated, united and educated section of the toiling masses, hardened in battle, played the part of leader in the whole Revolution. This was evidenced while the Soviets were being created, as well as in the course of de-

[3] A reference to the Marxist axiom according to which the state, in its coercive capacity, will "wither away."

[4] This view is allegedly no longer held by the interpreters of of the new (1936) constitution. However, "there has been no retreat in Soviet theory from the position of total rejection of the principle of separation of powers." J. Towster, *Political Power in the USSR.* 1917–1947. Oxford University Press, New York, 1948, pp. 185–186, and note.

[5] In 1937 the vocational constituency was replaced by the traditional territorial voting unit. (See Article 34 of the new constitution, p. 241.)

velopment of the Soviets into organs of authority. Our Soviet Constitutions reflects this in certain privileges it confers upon the industrial proletariat,[6] in comparison with the more scattered petty-bourgeois masses in the village.

The All-Russian Communist Party, explaining the temporary character of these privileges, which are historically connected with the difficulties of socialist organization of the village, must try undeviatingly and systematically to use this position of the industrial proletariat in order closer to unite the backward and scattered masses of the village proletarians and semi-proletarians, as well as the middle-class peasantry, as a counter-balance to narrow craft professional interests, which were fostered by capitalism among the workmen.

8. The proletarian revolution, owing to the Soviet organization of the state, was able at one stroke finally to destroy the old bourgeois, official and judicial state apparatus. The comparatively low standard of culture of the masses, the absence of necessary experience in state administration on the part of responsible workers who are elected by the masses, the pressing necessity, owing to the critical situation, of engaging specialists of the old school, and the calling up to military service of the more advanced section of city workmen, all this led to the partial revival of bureaucratic practices within the Soviet system.[7]

The All-Russian Communist Party, carrying on a resolute struggle with bureaucratism, suggests the following measures for overcoming this evil:

(1) Every member of the Soviet is obliged to perform a certain duty in state administration.

(2) These duties must change in rotation, so as gradually to embrace all the branches of administrative work.

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[6] This is obviously a reference to Part IV, Chapter VI of the first Soviet Constitution of 1918 which was the fundamental law of the Russian Socialist Federated Soviet Republic, the only one in existence until 1920. Its Article 68 gives the vote (a double vote for urban industrial workers) to all people engaged in "productive, socially useful labor" while disenfranchising all persons employing "hired labor for the purpose of deriving a profit therefrom" and likewise all merchants, priests and members of the Tsarist police.

The first *Union* Constitution (see next section) while patterned after the RSFSR constitution of 1918 no longer contain these stringent provisions although they remained in force, with certain modifications, until 1936.

[7] Cf. Lenin's definition of the Soviet state as a state of workers and peasants "suffering from bureaucratic deformation." (Speech made at the 10th congress of the All-Russian Communist Party, March 1921.)

(3) All the working masses without exception must be gradually induced to take part in the work of state administration.

The complete realization of these measures will carry us in advance of the Paris Commune,[8] and the simplification of the work of administration, together with the raising of the level of culture of the masses, will eventually lead to the abolition of state authority.

The First Union Constitution

This constitution, which joined the Russian Socialist Federated Soviet Republic (RSFSR, formed in 1918), the Ukrainian Republic (established in 1920), Byelo-Russia (1921), and Transcaucasia (1922) into one federal state, was ratified by the Second Congress of Soviets of the Union on January 31, 1924. However, it was put in force before this date, on July 6, 1923, by the following Resolution of the Central Executive Committee elected by the First All-Union Congress. The text here used includes all amendments up to 1932.

53. The Federation of 1923[1]

The Central Executive Committee of the Union of Soviet Socialist Republics (USSR), solemnly proclaiming the firmness of the foundations of the Soviet authority, acting in pursuance of the resolution adopted by the First Congress of Soviets of the USSR and basing itself on the treaty concerning the formation of the USSR concluded at the First Congress of Soviets of the USSR, in the City of Moscow, on December 30, 1922; and further taking into consideration the amendments and modifications proposed by the Central Executive Committees of the Union Republics, decrees:

[8] In *The Civil War in France* (1871) Karl Marx had extolled the revolt of the people of Paris "as the glorious harbinger of a new society." And Friedrich Engels ended his introduction to the work, written in 1891, with the words: "The German philistine has lately been thrown once again into wholesome paroxysms by the expression 'dictatorship of the proletariat.' Well, gentle sirs, would you like to know how this dictatorship looks? Then look at the Paris Commune. That was the dictatorship of the proletariat." Cited from the Modern Libarary edition of *Capital, The Communist Manifesto, And Other Writings,* New York, 1932, p. 429 and p. 381.

[1] From: *The Fundamental Law (Constitution) of the USSR,* published by Cooperative Publishing Society of Foreign Workers in the USSR, Moscow, 1932. Printed in the USSR by the International Press, Moscow.

That the declaration concerning the formation of the USSR and the treaty concerning the formation of the USSR shall constitute the Constitution (Fundamental Law) of the USSR.

Part I

Declaration Concerning the Formation of the Union of Soviet Socialist Republics

Since the formation of the Soviet republics the countries of the world have split into two camps: the camp of capitalism and the camp of socialism.

There, in the camp of capitalism, we find national animosities and inequality, colonial slavery and chauvinism, national oppression and pogroms, imperialist brutality and wars.

Here, in the camp of socialism, there is mutual confidence and peace, national freedom and equality and the fraternal collaboration of nations peacefully dwelling side by side.

The attempts of the capitalist world for decades past to solve the problem of nationalities by combining the free development of peoples with the system of exploitation of man by man have proved fruitless. On the contrary, the tangle of national antagonisms becomes more and more involved, threatening the very existence of capitalism. The bourgeoisie has shown itself powerless to organize the collaboration of nations.

Only in the camp of the Soviets, only under the dictatorship of the proletariat which rallied around itself the majority of the population, has it become possible to abolish national oppression root and branch, to create the conditions engendering mutual confidence and to lay the foundations of a fraternal collaboration of nations.

Only thanks to these circumstances did the Soviet republics succeed in warding off the attacks of the imperialists of the whole world, both domestic and foreign; it is only thanks to these circumstances that they managed successfully to terminate the civil war, to secure their existence and to commence peaceful economic construction.

However, the years of war left their trace. The ruined fields, idle factories, shattered productive forces and exhausted economic resources which were left as a heritage of war, rendered inadequate all the efforts made by the separate republics to build up their economy. The restoration of the national economy was impossible while the republics continued to exist separately.

On the other hand, the instability of the international situation and the danger of new attacks render inevitable the creation of a united front of the Soviet republics to face the capitalist encirclement.

Finally, the very structure of Soviet authority, international in its class essence, impels the toiling masses of the Soviet republics to enter the path of union to form one socialist family.

All these circumstances imperatively demand the unification of the Soviet republics into a single federal state, capable of securing the peoples against attacks from without and assuring them of domestic economic prosperity and freedom of national development of the peoples.

The will of the peoples constituting the Soviet republics which recently assembled in the Congresses of their respective Soviets and there unanimously decided to form the "Union of Soviet Socialist Republics," is a reliable guaranty that this Union is a voluntary association of peoples enjoying equal rights, that the right of each republic to secede from the Union is inviolate, that admission to the Union is open to all socialist Soviet republics whether now existing or hereafter to come into being, that the new federal state will prove itself a worthy pinnacle crowning the foundation laid as early as October, 1917, to permit nations to dwell peaceful side by side in fraternal collaboration, that it will seve as a reliable bulwark against world capitalism and will make a new decisive step toward uniting the workers of the world into a World Socialist Soviet Republic.

Part II

Treaty Concerning the Formation of the Union of Soviet Socialist Republics

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CHAPTER III

CONGRESS OF SOVIETS OF THE UNION OF SOVIET SOCIALIST REPUBLICS

Art. 8—The Congress of Soviets and, during the intervals between the Congresses of Soviets, the Central Executive Committee of the

[1] Chapter I, entitled Jurisdiction of the Supreme Authorities of the USSR, and Chapter II (Sovereign Rights of the Union Republics and Union Citizenship) are omitted, their provisions being practically identical with Articles 14 and 15 of the new constitution. (See following section.)

USSR consisting of the Union Council and the Council of Nationalities, shall be the supreme authorities of the USSR.

ART. 9—The Congress of Soviets of the USSR shall consist of the representatives of Town Soviets and of the Soviets of urban settlements, apportioned at the rate of one deputy for every twenty-five thousand electors, and of the representatives of the Village Soviets at the rate of one deputy for every one hundred and twenty-five thousand inhabitants.

ART. 10—The delegates to the Congress of Soviets of the USSR shall be elected as follows:[3]

(a) Directly at the Congresses of Soviets of the Union republics, which are not divided into regions.

(b) At the Regional Congresses of Soviets in those Union republics which are divided into regions;

(c) At the Congresses of Soviets of the Soviet Socialist Republics of Azerbaayjan, Georgia, and Armenia and at the Congresses of Soviets of the Autonomous Republics and Regions, both those which form and those which do not form parts of regional federations.

ART. 11—The regular Congresses of the Soviets of the USSR shall be convened by the Central Executive Committee of the USSR once every two years; special Congresses shall be convened by the Central Executive Committee of the USSR on its own resolution to do so or at the demand of the Union Council, of the Council of Nationalities or of the Union Republics.

ART. 12—If extraordinary circumstances shall prevent the convocation of the Congress of Soviets of the USSR at the regular time, the Central Executive Committee of the USSR shall be empowered to postpone the convocation of the Congress.

CHAPTER IV

CENTRAL EXECUTIVE COMMITTEE OF THE UNION OF SOVIET SOCIALIST REPUBLICS

ART. 13—The Central Executive Committee of the USSR shall consist of the Union Council and the Council of Nationalities.

ART. 14—The Congress of Soviets of the USSR shall elect a Union

[3] Compare this article, which gives little if any information about the indirect and one-sidedly "proletarian" system of popular representation in force prior to 1936, with the elaborate description of the direct and equal election procedure in the new constitution (Chapter XI, p. 261ff).

Council to consist of representatives of the Union Republics in proportion to the population of each of them and in such number as shall be determined by the Congress of Soviets of the USSR.

ART. 15—The Council of Nationalities shall consist of five representatives each from the Union and autonomous Soviet socialist republics and of one representative each from the autonomous regions. The composition of the Council of Nationalities shall be confirmed as a whole by the Congress of Soviets of the USSR.

ART. 16—The Union Council and the Council of Nationalities shall examine all decrees, codes and decisions submitted to them by the Presidium of the Central Executive Committee or by the Council of People's Commissars of the USSR, by the respective People's Commissariats of the Union or by the Central Executive Committees of the Union Republics, also those which may come before it on the initiative of the Union Council or the Council of Nationalities.

ART. 17—The Central Executive Committee of the USSR shall issue codes of law, decrees, decisions and orders, shall coordinate the legislative and administrative work of the USSR and shall determine the scope of activity of the Presidium of the Central Committee and of the Council of People's Commissars of the USSR.

ART. 18—All decrees and decisions which shall determine the general forms of political and economic life of the USSR, and also those which shall introduce radical changes in the existing practices of the state authorities of the USSR, must under all circumstances be submitted for the consideration and confirmation of the Central Executive Committee of the USSR.

ART. 19—All decrees, decisions and orders issued by the Central Executive Committee must be directly carried out throughout the whole territory of the USSR.

ART. 20—The Central Executive Committee of the USSR shall be authorized and empowered to suspend or annul any decree, decision or order issued by the Presidium of the Central Executive Committee of the USSR, or by a Congress of Soviets or by a Central Executive Committee of any Union Republic, or by any other authority within the territory of the USSR.

ART. 21—The regular sessions of the Central Executive Committee shall be called by the Presidium of the Central Executive Committee at least three times during the interval between two regular Congresses of Soviets of the USSR.

Special sessions shall be called by decision of the Presidium of the Central Executive Committee of the USSR, at the demand of the Central Executive Committee of one of the Union Republics.

ART. 22—Bills which shall be submitted to the Central Executive Committee of the USSR for its consideration shall obtain the force of law only if passed by both the Union Council and the Council of Nationalities, and shall be promulaged in the name of the Central Executive Committee of the USSR.

ART. 23—If the Union Council and the Council of Nationalities shall fail to agree on any question, the question shall be referred to a conciliation committee to be appointed by them.

ART. 24—If no agreement is reached by the Conciliation committee, the question shall be referred to a joint meeting of the Union Council and the Council of Nationalities for their consideration, and if the question shall fail to obtain a majority of the votes cast in either the Union Council or in the Council of Nationalities, it may, at the demand of either of these bodies, be submittted for decision to a regular or special Congress of Soviets of the USSR.[4]

ART. 25—The Union Council and the Council of Nationalities shall each elect a Presidium to consist of nine members, whose functions shall be to prepare the sessions of their respective councils and to direct the work of these sessions.

ART. 26—During the intervals between the sessions of the Central Executive Committee of the USSR, the supreme authority shall be vested in the Presidium of the Central Executive Committee of the USSR, which shall be formed by the Central Executive Committee and shall consist of 27 members, which number shall include all the members of the Presidiums of both the Union Council and the Council of Nationalities.

A joint meeting of the Union Council and of the Council of Nationalities shall be held for the purpose of forming the Presidium of the Central Executive Committee and of the Council of People's Commissars of the USSR as provided by Articles 26 and 37 of the present Constitution. The Union Council and the Council of Nationalities shall vote separately at the joint meeting of the Union Council and of the Council of Nationalities.

ART. 27—The Central Executive Committee shall elect as many

[4] Compare this article, which never found application, with the slightly different arrangement provided by the new charter (Article 47, on p. 242).

Chairmen of the Central Executive Committee of the USSR as there are Union republics from among the members of the Presidium of the Central Executive Committee of the USSR.

ART. 28—The Central Executive Committee of the USSR shall be responsible to the Congress of Soviets of the USSR.[5]

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CHAPTER VII

SUPREME COURT OF THE UNION OF SOVIET SOCIALIST REPUBLICS[6]

ART. 43—For the purpose of enforcing revolutionary law and order within the territory of the USSR, a Supreme Court shall be established, which shall be attached to the Central Executive Committee of the USSR. This Court shall possess the following jurisdiction:

(a) To give Supreme Courts of the respective Union republics authoritative interpretations of questions relating to All-Union legislation;

(b) To review, on the representation of the Public Prosecutor of the Supreme Courts of the Union republics that may be in contravention of All-Union legislation or that may affect the interests of other Republics, and to appeal any such decision, order or judgment to the Central Executive Committee of the USSR;

(c) To render an opinion on the constitutionality of any decision of a Union republic if requested to do so by the Central Executive Committee of the USSR;

(d) To adjudicate legal disputes between Union republics;

(e) To try the highest officials of the Union who may be accused of malfeasance in office.

ART. 44—The Supreme Court of the USSR may sit as one of the following tribunals:

(a) The Plenary Session of the Supreme Court of the USSR;

(b) The Civil and Criminal Collegiums of the Supreme Court of the USSR;

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[5] Chapter V (Articles 29–36) dealing with the powers of the Presidium, and Chapter VI (Council of People's Commissars) are omitted, since the functions of both agencies have remained virtually the same under the new constitution (Articles 49 and 64–78).

[6] Note the very considerable changes in phraseology and content which characterize the comparative Chapter IX of the new constitution (Articles 102–117, p. 256–257).

(c) The Military Collegium;

(d) The Collegium on Transport Cases.

ART. 45—The Plenary Session of the Supreme Court of the USSR shall consist of the following members: the President of the Supreme Court, his deputy, the Presidents of the Plenary Sessions of the Supreme Courts of the Union republics, the Presidents of the Collegiums of the Supreme Court of the USSR and four members who shall be appointed by the Presidium of the Central Executive Committee of the USSR, including one representative of the Union State Political Department (OGPU) of the USSR. The President of the Supreme Court and his deputy shall be appointed by the Presidium of the Central Executive Committee of the USSR.

ART. 46—The Presidium of the Central Executive Committee of the USSR shall appoint a Public Prosecutor and a Deputy Public Prosecutor of the Supreme Court of the USSR . . . to render opinions on all questions coming before the Supreme Court of the USSR for decision, to act as prosecuting attorney at the sessions of the Court and in the event of disagreement with the decision of the Plenary Session of the Supreme Court of the USSR, to appeal the decision to the Presidium of the Central Executive Committee of the USSR.

ART. 47—The right to submit any question indicated in article 43 to the Plenary Session of the Supreme Court of the USSR can be exercised only on the initiative of the Central Executive Committee of the USSR, of its Presidium, of the Public Prosecutor of the Supreme Court of the USSR, of a public prosecutor of a Union republic or of the United State Political Department of the USSR.

ART. 48—The Plenary Session of the Supreme Court of the Union shall set up special tribunals for the trial of the following cases:

(a) Criminal and civil cases of exceptional importance, the subject matter of which shall affect two or more Union Republics;

(b) Cases where members of the Central Executive Committee or of the Council of People's Commissars of the USSR shall be personally indicted.

The Supreme Court of the USSR may proceed in such cases only after a special decision to that effect has been rendered by the Central Executive Committee or its Presidium in each separate instance.[7]

* * *

[7] Chapter VIII, omitted, deals with the People's Commissariats of the Union Republics. See Chapter VI (Articles 79–88, and note 69) of the new constitution.

CHAPTER IX

UNITED STATE POLITICAL DEPARTMENT (OGPU)[8]

ART. 61—For the purpose of combining the revolutionary efforts of the Union republics to combat the political and economic counter-revolution, espionage and banditry, a United State Political Department shall be set up and attached to the Council of People's Commissars of the USSR, the President of which shall be a member of the Council of People's Commissars of the USSR with consultative voice.

ART. 62—The United State Political Department of the USSR shall direct the work of the local authorities of the State Political Department (GPU) through its plenipotentiary representatives attached to the Councils of the People's Commissars of the Union republics, which shall function in accordance with the provisions of a special statute duly enacted.

ART. 63—The legality of the actions of the Union State Political Department of the USSR shall be supervised by the Public Prosecutor of the Supreme Court of the USSR, by virtue of a special statute of the Central Executive Committee of the USSR.[9]

* * *

Stalin's State

The new constitution of the USSR, usually called "the Stalin constitution," was presented by the then Secretary-General in a speech made on November 25, 1936 to the Extraordinary Eighth Congress of Soviets, and adopted by that body as the new law of the land on December 5 of the same year. The following is the complete English version, authorized and published by the Soviet Government, of the "Constitution (Fundamental Law) of the Union of Soviet Socialist Republic, as amended by the Supreme Soviet of the

[8] No special reference to the State Police will be found in the 1936 constitution, for the simple reason that the OGPU had become absorbed by the Commissariat of Internal Affairs in 1934. (See Article 78 of the new charter, and note 50.)

[9] Omitted: Chapter X, describing the legislative machinery (Soviet Congresses, Central Executive Committees and Presidiums) of the Union Republics, and the final Chapter IX (Coat of Arms, Flag and The Capital) which is identical with Chapter XII of the new charter (Articles 143–145). See p. 262, below.

USSR, on February 25, 1947, on the recommendations of the Drafting Commission," with the exception of Articles 77 and 78, which appear here in the amended form as enacted by the Supreme Soviet on March 14, 1949.[1]

54. The 1936 Constitution

Chapter I

The Social Structure

Art. 1—The Union of Soviet Socialist Republics is a socialist state of workers and peasants.

Art. 2—The political foundation of the USSR is the Soviets of Working People's Deputies, which grew and became strong as a result of the overthrow of the power of the landlords and capitalists and the conquest of the dictatorship of the proletariat.

Art. 3—All power in the USSR belongs to the working people of town and country as represented by the Soviets of Working People's Deputies.

Art. 4—The economic foundation of the USSR is the socialist system of economy and the socialist ownership of the instruments and means of production, firmly established as a result of the liquidation of the capitalist system of economy, the abolition of private ownership of the instruments and means of production, and the elimination of the exploitation of man by man.

Art. 5—Socialist property in the USSR exists either in the form of state property (belonging to the whole people) or in the form of

[1] Since publication of the original text in 1937, the new constitution was amended at the following sessions of the first Supreme Soviet: the first (January 12–19, 1938), the second (August 10–21, 1938), the third (May 25–31, 1939), the sixth (March 29–April 4, 1940), the seventh (August 1–7, 1940), the eighth (February 25–March 1, 1941), and at the third and sixth sessions of the second Supreme Soviet, elected in 1946 (February, 1947 and March, 1949).

Furthermore, law requiring amendments were adopted at the tenth session of the first Supreme Soviet (January 28–February 1, 1944) and at the first session of the post war Supreme Soviet (spring 1946). "Constitutional amendments were reported on together with the interim decrees adopted by the Presidium of the Supreme Soviet, and they were not debated." J. Towster, *Political Power in the USSR* (New York, Oxford University Press, 1948), p. 258.

The text printed here was published by *Information Bulletin,* Embassy of the USSR, Washington, D.C., December, 1947.

cooperative and collective farm property (property of collective farms, property of cooperative societies).

ART. 6—The land, its mineral wealth, waters, forests, mills, factories, mines, rail, water and air transport, banks, communications, large state-organized agricultural enterprises (state farms, machine and tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling houses in the cities and industrial localities, are state property, that is, belong to the whole people.

ART. 7—The common enterprises of collective farms, and cooperative organizations, with their livestock and implements, the products of the collective farms and cooperative organizations, as well as their common buildings, constitute the common, socialist property of the collective farms and cooperative organizations.

Every household in a collective farm, in addition to its basic income from the common collective farm enterprise, has for its personal use a small plot of household land and, as its personal property, a subsidiary husbandry on the plot, a dwelling house, livestock, poultry and minor agricultural implements—in accordance with the rules of the agricultural artel.

ART. 8—The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time, that is, in perpetuity.

ART. 9—Alongside the socialist system of economy, which is the predominant form of economy in the USSR, the law permits the small private economy of individual peasants and handicraftsmen based on their own labor and precluding the exploitation of the labor of others.

ART. 10—The personal property right of citizens in their incomes and savings from work, in their dwelling houses and subsidiary home enterprises, in articles of domestic economy and use and articles of personal use and convenience, as well as the right of citizens to inherit personal property, is protected by law.

ART. 11—The economic life of the USSR is determined and directed by the state national economic plan, with the aim of increasing the public wealth, of steadily raising the material and cultural standards of the working people, of consolidating the independence of the USSR and strengthening its defensive capacity.

ART. 12—Work in the USSR is a duty and a matter of honor for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the USSR is that of socialism: "From each according to his ability, to each according to his work."

Chapter II

The State Structure

Art. 13[1]—The Union of Soviet Socialist Republics is a federal state, formed on the basis of a voluntary union of equal Soviet Socialist Republics, namely:

The Russian Soviet Federative Socialist Republic
The Ukrainian Soviet Socialist Republic
The Byelorussian Soviet Socialist Republic
The Uzbek Soviet Socialist Republic
The Kazakh Soviet Socialist Republic
The Georgian Soviet Socialist Republic
The Azerbaijan Soviet Socialist Republic
The Lithuanian Soviet Socialist Republic
The Moldavian Soviet Socialist Republic
The Latvian Soviet Socialist Republic
The Kirghiz Soviet Socialist Republic
The Tajik Soviet Socialist Republic
The Armenian Soviet Socialist Republic
The Turkmen Soviet Socialist Republic
The Estonian Soviet Socialist Republic
The Karelo-Finnish Soviet Socialist Republic.

Art. 14—The jurisdiction of the Union of Soviet Socialist Republics, as represented by its higher organs of state power and organs of state administration, embraces:

(a) Representation of the USSR in international relations, conclusion, ratification and denunciation[2] of treaties of the USSR

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[1] Amended following the Stalin-Hitler pact, in order to admit five new members to the family of eleven constituent Soviet Republics, the five being: the Karelo-Finnish Republic (admitted March 4, 1940), the Moldavian Republic (August 2, 1940), Lithuania (August 3, 1940), Latvia (August 5, 1940), and Estonia (August 6, 1940).

The order in which the members of the Union are listed, was changed by constitutional amendment in February 1947, with the Uzbek S.S.R. moving up from no. 8 (of eleven) to no. 4 (of sixteen).

[2] The words, "and denunciation," were newly added, by amendment, in February, 1947.

with other states, establishment of general procedure governing the relations of Union Republics with foreign states;[3]

(b) Questions of war and peace;

(c) Admission of new republics into the USSR;

(d) Control over the observance of the Constitution of the USSR, and ensuring conformity of the Constitutions of the Union Republics with the Constitution of the USSR;

(e) Confirmation of alterations of boundaries between Union Republics;

(f) Confirmation of the formation of new Territories and Regions and also of new Autonomous Republics and Autonomous Regions within Union Republics;

(g) Organization of the defense of the USSR, direction of all the Armed Forces of the USSR, determination[4] of directing principles governing the organization of the military formations of the Union Republics;

(h) Foreign trade on the basis of state monopoly;

(i) Safeguarding the security of the state;

(j) Determination of the national economic plans of the USSR;

(k) Approval of the consolidated state budget of the USSR and of the report on its fulfillment; determination of the taxes and revenues which go to the Union, the Republican and the local budgets;

(l) Administration of the banks, industrial and agricultural institutions and enterprises and trading enterprises of all-Union importance;

(m) Administration of transport and communications;

(n) Direction of the monetary and credit system;

(o) Organization of state insurance;

(p) Contracting and granting of loans;

(q) Determination of the basic principles of land tenure and of the use of mineral wealth, forest and waters;

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[3] Likewise new is the last clause, reserving the general conduct of Foreign Affairs to the Union, while permitting the member republics to enter into direct diplomatic relations with foreign powers, a right established by decree in February, 1944, and implemented by Articles 18a and 60e.

[4] The passage from "determination" to the end of this paragraph was added by amendment, in February, 1947, to give expression to the principle of military autonomy of the Republics, under federal supervision, as granted them by decree in February, 1944, and spelled out by Articles 18b and 60f.

(r) Determination of the basic principles in the spheres of education and public health;

(s) Organization of a uniform system of national economic statistics;

(t) Determination of the principles of labor organization;

(u) Legislation concerning the judicial system and judicial procedure; criminal and civil codes;

(v) Legislation concerning Union citizenship; legislation concerning rights of foreigners;

(w) Determination of the principles of legislation concerning marriage and the family;

(x) Issuing of all-Union acts of amnesty.

ART. 15—The sovereignty of the Union Republics is limited only in the spheres defined in Article 14 of the Constitution of the USSR. Outside of these spheres each Union Republic exercises state authority independently. The USSR protects the sovereign rights of the Union Republics.

ART. 16—Each Union Republic has its own Constitution, which takes account of the specific features of the Republic and is drawn up in full conformity with the Constitution of the USSR.

ART. 17—The right freely to secede from the USSR is reserved to every Union Republic.

ART. 18—The territory of a Union Republic may not be altered without its consent.

ART. 18a[5]—Each Union Republic has the right to enter into direct relations with foreign states and to conclude agreements and exchange diplomatic and consular representatives with them.

ART. 18b[6]—Each Union Republic has its own Republican military formations.

ART. 19—The laws of the USSR have the same force within the territory of every Union Republic.

ART. 20—In the event of divergence between a law of a Union Republic and a law of the Union, the Union law prevails.

ART. 21—Uniform citizenship is established for citizens of the USSR. Every citizen of a Union Republic is a citizen of the USSR.

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[5] See note 3.
[6] See note 4.

ART. 22[7]—The Russian Soviet Federative Socialist Republic consists of the Altai, Krasnodar, Krasnoyarsk, Primorye, Stavropol and Khabarovsk Territories;

The Archangelsk, Astrakhan, Bryansk, Velikiye-Luki, Vladimir, Vologda, Voronesh, Gorky, Grozny, Ivanovo, Irkutsk, Kaliningrad, Kaluga, Kemerovo, Kirov, Kostroma, Crimea, Kuibyshev, Kurgan, Kursk, Leningrad, Molotov, Moscow, Murmansk, Novgorod, Novosibirsk, Omsk, Orel, Penza, Pskov, Rostov, Ryazan, Saratov, Sakhalin, Sverdlovsk, Smolensk, Stalingrad, Tambov, Tomsk, Tula, Tyumen, Ulyanovsk, Chelyabinsk, Chita, Chkalov and Yaroslavl Regions;

The Tatar, Bashkir, Daghestan, Buryat-Mongolian, Kabardinian, Komi, Mari, Mordovian, North Ossetian, Udmurt, Chuvash and Yakut Autonomous Soviet Socialist Republics;

And the Adygei, Jewish, Oirot, Tuva, Khakass and Cherkess Autonomous Regions.

ART. 23[8]—The Ukrainian Soviet Socialist Republic consists of the

[7] Amended five times between January, 1938, and March, 1941, and a sixth time in February, 1947. In addition to the creation of a new administrative *term* —"province" (gubernia) into "territory" (krai)—and the formation of new administrative *units*, the following changes may be noted:

The creation of the Kaliningrad region (the Northern half of the former German province of East Prussia, renamed after the first, late President of the USSR), which became a part, not of the adjacent, new Soviet Republic, Lithuania, but of the distant RSFSR;

The surprising appearance of Tannu Tuva, until October, 1945, an "independent" republic, as the Tuvinian Autonomous Region of the RSFSR;

The disappearance, because of disloyalty during the last war, of five national units: the Volga-German, Kalmyk, Checheno- Ingush and Crimean Autonomous Republics (by decrees of 1941, 1943, 1944, and 1945, respectively), and the Karachayev Autonomous Region (by decree of 1943); whereas the Karelian Autonomous Republic disappeared because of its elevation (with additional territory annexed from Finland, minus some districts ceded to the Leningrad region) to a Constitutent Republic. (See Article 13, and note 2.)

[8] As amended in February 1947. New territories acquired from:

Poland (the Drogobych, Lvov, Rovno, Stanislav and Ternopol [formerly Tarnopol] regions, incorporated by vote of the Supreme Soviet on November 1, 1939; some western districts were returned to the new Polish Republic by the treaty of August 16, 1945;

Roumania (the Ismail and Chernovitsy regions), by vote of the Supreme Soviet on August 2, 1940; and

Czechoslovakia (the Transcarpathian region), the transfer was ratified by the First Supreme Soviet at its twelfth session, on November 27, 1945.

The Moldavian Autonomous Republic has disappeared since its elevation to a Constituent Republic (see note 2).

Vinnitsa, Volhynia, Voroshilovgrad, Dniepropetrovsk, Drohobych, Zhitomir, Transcarpathian, Zaporozhye, Ismail, Kamenets-Podolsk, Kiev, Kirovograd, Lvov, Nikolayev, Odessa, Poltava, Rovno, Stalino, Stanislav, Sumi, Ternopol, Kharkov, Kherson, Chernigov and Chernovtsi Regions.

ART. 24—The Azerbaijan Soviet Socialist Republic includes the Nakhichevan Autonomous Soviet Socialist Republic and the Nagorno-Karabakh Autonomous Region.

ART. 25—The Georgian Soviet Socialist Republic includes the Abkhazian Autonomous Soviet Socialist Republic, the Adjar Autonomous Soviet Socialist Republic and the South Ossetian Autonomous Region.

ART. 26[9]—The Uzbek Soviet Socialist Republic consists of the Andizhan, Bukhara, Kashka-Darya, Namangan, Samarkand, Surkhan-Darya, Tashkent, Ferghana and Khorezm Regions and the Kara-Kalpak Autonomous Soviet Socialist Republic.

ART. 27—The Tajik Soviet Socialist Republic consists of the Garm, Kulyab, Leninabad and Stalinabad Regions and the Gorno-Badakhshan Autonomous Region.

ART. 28[10]—The Kazakh Soviet Socialist Republic consists of the Akmolinsk, Aktyubinsk, Alma-Ata, East Kazakhstan, Guriev, Jambul, West Kazakhstan, Karaganda, Kzyl-Orda, Kokchetav, Kustanai, Pavlodar, North Kazakhstan, Semipalatinsk, Taldy-Kurgan and South Kazakhstan Regions.

ART. 29[11]—The Byelorussian Soviet Socialist Republic consists of the Baranovichi, Bobruisk, Brest, Vitebsk, Gomel, Grodno, Minsk, Moghilev, Molodechno, Pinsk, Polessye and Polotsk Regions.

ART. 29a[12]—The Turkmen Soviet Socialist Republic consists of the Ashkhabad, Mari, Tashauz and Chardzhou Regions.

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[9] Amended in January, 1938 and February, 1947. New administrative regions (9 regions) formed. The 1937 text did not mention any subdivisions, except for the Kara-Kalpak Autonomous S.S.R.

[10] Amended in January, 1938 and February, 1947. The number of regions has been doubled, from 8 to 16.

[11] The administrative structure of Byelorussia was not detailed in the 1937 text. A 1938 amendment established 5 regions: Vitebsk, Gomel, Minsk, Mogilev and Polesie. Polish territory was incorporated by the Supreme Soviet on November 2, 1939, some of which was returned to the new Polish Republic by the treaty of August 16, 1945. What remained was organized, by amendment of February, 1947, as the Baranovichi, Brest [Litovsk], Grodno, and Pinsk regions.

[12] No subdivisions listed in the 1937 text; the text of 1945 contained 5; a February, 1947, amendment reduced the number to 4.

ART. 29b[13]—The Kirghiz Soviet Socialist Republic consists of the Dzhalal-Abad, Issyk-Kul, Osh, Talas, Tien-Shan and Frunze Regions.[14]

CHAPTER III

THE HIGHER ORGANS OF STATE POWER IN THE UNION OF SOVIET SOCIALIST REPUBLICS

ART. 30—The highest organ of state power in the USSR is the Supreme Soviet of the USSR.

ART. 31[15]—The Supreme Soviet of the USSR exercises all rights vested in the Union of Soviet Socialist Republics in accordance with Article 14 of the Constitution, in so far as they do not, by virtue of the Constitution, come within the jurisdiction of organs of the USSR that are accountable to the Supreme Soviet of the USSR, that is, the Presidium of the Supreme Soviet of the USSR, the Council of Ministers of the USSR, and the Ministries of the USSR.

ART. 32—The legislative power of the USSR is exercised exclusively by the Supreme Soviet of the USSR.

ART. 33—The Supreme Soviet of the USSR consists of two Chambers: the Soviet of the Union and the Soviet of Nationalities.

ART. 34—The Soviet of the Union is elected by the citizens of the USSR voting by election districts on the basis of one deputy for every 300,000 of the population.

ART. 35—The Soviet of Nationalities is elected by the citizens of the USSR voting by Union Republics, Autonomous Republics, Autonomous Regions, and National Areas on the basis of twenty-five deputies from each Union Republic, eleven deputies from each

[13] No subdivisions listed in the 1937 text; the text of 1945 contained 5; a 1947 amendment added the Talas region.

[14] General remark concerning the administrative divisions listed in Articles 22–29b: all of them were established by various decrees of the Presidium of the Supreme Soviet between 1938 and 1945; an official list was published by Pravda on October 17, 1945. Some of the decrees had been ratified by the Supreme Soviet between 1938 and 1941 and incorporated into the constitution by amendments, but the bulk of the ratifications and amendments was not enacted until February, 1947.

[15] The original, revolutionary terms, "Council of People's Commissars" and "People's Commissariats" were replaced, throughout the Constitution (Articles 31, 49, 56, 63—88, 93, 113) by the conventional appelations, "Council of Ministers" and "Ministries of the USSR." The change was enacted by the Second Supreme Soviet during its first post-war session, on March 15, 1946, and incorporated into the Constitution by amendment of February, 1947.

Autonomous Republic, five deputies from each Autonomous Region and one deputy from each National Area.

ART. 36—The Supreme Soviet of the USSR is elected for a term of four years.

ART. 37—The two Chambers of the Supreme Soviet of the USSR, the Soviet of the Union and the Soviet of Nationalities, have equal rights.

ART. 38—The Soviet of the Union and the Soviet of Nationalities have equal powers to initiate legislation.

ART. 39[16]—A law is considered adopted if passed by both Chambers of the Supreme Soviet of the USSR by a simple majority vote in each.

ART. 40—Laws passed by the Supreme Soviet of the USSR are published in the languages of the Union Republics over the signatures of the President and Secretary of the Presidium of the Supreme Soviet of the USSR.

ART. 41—Sessions of the Soviet of the Union and of the Soviet of Nationalities begin and terminate simultaneously.

ART. 42—The Soviet of the Union elects a Chairman of the Soviet of the Union and two Vice-Chairmen.

ART. 43—The Soviet of Nationalities elects a Chairman of the Soviet of Nationalities and two Vice-Chairmen.

ART. 44—The Chairmen of the Soviet of the Union and the Soviet of Nationalities preside at the sittings of the respective Chambers and have charge of the conduct of their business and proceedings.

ART. 45—Joint sittings of the two Chambers of the Supreme Soviet of the USSR are presided over alternately by the Chairman of the Soviet of the Union and the Chairman of the Soviet of Nationalities.

ART. 46—Sessions of the Supreme Soviet of the USSR are convened by the Presidium of the Supreme Soviet of the USSR twice a year.

Extraordinary sessions are convened by the Presidium of the Supreme Soviet of the USSR at its discretion or on the demand of one of the Union Republics.

ART. 47—In the event of disagreement between the Soviet of the Union and the Soviet of Nationalities the question is referred for settlement to a conciliation commission formed on a parity basis. If

[16] Amended in February, 1947. The original text slightly rephrased.

the conciliation commission fails to arrive at an agreement, or if its decision fails to satisfy one of the Chambers, the question is considered for a second time by the Chambers.[17] Failing agreement between the two Chambers, the Presidium of the Supreme Soviet of the USSR dissolves the Supreme Soviet of the USSR and orders new elections.

ART. 48—The Supreme Soviet of the USSR at a joint sitting of the two Chambers elects[18] the Presidium of the Supreme Soviet of the USSR, consisting of a President of the Presidium of the Supreme Soviet of the USSR, sixteen Vice-Presidents, a Secretary of the Presidium and fifteen members of the Presidium of the Supreme Soviet of the USSR.[18]

The Presidium of the Supreme Soviet of the USSR is accountable to the Supreme Soviet of the USSR for all its activities.

ART. 49[19]—The Presidium of the Supreme Soviet of the USSR:

(a) Convenes the sessions of the Supreme Soviet of the USSR;

(b) Issues decrees;

(c) Gives interpretations of the laws of the USSR in operation;

(d) Dissolves the Supreme Soviet of the USSR in conformity with Article 47 of the Constitution of the USSR and orders new elections;

(e) Conducts nation-wide polls (referendums) on its own initiative or on the demand of one of the Union Republics;

(f) Annuls decisions and orders of the Council of Ministers of

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[17] The three words, "by the Chambers," inserted, for greater precision, by amendment, February, 1947.

[18] Instead of "elects," the 1937 text reads "chooses." Amendment of February, 1947. When, in August 1940, five new Republics were added to the Federation (see note 2), the number of Vice-Chairmen of the Presidium was increased from 11 to 16, but at the same time the original group of 24 members was reduced to 15 (amendment of August 7, 1940), so that the total number, including Chairman and Secretary, would now be 33 (previously: 37), if not for the fact that Mr. Shvernik, the Chairman of the Presidium of the USSR is also, in his capacity of Chairman of the Presidium of the *RSFSR*, a Vice-Chairman of the Federal Presidium. The total number of that body is, therefore, 32. (See Towster, *op. cit.*, p. 264.)

[19] Amended in January 1940 and February 1947. The latter amendment added Paragraph k), dealing with the newly created military titles and diplomatic ranks, introduced by decrees of January 17, July 28, and October 9, 1943. Another addition is

Paragraph r) assigning to the Presidium the right to proclaim marital law (established in 1938).

the USSR and of the Councils of Ministers of the Union Republics if they do not conform to law;

(g) In the intervals between sessions of the Supreme Soviet of the USSR, releases and appoints Ministers of the USSR on the recommendation of the Chairman of the Council of Ministers of the USSR, subject to subsequent confirmation by the Supreme Soviet of the USSR;

(h) Institutes decorations (orders and medals) and titles of honor of the USSR;

(i) Awards orders and medals and confers titles of honor of the USSR;

(j) Exercises the right of pardon;

(k) Institutes military titles, diplomatic ranks and other special titles;

(l) Appoints and removes the high command of the Armed Forces of the USSR;

(m) In the intervals between sessions of the Supreme Soviet of the USSR, proclaims a state of war in the event of military attack on the USSR, or when necessary to fulfill international treaty obligations concerning mutual defense against aggression;

(n) Orders general or partial mobilization;

(o) Ratifies and denounces international treaties of the USSR;

(p) Appoints and recalls plenipotentiary representatives of the USSR to foreign states;

(q) Receives the letters of credence and recall of diplomatic representatives accredited to it by foreign states;

(r) Proclaims martial law in separate localities or throughout the USSR in the interests of the defense of the USSR or of the maintenance of public order and the security of the state.

ART. 50—The Soviet of the Union and the Soviet of Nationalities elect Credential Committees to verify the credentials of the members of the respective Chambers.[20]

On the report of the Credential Committees, the Chambers decide whether to recognize the credentials of deputies or to annul their election.

ART. 51—The Supreme Soviet of the USSR, when it deems necessary, appoints commissions of investigation and audit on any matter.

It is the duty of all institutions and officials to comply with the

[20] Amended in February, 1947. Slight textual changes.

demands of such commissions and to submit to them all necessary materials and documents.

ART. 52—A member of the Supreme Soviet of the USSR may not be prosecuted or arrested without the consent of the Supreme Soviet of the USSR, or, when the Supreme Soviet of the USSR is not in session, without the consent of the Presidium of the Supreme Soviet of the USSR.[21]

ART. 53—On the expiration of the term of office of the Supreme Soviet of the USSR, or on its dissolution prior to the expiration of its term of office, the Presidium of the Supreme Soviet of the USSR retains its powers until the newly-elected Supreme Soviet of the USSR shall have formed a new Presidium of the Supreme Soviet of the USSR.

ART. 54—On the expiration of the term of office of the Supreme Soviet of the USSR, or in event of its dissolution prior to the expiration of its term of office, the Presidium of the Supreme Soviet of the USSR orders new elections to be held within a period not exceeding two months from the date of expiration of the term of office or dissolution of the Supreme Soviet of the USSR.

ART. 55—The newly-elected Supreme Soviet of the USSR is convened by the outgoing Presidium of the Supreme Soviet of the USSR not later than three months[22] after the elections.

ART. 56—The Supreme Soviet of the USSR, at a joint sitting of the two Chambers, appoints the Government of the USSR, namely, the Council of Ministers of the USSR.

CHAPTER IV

THE HIGHER ORGANS OF STATE POWER IN THE UNION REPUBLICS

ART. 57—The highest organ of state power in a Union Republic is the Supreme Soviet of the Union Republic.

ART. 58—The Supreme Soviet of a Union Republic is elected by the citizens of the Republic for a term of four years.

The basis of representation is established by the Constitution of the Union Republic.

ART. 59—The Supreme Soviet of a Union Republic is the sole legislative organ of the Republic.

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[21] Amended in February, 1947. Minor textual changes.

[22] The 1937 text has "one month." Amended in February 1947.

ART. 60—The Supreme Soviet of a Union Republic:

(a) Adopts the Constitution of the Republic and amends it in conformity with Article 16 of the Constitution of the USSR;

(b) Confirms the Constitutions of the Autonomous Republics forming part of it and defines the boundaries of their territories;

(c) Approves the national economic plan and the budget of the Republic;

(d) Exercises the right of amnesty and pardon of citizens sentenced by the judicial organs of the Union Republic;

(e) Decides questions of representation of the Union Republic in its international relations;

(f) Determines the manner of organizing the Republic's military formations.

ART. 61—The Supreme Soviet of a Union Republic elects the Presidium of the Supreme Soviet of a Union Republic, consisting of a President of the Presidium of the Supreme Soviet of the Union Republic, Vice-Presidents, a Secretary of the Presidium and members of the Presidium of the Supreme Soviet of the Union Republic.

The powers of the Presidium of the Supreme Soviet of a Union Republic are defined by the Constitution of the Union Republic.

ART. 62—The Supreme Soviet of a Union Republic elects a Chairman and Vice-Chairmen to conduct its sittings.

ART. 63—The Supreme Soviet of a Union Republic appoints the Government of the Union Republic, namely, the Council of Ministers of the Union Republic.

CHAPTER V

THE ORGANS OF STATE ADMINISTRATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS

ART. 64—The highest executive and administrative organ of the state power of the Union of Soviet Socialist Republics is the Council of Ministers of the USSR.

ART. 65—The Council of Ministers of the USSR is responsible and accountable to the Supreme Soviet of the USSR, or, in the intervals between sessions of the Supreme Soviet, to the Presidium of the Supreme Soviet of the USSR.

ART. 66—The Council of Ministers of the USSR issues decisions and orders on the basis and in pursuance of the laws in operation, and verifies their execution.

ART. 67—Decisions and orders of the Council of Ministers of the USSR are binding throughout the territory of the USSR.

ART. 68—The Council of Ministers of the USSR:

(a) Coordinates and directs the work of the all-Union and Union-Republican Ministries of the USSR and of other institutions[23] under its jurisdiction;

(b) Adopts measures to carry out the national economic plan and the state budget, and to strengthen the credit and monetary system;

(c) Adopts measures for the maintenance of public order, for the protection of the interests of the state, and for the safeguarding of the rights of the citizens;

(d) Exercises general guidance in the sphere of relations with foreign states;

(e) Fixes the annual contingent of citizens to be called up for military service and directs the general organization of the Armed Forces of the country;

(f) Sets up, whenever necessary, special Committees and Central Administrations under the Council of Ministers of the USSR for economic and cultural affairs and defense.

ART. 69—The Council of Ministers of the USSR has the right, in respect of those branches of administration and economy which come within the jurisdiction of the USSR, to suspend decisions and orders of the Councils of Ministers of the Union Republics and to annul orders and instructions of Ministers of the USSR.

ART. 70—The Council of Ministers of the USSR is appointed by the Supreme Soviet of the USSR and consists of:[24]

[23] The 1937 text listed explicity "economical and cultural" institutions. The amendment of February, 1947, assured the broadest possible scope of jurisdiction.

[24] Amended in January, 1938, April, 1941, and February, 1947. The 1937 text listed, as additional members of the Council of People's Commissars: the Chairmen of the

Committee on Agricultural Stocks (elevated to full Ministry status by amendment of January 14, 1938; see note 31);

Commission of Soviet [State] Control (elevated to full Ministry status by decree of September 6, 1940, amendment of April 1941; see note 53);

Committee on Higher Education (elevated to full Ministry status on April 10, 1946; see note 52).

A decree of June 4, 1946, ratified by the Supreme Soviet on October 18, 1946, put the State Bank under the jurisdiction of the Ministry of Finance, making the Chairman of its Board Vice-Minister of that ministry, at the same time eliminating him from the list of Council [of People's Commissars] members with ministerial status.

The Chairman of the Council of Ministers of the USSR;
The Vice-Chairmen of the Council of Ministers of the USSR;
The Chairman of the State Planning Commission of the USSR;
The Ministers of the USSR;
The Chairman of the Arts Committee.

ART. 71—The Government of the USSR or a Minister of the USSR to whom a question of a member of the Supreme Soviet of the USSR is addressed must give a verbal or written reply in the respective Chamber within a period not exceeding three days.

ART. 72—The Ministers of the USSR direct the branches of state administration which come within the jurisdiction of the USSR.

ART. 73—The Ministers of the USSR, within the limits of the jurisdiction of their respective Ministries, issue orders and instructions on the basis and in pursuance of the laws in operation, and also of decisions and orders of the Council of Ministers of the USSR, and verify their execution.

ART. 74—The Ministries of the USSR are either all-Union or Union-Republican Ministries.

ART. 75—Each all-Union Ministry directs the branch of state administration entrusted to it throughout the territory of the USSR either directly or through bodies appointed by it.

ART. 76—The Union-Republican Ministries, as a rule, direct the branches of state administration entrusted to them through corresponding Ministries of the Union Republics; they administer directly only a definite and limited number of enterprises according to a list confirmed by the Presidium of the Supreme Soviet of the USSR.

ART. 77—The following Ministries are all-Union Ministries:[25]

[25] Amended 5 times: in January, 1938, March, 1939, March, 1941, February, 1947, and March, 1949. The many changes, in almost all cases anticipated by Presidial decree, reflect the tremendous growth of the administrative machinery, above all in the sphere of economic tasks. The amendments prior to 1948 tell a story of multiplication and subdivision: of chief administrations (glavki) operating under one ministry, being given independent ministry status; whereas administrative reform from 1948 on reversed the previous trend, favoring a policy of contraction: of reunification and elimination of agencies.

The 1937 text listed only eight all-Union Commissariats: Defense, Foreign Affairs, Foreign Trade, Railways, Communications, Water Transport, Heavy Industry, Defense Industry. By April, 1947, the number had risen to 37 ministries. The amendment passed by the Supreme Soviet on March 14, 1949, scaled the list down to the 26 ministries enumerated in the text published by *Pravda* on March 16, 1949; the English version reproduced in the text appeared in the *Current Digest of the Soviet Press,* published by the American Council of Learned Societies, Vol. I, No. 10 (April 5, 1949), p. 26.

The Ministry of the Aircraft Industry[26]
The Ministry of the Automobile and Tractor Industry[27]
The Ministry of Foreign Trade
The Ministry of Armaments[28]
The Ministry of Geology [Geological Survey][29]
The Ministry of State Food and Material Reserves[30]
The Ministry of Procurements [Stocks, State Supplies][31]
The Ministry of Machine Building and Instrument Construction[32]
The Ministry of the Iron and Steel Industry[33]
The Ministry of the Merchant Marine[34]
The Ministry of the Oil Industry[35]

[26] Created on January 11, 1939, when the Commissariat of Defense was split into the four Commissariats of Aircraft Industry, Armaments, Munitions, and Shipbuilding.

[27] Formed on February 17, 1946 as the Ministry of Automobile Industry from sections of the war Commissariat of Military Supplies [Tanks], which, early in the war had replaced the Commissariat of Medium Machine Building (established on February 6, 1939, when the Commissariat of Machine Building was divided into three parts: Heavy, Medium and General Machine Building Industry). On February 4, 1948, the ministry's name was changed to include the tractor industry.

[28] See note 26.

[29] Created on June 15, 1946.

[30] Established on March 14, 1949, by the merger of the Ministry of Food Reserves with the Ministry of Material Reserves, which had existed since May 3, 1946.

[31] Created on January 14, 1938. (See note 24 to Article 70.)

[32] Reconverted on February 17, 1946, from the wartime Commissariat of Mortar Armament, which in turn had superseded, November 17, 1941, the short-lived Commissariat of the Machine Tool Industry, announced on June 8th of that year.

[33] Commissariats of the Iron and Steel Industry and of the Non-Ferrous Metallurigcal Industry had been formed, together with four other industrial commissariats on January 24, 1939, out of the Commissariat of Heavy Industry. A decree of July 29, 1949, united the two ministries into the Ministry of the Iron and Steel Industry, eliminating the independent Ministry of Non-Ferrous Metallurgical Industry.

[34] This ministry, also called the Ministry of the Ocean Fleet, was established on April 10, 1939, when the Commissariat of Water Transport was split up into the two commissariats of the Merchant Marine and the River Fleet. (See note 37.)

[35] The genealogy of the ministry is typical of the most recent trend toward consolidation: Created on October 13, 1939, as an offshot of the abolished Commissariat of the Fuel Industry (which had come into being only 9 months earlier, on January 25, 1939), the Commissariat of the Oil Industry was divided, on March 5, 1946, into the two commissariats of the Oil Industry of the Eastern

The Ministry of the Communications Equipment Industry[36]
The Ministry of Railroads
The Ministry of the River Fleet [Inland Water Transport][37]
The Ministry of Communications
The Ministry of Agricultural Machine Building[38]
The Ministry of Construction and Road Machine Building[39]
The Ministry of Machine-Building Enterprise Construction[40]
The Ministry of the Shipbuilding Industry[41]
The Ministry of Transport Machine Building[42]
The Ministry of Labor Reserves[43]
The Ministry of Heavy Machine Building[44]
The Ministry of the Coal Industry[45]
The Ministry of the Chemical Industry[46]

Regions and the Oil Industry of the Southern and Western Regions. A decree of December 28, 1948, reunited the two territorial sections into a single ministry.

[36] Formed on June 28, 1946, out of the Ministry of the Electrical Industry, which continued under that name until the 1949 amendment changed it to "Ministry of the Electrical Equipment Industry. (See note 47.)

[37] Cf. note 34.

[38] Reconverted, on January 7, 1946, from the war Commissariat of Military Supplies [Tanks]. (See note 27.)

[39] Created on February 17, 1946.

[40] Two decrees of January 19, 1946, established the Commissariat for the Construction of Heavy Industry Enterprises (replacing the Commissariat of Construction, formed on May 29, 1939), and the Commissariat for the Construction of Military and Naval Enterprises. The two agencies were fused into the Ministry of Machine-Building Enterprise Construction by decree of March 8, 1948.

[41] Established when the Commissariat of Defense was split into four units, on January 11, 1939. (Cf. note 26.)

[42] Formed from sections of the abolished Commissariat of Military Supplies [Tanks] and sections of the Commissariat of Heavy Machine Building on October 14, 1945. (See notes 27 and 38.)

[43] Created on May 15, 1946.

[44] Established on February 6, 1939, as one of the three successors to the Commissariat of the Machine Building Industry, which in turn had been split from the Commissariat of Heavy Industry on August 2, 1937. (See also note 27.)

[45] This ministry, created on October 13, 1939 when the Commissariat of the Fuel Industry was dissolved (cf. note 35), was once more split into two, separate ministries—one for the Eastern, and one for the Western Regions—on January 19, 1946, only to be reunited again by decree of December 28, 1948. A third "victim" of this merger was the Ministry of Fuel Enterprise Construction, which had been established on January 28, 1946.

[46] Formed on January 24, 1939 (as one of six commissariats replacing the Commissariat of Heavy Industry), the Ministry of the Chemical Industry absorbed the Ministry of the Rubber Industry (established on March 29, 1941), on August 2, 1948.

The Ministry of the Electric Equipment Industry[47]

The Ministry of Electric Power Plants.[48]

ART. 78—The following Ministries are Union-Republican Ministries:[49]

The Ministry of Internal Affairs[50]

The Ministry of the Armed Forces[51]

[47] The Commissariat of Electrical Power Plants [Stations] and Electrical Industry, established as another of the six commissariats replacing the Commissariat of Heavy Industry, was divided into the Commissariat of Power Plants [Stations] and the Commissariat of the Electrical Industry on April 18, 1940. The latter agency was renamed Ministry of the Electrical Equipment Industry by amendment of March 14, 1949.

[48] See preceding note. One all-Union ministry listed in the 1947 text disappeared altogether: the Ministry of the Medical [Supply] Industry was abolished by decree of March 1, 1948.

[49] Given as amended by the Supreme Soviet on March 14, 1949 (*Pravda,* March 16, 1949), *Current Digest of the Soviet Press,* Vol. I, No. 10, pp. 26–27. Prior to that date, the article had been amended in January, 1938, March, 1939, March, 1941, and February, 1947. The 1937 text lists eleven Union-Republican commissariats: of the Food Industry, Light Industry, Timber Industry, Agriculture, Grain and Livestock State Farms (sovkhozi), Finance, Internal Trade, Internal Affairs, Justice, and Public Health. The 1947 text enumerates 22 ministries, three less than a list published in 1946 which included agencies shifted to the all-Union group the following year (Food Reserves, Material Reserves, and Labor [Manpower] Reserves). The 1949 amendment scaled the list down to twenty Union-Republican ministries.

[50] Internal Affairs had been an exclusively Republican, non-Federal matter until a Federal, Union-Republican Commissariat of Internal Affairs was created in 1934, which—nominally—absorbed the federal police administration (O.G.P.U.). Shortly before the Soviet Union's entry into the Second World War, on February 3, 1941, the department was split into a Commissariat of Internal Affairs and a Commissariat of State Security, only to be reunited five months later, on July 20, 1941. A second separation took place "in April 1943, but the decree has not been published in the official journals." (J. N. Hazard, *Political, Administrative, and Judicial Structure in the U.S.S.R. Since the War,* in *The Annals of The American Academy of Political and Social Science,* May 1949, p. 14, note 33.)

[51] The All-Union Commissariat of the Army and Navy, established by the 1924 constitution, became the Commissariat of National Defense in 1935. A separate all-Union Navy Commissariat was set up on December 31, 1937. On February 2, 1944, National Defense was transferred from all-Union to Union-Republican jurisdiction (cf. Articles 18b, 60f, and note 6). On February 25, 1946, the department was renamed "Armed Forces" to take charge of both land and naval forces. The separate, all-Union Ministry of the Navy was abolished under the same date. As this goes to press, Moscow announces the restorations of a special Navy Ministry (Presidial decree of February 25, 1950.) Its official inclusion in the list of all Union Ministries (Art. 77)—raising the total to 27—will have to wait for the necessary amendment of the Constitution by the new, third Convocation of the Supreme Soviet of the USSR, elected on March 12, 1950.

The Ministry of Higher Education[52]
The Ministry of State [Soviet] Control[53]
The Ministry of State Security[54]
The Ministry of Public Health[55]
The Ministry of Foreign Affairs[56]
The Ministry of Cinematography[57]
The Ministry of Light Industry[58]
The Ministry of Forest Economy[59]
The Ministry of the Lumber and Paper Industry[60]
The Ministry of the Meat and Dairy Industry[61]
The Ministry of the Food Industry[62]
The Ministry of the Buildings Material Industry[63]
The Ministry of the Fishing Industry[64]

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[52] Elevated to full ministry status (earlier: Committee for Higher Education, under the Council of Ministers) on April 10, 1946. (See Article 70 and note 24.)
[53] The Commission of State Control, replacing the Department for Workers' and Peasants' Inspection ("Rabkrin") in 1934, became a full ministry on September 6, 1940. (See Article 70 and note 24.)
[54] See note 50.
[55] Another instance of the transfer of powers from non-federal, republican to federal, Union–Republican, jurisdiction. It took place in 1936.
[56] The Commissariat of Foreign Affairs, like that of Defense, was shifted from the all-Union to the Union-Republican category on February 2, 1944. (Cf. Articles 18a, 60e, and note 5.)
[57] Created on March 20, 1946.
[58] Transferred from the all-Union to the Union-Republican type of commissariats in 1936. Split into two (Light Industry and Textile Industry) on January 3, 1939. Reunion by decree of December 28, 1948.
[59] Instituted by decree of April 4, 1947.
[60] The Commissariat of the Timber [Lumber] Industry was transferred from all-Union to Union-Republican jurisdiction in 1936. An all-Union Commissariat of the Cellulose [Pulp] and Paper Industry was set up on April 28, 1940. The two ministries were merged, and both placed under Union-Republican jurisdiction (renamed the Ministry of the Lumber and Paper Industry) by decree of July 29, 1948.
[61] Independent commissariat since January 20, 1939, when the Commissariat of the Food Industry was split into the three commissariats of the Food Industry, Meat and Dairy Products, and Fishing Industry.
[62] This ministry absorbed, on January 20, 1949, the Ministry of the Gustatory Industry (spirits, alcoholic and non-alcoholic beverages, cosmetics, perfumes, tobacco), which had existed since July 15, 1946.
[63] Instituted on January 24, 1939, when the Commissariat of the Heavy Industry was split into six parts. Originally an all-Union commissariat, it was shifted to the Union-Republican category only two months later, on March 19, 1939.
[64] Formed on January 20, 1939 (see note 61), it was divided into a Ministry

The Ministry of Agriculture[65]
The Ministry of State Farms[66]
The Ministry of Trade[67]
The Ministry of Finance
The Ministry of Justice[68]

Chapter VI

The Organs of State Administration of the Union Republics

Art. 79—The highest executive and administrative organ of the state power of a Union Republic is the Council of Ministers of the Union Republic.

Art. 80—The Council of Ministers of a Union Republic is responsible and accountable to the Supreme Soviet of the Union Republic, or, in the intervals between sessions of the Supreme Soviet of the Union Republic, to the Presidium of the Supreme Soviet of the Union Republic.

Art. 81—The Council of Ministers of a Union Republic issues decisions and orders on the basis and in pursuance of the laws in operation of the USSR and of the Union Republic, and of the decisions and orders of the Council of Ministers of the USSR, and verifies their execution.

Art. 82—The Council of Ministers of a Union Republic has the right to suspend decisions and orders of the Councils of Ministers of its Autonomous Republics, and to annul decisions and orders of the Executive Committees of the Soviets of Working People's Deputies of its Territories, Regions and Autonomous Regions.

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of the Fishing Industry of the Eastern Regions and a Ministry of the Fishing Industry of the Western Regions on May 8, 1946, reunited on December 28, 1948.

[65] Split into the Ministry of Agriculture and the Ministry of Lifestock on March 20, 1946, with the tasks of the (*ad hoc*) dissolved Ministry of Grain and Lifestock State Farms (sovkhozi) divided between the two, the Ministry of Agriculture re-absorbed the Ministry of Lifestock on February 5, 1947, as well as the Ministry of Industrial [Technical] Crops, formed by decree of November 11, 1945. At the same time, the Ministry of State Farms was re-established.

[66] See note 65.

[67] An amendment of January, 1938, changed the name of the Commissariat of Internal Trade to Commissariat of Trade.

[68] The Commissariat of Justice was removed from the exclusive jurisdication of the constituent republics, in 1936, and made a Union-Republican agency.

ART. 83—The Council of Ministers of a Union Republic is appointed by the Supreme Soviet of the Union Republic and consists of:[69]

The Chairman of the Council of Ministers of the Union Republic;
The Vice-Chairmen of the Council of Ministers;
The Chairman of the State Planning Commission;
The Ministers;
The Chief of the Arts Administration;
The Chairman of the Committee for Cultural and Educational Institutions.

ART. 84—The Ministers of a Union Republic direct the branches of state administration which come within the jurisdiction of the Union Republic.

ART. 85—The Ministers of a Union Republic, within the limits of the jurisdiction of their respective Ministries, issue orders and instructions on the basis and in pursuance of the laws of the USSR and of the Union Republic, of the decisions and orders of the Council of Ministers of the USSR and the Council of Ministers of the Union Republic, and of the orders and instructions of the Union-Republican Ministries of the USSR.

ART. 86—The Ministries of a Union Republic are either Union-Republican or Republican Ministries.

ART. 87—Each Union-Republican Ministry directs the branch of state administration entrusted to it, and is subordinate both to the Council of Ministers of the Union Republic and to the corresponding Union-Republican Ministry of the USSR.

ART. 88—Each Republican Ministry directs the branch of state administration entrusted to it and is directly subordinate to the Council of Ministers of the Union Republic.

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[69] Amended in January, 1938, March, 1939, March, 1941, and February, 1947. The first of the amendments eliminated the Representative of the Committee of Stocks from the Council of People's Commissars of the Union Republics, as that committee was moved up to become an all-Union commissariat. (See notes 24 and 31.)

Up to 1947, the texts of the Constitution enumerated all the commissariats of the Union Republics, those corresponding to the federal, Union-Republican agencies as well as the non-federal, exclusively republican departments; they also mentioned the "Delegates of the All-Union People's Commissariats," the federal inspectors. The 1947 text leaves only "The Ministers."

Chapter VII

The Higher Organs of State Power in the Autonomous Soviet Socialist Republics

Art. 89—The highest organ of state power in an Autonomous Soviet Socialist Republic is the Supreme Soviet of the Autonomous Republic.

Art. 90—The Supreme Soviet of an Autonomous Republic is elected by the citizens of the Republic for a term of four years on a basis of representation established by the Constitution of the Autonomous Republic.

Art. 91—The Supreme Soviet of an Autonomous Republic is the sole legislative organ of the Autonomous Republic.

Art. 92—Each Autonomous Republic has its own Constitution, which takes account of the specific features of the Autonomous Republic and is drawn up in full conformity with the Constitution of the Union Republic.

Art. 93—The Supreme Soviet of an Autonomous Republic elects the Presidium of the Supreme Soviet of the Autonomous Republic and appoints the Council of Ministers of the Autonomous Republic, in accordance with its Constitution.

Chapter VIII

The Local Organs of State Power

Art. 94—The organs of state power in territories, regions, autonomous regions, areas, districts, cities and rural localities (stanitsas, villages, hamlets, kishlaks, auls) are the Soviets of Working People's Deputies.

Art. 95—The Soviets of Working People's Deputies of territories, regions, autonomous regions, areas, districts, cities and rural localities (stanitsas, villages, hamlets, kishlaks, auls) are elected by the working people of the respective territories, regions, autonomous regions, areas, districts, cities or rural localities for a term of two years.

Art. 96—The basis of representation for Soviets of Working People's Deputies is determined by the Constitutions of the Union Republics.

Art. 97—The Soviets of Working People's Deputies direct the work of the organs of administration subordinate to them, ensure the maintenance of public order, the observance of the laws and the protection

of the rights of citizens, direct local economic and cultural affairs and draw up the local budgets.

ART. 98—The Soviets of Working People's Deputies adopt decisions and issue orders within the limits of the powers vested in them by the laws of the USSR and of the Union Republic.

ART. 99—The executive and administrative organ of the Soviet of Working People's Deputies of a territory, region, autonomous region, area, district, city or rural locality is the Executive Committee elected by it, consisting of a Chairman, Vice-Chairman, a Secretary and members.

ART. 100—The executive and administrative organ of the Soviet of Working People's Deputies in a small locality, in accordance with the Constitution of the Union Republic, is the Chairman, the Vice-Chairman[70] and the Secretary elected by it.

ART. 101—The executive organs of the Soviets of Working People's Deputies are directly accountable both to the Soviets of Working People's Deputies which elected them and to the executive organ of the superior Soviet of Working People's Deputies.

CHAPTER IX

THE COURTS AND THE PROCURATOR'S OFFICE

ART. 102—In the USSR justice is administered by the Supreme Court of the USSR, the Supreme Courts of the Union Republics, the Courts of the Territories, Regions, Autonomous Republics, Autonomous Regions and Areas, the Special Courts of the USSR established by decision of the Supreme Soviet of the USSR, and the People's Courts.

ART. 103—In all Courts cases are tried with the participation of people's assessors, except in cases specially provided for by law.

ART. 104—The Supreme Court of the USSR is the highest judicial organ. The Supreme Court of the USSR is charged with the supervision of the judicial activities of all the judicial organs of the USSR and of the Union Republics.

ART. 105—The Supreme Court of the USSR and the Special Courts of the USSR are elected by the Supreme Soviet of the USSR for a term of five years.

[70] The 1937 text has "Vice-Chairmen."

ART. 106—The Supreme Courts of the Union Republics are elected by the Supreme Soviets of the Union Republics for a term of five years.

ART. 107—The Supreme Courts of the Autonomous Republics are elected by the Supreme Soviets of the Autonomous Republics for a term of five years.

ART. 108—The Courts of Territories, Regions, Autonomous Regions and Areas are elected by the Soviets of Working People's Deputies of the respective Territories, Regions, Autonomous Regions or Areas for a term of five years.

ART. 109—People's Courts are elected by the citizens of the districts on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

ART. 110—Judicial proceedings are conducted in the language of the Union Republic, Autonomous Republic or Autonomous Region, persons not knowing this language being guaranteed the opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

ART. 111—In all Courts of the USSR cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right of defense.

ART. 112—Judges are independent and subject only to the law.

ART. 113—Supreme supervisory power to ensure the strict observance of the law by all Ministries and institutions subordinated to them, as well as by officials and citizens of the USSR generally, is vested in the Procurator-General of the USSR.[71]

ART. 114—The Procurator-General of the USSR is appointed by the Supreme Soviet of the USSR for a term of seven years.

ART. 115—Procurators of Republics, Territories, Regions, Autonomous Republics and Autonomous Regions are appointed by the Procurator-General of the USSR for a term of five years.

ART. 116—Area, district and city procurators are appointed by the Procurators of the Union Republics, subject to the approval of the Procurator-General of the USSR, for a term of five years.

ART. 117—The organs of the Procurator's Office perform their functions independently of any local organs whatsoever, being subordinate solely to the Procurator-General of the USSR.

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[71] This title replaced the earlier one of State-Attorney (law of March 19, 1946; amendment of February, 1947).

Chapter X

Fundamental Rights and Duties of Citizens[72]

Art. 118—Citizens of the USSR have the right to work, that is, the right to guaranteed employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

Art. 119—Citizens of the USSR have the right to rest and leisure.

The right to rest and leisure is ensured[73] by the establishment of an eight-hour day for factory and office workers, the reduction of the working day to seven or six hours for arduous trades and to four hours in shops where conditions of work are particularly arduous, by the institution of annual vacations with full pay for factory and office workers, and by the provision of a wide network of sanatoria, rest homes and clubs for the accommodation of the working people.

Art. 120—Citizens of the USSR have the right to maintenance in old age and also in case of sickness or disability.

This right is ensured by the extensive development of social insurance of factory and office workers at state expense, free medical service for the working people, and the provision of a wide network of health resorts for the use of the working people.

Art. 121—Citizens of the USSR have the right to education.

This right is ensured by universal and compulsory elementary education; by free education[74] up to and including the seventh grade; by a system of state stipends for students of higher educational establishments who excel in their studies; by instruction in schools being conducted in the native language; and by organization in the factories,

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[72] The 1924 Constitution had no comparable section.

[73] Prior to the 1947 amendment, the text read: "The right to rest and leisure is ensured by the shortening of the working day for the overwhelming majority of workers to seven hours." The eight-hour working day was introduced by decree of June 26, 1940.

[74] Prior to the amendment of February, 1947, the sentence read: "by education, including higher education, being free of charge; by the system of state stipends for the overwhelming majority of students in universities and colleges . . . " Tuition fees for universities, colleges and the upper high school grades were introduced by decree of Septembr 1, 1940.

state farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

ART. 122—Women in the USSR are accorded equal rights with men in all spheres of economic, government, cultural, political and other public activity.

The possibility of exercising these rights is ensured by women being accorded an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by state protection of the interests of mother and child, state aid to mothers of large families and unmarried mothers,[75] maternity leave with full pay, and the provision of a wide network of maternity homes, nurseries and kindergartens.

ART. 123—Equality of rights of citizens of the USSR, irrespective of their nationality or race, in all spheres of economic, government, cultural, political and other public activity, is an indefeasible law.

Any direct or indirect restriction of the rights of, or, conversely, the establishment of any direct or indirect privileges for, citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

ART. 124—In order to ensure to citizens freedom of conscience, the church in the USSR is separated from the state, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

ART. 125—In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the USSR are guaranteed by law:

(a) Freedom of speech;

(b) Freedom of the press;

(c) Freedom of assembly, including the holding of mass meetings;

(d) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communication facilities, and other material requisites for the exercise of these rights.

ART. 126—In conformity with the interests of the working people, and in order to develop the organizational initiative and political

[75] This clause was missing prior to the amendment of the article in February, 1947. A decree establishing aid to mothers of large families and unmarried mothers was promulgated on July 18, 1944.

activity of the masses of the people, citizens of the USSR are guaranteed the right to unite in public organizations; trade unions, cooperative societies, youth organizations, sport and defense organizations, cultural, technical and scientific societies; and the most active and political-conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and state.

ART. 127—Citizens of the USSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

ART. 128—The inviolability of the homes of citizens and privacy of correspondence are protected by law.

ART. 129—The USSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for scientific activities, or for struggling for national liberation.

ART. 130—It is the duty of every citizen of the USSR to abide by the Constitution of the Union of Soviet Socialist Republics, to observe the laws, to maintain labor discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

ART. 131—It is the duty of every citizen of the USSR to safeguard and fortify public, socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, as the source of the prosperity and culture of all the working people.

Persons committing offenses against public, socialist property are enemies of the people.

ART. 132—Universal military service is law.

Military service in the Armed Forces of the USSR[76] is an honorable duty of the citizens of the USSR.

ART. 133—To defend the country is the sacred duty of every citizen of the USSR. Treason to the motherland—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the state, espionage—is punishable with all the severity of the law as the most heinous of crimes.

[76] Amended in February, 1947. The earlier texts had "Workers' and Peasants' Red Army." A decree of May 8, 1940, introduced military ranks and titles in the Soviet Army and Navy.

Chapter XI

The Electoral System[77]

Art. 134—Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the USSR, the Supreme Soviets of the Union Republics, the Soviets of Working People's Deputies of the Territories and Regions, the Supreme Soviets of the Autonomous Republics, the Soviets of Working People's Deputies of the Autonomous Regions, and the area, district, city and rural (stanitsa, village, hamlet, kishlak, aul) Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, equal and direct suffrage by secret ballot.

Art. 135—Elections of deputies are universal: all citizens of the USSR who have reached the age of eighteen, irrespective of race or nationality, sex, religion, education, domicile, social origin, property status or past activities, have the right to vote in the election of deputies, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Every citizen of the USSR who has reached the age of twenty-three[78] is eligible for election to the Supreme Soviet of the USSR, irrespective of race or nationality, sex, religion, education, domicile, social origin, property status or past activities.

Art. 136—Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 137—Women have the right to elect and be elected on equal terms with men.

Art. 138—Citizens serving in the Armed Forces of the USSR[79] have the right to elect and be elected on equal terms with all other citizens.

Art. 139—Elections of deputies are direct: all Soviets of Working People's Deputies, from rural and city Soviets of Working People's

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[77] Cf. Articles 9 and 10 of the 1924 Federal Constitution (p. 228).

[78] This entire paragraph was added to the article by amendment of February, 1947. Soviet citizens had been eligible for election at the age of eighteen, until a decree of October 10, 1945, raised the age limit for the forthcoming (1946) elections to the Second Supreme Soviet.

[79] Amended in February, 1947 (see note 76). A decree of October, 1945, established separation election rules for units of the Armed Forces on occupation duty outside the Soviet Union (each unit of 100,000 men was to be entitled to one deputy in each house of the Supreme Soviet).

Deputies to the Supreme Soviet of the USSR, are elected by the citizens by direct vote.

ART. 140—Voting at elections of deputies is secret.

ART. 141—Candidates are nominated by election district.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, cooperatives, youth organizations and cultural societies.

ART. 142—It is the duty of every deputy to report to his electors on his work and on the work of his Soviet of Working People's Deputies, and he may be recalled at any time upon decision of a majority of the electors in the manner established by law.

CHAPTER XII

ARMS, FLAG, CAPITAL

ART. 143—The arms of the Union of Soviet Republics are a sickle and hammer against a globe depicted in the rays of the sun and surrounded by ears of grain, with the inscription "Workers of All Countries, Unite!"[80] in the languages of the Union Republics. At the top of the arms is a five-pointed star.

ART. 144—The state of the Union of Soviet Socialist Republics is of red cloth with the sickle and hammer depicted in gold in the upper corner near the staff and above them a five-pointed red star bordered in gold. The ratio of the width of the length is 1:2.

ART. 145—The capital of the Union of Soviet Socialist Republics is the City of Moscow.

CHAPTER XIII

PROCEDURE FOR AMENDING THE CONSTITUTION

ART. 146—The Constitution of the USSR may be amended only by decision of the Supreme Soviet of the USSR adopted by a majority of not less than two thirds of the votes in each of its Chambers.

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[80] The Russian legend of the coat of arms reproduced on the cover of the text has "Proletarians of all countries," the authentic version of the "Communist Manifesto."

55. Election Rules (1937)

Act on the Order and Procedure of the Elections to the Supreme Council of the USSR[1]

The democratization—in a Western sense—of the franchise, as provided by Chapter IX of the 1936 constitution, was implemented by a series of decrees prior to the first election to the new Supreme Soviet in 1937. All administrative machinery set up to screen disenfranchized citizens who had applied for rehabilitation, was declared abolished by a Decree of the Presidium "On the Closure of all Procedure in Connection with the Deprivation of USSR Citizens of the Franchise by reason of Social Origin, Property Status and Former Activities"[2] (March 14, 1937). Four months later, Article 135 of the new constitution was spelled out in another decree which, after specifying the rules for the compilation of election lists and restating th eprovisions for the electoral units (constituencies) as established by Article 34 of the new constitution, goes on as follows:

* * *

IV

Electoral Wards

Art. 25—For the receipt of the voting papers and the counting of votes, the area of towns and districts forming a constituency[3] is divided into electoral wards, which are common for elections both to the Council of the Union and the Council of Nationalities.

Art. 26—The electoral wards in the towns are determined by the municipal Councils of workers' deputies; in towns with regional divisions—by regional Councils of workers' deputies; in rural districts—by district Councils of workers' deputies.

Art. 27—The electoral wards are established not later than 45 days before the polling day.

Art. 28—The area of a village council with a population not exceeding 2,000 constitutes, as a general rule, a single electoral ward; in

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[1] From *The Slavonic* (and *East European*) *Review*, Vol. 16, No. 47 (Jan. 1938), pp. 458–470. Official Russian text published in *Izvestia*, No. 160. (6322) 10 July, 1937.

[2] *See* Article 2, on page 222.

[3] Cf. Article 5, par. 2 on p. 223.

each stanitsa, village, kishlak, aul with a population of from 500 but not exceeding 2,000, a separate electoral ward is set up.

ART. 29—In distant northern and eastern districts where small settlements predominate, the organisation of electoral wards with a population not below 100 is permitted.

ART. 30—Towns, industrial centres, and likewise villages and the rural council areas, with a population not exceeding 2,000 are divided into electoral wards on the principle of one electoral ward to every 1,500-2,000 population.

ART. 31—Army units and groups form separate electoral wards with not less than 50 and not more than 1,500 voters, which are included in the constituency on whose area the unit or group are quartered.

ART. 32—Ships with a number of voters not less than 50, out at sea during elections, may form separate electoral wards, which are included in the constituency in which the ship's home port is situated.

ART. 33—In hospitals, maternity homes, sanatoria, homes for the disabled numbering not less than 50 voters separate electoral wards may be formed.

V

ELECTORAL COMMISSIONS

ART. 34—The central electoral commission for elections to the Supreme Council of the USSR is composed of representatives of public organisations and workers' associations, and is confirmed by the Presidium of the Supreme Council of the USSR simultaneously with the publication of the date of the polling-day.

ART. 35—The central electoral commission consists of a chairman, deputy chairman, secretary and 12 members.

ART. 36—The Central electoral commission:—

(a) supervises the correct execution throughout the territory of the USSR during the process of elections of the "Act on the Order and Procedure of Elections to the Supreme Council of the USSR";

(b) examines complaints against unlawful proceedings of the electoral commissions and pronounces final decisions on such complaints;

(c) determines the shape of the ballot boxes, the form of the "certificate of the right to vote," the shape and colour of the voting papers and their envelopes, the form of the lists of electors, the form

of the protocols for the counting of votes, the form of the certificates of election;

(d) registers the deputies elected to the Supreme Council;

(e) hands over to the mandatory commissions of the Council of the Union and of the Council of Nationalities the record of the elections.

ART. 37—Union, Autonomous Republican, Autonomous Regional and National District electoral commissions are set up in every Union and Autonomous Republic, Autonomous Region and National District.

ART. 38—The Electoral commissions for elections to the Council of the Union and the Council of Nationalities are composed of representatives of public organisations and workers' associations and confirmed by the Presidiums of the Supreme Councils of the Union and Autonomous Republics, the Councils of workers' deputies of the Autonomous Regions and National Districts, not later than 50 days before polling-day.

ART. 39—The electoral commissions of the Union and Autonomous Republics, the Autonomous Regions and National Districts, for elections to the Council of Nationalities, are composed of a chairman, deputy-chairman, secretary and 6–10 members.

* * *

ART. 54—All expenses entailed by the elections to the Supreme Council of the USSR are discharged by the State.

* * *

VI

THE PROCEDURE OF NOMINATION

ART. 56—The right to nominate candidates to the Supreme Council of the USSR belong to public organisations and workers' associations on the basis of Art. 141 of the Constitution of the USSR; Communist Party organisations, Trade Unions, Co-operatives, Youth organisations, cultural societies and other legally registered organisations.

ART. 57—The right to nominate candidates is exercised both by the central organs of public organisations and workers' associations and by their republican, territorial, regional and district organs, also by general meetings of workers and employees in concerns, by Red Army men—Army units—and by general meetings of peasants in collective farms, and workers and employees on State farms.

ART. 58—Candidates cannot be members of Divisional electoral commissions for election to the Council of the Union and the Council of Nationalities, nor of District electoral commissions in the Division in which they are nominated as candidates.

ART. 59—Not later than 30 days before polling-day, all public organisations or workers' associations which nominate candidates for election to the Supreme Council of the USSR, must register the candidates either in the Divisional electoral commission for elections to the Council of the Union, or in the Divisional electoral commission for elections to the Council of Nationalities respectively.

ART. 60—The Divisional electoral commissions for elections to the Council of the Union or the Council of Nationalities respectively must register all candidates for election to the Supreme Council of the USSR nominated by public organisations and workers' associations in conformity with the Constitution of the USSR and the Act on the Order and Procedure of Elections to the Supreme Council of the USSR.

ART. 61—Public organisations and workers' associations nominating a candidate for election to the Supreme Council of the USSR must present the following documents to the Divisional electoral commission:—

(a) the protocol of the meeting, at which the candidate was nominated, signed by the members of the Presidium, stating their age, domicile, the name of the organisation which nominated the candidate, stating the place, time and number of those present at the meeting at which the candidate was nominated; giving also the surname, name and patronymic of the candidate for election, his age, domicile, Party status and occupation.

(b) a statement by the candidate for election of his consent to stand for the given electoral division as candidate of the organisation which nominated him.

ART. 62—A candidate for election to the Supreme Council of the USSR may be balloted only in one division.

ART. 63—A refusal by the Divisional electoral commission for elections to the Council of the Union to register a candidate for election may be appealed against within a two days' time limit to the Central electoral commission, whose decision is final.

ART. 64—A refusal by the Divisional electoral commission for elections to the Council of Nationalities to register a candidate may be appealed against within a two-days' time limit to the Electoral com-

mission of the Union of Autonomous Republic, or of the Autonomous Region, and against the decision of the latter—to the Central electoral commission, whose decision is final.

ART. 65—The surname, name, patronymic, age, occupation, Party status of each registered candidate for election to the Supreme Council of the USSR and the name of the organisation by which he was nominated, are published respectively either by the Divisional electoral commission for election to the Council of the Union or by the Divisional electoral commission for elections to the Council of Nationalities, not later than 25 days before polling-day.

ART. 66—The names of registered candidates for election to the Supreme Council of the USSR must be included in the voting paper.

ART. 67—The Divisional electoral commission for elections to the Council of the Union and the Divisional commission for elections to the Council of Nationalities not later than 15 days before the elections to the Supreme Council of the USSR must print and distribute the voting papers to all the district electoral commissions.

ART. 68—The voting papers are printed in the language of the population of the electoral division.

ART. 69—The voting papers are printed according to a form fixed by the Central electoral commission and in numbers guaranteeing the provision of every voter with a voting paper.

ART. 70—Every organisation which nominated a candidate registered in the Divisional electoral commission, as well as every citizen of the USSR is guaranteed the right of free canvassing for that candidate at meetings, in the press or by other means, in conformity with Article 125 of the Constitution of the USSR.

VII

PROCEDURE OF VOTING

ART. 71—Elections to the Supreme Council of the USSR take place on a single day—the same for the entire USSR.

ART. 72—Polling-day for the Supreme Council of the USSR is fixed by the Presidium of the Supreme Council of the USSR in conformity with Art. 54 of the Constitution of the USSR, not later than 2 months before the date of elections. Polling takes place on a holiday.

ART. 73—Daily during the last 20 days before the elections, the District electoral commission publishes or otherwise widely advertises to the electors the date and place of the elections.

ART. 74—Voting takes place on polling-day between 6 a.m. and 12 midnight.

ART. 75—From 6 a.m. on polling-day the chairman of the District electoral commission, in the presence of the other members, examines the ballot-boxes and verifies the legally drawn-up registers of electors, after which he closes and stamps the ballot-boxes with the seal of the commission and invites the electors to proceed with the voting.

ART. 76—Each elector votes personally, arriving for the purpose at the polling station, the voting being performed by dropping the voting papers in a sealed envelope into the ballot-box.

ART. 77—At the polling station a special room is allotted for filling in the voting papers, in which no person, including members of the District electoral committee, is allowed to be present during the voting, except the voters; should several voters be admitted simultaneously for filling in the voting papers, the room must be provided with partitions or screens, according to the number of persons admitted.

ART. 78—A voter presenting himself at the polling-station must present to the secretary of the District electoral commission either passport, collective farm book, trade union certificate or any other certificate of identity; and after verification on the list of electors and checking off on the list of electors, the voter receives the voting paper and envelope of the approved form.

ART. 79—Voters presenting themselves at the polling-station with a "certificate of the right to vote," according to Art. 15 of the present Act on the Order and Procedure of Elections to the Supreme Council of the USSR, are registered by the District electoral commission on a special list, which is added to the list of electors.

ART. 80—In the room for filling in the voting papers, the voter leaves on each voting paper the name of the candidate he wishes to elect, striking out the rest; having sealed the voting paper in an envelope, the voter proceeds to the room where is sitting the District electoral commission and places the envelope with the voting paper in the ballot-box.

ART. 81—Voters incapable, owing to illiteracy or any physical disablement, of themselves filling-in the voting papers, have the right to invite another voter into the voting-room to fill-in their voting paper.

ART. 82—Election canvassing at the polling-station during the polling is prohibited.

ART. 83—The Chairman of the commission is responsible for the

maintenance of order at the polling station, and his orders are compulsory for all present.

ART. 84—At 12 midnight the chairman of the District electoral commission declares polling to be ended, and the commission proceeds to the opening of the ballot-boxes.

VIII

DETERMINATION OF ELECTION RESULTS

ART. 85—The right to be present on the premises where the District electoral commission counts the votes, is granted to specially appointed representatives of public organisations and workers' associations, and also the press representatives.

* * *

ART. 103—Not later than within 24 hours after the completion of the counting of votes, the chairman of the divisional electoral commission for elections to the Council of the Union, as also the chairman of the Divisional electoral commission for elections to the Council of Nationalities must hand over the first copy of the protocol together with the record of votes in a sealed packet to the Central electoral commission, and the second copy of the protocol—to the Electoral commission for elections to the Council of Nationalities of the Union Republic, the Autonomous Republic or the Autonomous Region.

ART. 104—A candidate to the Supreme Council of the USSR who has obtained an absolute majority of votes, i.e. more than half of the total number of votes registered in the division, is accepted as being elected.

* * *

ART. 107—Should none of the candidates obtain an absolute majority, the Divisional electoral commission concerned . . . . announces the re-balloting of the two candidates who have obtained the highest number of votes, and also fixes the date of the re-balloting not later than within a fortnight of the first ballot.

ART. 108—Should the number of votes registered in the division be less than half the number of voters registered in the division . . . . the Central electoral commission appoints new elections not later than within a fortnight of the first.

ART. 109—A re-balloting of candidates or a new election instead of those declared to be invalid, is conducted according to the lists of electors compiled for the primary elections and in complete conformity

with the present Act on the Order and Procedure of Elections to the Supreme Council of the USSR.

ART. 110—In the event of a member leaving the Supreme Council of the USSR the Presidium of the Supreme Council of the USSR, not later than within a fortnight, appoints a bye-election in the Division concerned, at a date not later than within two months after that on which the member in question left the Supreme Council of the USSR.

ART. 111—Anyone, who by violence, fraud, menace or bribe endeavours to prevent a citizen of the USSR from fulfilling his (or her) right to vote or stand for election to the Supreme Council of the USSR —incurs the penalty of arrest for a term of up to two years.

ART. 112—A Soviet official or member of the electoral commission, who tampers with election documents or consciously falsifies the number of votes—incurs the penalty of arrest for a term of up to three years.

President of the Central Executive Committee of the USSR.

M. KALININ.

Secretary of the Central Executive Committee of the USSR.

A. GORKIN.

Moscow, Kremlin
9 July, 1937.

56. Composition of the Supreme Soviet[1]

	Supreme Soviet Both Houses				*Soviet of the Union*				*Soviet of Nationalities*			
	1937		*1946*		*1937*		*1946*		*1937*		*1946*	
	Number	*%*	*Number*	*%*	*Number*	*%*	*Number*	*%*	*Number*	*%*	*Number*	*%*
Total	1143		1339		569		682		574		657	
Party Members	870	76.1	1085	81	461	81	576	84.5	409	71.3	509	77.5
Non Party Delegates	273	23.9	254	19	108	19	106	15.5	165	28.7	148	22.5
Workers	480	42	511	39	257	45.2	287	42	223	38.8	224	34.1
Peasants	337	29.5	349	26	134	23.5	151	22	203	35.4	198	30.1
Employees ("Intelligentsia")	326	28.5	479	35	178	31.3	244	36	148	25.8	235	35.8
Women	189	16.5	277	21	77	13.5	116	17	112	19.5	161	24.5

EDUCATIONAL LEVEL OF THE DEPUTIES

1946	*Supreme Soviet Both Houses*		*Soviet of the Union*		*Soviet of Nationalities*	
	Number	*%*	*Number*	*%*	*Number*	*%*
University Graduates	445	33	250	37	195	30
Delegates with incomplete higher education	71	5	39	6	32	5
High school graduates	300	22	160	23	140	21

AGE COMPOSITION[2]

	Supreme Soviet Both Houses				*Soviet of the Union*				*Soviet of Nationalities*			
	1937		*1946*		*1937*		*1946*		*1937*		*1946*	
	Number	*%*	*Number*	*%*	*Number*	*%*	*Number*	*%*	*Number*	*%*	*Number*	*%*
Up to 20 years	13	1.1	—	—	5	0.9	—	—	8	1.4	—	—
21–25	84	7.4	—	—	34	6	—	—	50	8.7	—	—
23–25	—	—	46	3.4	—	—	12	1.8	—	—	34	5.1
26–40	734	64.2	568	42.4	347	60.9	273	40	387	67.4	295	44.9
Over 40	312	27.3	725	54.2	183	32.2	397	58.2	129	22.5	328	50

[1] Compiled from statistics cited by J. Towster, *Political Power in the USSR*, Oxford University Press, New York, pp. 315–336. Cf. also J. N. Hazard, *Political, Administration, and Judicial Structure in the U.S.S.R. Since the War*, in *The Annals of The American Academy of Political and Social Science*, May 1949, p. 11.

[2] In 1945 the minimum age for deputies to the Supreme Soviet was raised from 18 to 23 years. See Article 135 of the 1936 Constitution and note 76 (p. 63).

The Governing Party

The 18th Congress of the All-Union Communist Party, informed by Andrei Zhdanov that "the adoption of the new Constitution of the USSR demanded a corresponding reconstruction of the practical work of the Party on the basis of the absolute and complete application of the principles of inner-party democracy prescribed by the party rules," at once set to work to amend the stringent party rules of 1934. An equally if not more compelling reason for "liberalizing" the charter was the need to restore the shaken morale and to replenish the ranks of a party decimated by the great purges of the 1930's.

To be sure, the main reason given was "the victory of socialism in the USSR" and the virtual obliteration of "class boundaries." In addition to the workers and peasants, a new class is acknowledged, the "Soviet intelligentsia," consisting "of yesterday's workers and peasants, and sons of workers and peasants, who have been promoted to commanding posts." The Soviet regime has made peace with this new class which "does not serve capitalism, as the old intelligentsia did, but socialism, and is an equal member of socialist society."

After this preamble, the resolution of March 20, 1939, continues:

57. Reasons for the Amendments of 1939[1]

This new situation makes it necessary to amend the conditions of admission to the Party laid down in the Rules of the C.P.S.U.(B.). The existing system, as prescribed in the Party Rules, of admitting new members into the Party in accordance with four different categories,[2] depending upon the social status of the applicant, is obviously

[1] From *The Land of Socialism Today and Tomorrow.* Reports and Speeches at the Eighteenth Congress of the Communist Party of the Soviet Union (Bolshevik), March 10–21, 1939, pp. 447–456. Published by: Foreign Language Publishing House, Moscow, 1939.

[2] These four categories were: (1) Industrial workers with a production record of not less than five years; (2) industrial workers with a production record of less than five years, agricultural workers, Red Army men from among workers or collective farmers, and engineers and technicians working directly in shops or sectors; (3) collective farmers, members of handicraft or artisan co-operatives and elementary school teachers; (4) other employees. Persons in the most favored first category had to submit three recommendations of Party members of five-years' standing, while persons in the fourth category needed five recommendations of Party members of ten-years' standing. (Article 3a and b of the Party Rules adopted by the 17th Party Congress on February 10, 1934).

incompatible with the changes in the class structure of Soviet society resulting from the victory of socialism in the U.S.S.R. The need for different categories of admission of new members and of varying probationary periods has disappeared. Accordingly, uniform conditions of admission and a uniform period of probation should be established for all new members, irrespective of whether they belong to the working class, the peasantry or the intelligentsia.

2. It is necessary to add to the section on Party members and their duties a clause on the rights of Party members, rights which are taken for granted but are not specified in the Rules. Such an addition to the Rules would fully accord with the growing activity of Party members and would have exceptional effect in heightening their responsibility for the cause of the Party and in protecting Party members from bureaucracy. Paragraph 57 of the Party Rules states: "The free and business-like discussion of questions of Party policy in the various organizations or in the Party as a whole is the inalienable right of every Party member, derived from inner-party democracy."

Furthermore, the Rules should specify the following rights of Party members:

(a) The right of Party members to criticize any Party worker at Party meetings;

(b) The right of Party members to elect and be elected to Party organs;

(c) The right of Party members to demand to be present on all occasions when decisions are adopted regarding their activities or conduct;

(d) The right of Party members to address any question or statement to any Party body up to and including the Central Committee of the C.P.S.U.(B.).

3. The Rules of the C.P.S.U.(B.). provide for mass purges of the Party by periodical decision of the Central Committee. Experience has shown that they should be dispensed with in the future, for the following reasons:

(a) The method of the mass purge, which was introduced at the beginning of the New Economic Policy, when capitalist elements had received a new spurt of life, in order to guard the ranks of the Party from people who had been demoralized owing to the New Economic Policy, has lost its purpose under present condi-

tions when capitalist elements have been eliminated. Moreover, as experience has shown, in practice the method of the mass purge precludes the possibility of an individual approach to Party members, which is the only right one, substituting for it a standard approach to all Party members "by one yardstick." The result of this was that during mass purges there were numerous cases of unwarranted expulsion from the Party, and of hostile elements who had wormed their way into the Party taking advantage of the purges to persecute and ruin honest people.

(b) The method of the mass purge does not permit the full observance of the Party principle that Party members, people, must be treated with careful consideration, and in practice it often leads to the infringement of the rights of Party members.

(c) The method of the mass purge was of very little effect and did not achieve its purpose with regard to hostile elements who had wormed their way into the Party and who masked their true character by double-dealing and deceiving the Party.

(d) It was found that the method of the mass purge was chiefly turned against the so-called passive Party members and led to the expulsion of honest and conscientious members on the alleged grounds of passivity.

For this reason the periodical mass purges of the Party should be abolished, it being laid down that the Party can rid its ranks of people who violate its program and rules by the ordinary procedure.

4. At the Plenum of the Central Committee in February-March 1937 and the Plenum of the Central Committee in January 1938, the Party condemned the formal and heartlessly bureaucratic attitude to the fate of Party members, to the question of expulsion from the Party and reinstatement in the Party. As we know this practice was made wide use of by careerist elements who had made their way into the Party and who tried to distinguish and advance themselves by expelling people from its ranks, as well as by masked enemies within the Party who endeavoured by the wholesale infliction of penalties to ruin honest Party members and to sow unnecessary suspicion in the Party ranks.

The Plenum of the Central Committee held in January 1938 adopted a number of measures to put a stop to the practice of wholesale expulsions from the Party and to really ensure a differentiated

approach in deciding whether members should be expelled or expelled members reinstated.

Accordingly, the Rules should be supplemented by a number of clauses to

(a) ensure an attentive approach and careful investigation of accusations brought against Party members;

(b) to protect the rights of Party members from all arbitrary procedure;

(c) to abolish the resort to expulsion from the Party—which is the supreme Party penalty—for trifling misdemeanours.

5. It is necessary to abolish the demand contained in the Rules that new members, on joining the Party, in addition to *accepting* the program and rules of the Party and going through a specified probationary period as candidate members, must also have *mastered* the program.

In his report at the Plenum of the Central Committee of the C.P.S.U.(B.) in February-March 1937, Comrade Stalin said:

"In order to master the Party program one must be a real Marxist, a tried and theoretically trained Marxist. I do not know whether we have many members of the Party who have mastered our program, who have become real Marxists, theoretically trained and tried. If we continued further along this path we would have to leave only intellectuals and learned people generally in our Party. Who wants such a Party? We have Lenin's thoroughly tried and tested formula defining a member of the Party. According to this formula a member of the Party is one who *accepts* the program of the Party, pays membership dues and works in one of its organizations. Please note: Lenin's formula does not speak about *mastering* the program, but about *accepting* the program. These are two very different things. It is not necessary to prove that Lenin is right here and not our Party comrades who chatter idly about mastering the program. That should be clear. If the Party had proceeded from the assumption that only those comrades who have mastered the program and have become theoretically trained Marxists could be members of the Party it would not have created thousands of Party circles, hundreds of Party schools where the members of the Party are taught Marxism, and where they are assisted to master our program. It is quite clear that if our Party

organizes such schools and circles for members of the Party it is because it knows that the members of the Party have not yet mastered the Party program, have not yet become theoretically trained Marxists."

For these reasons the above-mentioned demand in the Rules should be abolished.

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58. Rules of the Communist Party of the Soviet Union (1939)[1]

SECTION OF THE COMMUNIST INTERNATIONAL

(Adopted unanimously by the Eighteenth Congress of the C.P.S.U.(B.)

The Communist Party of the Soviet Union (Bolsheviks), as a Section of the Communist International, is the organized vanguard of the working class of the Union of Soviet Socialist Republics, the highest form of its class organization. In its activities the Party is guided by the theory of Marxism-Leninism.

The Party exercises the leadership of the working class, the peasantry, the intelligentsia, of the entire Soviet people, in the struggle for the consolidation of the dictatorship of the working class, for the consolidation and development of the socialist system, for the victory of communism.

The Party is the guiding nucleus of all organizations of the working people, both public and state, and ensures the successful construction of the communist society.

The Party is a united militant organization bound together by a conscious discipline which is equally binding on all its members. The Party is strong because of its solidarity, unity of will and unity of action, which are incompatible with any deviation from its program and rules, with any violation of Party discipline, with factional groupings, or with double-dealing. The Party purges its ranks of persons who violate its program, rules or discipline.

The Party demands from its members active and self-sacrificing

[1] Published in *Pravda,* March 27, 1939: "The Land of Socialism Today and Tomorrow," pp. 465–483. *Newly added sections or articles are identified by asterisks.* The reasons for the additions and changes are stated above. (See pp. 272–276.)

work in carrying out its program and rules, in fulfilling all decisions of the Party and its bodies, and in ensuring the unity of its ranks and the consolidation of fraternal international relations among the working people of the nationalities of the U.S.S.R. as well as with the proletarians of all countries of the world.

I

Party Members, Their Duties and Rights

1. A Party member is one who accepts the program of the Party, works in one of its organizations, submits to its decisions and pays membership dues.

2. It is the duty of a Party member:

(a) To work untiringly to improve his political knowledge and to master the principles of Marxism-Leninism;

(b) Strictly to observe Party discipline,[2] to take an active part in the political life of the Party and the country, and to carry into practise the policy of the Party and the decisions of its bodies;

(c) To set an example in the observance of labour and state discipline, to master the technique of his work and constantly to improve his industrial or business qualifications;

(d) Constantly to strengthen the ties with the masses, promptly to respond to the needs and demands of the working people, and to explain to the masses the policy and decisions of the Party.

3. A Party member has the right:

(a) To take part in the free and business-like discussion at Party meetings or in the Party press of practical questions of Party policy;

(b) To criticize any Party worker at Party meetings;

(c) To elect and be elected to Party organs;

(d) To demand to be present in person whenever decisions are taken regarding his activities or conduct;

(e) To address any question or statement to any Party body, up to and including the Central Committee of the C.P.S.U.(B.).

4. Members are admitted to the Party only individually. New members are admitted from among the candidate members who have been through the specified probationary period.[3] Membership of the

[2] In the 1934 Party Rules the paragraph on discipline preceded the one on ideology.

[3] See Article 15, below.

Party is open to conscientious and active workers, peasants and intellectuals who are devoted to the cause of communism.

Persons may join the Party on attaining the age of eighteen.

The procedure of admission of candidate members to full Party membership is as follows:

(a) Applicants for Party membership must submit recommendations from three Party members who have a Party standing of not less than three years[4] and who know the applicants from having worked with them for not less than one year.

Note 1. In the case of members of the Young Communist League applying for membership of the Party, the recommendation of a district committee of the Y.C.L. is equivalent to the recommendation of one Party member.

Note 2. Members and alternate members of the Central Committee of the C.P.S.U.(B.) shall refrain from giving recommendations.

(b) Applications for Party membership are discussed and decided at the general meeting of a primary Party organization, whose decision takes effect after endorsement by the district Party committee, or by the city Party committee in cities with no district divisions.

The presence of the recommenders at the discussion of applications for Party membership is not essential.

(c) Persons up to the age of twenty may join the Party only through the Young Communist League.

(d) Former members of other parties are admitted to the C.P.S.U.(B.) in exceptional cases and require the recommendation of five Party members: three of ten years' Party standing and two of pre-revolutionary Party standing.[5] They may be admitted only through a primary Party organization, and the endorsement of the Central Committee of the C.P.S.U.(B.) is essential.

* * *

8. A Party member or candidate member who fails to pay membership dues for three months in succession without sufficient reason is regarded as having dropped out of the Party; a decision to this effect is taken by the primary Party organization and is subject to endorsement by the Party district committee or city committee.

[4] This presents a considerable departure from the previous classification of all candidates into four categories. (Cf., note 2 on p. 272.)

[5] Unchanged.

9. The question of the expulsion of any member from the Party is decided by the general meeting of the primary Party organization to which he belongs and must be endorsed by the Party district or city committee. The decision of a district or city committee to expel a member takes effect only when endorsed by the regional committee, territorial committee, or Central Committee of the Communist Party of a Union Republic.[6]

10. Until such time as his expulsion is endorsed by the regional committee, territorial committee or Central Committee of a Communist Party of a Union Republic, the Party member retains his membership card and is entitled to attend closed Party meetings.[7]

Regional committees, territorial committees and Central Committees of Communist Parties of Union Republics shall announce in the local Party press the expulsion of Party members and indicate the reasons for expulsion, and shall likewise announce the reinstatement of persons wrongfully expelled from the Party.

*11. When the question of the expulsion of a Party member or the reinstatement of an expelled member is discussed, the maximum caution and comradely consideration must be exercised, and the grounds for the accusations brought against the Party member thoroughly investigated.

In the case of minor offenses (failure to attend meetings, unpunctual payment of membership dues, etc.) the measures of Party education and influence specified in the Rules should be applied, and not expulsion from the Party, which is the supreme Party penalty.

*12. Appeals against expulsion from the Party must be examined by the Party bodies to which they are addressed within not more than two weeks from the date of receipt.

II

Candidate Members

13. All persons desirous of joining the Party must pass through a probationary period as candidate members, the object of which is to give them an opportunity to familiarize themselves with the program,

[6] Article 9 of the 1934 Party Rules dealing with the periodic Party purges has been eliminated in the new Rules. The reasons are stated above: see Article 3, on p. 273.

[7] The comparable passage of the 1934 Rules (Article 8) read: "The person in question is removed from Party work the day he is expelled by the general meeting of the Party organization or by the Party committee."

rules and tactics of the Party and to enable the Party organizations to test the personal qualities of the candidates.

14. The procedure of admission of candidate members (individual admission, submission of recommendations and their verification, decision of the primary organization as to admission and the endorsement of the decision) is identical with the procedure of admission of Party members.

15. The period of probationary membership is fixed at one year.[8]

16. Candidate members attend the meetings of the organization to which they are attached, and have a voice but no vote.

17. Candidate members pay the usual membership dues to the local Party committee.

III

Organizational Structure of the Party, Inner-Party Democracy[9]

18. The guiding principle of the organizational structure of the Party is democratic centralism, which signifies:

(a) The election of all leading Party bodies, from the highest to the lowest;

(b) Periodical reports of the Party bodies to their Party organizations;

(c) Strict Party discipline and subordination of the minority to the majority;

(d) The absolutely binding character of the decisions of higher bodies upon lower bodies.

19. The Party is built on the territorial-industrial principle: a Party organization serving a given area is regarded as higher than any Party organization serving part of that area; and a Party organization serving a whole branch of work is regarded as higher than any Party organization serving part of that branch of work.

20. All Party organizations are autonomous in the decision of local questions, provided that their decisions do not conflict with the decisions of the Party.

21. The highest governing body in each Party organization is the

[8] Previously: at one year for the "first category" (cf. note 2 on p. 272); for the second, third and fourth categories, at two years. Article 12 of the 1934 Party Rules.

[9] Section III of the 1934 Party Rules dealt with the "Sympathizers' Groups" which were abolished by the 18th Party Congress.

general membership meeting (in the case of primary organizations), conference (e.g., in the case of district or regional organizations), or congress (in the case of Communist Parties of Union Republics and in the case of the C.P.S.U.(B.)).

22. The general meeting, conference or congress elects a bureau or committee which acts as its executive body and directs all the current work of the particular organization.

*23. Voting by lists of candidates in the election of Party bodies is forbidden. Voting shall be by individual candidates, every Party member being ensured the unlimited right to challenge the candidates nominated and to criticize them. Voting of candidates shall be by secret ballot.

*24. In all republican, territorial and regional centres, as well as in the larger industrial centres, meetings of the active members *(actives)* of the city Party organizations shall be convened for the discussion of the more important decisions of the Party and the Government. *Actives* shall be convened not for parade and the formal and ceremonial approval of decisions, but for their genuine discussion.

In large centres, meetings of district as well as city Party *actives* shall be convened.

*25. The free and business-like discussion of questions of Party policy in individual organizations or in the Party as a whole is the inalienable right of every Party member and logically follows from inner-party democracy. Only on the basis of inner-party democracy is it possible to develop Bolshevik self-criticism and to strengthen Party discipline, which must be conscious and not mechanical. But wide discussion, especially discussion on an All-Union scale, of questions of Party policy must be so organized as to prevent it leading to attempts by an insignificant minority to impose their will upon the vast majority of the Party, or to attempts to form factional groupings which break the unity of the Party, attempts at splits which may shake the strength and firmness of the dictatorship of the working class. Therefore, a wide discussion on an All-Union scale can be regarded as necessary only if: (a) this necessity is recognized by at least several local Party organizations of the scale of a region or republic; (b) if there is not a sufficiently solid majority on the Central Committee of the C.P.S.U.(B.) on important questions of Party policy; (c) if in spite of the existence of a solid majority on the Central Committee of the C.P.S.U.(B.) advocating a definite stand-

point, the Central Committee still deems it necessary to test the correctness of its policy by means of a discussion in the Party. Only compliance with these conditions can safeguard the Party against abuse of inner-Party democracy by anti-Party elements, only under these conditions is it possible to count on inner-Party democracy benefiting the cause and on it not being used to the detriment of the Party and the working class.

26. The scheme of Party organization is as follows:

(a) Party as a whole—All-Union Congress, Central Committee of the C.P.S.U.(B.), All-Union Conference;

(b) Regions, territories, Union Republics—regional or territorial conferences, congresses of the Communist Parties of Union Republics, regional committees, territorial committees, Central Committees of the Communist Parties of the Union Republics;

(c) Areas—area conferences, area committees;

(d) Cities, districts—city and district conferences, city and district committees;

(e) Factories, villages, collective farms, machine and tractor stations, units of the Red Army and Navy, offices—general meetings, conferences of primary Party organizations, bureaus of primary Party organizations.

27. The Central Committee of the C.P.S.U.(B.) has the following administrations and departments for the performance of the practical work involved in carrying out of Party decisions: (a) Cadres Administration,[10] (b) Propaganda and Agitation Administration, (c) Organization and Instruction Department,[11] (d) Agricultural Department, (e) School Department; in the area committees, regional committees, territorial committees and Central Committees of the Communist Parties of Union Republics: (a) Cadres Department, (b) Propaganda and Agitation Department, (c) Organization and Instruction Department, (d) Agricultural Department, (e) Military Department; in the city committees and district committees: (a) Cadres Department, (b) Propaganda and Agitation Department, (c) Organization and Instruction Department, (d) Military Department.

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[10] Selected the Communist personnel in government agencies and non-Party mass organizations. Abolished in 1948.

[11] Checks up on the performance of Communists in government agencies and mass organizations.

It is the function of the Military Departments to assist the military authorities in organizing the registration of persons liable to military service, in the calling up of recruits, in mobilization in the event of war, in the organization of air defence, etc.

The direction of the Propaganda and Agitation Departments and the Cadres Departments of regional committees, territorial committees and Central Committees of the Communist Parties of the Union Republics shall be entrusted to special secretaries.

28. Every Party organization, once it is finally confirmed, has the right to have its own seal, but only with the sanction of the competent higher Party organization.

IV

Higher Party Organs

29. The supreme organ of the C.P.S.U.(B.) is the Party Congress. Ordinary congresses are convened not less than once in three years. Extraordinary congresses are convened by the Central Committee of the C.P.S.U.(B.) on its own initiative or at the demand of not less than one-third of the total membership represented at the preceding Party congress. The convocation of a Party Congress and its agenda shall be announced not later than six weeks before the Congress. Extraordinary congresses shall be convened within two months.

The Congress is regarded as properly constituted if the delegates represent not less than one-half of the total Party membership represented at the preceding ordinary congress.

The basis of representation at a Party Congress is determined by the Central Committee of the C.P.S.U.(B.).

30. In the event of the Central Committee of the C.P.S.U.(B.) failing to call an extraordinary congress within the period specified in clause 29, the organizations which demanded it have the right to form an Organization Committee which shall enjoy the powers of the Central Committee of the C.P.S.U.(B.) as regards the convocation of the extraordinary congress.

31. The Congress:

(a) Hears and acts on the reports of the Central Committee of the C.P.S.U.(B.), of the Central Auditing Commission, and of other central organizations;

(b) Revises and amends the program and rules of the Party;

(c) Determines the tactical line of the Party on major questions of current policy;

(d) Elects the Central Committee of the C.P.S.U.(B.) and the Central Auditing Commission.

32. The number of members to be elected to the Central Committee of the C.P.S.U.(B.) and to the Central Auditing Commission is determined by the Congress. In the event of members dropping out of the Central Committee of the C.P.S.U.(B.), their places are filled from among the alternate members elected by the Congress.

33. The Central Committee of the C.P.S.U.(B.) holds not less than one plenary meeting every four months. Alternate members of the Central Committee of the C.P.S.U.(B.) attend its plenary meetings with voice but no vote.

34. The Central Committee of the C.P.S.U.(B.) sets up a Political Bureau for political work, an Organization Bureau for the general direction of organizational work, a Secretariat for current work of an organizational or executive nature and a Party Control Commission[12] to keep check on the way decisions of the Party and the Central Committee of the C.P.S.U.(B.) are fulfilled.

35. The Party Control Commission:

(a) Keeps a check on the way the decisions of the Party and of the Central Committee of the C.P.S.U.(B.) are fulfilled by Party organizations and Soviet and economic bodies;

(b) Investigates the work of local Party organizations;

(c) Takes action against those who have violated the program or rules of the C.P.S.U. (B), or Party discipline.

36. The Central Committee of the C.P.S.U.(B.) guides the entire work of the Party in the interval between congresses, represents the Party in its relations with other parties, organizations and institutions, sets up various Party institutions and guides their activities, appoints the editorial boards of the central organs under its control and confirms the appointment of the editorial boards of the Party organs of big local organizations, organizes and manages enterprises of a public character, distributes the forces and resources of the Party and manages the central funds.

The Central Committee of the C.P.S.U.(B.) directs the work of the

[12] Previously, the Party Congress elected the Commission of Party Control (Article 28d of the 1934 Rules). Since 1939, it is the Central Committee which determines the composition of the agency responsible for Party purity.

central Soviet and public organizations through the Party groups within them.

*37. In the interval between Party congresses the Central Committee of the C.P.S.U.(B.) convenes, not less than once a year, an All-Union Party Conference consisting of the representatives of the local Party organizations for the discussion of urgent problems of Party policy.

* * *

*38. The All-Union Conference has the right to replace part of the membership of the Central Committee of the C.P.S.U.(B.), that is, to remove such members of the Central Committee as have failed to cope with their duties as members of that body, and to replace them by others, in a number, however, not exceeding one-fifth of the membership of the Central Committee elected at the Party Congress.

The All-Union Conference replenishes the membership of the Central Committee of the C.P.S.U.(B.) from among the alternate members of that body elected by the Party Congress, and elects in their place a corresponding number of new alternate members.

*39. The decisions of the All-Union Conference are subject to endorsement by the Central Committee of the C.P.S.U.(B.), with the exception of decisions to replace members of the Central Committee and to elect new members and alternate members to that body.

Decisions of the All-Union Conference endorsed by the Central Committee of the C.P.S.U.(B.) are binding on all Party organizations.

40. In order to strengthen Bolshevik leadership and political work, the Central Committee of the C.P.S.U.(B.) has the right to create Political Departments and to assign Party organizers of the Central Committee of the C.P.S.U.(B.) to lagging sectors of socialist construction which have acquired special importance for the national economy and the country in general; and, in the measure that the Political Departments complete their urgent tasks, to convert them into ordinary Party organs on the industrial-territorial principle.

The work of the Political Departments is governed by special instructions endorsed by the Central Committee of the C.P.S.U.(B.).

41. The Central Committee of the C.P.S.U.(B.) keeps the Party organizations regularly informed of its work.

42. The Central Auditing Commission: a) investigates whether affairs are handled expeditiously and properly by the central organs of the Party and whether the apparatus of the Secretariat of the Central

Committee of the C.P.S.U.(B.) is working smoothly, and b) audits the accounts of the treasury and the enterprises of the Central Committee of the C.P.S.U.(B.).[18]

* * *

VIII

Primary Party Organizations

57. The primary Party organizations are the basis of the Party.

Primary Party organizations are set up in mills, factories, state farms, machine and tractor stations and other economic establishments, in collective farms, units of the Red Army and Navy, in villages, offices, educational establishments, etc., where there are not less than three Party members.

In factories, collective farms, offices, etc., where there are less than three Party members, candidate member or Party and Young Communist League groups are set up headed by a Party organizer appointed by the district committee, city committee or political department.

Primary Party organizations are confirmed by the district or city committees or by the competent political departments.

* * *

60. The primary Party organization connects the mass of the workers, peasants and intellectuals with the leading organs of the Party. Its task is:

(a) To conduct agitational and organizational work among the masses for the carrying out of the Party slogans and decisions, and to ensure effective leadership of the factory press;

(b) To recruit new members for the Party and to organize their political education;

(c) To assist the district committee, city committee or political department in all its practical work;

(d) To mobilize the efforts of the masses in the factories, state farms, collective farms, etc., for the fulfilment of the production plan, for the strengthening of labour discipline and for the development of socialist emulation and shock work;

(e) To combat laxity and mismanagement in factories, state farms and collective farms, and to show a daily concern for the

[18] Section V (The Regional, Territorial and Republican Party organizations) the —new—Section VI (Area Party organizations) and VII (City and District Party organizations), omitted here, are patterned after the model of the Central Party organization.

improvement of the cultural and living conditions of the workers and collective farmers;

(f) To take an active part in the economic and political life of the country.

*61. In order to enhance the role of the primary Party organizations in productive establishments, including state farms, collective farms and machine and tractor stations, and their responsibility for the state of the work in the establishments, these organizations have the right of control over the work of the management of their particular establishments.

It is the duty of Party organizations in People's Commissariats, which, owing to the specific conditions of their work, cannot exercise functions of control to draw attention to defects in the work of their institution, to note shortcomings in the work of the People's Commissariat and of any of its personnel and to communicate their information and opinions to the Central Committee of the C.P.S.U.(B.) and to the heads of the People's Commissariat.

Secretaries of primary Party organizations in People's Commissariats are endorsed by the Central Committee of the C.P.S.U.(B.).

All Communists working in the central apparatus of a People's Commissariat belong to one general Party organization of the People's Commissariat.

62. For the performance of current work the primary Party organization elects a bureau consisting of not more than eleven persons for a term of one year.

Bureaus of primary Party organizations are formed in organizations with not less than fifteen members.

In Party organizations having less than fifteen members, no bureaus are formed, but a secretary of the primary Party organization is elected.

Secretaries of primary and shop Party organizations must have a Party standing of at least one year.[14]

IX

The Party and the Young Communist League

* * *

63. The Leninist Young Communist League conducts its activities under the guidance of the C.P.S.U. (B.). The Central Committee of

[14] Previously, the Secretary of a Primary Party organization had to have a Party standing of at least three years. (Article 51 of the 1934 Rules.)

the Y.C.L., as its leading body, is subordinated to the Central Committee of the C.P.S.U.(B.). The activities of the local organizations of the Y.C.L. are directed and controlled by the appropriate republican, territorial, regional, city and district organizations of the Party.

64. Members of the Y.C.L. shall retire from that body from the moment they become members or candidate members of the Party, provided they do not fill leading posts in the Y.C.L. organizations.

65. The Y.C.L. is an active assistant of the Party in all state and economic work. The Y.C.L. organizations must be in effect active vehicles of the Party's directions in all spheres of socialist construction, especially where there are no primary Party organizations.

66. Y.C.L. organizations enjoy wide initiative in discussing and submitting to the appropriate Party organizations all questions designed to remove defects in the work of their factory, collective farm, state farm or office and to help them to improve their work, to organize socialist emulation and shock work, to conduct mass campaigns, etc.

X

Party Organizations in the Red Army and Navy and in the Transport System

67. The guidance of Party work in the Workers' and Peasants' Red Army is exercised by the Political Administration of the Workers' and Peasants' Red Army which functions as the Military Department of the Central Committee of the C.P.S.U.(B.), and in the Workers' and Peasants' Navy and in the transport system by the Political Administration of the Navy and the Political Administrations of the transport system which function respectively as the Naval Department and the corresponding Transport Department of the Central Committee of the C.P.S.U.(B.).

The Political Administrations of the Red Army, the Navy, and the transport system perform their work of guidance through Political Departments, Military Commissars and Party organizers appointed by them, and through Party Commissions elected at army, Navy and railway conferences.

Party organizations in the Red Army, Navy and in the transport system work on the basis of special instructions confirmed by the Central Committee of the C.P.S.U.(B.).

68. The chiefs of political departments of military areas, fleets and armies, and the chiefs of the political departments of the railways must be Party members of five years' standing, and the chiefs of political

departments of divisions and brigades Party members of three years' standing.[15]

69. The political organs must maintain close contact with the local Party committees by means of the constant participation of the leaders of the political organs and the military commissars in the local Party committees, as well as by means of regular reports made to the Party Committees by the chiefs of the political organs and by the military commissars on the political work in the military units, and by the political departments on the railways.

XI

Party Groups in Non-Party Organizations

70. At all congresses and conferences and in all elected bodies of Soviet, trade union, cooperative and other mass organizations where there are not less than three Party members, Party groups are formed whose task it is to strengthen the influence of the Party in every respect and to carry out the Party policy among the non-Party people, to strengthen Party and state discipline, to combat bureaucracy, and to keep a check on the way Party and Soviet directions are fulfilled.

The group elects a secretary for its current work.

71. The Party groups are subordinated to the appropriate Party organizations (Central Committee of the C.P.S.U.(B.), Central Committee of the Communist Party of the Union Republic, territorial committee, regional committee, area committee, city committee, or district committee).

In all questions the groups must strictly and unswervingly be guided by the decisions of the leading Party organs.

XII

Penalty for Violation of Party Discipline[16]

72. The maintenance of Party unity, relentless measures against the slightest attempt of double-dealing, factional struggle or splits, and the observance of Party and state discipline are primary duties of all Party members and of all Party organizations.

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[15] Previously: ten and six years, standing, respectively. (Article 53 of the 1934 Rules.)

[16] The section on Party discipline in the 1934 Party Rules began with the assertion of the Party member's "inalienable right" to participate in the "free and business-like discussion of questions of Party policy." (Article 57.) This passage was moved forward to become Article 3 of the new Rules, with a much greater emphasis on the rights of the Party members. The rest has been greatly condensed in the new version.

73. Decisions of Party and Soviet centres must be carried out promptly and accurately. Failure to carry out decisions of a higher organization, or any other offense regarded as culpable by the public opinion of the Party, entails: for organizations—censure and a general re-registration (dissolution of the organization); for individual Party members—censure in one form or another (admonition, reprimand, etc.), public censure, temporary removal from responsible Party and Soviet work, expulsion from the Party, and expulsion from the Party with notification of the offense to the administrative and judicial authorities.

74. In cases of violation of Party or state discipline, or the revival or commission of double-dealing and factionalism on the part of a member of the Central Committee of the C.P.S.U.(B.), the Central Committee has the right to expel him from the Central Committee of the C.P.S.U.(B.), and, as an extreme measure, to expel him from the Party.

A condition precedent to the application of such an extreme measure to a member or alternate member of the Central Committee of the C.P.S.U.(B.) must be the convocation of a plenary meeting of the Central Committee of the C.P.S.U.(B.) to which all alternate members of the Central Committee are invited. If a two-thirds majority of such a general assembly of the most responsible leaders of the Party deem it necessary to expel the member of the Central Committee of the C.P.S.U.(B.) from the Central Committee or from the Party, this measure shall be put into effect immediately.

XIII

Party Funds

75. The funds of the Party and of its organizations consist of membership dues, revenue from Party enterprises and other items of revenue.

76. The membership dues payable monthly by Party members and candidate members are as follows;

Monthly wages	*Dues*
Up to 100 rubles	20 kopeks
from 101 to 150 rubles	60 kopeks
from 151 to 200 rubles	1.00 ruble
from 201 to 250 rubles	1.50 rubles
from 251 to 300 rubles	2.00 rubles
from 301 to 500 rubles	2% of earnings[17]
over 500 rubles	3% of earnings[17]

[17] The average income of the Soviet worker is now well over 500 rubles.

The membership dues of Party members and candidate members who have no fixed earnings are determined by the Central Committee of the C.P.S.U.(B.).

77. Persons on admission to the Party as candidate members pay an entrance fee amounting to two per cent of their monthly wage.

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59. Growth and Change of the Party (1905–1946)[1]

Date	*Party Membership*
1905	8400
1917	23600
1921	800000
1922	532000
1923	485000
1924	735000
1927	1236000
1930	1972000
1934	2807000
1939	2477000
1940	3400000
1941	3876000
1942	4610000
1944	5000000
1946	6000000

The Passing Away of the Old Guard
Delegates at Party Congresses

Party Status in %	*1923 12th*	*1924 13th*	*1927 15th*	*1930 16th*	*1934 17th*	*1939 18th Party Congress*	*1941 18th Party Conference*
"Old Bolsheviks" (1903–1917)	59.2	48.7	38.5	26.9	22.6	2.4	5
Civil-War Entrants (1917–1920)		14	33	55.5	57.4	17	15
Post-Civil-War Entrants (1920–1929)		37.3	28.5		17.4	37.6	45
Members since 1929					2.6	43	35

[1] Compiled from statistics cited in J. Towster, *Political Power in the USSR*, on pp. 344, 335, 317, in that order. By permission of the Oxford University Press.

The Party and the Working Class

	1921	1922	1923	1924	1925	1927	1930	1934	1939
Percentage of Workers in the Party:									
(1) Members with "Working-Class Background"	41	42	44.9	46	58.1	56.3	68.2		no figures published
(2) "Workers at the Bench" (actually working)			17	35.3	40.8	37.5	48.6		
Percentage of Working-Class Delegates at Party Congresses:									
(1) Members with "Working-Class Background"		47.7	53	63.2	62	71	71.2	60	
(2) "Workers at the Bench"				11.4		18.4	17.7	9.3	

Peasants and Workers

Approved by the Second Congress of the Kolkhoz[1] shock-workers and confirmed, as a measure of the first importance, by both the Council of People's Commissaries of the USSR and the Central Committee of the Party on February 17, 1935, this statute embodies the compromise, reached after a long and grim struggle, between the collectivist aims of Stalin's agricultural policy and peasant individualism,—a compromise which became constitutional law the following year.[2]

The Land Code[3]

60. Standard Articles of Association of the Agricultural Artel[4]

I. Aims and Purposes

1. The toiling peasants of the village (settlement, hamlet, khutor, kishlak, aul)_____in the district of_____volun-

[1] From kollektivnoie khozyaistvo: collective economy.

[2] Cf. the 1936 constitution, Chapter I, Articles 7–9, on p. 235.

[3] Published in *Izvestia,* February 18, 1935, No. 44-5597. The English translation reproduced above is that of the *Slavonic (and East European) Review,* Vol. 14, No. 40, (July 1935), pp. 188–198. Another English version of the Kolkhoz Charter, essentially the same but slightly different in terminology, was published in *Industrial and Labour Information Series* (International Labour Office, League of Nations, Geneva), Vol. 54, April–June 1935, pp. 37–44.

[4] Artel: the most frequent Russian type of the co-operative association, in

tarily band together in order to build up, with common means of production and with common labour, a collective, i.e. socialist farm, to ensure complete victory over kulaks and all exploiters and enemies of the toilers, to ensure complete victory over poverty and darkness, over the backwardness of small individual farming, to create a high productivity of labour and to ensure, by this means, the well-being of the members.

The path of kolkhozy, the path of Socialism is the only right path for the toiling peasants. The members of the artel take upon themselves an obligation to strengthen their artel, to work honestly, to distribute the kolkhoz income according to the amount of work done, to guard the common property, to take care of the kolkhoz goods, to keep the tractors and machinery in good order, to tend the horses carefully, to execute the tasks imposed by the workers' and peasants' State in order to make their kolkhoz a Bolshevik one and all members of the kolkhoz —well-to-do people.

II. On the Land

2. All boundaries and hedges which have hitherto divided the plots of the members of the artel, are to be abolished and all individual plots and fields are to be converted into one huge field which is to be utilized collectively by the artel. Land occupied by the artel (as well as all other land in the USSR) is national State property. According to the laws of the workers' and peasants' State, the land is leased to the artel for an indefinite period, that is to say, for ever, and must not either be sold or bought or sublet by the artel.

* * *

Small allotments (vegetable plots, gardens) are to be parcelled out of the common land for the individual use of each kolkhoz household. The size of such allotments (exclusive of the site of the house) may vary from a quarter hectare to a half hectare, and, in some districts, to one hectare, in correspondence with local conditions, as determined by the People's Commissariats for Agriculture of the Allied Republics on the

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which the means of production are owned in common. In the case of the agricultural artel: all agricultural machines with the exception of motorized equipment, which was owned and handled by the Machine Tractor Stations (see note 89); all horses and lifestock, seed and fodder reserves, all buildings and installations necessary for farming and processing purposes. (See Article 4 of the Code.)

basis of the directions issued by the People's Commissariat for Agriculture of the USSR.[5]

3. The land enclosure of the artel may in no case be diminished. It is forbidden to parcel out allotments out of the artel's land enclosure to those members who withdraw from the artel. The withdrawing members may receive allotments only out of the free lands of the State land-fund. The land enclosure of the artel is to be divided into separate fields in correspondence with the established system of crop rotation. Each field brigade is to work on the same portion of fields during the established period of crop rotation. Kolkhozy which possess large stock-breeding farms, in case of need and if having a sufficient amount of land, may parcel out certain allotments which are to be attached to the stock-breeding farms and used for the cultivation of fodder for the animals.

III. On Means of Production

4. To be socialized: all draught animals, agricultural machinery (ploughs, drill-ploughs, harrows, threshers, movers), seeds, fodder in such quantities as necessary for the feeding of socialised animals, farm buildings necessary for conducting the business of the artel and all industrial undertakings for preparing agricultural products. Not to be socialised, but left in individual possession of a kolkhoz household: houses, animals and fowls owned individually, farm buildings necessary for sheltering animals left in individual possession of a kolkhoz household. Small agricultural implements necessary for the working of individual allotments, are to be left in individual possession of the members when the socialisation of agricultural machinery is effected.

The directors of the artel may, in case of need, allot a few horses, out of the total number of socialised draught animals, for serving the personal needs of the members, but on the condition that these services

[5] To check the tendency of the kolkhoz members to enlarge their "kitchen gardens," Government and Party issued a regulation "On measures to safeguard the collective farms' communal lands from being squandered," on May 27, 1939. A survey of personal allotments carried out in that year "revealed that the total land under personal allotments in excess of regulations amounted to 2.5 million hectar." (A. Baykov, *The Development of the Soviet Economic System*, New York, Cambridge University Press, 1947, p. 314, note 2.)

During the last war the encroachments on the communal sector became so serious that the regime had to resort to mass purges; and in order to tighten control, a new "Council for Collective Farm Affairs" was set up, under the Federal Council of Ministers, in October, 1946.

are to be paid for. The artel is to organise a mixed stock-breeding farm, or, if there are a large number of animals, several specialised stock-breeding farms.[6]

5. Each kolkhoz household in the districts of cultivation of grain, sugar-beet, cotton, flax, hemp, potatoes and vegetables, tea and tobacco may have in individual possession one cow, not more than two calves, one sow with sucklings or, if the directors of the kolkhoz may think it advisable, two sows with sucklings, not more than 10 sheep and goats together, an unlimited number of fowls and rabbits, and not more than 20 beehives.

Each kohlkhoz household in agricultural districts with a developed stock-breeding may have in individual possession two or three cows and also calves, two or three sows with sucklings, 20 or 25 sheep and goats together, an unlimited number of fowls and rabbits, and not more than 20 beehives. Such districts are, for instance, agricultural districts of Kazakstan not bordering on nomadic districts, forest districts of White Russia, the Chernigov and Kiev provinces of Ukraine, the districts of the Baraba Steppes and Altai districts of Western Siberia, the Ishim and Tobolsk groups of districts of the Omsk province, the hilly part of Bashkiria, the eastern part of Eastern Siberia, agricultural districts of the Far Eastern Area, the Vologda and Holmogory groups of districts in the Northern Area.

Each kolkhoz household in the districts of non- or semi-nomadic stock-breeding where agriculture is of small significance and stock-breeding is the chief industry, may have in individual possession four or five cows and also calves, 30 or 40 sheep and goats in all, two or three sows with sucklings, an unlimited number of fowls and rabbits, not more than 20 beehives, and also one horse or one milking mare or two camels or two donkeys or two mules. Such, for instance, are the following districts: the stock-breeding districts of Kazakstan bordering on nomadic districts, the stock-breeding districts of the Turkoman, Tadzhik, Kara-Kalpak and Kirghiz republics, Oirotia, Khakassia, the western part of Buryato-Mongolia, the Kalmyk autonomous district, the hilly districts of the Dagestan autonomous republic, the Chechen-Ingush, Kabarda-Balkarsk, Karachevsk and Osetin autonomous prov-

[6] This provision was restated and elaborated in a decree "On Measures for Developing Communal Livestock Breeding on Collective Farms," issued on July 8, 1939; at least two, if possible three, farms, were to be operated: one for cattle, the others for sheep and/or pigs. (See Baykov, *op. cit.*, p. 315.)

inces of the Northern Caucasus, and also the hilly parts of the Azerbeidzhan, Armenian and Georgian soviet socialist republics.

Each kolkhoz household in the districts of nomadic stock-breeding where agriculture has almost no significance and where stock-breeding is the all-embracing branch of industry, may have in individual possession eight or ten cows and also calves, 100 or 150 sheep and goats in all, an unlimited number of fowls, up to ten horses, five or eight camels. Such districts, for instance, are: the nomadic districts of Kazakstan, the Nogai district, the nomadic districts of Buryato-Mongolia.

IV. The Work of the Artel and Its Directors

6. The artel takes upon itself the obligation to conduct its collective farming according to plan and to execute exactly the plans drawn by the organs of the Workers' and Peasants' Government with regard to agricultural production and the duties of the artel towards the State.[7] The artel is to follow exactly the programmes of sowing, fallow ploughing, weeding, harvesting, threshing and autumn ploughing which are to be drawn up in accordance with conditions and peculiarities existing in the kolkhozy, and also the State plan of development of stock-breeding.

* * *

V. On Membership

7. Admission to membership is made by the general meeting of the members, which confirms the lists of new members submitted by the directors. All toilers, women as well as men, who have attained the age of 16, may join the artel. Kulaks and all persons deprived of the right to vote are not to be admitted into the artel.

Note.—The following exemptions to this rule are permitted:—

(a) Children of the *lishentzy*[8] (disfranchised) who, for a number of years, have been engaged in work of public utility and who are working conscientiously;

(b) Former kulaks and members of their families who, having been deported for their anti-soviet and anti-kolkhoz activities, have proved for a period of three years, by their conscientious work and by

[7] The decree of May 27, 1939, mentioned in note 4, established norms of compulsory deliveries on the basis of all cultivated land belonging to the Kolkhoz; until then, quotas had been set on the basis of the area sown. (See Baykov, *op. cit.*, p. 316.)

[8] In italics in the original text.

their support of the measures passed by the Soviet Government, that they have been corrected.

Individual peasants who have sold their horses in the two years preceding their admission into the artel and who have no seed are to be admitted into the artel on the condition that they take upon themselves an obligation to refund the cost of a horse out of their income by installments over six years and to surrender the required quantity of seed in kind.

8. Members may be expelled from the artel only by a resolution of the general meeting at which not less than two-thirds of the total number of the members are present. The number of members present at the general meeting and the number of votes cast for expulsion should be explicitly stated in the minutes of the meeting. If an expelled member appeals against his expulsion to the district executive committee of the soviets, the case is finally decided by the presidium of the district executive committee of the soviets in the presence of the chairman of the artel and of the appellant.

VI. Funds of the Artel

9. A member admitted into the artel must pay an entrance fee to the amount of 20 or 40 roubles in correspondence with his economic capacity. The entrance fee is to go to the indivisible fund of the artel.

10. Between one-half and one-quarter of the value of the socialised property of the members (draught animals, machinery, farm buildings, etc.) must go into the indivisible fund of the artel; the more well-to-do the member, the larger the proportion of his property which is to go into the indivisible fund. The remaining portion of the property is to be considered as the share of the member. The directors are to settle accounts with a withdrawing member and have to return to him his share in money; the withdrawing member may obtain a land allotment only outside the land enclosure belonging to the artel. As a rule, the settlement of accounts is effected at the end of the agricultural season.

11. Out of the crops gathered and the animal products raised, the artel must:—

(a) Fulfil its obligations towards the State in respect of deliveries of products and the return of seed loans; pay out in kind to the Machine-Tractor Station[9] for the work done by the Station, in ac-

[9] The M.T.S. are state-owned. According to Baykov, *op. cit.*, p. 330, in 1938, one M.T.S. serviced an average of 32 collective farms.

cordance with the contract, which has the force of the law, and fulfil other contracts entered into;

(b) store seed for the next year's sowing and fodder for animals for the whole year and create permanent, annually renewed, seed and fodder funds to the extent of 10 or 15 per cent of the annual requirements, in order to insure itself against failure of crops or shortage of fodder;

(c) create, in accordance with the decision of the general meeting, funds to assist disabled, old or sick people, poor families of Red Army soldiers, and to maintain crêches and waifs; all these funds should not exceed 2 per cent of the total annual production;

(d) fix the proportion of the products which, in accordance with the decision of the general meeting, is to be sold to the State or on the free market;

(e) share out the remaining portion of the crops and animal products produced by the artel among the members in accordance with the number of working days earned by each member.[10]

12. The money income of the artel is to be expended for the following purposes:—

(a) To pay taxes to the State established by law and insurance premiums;

(b) to defray necessary expenses in connection with current requirements, such as repairs of agricultural machinery and implements, medical treatment of animals, combating pests, etc.;

(c) to defray administrative expenses of the artel, to the extent of not more than 2 per cent of the total income in money;

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[10] Distribution in per cent of the gross yield of grain and leguminous plant crops in the collective farms of the USSR as a whole for 1938, according to Baykov, *op. cit.*, p. 311:

Compulsory State deliveries at fixed price	15
In payment for the M.T.S.'s work	16
Sales to State procurement organizations and co-operatives	5.1
Refund of State advances of seed	2
Allocations to the seed fund	18.6
Allocations to the fodder fund	13.6
Allocations for invalids and nurseries	0.8
Distributed to collective farmers	26.9
Miscellaneous allocations	2
	100%

(d) to assign money for cultural needs, such as training of brigadiers and other specialists, organisation of crêches, purchasing of wireless, etc.;

(e) to augment the indivisible funds of the artel for the purchase of cattle, agricultural machinery and building materials, for paying wages to workers hired for building operations, for repayment of long-term loans received from the Agricultural Bank; the total sum assigned for the replenishing of the indivisible fund is to equal not less than 10 per cent and not more than 20 per cent of the total money income of the artel;

(f) the remaining money income of the artel is to be shared out among the members in accordance with the number of working days earned by each member.[11]

* * *

VII. Organisation and Remuneration of Labour, and Labour Discipline

13. All operations in connection with the running of the business of the artel are to be performed by the personal labour of its members in accordance with the rules and regulations approved by the general meeting. It is permitted to engage non-members for agricultural operations only when they possess special knowledge and training (agronomists, engineers, technicians, and so forth). The hiring of outside casual labour is permitted only under exceptional circumstances when urgent operations cannot be performed in time by the members working at full pressure, and also for building and constructional operations.

14. The directors form production brigades out of the members of the artel. Agricultural brigades are to have the same personnel for the

[11] Distribution in per cent of money income in the collective farms of the USSR as a whole for 1938, according to Baykov, *op. cit.*, p. 312.

Taxes and dues (agricultural income tax, compulsory and voluntary insurance premium on Kolkhoz property)	8.9
Allocations to the jointly owned funds (including repayment on long-term bank credits)	14.5
Production costs	19.2
Administrative and managerial expenses	1.5
Appropriations to the social fund	3
Distributed in payment for labor days	52.8
Miscellaneous expenditure	0.1
	100%

full period of crop rotation. The agricultural brigade must work the same plot for the full period of crop rotation. The directors, by a special deed, must hand over to each agricultural brigade all necessary machinery, draught animals and farm buildings.

Stock-breeding brigades are to have the same personnel for the period of not less than three years. The directors must hand over to each stock-breeding brigade productive cattle, machinery and draught animals necessary for carrying out the business, and also stables, cowsheds, pigsties, and other similar buildings.

Work is to be shared out among the members of the brigade by the brigadier, who must, in the best possible way, make proper use of each member of his brigade, not permitting himself, while sharing out the tasks, to be influenced by family or other private considerations, and taking into account the qualifications, experience and physical fitness of each member and, in respect of pregnant or nursing women, the necessity of alleviating their work; women must be freed from all work for a period of one month before and one month after giving birth, and during these two months must receive remuneration equal to one-half of the average number of working days they normally earn.

15. Agricultural operations are to be carried out on the basis of piecework remuneration. The directors are to work out and the general meeting is to confirm the normal output and remuneration for each separate job in terms of working days;[12] these standards must be worked out for each agricultural operation. The normal output which a conscientious working man may produce is to be fixed for each operation; conditions of draught animals, machinery and soil are to be taken into consideration.

* * *

If an agricultural brigade, as a result of good work, should gather crops from its plot exceeding the average crops obtained by the artel, or if a stock-breeding brigade, as a result of good work, should show a better output of milk per cow, better fattening of cattle or ensure full preservation of young animals, the directors are to increase the remuneration of the members of such brigades to the extent of 10 per cent of the total of working days earned by them; the best shock-workers in

[12] The twice-mentioned decree of May 27, 1939, established the number of obligatory working days, as 60 to 100, depending on the particular regional requirements and types of cultivation.

the brigade are entitled to 15 per cent increase, and the brigadiers or stock-breeding farm managers to 20 per cent.

If an agricultural brigade, as a result of bad work, should gather crops from its plot below the average of the crops obtained by the artel, or if the stock-breeding brigade, as a result of bad work, should show a poorer output of milk per cow, poorer fattening of cattle or larger mortality among young animals, the directors are to fine the members of such brigades to the extent of 10 per cent of the number of working days earned by them.

The distribution of income among the members is to be made exclusively in accordance with the number of working days earned by each member.

* * *

17. All members of the artel must take upon themselves the obligation to take good care of the property of the artel and of the machinery belonging to the State, and working on the artel's fields, to work honestly, to observe the provisions of the Articles of Association, to carry out the resolutions of the general meetings and the orders of the directors, to adhere to the established regulations, to execute conscientiously the tasks and social duties imposed upon them by the directors and brigadiers, to observe the labour discipline.

The directors are entitled to impose penalties, in accordance with the established regulations, upon those members who waste or neglect the common property, shirk their work without sufficient reasons, work badly or infringe the labour discipline and the Articles of Association; the penalties are: to do the badly done work over again without any remuneration in terms of working days, warning, reprimand, reproof at the general meeting, entering the name of the offender on the blackboard, fines to the extent of five working days, removal to low-paid jobs, temporary dismissal from work. In cases when all measures of education and punishment imposed by the artel fail to produce effect, the directors must put before the general meeting their suggestion to request the expulsion of incorrigible members. The expulsion must be carried out in accordance with the provisions stated in paragraph 8 of the present Articles of Association.

18. Pilfering of socialised kolkhoz and State property, a criminally negligent attitude towards property and cattle belonging to the artel and towards machinery belonging to the Machine-Tractor Stations is to be considered by the artel as a betrayal of the kolkhoz cause and

as assistance rendered to the enemies of the people. Persons guilty of such criminal offences which undermine the basic principles of kolkhoz order, must be handed over by the artel to judicial authorities to be punished in accordance with the severe laws of the Workers' and Peasants' State.

VIII. Management of the Artel

19. The business of the artel is to be managed by the general meeting of the members and, in the intervals between the meetings, by the directors elected by the general meeting.

20. The general meeting is the highest authority in the management of the artel. The general meeting:—

(a) Elects the chairman and the directors of the artel and also the auditing commission of the artel; the auditing commission is approved by the district executive committee of the soviets;

(b) effects the admission of new members into and the expulsion of members of the artel;

(c) confirms the programme of the annual production, the estimate of revenue and expenditure, the building programme, the normal outputs and valuation of tasks in terms of working days;

(d) confirms the agreement with Machine-Tractor Station;

(e) confirms the annual report of the directors, which is to be accompanied by the conclusions of the auditing commission, and also the reports of directors regarding the most important agricultural campaigns;

(f) fixes the extent of various funds and also the amounts of products and money to be paid out per working day;

(g) confirms the regulations regarding the carrying out of the business of the artel.

The decisions of directors affecting the matters enumerated in the present paragraph of the Articles of Association are null and void if not confirmed by the general meeting.

Reconstruction

Excerpts from "The Law on the Five-Year Plan for the Restoration and Development of the National Economy of the USSR for 1946–1950," Adopted at the First Session of the [Newly Elected, Second] Supreme Soviet of the USSR on

March 18, 1946. The Series of Five-Year Plans (1928–1932, 1933–1937, 1938–1942) had Been Interrupted by the Second World War in June, 1941.[1]

61. The Fourth Five-Year Plan (1946–1950)

I

Principal Aims of the Five-Year Plan for the Restoration and Development of the National Economy of the USSR

The 18th Congress of the Communist Party of the Soviet Union (CPSU) in 1939 laid down the lines for a gradual transition from socialism to communism and set before the peoples of the Soviet Union the aim of overtaking and outstripping the principal capitalist countries economically, i.e., with respect to the volume of industrial output per head of the population.

The groundwork for the accomplishment of this main economic aim of the USSR was laid by the Third Five-Year Plan for the development of the national economy of the USSR, the principal assignments of which were being successfully carried out during the first three and a half years of the Five-Year Plan period (1938–1941) notwithstanding the fact that military operations were at that time taking place on the borders of the Soviet Union.

Socialist industry was making rapid headway—industrial output showed an annual average increase of 13 per cent. Big strides were being made in particular in the development of heavy industry. In the first three years of the Third Five-Year Plan, the output of the means of production increased by more than 50 per cent, while the output of the machine-building industry increased by 75 per cent.

Industry was rapidly developing in the eastern regions of the USSR: in the Urals, the Volga area, Siberia, Central Asia and Kazakhstan. Industrial output in the first three years of the Third Five-Year Plan increased by 50 per cent.

The cereal crop in 1940 amounted to 119,000,000 tons. One of the richest grain-growing areas of the Soviet Union was created in the eastern part of the country. The progress of agriculture was due to the policy of collectivization, which made it possible in the space of

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[1] From: *Special Supplement on the Fourth Five-Year Plan,* published by the Information Bulletin, Embassy of the USSR, Washington, D.C., June, 1946.

a few years to cover the whole country with large collective farms capable of employing up-to-date machinery and all the latest methods of agricultural science, and of supplying the country with ever larger quantities of agricultural commodities.

In the first three and a half years of the Third Five-Year Plan an immense program of construction work was carried out: capital construction amounted in value to a total of 130 billion rubles, some 3,000 state-owned mills, factories, mines, power stations and other enterprises were put into operation. More than one third of the capital construction work in this period fell to the eastern areas of the USSR.

The growth of socialist industry, especially of heavy industry, the economic development of the eastern areas, and the accumulation of large state reserves helped to strengthen the economic and military might of the Soviet Union. In 1940 there were produced in our country 15,000,000 tons of iron, or nearly four times as much as in 1913; 18,300,000 tons of steel, or four-and-a-half times as much as in 1913; 166,000,000 tons of coal, or five-and-a-half times as much as in 1913; 31,000,000 tons of oil, or three-and-a-half times as much as in 1913; 38,300,000 tons of commodity grain, or 17,000,000 tons more than in 1913; or 2,700,000 tons of raw cotton, or three-and-a-half times as much as in 1913.

With the help of socialist industry the reconstruction of the railway system was undertaken.

* * *

3. The treacherous attack of Hitler Germany on our socialist motherland in 1941 put a stop to the peaceful constructive labors of the Soviet Union and interrupted the general economic advance and the rise in the standard of living of the peoples of the USSR.

The Great Patriotic War made it necessary to subordinate the entire national economy to the needs of the front, to the task of smashing Hitler Germany and her satellites. The national economy of the USSR was swiftly put upon a war footing. Industry was switched over to the production of munitions.

The modern large-scale industry which had been built up in the eastern regions of the country in the period of the Five-Year Plans and the rapid re-establishment of over 1,300 large industrial plants which were evacuated to the eastern areas of the country, coupled with the new construction work undertaken, resulted in considerably

enlarging and strengthening the powerful industrial base in the East of the USSR. By a supreme economic effort the evacuated plants were in the main already re-established in the early half of 1942.

The victory of the USSR in the Patriotic War was achieved at the cost of heavy sacrifice. The German occupants inflicted tremendous damage on our country. Notwithstanding the colossal losses and the arduous conditions of war time, the war economy of the USSR showed a swift development in the course of the Patriotic War. In the early half of 1945 industrial output in the eastern areas of the USSR was twice as great as in the first half of 1941, while the output of the war industries was 5.6 times as great. In the four years of the war industrial output increased 3.6 times in the Urals, 2.8 times in Siberia, and 3.4 times in the Volga area.

The eastern regions of the Soviet Union grew and expanded during the Patriotic War into a powerful base of supply of ammunition, weapons, tanks and aircraft for the Red Army.

* * *

4. The USSR has returned to the work of peaceful socialist construction interrupted by the treacherous attack of Hitler Germany.

Having effectively initiated while the Patriotic War was still on, the economic rehabilitation of the formerly occupied regions, the Soviet Union, now that the war is over, is continuing to rehabilitate and further develop its national economy on the basis of long-range state plans, which determine and direct the economic life of the USSR.

The Supreme Soviet of the USSR declares that the principal aims of the Five-Year Plan for the Rehabilitation and Development of the National Economy of the USSR in 1946–1950 are to rehabilitate the devastated regions of the country, to recover the pre-war level in industry and agriculture, and then considerably to surpass that level.

For this purpose it is necessary:

(1) To give priority to the restoration and development of heavy industry and railway transport, without which the rapid and effective recovery and development of the entire national economy of the USSR would be impossible.

(2) To promote agriculture and the industries producing consumer goods in order to raise the material well-being of the people of the Soviet Union and to secure an abundance of the principal items of consumer goods in the country.

(3) To promote technical progress in all branches of the national economy of the USSR, as a condition for a powerful increase of production and a rise in the productivity of labor, which will necessitate not only catching up with but surpassing scientific achievement outside the USSR in the near future.

(4) To complete the post-war reconstruction of the national economy in 1946 and to utilize the productive plant of the war industries for the purpose of increasing the economic power of the Soviet Union.

(5) To further enhance the defensive power of the USSR and to equip its armed forces with up-to-date weapons.

(6) To attain a high rate of capital accumulation, fixing for this purpose the centralized capital investments for the rehabilitation and development of the national economy of the USSR in the five-year period at 250,300,000,000 rubles and putting into operation rehabilitated and new enterprises to a total value of 234 billion rubles (in 1945 estimated prices); also, to develop the building industry to the utmost, paying particular attention to the introduction of up-to-date building machinery and the mechanization of building processes, as well as the creation of an industrial basis for the production of building machinery.

(7) To conduct rebuilding and new building in towns and villages and increase the housing resources of the country to the utmost possible extent; to adopt mass production of prefabricated houses, and to provide state assistance to workers, peasants and intellectuals in building their own homes.

(8) To surpass the pre-war volume of the national income and of national consumption, for which purpose the food industry must be expanded to the fullest possible extent, consumer goods manufactured on a big scale, the incomes of the collective farmers increased, commodity exchange extended, and the abolition of the rationing system in the near future, to be replaced by a widely raminfied and efficient system of Soviet trade.

(9) To ensure permanent staffs of workers for industry and transport by improving the organization of labour and providing better living and material conditions, and also to ensure a steady increase in the number of highly qualified technical personnel.

(10) To raise the productivity of labor by making the utmost of the 8-hour working day, by the all-round mechanization of heavy

labor-using branches of industry, by extending electrification in the national economy and by intensifying production processes.

(11) To restore and enlarge the system of primary and secondary schools and higher educational institutions, and to improve the training of cadres for industry by extending the labor reserve training system and the training of new workers on the job.

(12) To improve the public health service; and to ensure new advances in Soviet culture and art.

(13) To increase the state material reserves and stocks in national industry in order to eliminate seasonal declines in production and to avert adventitious difficulties in industry.

(14) To strengthen the currency and improve credit arrangements in the national industry; to enhance the significance of profits and cost-accounting as an additional stimulus to production; to increase the profitability of all branches of industry by lowering costs of production; to induce business organizations to pay greater attention to mobilizing their internal resources, observing scrupulous economy and resolutely eliminating losses due to bad management and unproductive expenditure; to increase the proportion of premiums for the fulfillment and over-fulfillment of output programs in the total earnings of workers and clerical employees.

(15) To stimulate to the utmost the economic initiative of the Union Republics in rehabilitating and developing their productive forces, to strengthen and expand to the fullest extent the economy of the republics within the general system of national economy of the USSR; to ensure the all-around development of the economy of the republics, of local industry and of the producer cooperative societies, especially with a view to increasing the production of food and consumer goods, the utilization of local fuel resources, the making of rolled steel and castings for local needs, the production of building materials and timber, metal articles and equipment for republican industries; consumer goods produced by the local industries and the cooperative societies must be entirely at the disposal of the given Union Republic, it being left to the discretion of the Council of Ministers of the republic to decide what proportion of these goods shall be retained for consumption within the republic and what proportion used for commodity exchange with other republics, the general state regulation of market prices being at the same time observed.

With these aims in view, the Supreme Soviet of the Union of Soviet Socialist Republics resolves:

To approve the Five-Year Plan for the Rehabilitation and Development of the National Economy of the USSR in 1946–1950, drawn up by the State Planning Commission of the USSR and adopted by the Government of the USSR, and to define the assignments for this period as follows:

II

Plan for Increased Production and Development

INDUSTRY

Total volume of production of the industry of the USSR as a whole in 1950, i.e., the last year of the Five-Year Plan for the Rehabilitation and Development of the National Economy of the USSR, is fixed at 205 billion rubles (in 1926–1927 prices) as compared with 138,500,000,000 rubles in 1940, which represents an increase in industrial output of 48 per cent as compared with the pre-war year of 1940.

2. The 1950 output level of the major branches of industry shall be as follows:—

Iron and Steel

Iron (tons)	19,500,000
Steel (tons)	25,400,000
Rolled Goods (tons)	17,800,000

Fuel and Power

Coal (tons)	250,000,000
Petroleum (tons)	35,400,000
Coal and shale gas (cu. meters)*	1,900,000,000
Natural gas (cu. meters)	8,400,000,000
Electric power (kwh)	82,000,000,000

Rolling Stock

Long-distance steam locomotives	2,200
Long-distance diesel locomotives	300
Long-distance electric locomotives	220
Freight-cars (in terms of two-axle cars)	146,000
Passenger coaches	2,600

* One cubic meter = 35.314 cubic feet.

Motor Vehicles

Trucks	428,000
Passenger cars	65,600
Motor-buses	6,400

Factory Equipment

Equipment for iron and steel mills (tons)	102,000
Steam turbines (kw)	2,906,000
Water turbines, large (kw)	372,000
Water turbines, medium (kw)	150,000
Water turbines, small (kw)	500,000
Electric motors up to 100 kw	624,000
Electric motors over 100 kw	9,000
Metal-working machines	74,000
Spinning frames (spindles)	1,400,000
Looms	25,000

Agricultural Machinery

Tractors	112,000
Tractor-drawn ploughs	110,000
Tractor-drawn cultivators	82,300
Tractor-drawn seed drills	83,300
Power-driven threshers	18,300

Chemicals and Mineral Fertilizers

Caustic soda (tons)	390,000
Calcined soda (tons)	800,000
Mineral fertilizers--superphosphates, nitrates and potash (tons)	5,100,000
Synthetic dyes (tons)	43,000

Timber and Building Materials

Felled timber (cu. m.)	280,000,000
Sawed lumber (cu. m.)	39,000,000
Cement (tons)	10,500,000
Slate (sheets)	410,000,000
Window glass (sq. meters)*	80,000,000

Textiles and Light Industry Goods

Cotton fabrics (meters)†	4,686,000,000
Woolen fabrics (meters)	159,400,000
Leather footwear (pairs)	240,000,000
Rubber footwear (pairs)	88,600,000
Socks and stockings (pairs)	580,000,000

* One square meter = 10.76387 square feet
† One meter = 3.28083 feet

Foodstuffs

Meat (tons)	1,300,000
Butter (tons)	275,000
Vegetable oil (tons)	880,000
Fish (tons)	2,200,000
Sugar (tons)	2,400,000
Flour (tons)	19,000,000
Alcohol (decaliters)*	100,800,000
Soap (tons)	870,000

* One decaliter = 2.64 gallons

3. In conformity with the plan for the growth of production, total capital construction in the industry of the USSR for the period 1946–1950 is fixed at 157,500,000,000 rubles (in 1945 estimated prices.)

* * *

21. In conformity with the planned increase in production and the program of capital development;—

(a) Productivity of labor in industry shall be raised 36 per cent by 1950 as compared with pre-war;

(b) Productivity of labor on construction work shall be raised 40 per cent by 1950 as compared with pre-war;

(c) Costs of production in industry shall be reduced 17 per cent by 1950 as compared with 1945, the quality of output at the same time to be improved;

(d) Construction costs shall be reduced by the end of the five-year period 12 per cent as compared with 1945.

AGRICULTURE

22. The farming and animal husbandry of the former German occupied regions shall be rehabilitated and developed and the pre-war level of agricultural production for the USSR as a whole exceeded.

In order to speed the maximum rehabilitation and further development of agriculture, measures shall be taken to strengthen the common husbandry of the collective farms and to improve the machine and tractor stations and state farms organizationally and economically.

23. Total farm produce in the USSR as a whole shall be increased by the end of the five-year period 27 per cent above the 1940 figure.

Grain—With a view to improving the supply of food to the people and creating adequate reserve supplies of grain in the country, the production of cereals, especially of wheat and rice, and legumes, shall be increased. At the end of the five-year period the annual grain harvest shall be 127,000,000 tons, with an average yield of 12 centners per hectare (more than 3,000 pounds per acre).

Industrial Crops—The total harvest of sugar beet shall be 26,000,000 tons, with an average yield of 190 metric centners per hectare (more than 103 thousand pounds per acre); raw cotton, 3,100,000 tons, with an average yield of 18.4 centners per hectare (more than 5,000 pounds per acre); flax fiber, 800,000 tons, with an average yield of four centners per hectare (more than a thousand pounds per acre) and an improvement in the average length; staple sunflower seed, 3,700,000 tons, with an average yield of 10 centners per hectare (more than 27 hundred pounds per acre). The areas sown to hemp, high oil-content crops, tobacco and *makhorka* (a variety of tobacco) shall be rehabilitated and a considerable increase in yields effected. The raw material supply for the manufacture of a natural rubber shall be increased by enlarging the crop area and yield, by properly locating the cultivation of rubber-bearing plants and improving farming methods.

Animal Husbandry—In the five-year period the number of horses shall be increased 46 per cent, of horned cattle 39 per cent, of sheep and goats 75 per cent, and of hogs three times as compared with 1945. Measures shall be adopted to develop those branches of stock-breeding which reproduce rapidly, especially poultry farming, which shall be expanded by building large numbers of incubator breeding farms.

Measures shall be taken to improve and develop meat and dairy farming and market gardening in the vicinity of Moscow, Leningrad, Baku, Kharkov, Kiev, the industrial centers of the Urals, the Donets Basin, the Kuznetsk Basin, Gorkey, the towns of Siberia and the Far East and other big towns to ensure that a full supply of vegetables and a considerable part of the supply of meat and milk are produced locally; there shall be a general development of hot-houses and nurseries to supply the populations of towns and industrial centers with early vegetables and greens in the winter and spring period. The cultivation of individual and group allotments run by factory and office workers shall be developed and measures taken to improve

yield, as well as to develop the breeding cattle, poultry and bees by individuals.

The cultivation of potatoes in the vicinity of alcohol and starch and molasses plants and of other vegetables in the vicinity of the canneries shall be expanded.

Orchards, vineyards and tea and citrus fruit plantations shall be rehabilitated. New orchards, berry gardens and vineyards shall be laid out on collective and state farms and on small holdings of collective farmers. The chain fruit nurseries shall be restored and expanded, their work improved and fruit trees grown in all nurseries providing saplings for land and forest improvement.

24. To provide for the plan of increased production, the expenditure on capital development in agriculture (centralized and non-centralized investments) is fixed at 19,900,000,000 rubles for the five-year period: this includes 8,800,000,000 rubles for the rehabilitation and development of machine and tractor stations, two billion rubles for irrigation and improvements, and two billion rubles to promote an increase in the herds of state farms. In addition to this the capital investment made by the collective farms themselves shall amount to 38 billion rubles for 1946–1950.

* * *

III

Plan for the Material and Cultural Advancement of the People

1. As a result of the measures to expand production, extend trade and increase the expenditure on housing and the cultural and social services, the pre-war standard of living of the people should not only be restored in the five-year period but the national income increased 30 per cent above the pre-war level.

The national income in 1950 (in 1926–1927 prices) is projected at 177 billion rubles, with a corresponding increase in the totals of accumulation and consumption.

2. *Labor and the Training of Industrial Personnel*—The number of workers by hand and brain engaged in the national industries of the USSR in 1950 is projected at 33,500,00 persons, and the total pay roll at 252,300,000,000 rubles. Prices for all goods shall be consistently reduced and housing and the cultural and social services

improved. With the growth of productivity of labor, the average annual earnings per worker by hand and brain engaged in the national industries of the USSR shall increase by 1950 to 6,000 rubles, which is considerably above the 1940 level.

With a view to attracting labor to the key industries and creating staffs of permanent employees, higher remuneration shall be provided for workers, engineers, and technicians in the various branches of heavy industry (coal, iron and steel, oil).

The progressive piece-rate system of the payment of workers, as well as the system of bonuses for engineers and technicians for fulfillment and over-fulfillment of output programs, shall be perfected, the proportion of bonuses to wages and salaries being systematically increased.

Suitable technically calculated norms of output shall be more widely introduced in industry, due account being taken of up-to-date technicological methods and the increased mechanization of labor. The calculation of norms shall be entrusted to qualified engineers and technicians. Measures shall be taken for the further improvement of the conditions of labor in industry (safety devices, ventilation, illumination, sanitation).

With a view to supplying adequate numbers of skilled workers for the major branches of the national economy and improving the technical training of industrial personnel, the annual graduation of young skilled workers by the factory, trade and railway schools shall be increased to 1,200,000 pupils, and the state labor reserve training system shall in the five-year period provide 4,500,000 young skilled workers.

The practice of training skilled workers on the job in the common trades shall be widely extended by means of individual and group training and courses of instruction, so that 7,700,000 new workers are given technical training, and the skilled qualifications of 13,900-000 workers enhanced in the five years.

* * *

3. *Culture and Health*—The state expenditure on the cultural and social services in town and country—i.e., expenditure on social insurance, government allocations for education, health, and the training of state labor reserves, allowances to mothers of large families and unmarried mothers, allowances to servicemen's families and to those invalided in the Patriotic War, as well as for cultural and social

facilities for workers and other employees, not including the state expenditure on housing and municipal services—shall be raised to 106 billion rubles in 1950, or to 2.6 times the expenditure in 1940.

The contributions by state enterprises and institutions for the social insurance of their employees shall amount in the period 1946–1950 to a total of 61,600,000,000 rubles.

By 1950 the number of primary seven-year and secondary schools shall be raised to 674,000, and of students of specialized secondary 000, universal compulsory education being extended to all children from the age of seven both in town and country.

A broad system of schools shall be instituted for the education of that section of the worker and peasant youth who during the Patriotic War and the occupation of a number of Soviet regions were unable to obtain normal schooling.

By 1950 the number of students in higher educational institutions shall be raised to 674,00, and of students of specialized secondary schools to 1,280,000; the number of young specialists graduated from the higher educational institutions shall amount in the five-year period to 602,000, and of graduates from the technical colleges and other specialized secondary schools to 1,326,000.

* * *

4. *Housing and Municipal Development*—The rehabilitation of the wrecked housing in the towns, industrial settlements and villages of the formerly occupied regions shall be completed, and new housing construction undertaken on a scale which will ensure a considerable improvement in housing conditions in towns, industrial settlements and villages.

The proportion of capital investments in housing construction to total capital investment in the national economy of the USSR shall be increased to 14.5 per cent, as against 10.5 per cent in the period of the Third Five-Year Plan. Total investments in capital house construction in 1946–1950 is fixed at a total of 42,300,000,000 rubles, as against 15,500,000,000 rubles in the period of the Third Five-Year Plan (not counting individual building). The quality of housing construction must be greatly improved.

The plan of rehabilitation and new construction of state-owned houses for the five-year period is endorsed at 72,400,000 square

meters of living space, including 65,000,000 square meters to be built by the ministries and departments and 7,400,000 square meters by the local soviets. In addition, provision shall be made in the five years for the rebuilding and further construction of individually owned houses, at the expense of the individual owners themselves and with the aid of government loans, to a total of 12,000,000 square meters of living space.

* * *

5. *Trade and Consumption*—The volume of state and cooperative retail trade in 1950 is fixed at 275 billion rubles (allowing for a lowering of 1945 prices), which exceeds the volume of trade in 1940, reckoned at comparable prices, by 28 per cent.

In the course of 1946 and 1947 the transition from the rationing system to unrestricted Soviet trade shall be completed. The rationing of bread, flour, cereals and macaroni shall be abolished in the autumn of 1946.

The production and sale to the population of high-grade food products, fabrics, clothing and footwear shall be extended. The marketable stocks of goods handled by state and cooperative trade, including meat and fish products, sugar and confectionery, cotton, woolen and silk fabrics and leather footwear, shall be greater in 1950 than in 1940. The manufacture and sale of fancy goods and household articles and utensils shall likewise be increased.

The production and sale of consumer goods shall be increased in 1950 to the following dimensions: aluminum, enamelled, porcelain and chinaware utensils, 260,000,000, samovars, 200,000; tumblers, 160,000,000; furniture (reckoned in fixed prices), 1,200,000,000 rubles; sewing machines, 450,000; clocks and watches, 7,400,000; gramophones, 1,000,000; radio sets, 925,000; motor cycles, 135,000; bicycles, 1,050,000; shotguns, 350,000; cameras, 530,000.

Beginning with 1946 the retail sale of lumber, iron, nails, bricks, window glass, paints and varnishes, and other building and repair materials, shall be organized.

The network of state and cooperative shops in town and country, as well as of wholesale stores and warehouses shall be restored and extended. The network of specialized stores in the towns and of district department stores and stores for the sale of farmers' requisites shall be restored and expanded. The network of tea-rooms and lunch-

rooms in towns, district centers and other large inhabited points shall likewise be restored and enlarged.

The further expansion of collective farm trade shall be promoted, the collective farm markets shall be restored and their number increased, and an extensive sale organized of manufactured goods in demand by the farming population.

* * *

The Council of Ministers of the USSR is hereby instructed:—

(a) To examine and endorse the economic five-year plans of the separate ministries and departments of the USSR on the basis of the adopted Five-Year Plan for the Rehabilitation and Development of the National Economy of the USSR;

(b) To organize a systematic check on how the Five-Year Plan for the Rehabilitation and Development of the National Economy of the USSR is being carried out; and

(c) To ensure the widest cooperation of the workers, peasants and intelligentsia in carrying out the Five-Year Plan on the basis of Socialist emulation, with a view, not only to the fulfillment, but the over-fulfillment of the Five-Year Plan for the Rehabilitation and Development of the National Economy.

N. SHVERNIK,

President of the Presidium of the Supreme Soviet of the USSR

A. GORKIN,

Secretary of the Presidium of the Supreme Soviet of the USSR

The Kremlin, Moscow, March 18, 1946.

The Trade Unions

The most recent major event in the history of Soviet codes took place on April 27, 1949, when the 10th All-Union Congress of Trade Unions adopted new statutes and by-laws to replace those dating back to pre-war times. After the traditional eulogy on the accomplishments of the Soviet system, the

document has this to say on the nature and function of Trade Unions in a Communist State:

62. Statutes and By-Laws of 1949[1]

Soviet trade unions, which constitute a mass social, non-party organization, unite the workers and employees of all occupations on a voluntary basis without regard to race, nationality, sex or religious convictions.

Soviet trade unions carry on all their work under the leadership of the Communist Party, the organizing and directing force of Soviet society. The trade unions of the U.S.S.R. rally the working masses around the party of Lenin and Stalin.

The trade unions struggle in all ways for a socialist social and state structure, for the moral-political unity of the Soviet people, fraternal cooperation and friendship between the peoples of the Soviet Union; they take active part in the election of agencies of the government; they organize workers and employees for the struggle to steadfastly develop the national economy; they care for the further improvement in the material well-being and complete satisfaction of the cultural requirements of the workers.

The trade unions educate all their members in the spirit of Soviet patriotism, the communist attitude toward labor and public socialist property; they conduct work on the communist education of the workers, on solving problems of raising the cultural-technical level of the working people to the level of workers in engineering-technical labor; they develop in members of the trade union the feeling of proletarian internationalism, struggle for the unity of the international labor movement, for lasting peace and democracy throughout the world. Trade unions "are an educational organization, and organization for enrolling, teaching; they are a school: a school for administering, a school of management, a school of communism" *(Lenin)*.

Under the conditions of the Soviet socialist system the state stands for protection of the rights of the workers and expresses in its laws the interests of the people. The trade unions take active part in working out laws on problems of production, labor, living conditions and culture; they struggle for the steadfast realization of these laws.

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[1] From *Current Digest of the Soviet Press,* published by the American Council of Learned Societies, Vol. I, No. 18 (May 31, 1949), pp. 26–32. (*Trud,* May 11, 1949, pp. 2–3.)

TRADE UNIONS:

organize socialist competition of workers and employees for fulfilling and overfulfilling state plans, increasing the productivity of labor, improving the quality and lowering the cost of production;

participate in planning and regulating wages of workers and employers, in devising a system of wages guided by the socialist principle of pay according to amount and quality of labor, strive to introduce new progressive output norms, keep track of the correct calculation of labor and the application of piece-work and progressive bonus pay for labor;

help the workers and employees to raise their production and business qualifications; spread the work-experience of leading workers and employees, the innovators in production and science, and assist in introducing progressive techniques in industry;

conclude collective contracts with the administration of enterprises;

carry out control over the condition of labor safeguards and safely techniques in enterprises and institutions; participate in settling labor disputes; conclude agreements with the management of enterprises regarding the method of expending resources on measures for safety techniques and labor safeguards;

direct state social insurance, determine and issue relief (payments) to workers and employees for temporary disability, strive for better organization of medical aid for workers and for safeguarding the health of women and children, build sanatoriums and rest homes, organize mutual loan societies, participate in allocating living space in housing belonging to enterprises and institutions, exercise mass control over fulfillment of plans for housing and cultural construction, the work of restaurants, shops, municipal welfare enterprises and municipal transport;

help members of trade unions to raise their ideological-political and general educational standards, spread political and scientific knowledge, conduct widespread production-technical propaganda; form clubs, houses and palaces of culture, Red corners and libraries and develop among the workers and employees mass amateur art participation, physical culture, sports and touring;

draw women into state, industrial and social life; help workers and employees in the communist education of children;

appear in the name of workers and employees before state and social agencies on problems of labor, living conditions and culture.

I. Trade Union Members, Their Rights and Duties

1. Every citizen of the U.S.S.R. working in an enterprise or institution, studying is an institute of higher education, technical school or production school may be a trade union member.

2. A trade union member *has the right:*

(a) to participate in general meetings of trade union members;

(b) to elect and be elected to all trade union agencies, to trade union conferences and congresses;

(c) to submit to trade union agencies questions and proposals for improving trade union work;

(d) to criticize at trade union meetings, conferences, congresses and in the press the activity of local and higher agencies of the trade union and its workers; to submit questions, statements and complaints to all directing trade union agencies;

(e) to turn to the trade union for protection and support of his rights in cases of violations by management of collective contracts or effective legislation on questions of labor, social insurance, material services and cultural facilities;

(f) to demand personal participation in all cases where decisions are made by trade unions as to his activity or conduct.

3. The trade union member *is required:*

(a) to strictly observe state and labor discipline;

(b) to guard and strengthen public socialist property as the sacred, inviolable basis of the Soviet system, as the source of wealth and power of the Motherland, as the source of all the workers' well-being and cultured life;

(c) to raise his production and business qualifications to master the techniques of his work;

(d) to observe the Statutes and By-laws of the trade union and pay membership dues punctually.

4. The trade-union member *has the following prerogatives;*

(a) he receives relief (payments) from the resources of state social insurance in a greater amount than do non-members, in accordance with legislation;

(b) he receives first choice of permits to rest homes, sanatoriums and resorts, as well as permits for his children to nurseries, kindergartens and Pioneer camps;

(c) he receives material aid from the trade union funds in cases of emergency;

(d) he profits by the free legal aid provided by trade union agencies;

(e) he profits personally, as also members of his family, by cultural and sports institutions of the trade union in accordance with regulations established by the trade union agencies;

(f) he has the right to become a member of a mutual loan society of the trade union organization.

* * *

II. Organizational Structure of Trade Unions

12. Trade unions are founded on the basis of democratic centralism, which means:

(a) all trade union agencies from bottom to top are elected by members of the trade union and must report back to them;

(b) trade union organizations decide all questions of trade union work in accordance with the Statutes and By-laws of the trade union and with decisions of higher trade union agencies;

(c) decisions by trade union organizations are made by majority vote of the members of the trade union;

(d) lower agencies of the trade union are subordinate to higher agencies.

13. Trade unions are organized on the industrial principle: all workers in one enterprise or institution are united in one trade union; each trade union unites the workers and employees employed in one branch of the national economy.

14. Province, territorial and republic trade union councils are created to coordinate the activity of trade union organizations in the provinces, territories and republics.

15. The highest directing agency of every trade union organization is the general meeting (for all primary organizations), the conference (for district, city, province, territory and republic organizations) and the congress (for the trade union).

The general meeting, conference or congress elects the corresponding committee—shop, factory, plant, local, district, city, province, territory, republic, or central—which is their executive agency and conducts all current work of the organization.

16. All administrative agencies of the trade unions, as well as delegates to the trade union conferences and congresses, are elected by secret vote.

During elections of trade union agencies the members of the trade

union have the right to nominate candidates, to challenge or criticize any of them.

Elected trade union agencies elect from their midst a chairman, secretary and members of the presidium by open vote.

* * *

III. Higher Agencies of Trade Unions

21. The supreme trade union authority of the U.S.S.R. is the Congress of Trade Unions.

The Congress of Trade Unions:

(a) hears and confirms reports of the Central Council of Trade Unions and the Inspection Commission;

(b) confirms the Statutes and By-laws of the trade unions of the U.S.S.R.;

(c) determines the current problems of the trade unions, hears reports of central economic agencies and plans measures for the participation of trade unions in the struggle to fulfill and overfulfill national economic plans and improve the material well-being and cultural-political standard of workers and employees;

(d) determines the problems of the trade unions of the U.S.S.R. in the international trade union movement;

(e) elects the Central Council of Trade Unions and the Inspection Commission.

22. The Congress of Trade Unions is convened not less than once in four years. Summons to the congress are made not later than two months prior to the congress.

23. In the intervals between congresses the Central Council of Trade Unions will direct all activities of the trade unions.

24. The Central Council of Trade Unions:

(a) determines the current problems of trade unions as a whole as well as individual problems of trade union work;

(b) participates in working out plans for the national economy;

(c) directs socialist competition;

(d) hears reports of trade union committees as well as reports of ministries and departments on problems of production and material and cultural facilities for workers and employees;

(e) works out and submits for government examination, legislation on problems of wages, safeguarding of labor, social insurance, material and cultural facilities for workers; issues instructions, rules and explanations of the bearing of existing legislation on labor;

(f) provides management of state social insurance;

(g) directs all-union cultural, sport and other mass activities;

(h) organizes trade union schools and courses;

(i) approves trade union budgets;

(j) represents Soviet trade unions in the international trade union movement and enters into international trade union alliances in their name;

(k) has its own press organization—the newspaper Trud, the publishing house Profizdat; publishes trade union magazines, bulletins, etc.;

* * *

25. The Central Council of Trade Unions elects a presidium and secretariat. Plenary sessions of the Central Council of Trade Unions are convened regularly.

26. The highest administrative agency of each trade union is the Trade Union Congress, which is convened once every two years. Delegates are chosen by the trade union members at meetings and conferences according to a norm established by the Central Committee of the Trade Union.

* * *

27. The Central Committee of the Trade Union conducts all activity of the trade union in the period between congresses.

* * *

V. Primary Trade Union Organizations

34. The basis of trade unions are the primary trade union organizations consisting of members of the union, working in one enterprise or institution. Ultimate authority in the primary trade union organizations rests with the general meeting of members of the trade union.

In enterprises or institutions where rapid turnover of personnel or territorial dispersion of shops and sectors does not allow the convening of a general meeting, meetings and conferences of trade union members will be convened in shifts.

35. Problems of the primary trade union organization are:

(a) mobilization of all workers and employees of an enterprise or institution to fulfill and overfulfill the production plan, strengthen labor discipline and develop socialist competition;

(b) enrollment of all workers and employees into trade unions and management of political-educational work among them;

(c) fulfillment of obligations under the collective contract;

(d) divising of practical measures to increase labor productivity, improve quality, introduce shop and brigade cost accounting, lower unit production cost and increase the profitability of enterprises; holding production meetings and seeing to it that their decisions are carried out, and helping introduce suggestions for rationalization (of production methods);

(e) organization of Stakhanovite schools, leadership of skilled workers and technical engineering personnel over new workers, preparation of lectures and reports on advanced work methods and of other forms of help to workers and employees in fulfilling and overfulfilling output norms and improving their working skills;

(f) daily care for improving working conditions and material welfare of workers and employees;

(g) satisfaction of the cultural requirements of workers and employees, the development of mass-cultural work and physical education work in enterprises and institutions on a large scale;

(h) carrying out of decisions of higher agencies and decrees of general meetings.

36. For conducting current work, a primary trade union organization with at least 25 trade union members elects a factory, plant or local committee and an inspection commission; trade union organizations with less than 25 trade union members elect a trade union organizer for a term of one year.

The size of the membership of the factory, plant or local committee and auditing commission is established by a general meeting or conference of trade union members.

The factory, plant or local committee concludes collective contracts with the administration of the enterprise and organizes mass check-ups on their fulfillment; directs the work of production conferences; stimulates mass inventiveness and rationalization (of production methods); conducts work to supply workers and employees with material services and cultural facilities; approves the composition of commissions and the council for social insurance; convenes general meetings and conferences; directs the fulfillment of decrees of these agencies and draws trade union members into active social work.

* * *

VI. Resources of Trade Unions

39. Resources of trade unions consist of initiation fees and monthly membership dues, come from cultural-educational and sports institu-

tions, subsidiary enterprises, buildings and construction and other receipts.

40. Monthly membership dues are established at one percent of the net monthly wage or the stipend of students. Membership dues for unemployed pensioners or students without stipends are one ruble per month.

41. Initiation fees are levied on incoming members at the rate of one percent of the wage or stipend received, and at the rate of one ruble for students not receiving stipends.

42. The resources of the Central Council of Trade Unions consist of deductions by the central committees of trade unions from membership dues received by them at rates established by the Central Council of Trade Unions, and of other receipts.

* * *

44. Financial resources of trade unions are intended for cultural service to trade union members, the rendering of material aid to them and for administrative measures of trade union agencies. The allotment of resources is determined annually by the central committees at the time (individual) budgets are approved and by the Central Council of Trade Unions at the time the total budget of the trade unions is approved.

The resources are spent by the trade union agencies according to estimates approved by the appropriate trade union agency as specified above.

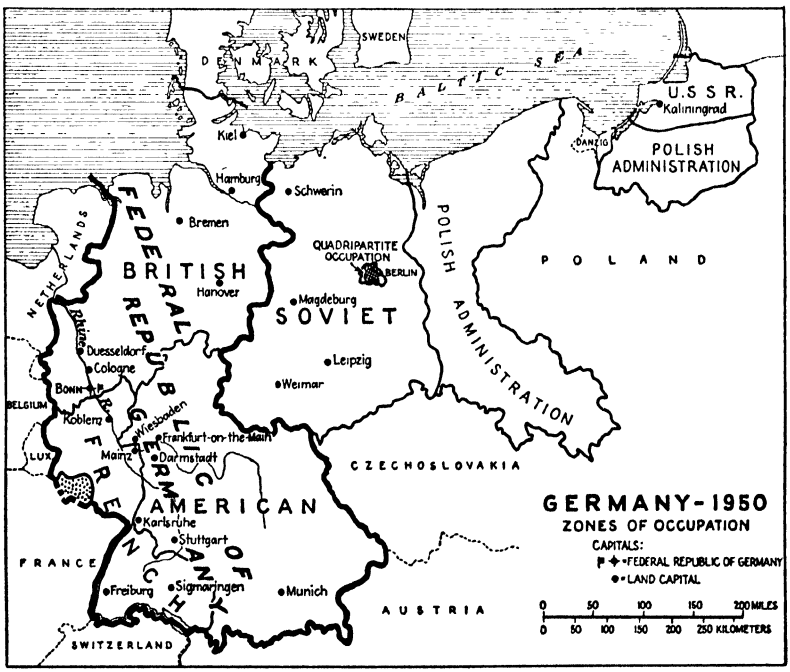
The Central Council of Trade Unions, the central, republic, territory, province as well as factory, plant and local trade union committees publish their financial statements for the information of trade union members.

* * *

46. The inspection commissions of the trade union agencies elect from their membership a chairman and secretary. The inspection commissions check on the fulfillment of the trade union budget, the budget for state social insurance, the correctness and expediency of expenditures, the use of trade union property, and the statement of accounts and reports.

The inspection commissions render an account of their activities at congresses, conferences and general meetings at the same time as the trade union agencies.

Germany


SWEDEN
DENMARK
BALTIC SEA
U.S.S.R.
Kaliningrad
DANZIG
POLISH ADMINISTRATION
Kiel
Hamburg
Schwerin
Bremen
NETHERLANDS
FEDERAL REPUBLIC
BRITISH
Hanover
QUADRIPARTITE OCCUPATION
BERLIN
POLISH ADMINISTRATION
POLAND
SOVIET
Magdeburg
Leipzig
Weimar
Duesseldorf
Cologne
Bonn
BELGIUM
Koblenz
Wiesbaden
Frankfurt-on-the-Main
Mainz
Darmstadt
LUX.
CZECHOSLOVAKIA
AMERICAN
FRENCH
GERMANY
Karlsruhe
Stuttgart
FRANCE
Freiburg
Sigmaringen
Munich
AUSTRIA
SWITZERLAND
GERMANY-1950
ZONES OF OCCUPATION
CAPITALS:
=FEDERAL REPUBLIC OF GERMANY
=LAND CAPITAL
0 50 100 150 200 MILES
0 50 100 150 200 250 KILOMETERS

FROM THE EMPIRE TO HITLER

63. Constitution of the German Empire (1871)
64. Constitution of the Weimar Republic (1919)
65. Law to Combat the National Crisis (Enabling Act) (1933)

ESTABLISHMENT AND EARLY PHASES OF MILITARY OCCUPATION

66. Yalta Agreement (1945)
67. Statement on Machinery of Control in Germany (1945)
68. Potsdam Agreement (1945)
69. Proclamation No. 1 (Establishing the Control Council) (1945)
70. Law No. 46: Abolition of the State of Prussia (1947)

THREE POWER AGREEMENT AND ESTABLISHMENT OF THE WEST GERMAN REPUBLIC

71. London Tripartite Agreement (1948)
72. Military Security Board (1948)
73. Ruhr Authority (1948)
74. Washington Agreement (April, 1949)
75. West German Occupation Statute (1949)
76. Constitution of the Bonn Republic (Basic Law) (1949)
77. Memorandum by the Military Governors on the Basic Law (1949)
78. Military Governors' Letter of Approval of the Basic Law (1949)
79. Electoral Law (1949)
80. Election Statistics (1949 and 1946/47)

THE ALLIED HIGH COMMISSION AND THE BONN REPUBLIC

81. Executive Order Establishing the Position of United States High Commissioner for Germany (1949)
82. Charter of the Allied High Commission for Germany (1949)
83. Bonn Protocol (1949)

Germany

[*The twenty-one documents included in this collection, deal with the governmental evolution of Germany from the founding of the Empire in 1871 down to the establishment of the Bonn Government in Western Germany in 1949. Emphasis is necessarily placed on the post-war period, and within this period, on the developments since the London Tripartite Conference of 1948 when the three Western Powers started the process which has resulted in the establishment of the new West German Government. Only the most essential parts of these documents are given.*[1]]

From the Empire to Hitler

Germany's three previous political regimes are represented by the following three constitutional documents. The Imperial Constitution of 1871 was really an extension of the Constitution of the North German Confederation to cover the whole of Germany included in the new Empire. The Weimar Constitution, influenced by the abortive 1848 Constitution, has in turn influenced the new Bonn Basic Law. The dictatorial character of the Hitlerian epoch is demonstrated by the Enabling Act, which was the constitutional transition from Weimar to Hitler.

63. Constitution of the German Empire[2]

(April 16, 1871)

I.—Federal Territory

Art. 1—The federal territory shall consist of the States of Prussia with Lauenburg, Bavaria, Saxony, Württemberg, Baden, Oldenburg, Brunswick, Saxe-Meiningen, Saxe-Altenburg, Saxe-Coburg-Gotha, Anhalt, Schwarzburg-Rudolstadt, Schwarzburg-Sondershausen, Wal-

[1] Other pertinent materials on post-war Germany are conveniently found in *Germany under Occupation,* J. K. Pollock, J. H. Meisel, and H. L. Bretton, Rev. Ed. Ann Arbor, Mich. Geo. Wahr Co., 1949. Pp. 305.

[2] Herbert F. Wright, The Constitution of the States at War, G.P.O., Washington, 1919. Pp. 218–238.

deck, Reuss, elder line, Reuss, younger line, Schaumburg-Lippe, Lübeck, Bremen and Hamburg.

II.—Legislation of the Empire

Art. 2—Within this federal territory the Empire shall exercise the right of legislation in accordance with the provisions of this Constitution; and the laws of the Empire shall take precedence of the laws of the States. The laws of the Empire shall receive their binding force by imperial promulgation, through the medium of a *Reichsgesetzblatt* [Imperial Gazette]. If no other time is designated for the published law to take effect, it shall become effective on the fourteenth day after its publication in the *Reichsgesetzblatt* at Berlin. . . .

With respect to the performance of military service in the several States, the necessary laws will be passed by the Empire.

As against foreign countries all Germans shall have an equal claim upon the protection of the Empire.

* * *

Art. 4—The following matters shall be under the supervision of the Empire and subject to imperial legislation:

1. Regulations concerning the freedom of migration, matters of domicile and settlement, citizenship, passports, surveillance of foreigners, exercise of a profession, including insurance, so far as these matters are not already provided for by Article 3 of this Constitution; in Bavaria, however, exclusive of matters relating to domicile and settlement, and likewise matters relating to colonization and emigration to foreign countries.

2. Legislation concerning customs duties, commerce, and such taxes as are to be applied to the uses of the Empire.

3. Regulation of the system of measures, coinage and weights, and the establishment of the principles for the issue of funded and unfunded paper money.

4. General banking regulations.

5. Patents for inventions.

6. The protection of the ownership of intellectual works.

7. The organization of a general system of protection for German trade in foreign countries, of German navigation and of the German flag on the high seas, and the establishment of a common consular representation, which shall be maintained by the Empire.

8. Railway matters, subject in Bavaria to the provisions of Article 46, and the construction of highways and waterways in the interests of national defense and of commerce in general.

9. Rafting and navigation upon waterways common to several States, the condition of such waterways, taxes collectable upon rivers and other waterways, and also the signals of maritime navigation (beacons, buoys, lights and other signals).

10. Postal and telegraph affairs; in Bavaria and Wuerttemberg, however, only in accordance with the provisions of Article 52.

11. Regulations concerning the reciprocal execution of judicial sentences in civil cases and the execution of requisitions in general.

12. Regulations concerning authentication of public documents.

13. General legislation as to the whole domain of civil law, criminal law and judicial procedure.

14. The imperial military and naval affairs.

15. Police regulation of medical and veterinary matters.

16. Regulations concerning the press and the right of association.

ART. 5—The legislative power of the Empire shall be exercised by the Bundesrat and the Reichstag. A majority of the votes of both bodies shall be necessary and sufficient for the passage of a law.

With respect to laws concerning the army, navy and the taxes specified in Article 35, the vote of the *praesidium* shall decide in case of a difference of opinion in the Bundesrat, if such vote be in favor of the maintenance of existing arrangements.

III.—THE BUNDESRAT

ART. 6—The Bundesrat shall consist of representatives of the members of the Confederation, among which the votes shall be divided in such manner that Prussia with the former votes of Hanover, Electoral Hesse, Holstein, Nassau and Frankfurt shall have 17 votes; Bavaria, 6; Saxony, 4; Wuerttemberg, 4; Baden, 3; Hesse, 3; Mecklenburg-Schwerin, 2; Saxe-Weimar, 1; Mecklenburg-Strelitz, 1; Oldenburg, 1; Brunswick, 2; Saxe-Meiningen, 1; Saxe-Altenburg, 1; Saxe-Coburg-Gotha, 1; Anhalt, 1; Schwarzburg-Rudolstadt, 1; Schwarzburg-Sondershausen, 1; Waldeck, 1; Reuss, elder line, 1; Reuss, younger line, 1; Schaumburg-Lippe, 1; Lippe, 1; Loebeck, 1; Bremen, 1; Hamburg, 1; total, 58 votes.

Each member of the Confederation may appoint as many delegates

to the Bundesrat as it has votes, but the votes of each State shall be cast only as a unit. . . .

ART. 7—The Bundesrat shall take action:

1. Upon the measures to be proposed to the Reichstag and the resolutions passed by the same.

2. Upon the general administrative provisions and arrangements necessary for the execution of the imperial laws, so far as not otherwise provided for by imperial law.

3. Upon the defects which may be discovered in the execution of the imperial laws or of the provisions and arrangements heretofore mentioned.

Each member of the Confederation shall have the right to make propositions and introduce motions, and it shall be the duty of the præsidium to submit them for deliberation.

Decision shall be reached by simple majority, with the exceptions provided for by Articles 5, 37 and 78. Votes not represented or not instructed shall not be counted. In the case of a tie, the vote of the præsidium shall decide.

* * *

IV.—THE PRESIDENCY

ART. 11—The presidency (præsidium) of the Confederation shall belong to the King of Prussia, who shall bear the title of German Emperor. It shall be the duty of the Emperor to represent the Empire among nations, to declare war and to conclude peace in the name of the Empire, to enter into alliances and other treaties with foreign countries, to accredit and receive ambassadors.

For a declaration of war in the name of the Empire, the consent of the Bundesrat is required, unless an attack is made upon the federal territory or its coasts.

So far as treaties with foreign countries relate to matters which, according to Article 4, are to be regulated by imperial legislation, the consent of the Bundesrat shall be required for their conclusion, and the approval of the Reichstag shall be necessary to render them valid.

ART. 12—The Emperor shall have the right to convene, open, adjourn and close the Bundesrat and the Reichstag.

ART. 13—The Bundesrat and the Reichstag shall be convened annually, and the Bundesrat may be called together for the preparation of business without the Reichstag; the latter, however, shall not be convened without the Bundesrat.

ART. 14—The Bundesrat shall be convened whenever a meeting is demanded by one third of the total number of votes.

ART. 15—The Imperial Chancellor, to be appointed by the Emperor, shall preside in the Bundesrat and supervise the conduct of its business.

The Imperial Chancellor shall have the right to delegate the power to represent him to any other member of the Bundesrat; this delegation shall be made in writing.

ART. 16—The necessary bills shall be laid before the Reichstag in the name of the Emperor, in accordance with the resolutions of the Bundesrat, and shall be advocated in the Reichstag by members of the Bundesrat or by special commissioners appointed by the latter.

ART. 17—It shall be the duty of the Emperor to prepare and publish the laws of the Empire and to supervise their execution. The decrees and ordinances of the Emperor shall be issued in the name of the Empire and shall require for their validity the countersignature of the Imperial Chancellor, who thereby assumes the responsibility for them.

ART. 18—The Emperor shall appoint Imperial officials, cause them to take the oath to the Empire and dismiss them when necessary.

Officials of any one of the States of the Confederation, who shall be appointed to any Imperial office, shall enjoy, with reference to the Empire, the same rights as those to which they are entitled in their native State by virtue of their official position, provided that no other legislative provision shall have been made previous to their entrance into the service of the Empire.

ART. 19—If the States of the Confederation do not fulfill their constitutional duties, they may be compelled to do so by execution. This execution shall be decided upon by the Bundesrat and carried out by the Emperor.

V.—THE REICHSTAG

ART. 20—The Reichstag shall be elected by universal and direct suffrage on secret ballot.

Until regulation by law, the power to make such regulation being reserved by Section 5 of the Electoral Law of 31 May 1869 (*Bundesgesetzblatt,* 1869, page 145), 48 deputies shall be elected in Bavaria, 17 in Württemberg, 14 in Baden, 6 in Hesse south of the River Main, and the total number shall consequently be 382.

ART. 21—No leave of absence shall be required for public officials to enter the Reichstag.

When a member of the Reichstag accepts a salaried office of the Empire, or a salaried office in one of the States of the Confederation, or accepts any office of the Empire or of a State involving higher rank or salary, he shall forfeit his seat and vote in the Reichstag and may recover his place in the same only by a new election.

* * *

ART. 23—The Reichstag shall have the right to propose laws within the competence of the Empire and to refer petitions addressed to it to the Bundesrat or the Chancellor of the Empire.

ART. 24—The term of the Reichstag shall be five years. To dissolve the Reichstag during that time, a resolution of the Bundesrat, with the consent of the Emperor, is required.

ART. 25—In case of the dissolution of the Reichstag, new elections shall take place within a period of 60 days, and the Reichstag shall be called together within a period of 90 days after its dissolution.

ART. 26—Without the consent of the Reichstag, an adjournment of that body shall not exceed the period of 30 days and shall not be repeated during the same session.

* * *

ART. 28—The Reichstag shall take action by absolute majority. To render any action valid, the presence of a majority of the statutory number of members is required.

ART. 29—The members of the Reichstag are the representatives of the people as a whole and shall not be bound by orders or instructions.

ART. 30—No member of the Reichstag shall at any time suffer legal or disciplinary prosecution on account of his vote or on account of utterances made while in the performance of his functions, or be held responsible in any other way outside of the Reichstag.

ART. 31—Without the consent of the Reichstag, no one of its members shall be tried or arrested during the session for any penal offense, unless he be taken in the commission of the offense, or during the course of the following day.

Like consent shall be required in the case of arrest for debt.

At the request of the Reichstag all criminal proceedings instituted against one of its members and all detentions for judicial inquiry or in civil cases shall be suspended during its session.

ART. 32—The members of the Reichstag as such shall receive no salary. They shall receive an indemnity in accordance with the provisions of law.

* * *

IX.—MARINE AND NAVIGATION

ART. 53—The navy of the Empire shall be a united one, under the supreme command of the Emperor. The Emperor is charged with its organization and construction; he shall appoint the officers and employees of the navy, and they and the seamen shall take an oath of obedience to him.

* * *

ART. 63—The total land force of the Empire shall form one army, which shall be under the command of the Emperor, in war and in peace. . . .

* * *

XIV.—GENERAL PROVISIONS

ART. 78—Amendments of the Constitution shall be made by legislative enactment. They shall be considered as rejected when 14 votes are cast against them in the Bundesrat.

The provisions of the Constitution of the Empire, by which certain rights are secured to particular States of the Confederation in their relation to the whole, may be amended only with the consent of the States affected.

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64. Constitution of the Weimar Republic[1]

(August 11, 1919)

The German people, united in its racial branches and animated by the purpose of renewing and fortifying its Reich in freedom and justice, of preserving domestic and foreign peace, and of promoting social progress, has adopted this Constitution.

[1] Blachly and Oatman, *The Government and Administration of Germany,* The Brookings Institution, 1928.

DIVISION I

STRUCTURE AND FUNCTION OF THE REICH

CHAPTER I

REICH AND STATES

ART. 1—The German Reich is a Republic. Supreme power emanates from the people.

* * *

ART. 4—The generally recognized rules of international law are valid as binding portions of the German national law.

ART. 5—Sovereignty is exercised in national affairs through organs of the Reich on the basis of the national Constitution, in state affairs through the organs of the states on the basis of the state Constitutions.

ART. 6—The Reich has exclusive legislative power over:

1. Relationships with foreign countries.
2. Colonial affairs.
3. Citizenship, freedom of travel, immigration, emigration, extradition.
4. Military organization.
5. Coinage.
6. Customs, a swell as the unification of the customs and trade area, and freedom of commerce.
7. The post and telegraph system, including the telephone system.

ART. 12—So long and so far as the Reich does not make use of its legislative power, the states retain the right of legislation. This does not hold for the exclusive legislative power of the Reich.

The national government possesses a right of veto in respect to state laws which refer to the subjects of Article 7, no. 13, in so far as the general welfare in the Reich is affected thereby.

ART. 13—National law overrules state law.

If doubts or differences of opinion exist, as to whether a provision of state law is compatible with the national law, the appropriate national or state central authorities may request the decision of a supreme court of the Reich, according to the more detailed provisions of a national law.

ART. 14—The national laws are executed by the state authorities, in so far as the national laws do not provide otherwise.

* * *

ART. 17—Every state must have a republican Constitution. The popular representatives must be elected by the universal, equal, direct, and secret suffrage of all men and women who are citizens of the Reich, according to the fundamental principles of proportional representation. The state Cabinet must have the confidence of the representatives of the people.

The fundamental principles for election to the popular house are also valid for the local elections. However, through state law the right of suffrage may be made dependent upon a period of residence in the commune up to one year.

* * *

ART. 19—In so far as no other court of the Reich has jurisdiction, the High Court of State for the German Reich decides upon constitutional controversies within a state in which no court exists for disposing of them, as well as upon controversies not of a private legal nature between different state or between the Reich and a state, on the motion of either party.

The President of the Reich executes the judgment of the High Court of State.

CHAPTER II

THE REICHSTAG

ART. 20—The Reichstag consists of the delegates of the German people.

ART. 21—The delegates are representatives of the entire people. They are subject only to their consciences, and are not bound by instructions.

ART. 22—The delegates are elected by universal, equal, direct, and secret suffrage of men and women over twenty years of age, according to the fundamental principles of proportional representation. The election day must be a Sunday or a public holiday.

The national election law prescribes the details.

ART. 23—The Reichstag is elected for four years. The new election must take place at the latest on the sixtieth day after the expiration of this period.

The Reichstag assembles for the first time at the latest on the thirtieth day after the election.

* * *

ART. 25—The national President can dissolve the Reichstag, but only once for the same reason.

The new election takes place at the latest on the sixtieth day after the dissolution.

* * *

ART. 32—A simple majority is sufficient for a decision of the Reichstag, in so far as the Constitution does not require another proportion of votes. For the elections to be made by the Reichstag, the order of business may make exceptions.

The quorum needed for action is regulated by the order of business.

ART. 33—The Reichstag and its committees can demand the presence of the national Chancellor and of any national minister.

The national Chancellor, the national ministers, and the agents appointed by these, have the right of entry to the sessions of the Reichstag and its committees. The states are entitled to send authorized agents to these sessions, who explain the point of view of their governments upon the matters under consideration.

ART. 34—The Reichstag has the right, and upon the motion of one-fifth of its members, the duty, to establish investigating committees.

* * *

ART. 35—The Reichstag appoints a standing committee for foreign affairs, which can act even outside the sessions of the Reichstag, and after the close of the election period, or after the dissolution of the Reichstag, until the convening of the new Reichstag. The sittings of this committee are not public, unless the committee votes for publicity by a two-thirds majority.

The Reichstag also establishes a standing committee to safeguard the rights of the representatives of the people as against the national Cabinet for the time outside of the sessions and after the close of an election period, or after the dissolution of the Reichstag, until the convening of the new Reichstag.[2]

These committees have the rights of investigating committees.

* * *

ART. 37—No member of the Reichstag or of a Landtag, without the consent of the house to which the delegate belongs, can be compelled

[2] The latter part of this sentence was not contained in the Constitution as originally adopted, but was added by an amendment of December 15, 1923 (RGBl. 1923, p. 1185).

to undergo a criminal investigation, or be arrested, unless such member is apprehended while committing the act, or at the latest in the course of the following day.

* * *

CHAPTER III

THE NATIONAL PRESIDENT AND THE NATIONAL CABINET

ART. 41—The national President is elected by the entire German people.

Any German is eligible who has completed the thirty-fifth year of his life.

The details are provided by a national law.

* * *

ART. 43—The national President holds office for seven years. Reelection is permissible.

Before the completion of the term, the national President may be removed by popular vote, upon the motion of the Reichstag. The decision of the Reichstag requires a two-thirds majority. Through the decision the national President is suspended from the further exercise of his functions. A rejection, by popular vote, of the motion for removal counts as a new election and is followed by a dissolution of the Reichstag.

The national President cannot be prosecuted criminally without the consent of the Reichstag.

* * *

ART. 45—The national President represents the Reich in international law. In the name of the Reich, he concludes alliances and other treaties with foreign powers. He accredits and receives ambassadors.

The declaration of war and the conclusion of peace take place through national laws.

Treaties and agreements with foreign states which concern objects of national legislation, require the consent of the Reichstag.

ART. 46—The national President appoints and dismisses the national civil servants and officers, in so far as no other provision is made by law. He can permit the right of appointment and dismissal to be exercised by other authorities.

ART. 47—The national President has supreme command over all armed forces of the Reich.

ART. 48—If a state does not fulfill the duties incumbent upon it according to the national Constitution or the national laws, the national President may compel it to do so with the aid of the armed forces.

If the public safety and order in the German Reich are seriously disturbed or endangered, the national President may take the measures necessary for the restoration of public safety and order, and may intervene if necessary with the assistance of the armed forces. For this purpose he may temporarily set aside in whole or in part, the fundamental rights established in Articles 114, 115, 117, 118, 123, 124, and 153.[3]

The national President must immediately inform the Reichstag of all measures taken in conformity with paragraph 1 or paragraph 2 of this Article. The measures are to be revoked upon the demand of the Reichstag.

In case of imminent danger, the state government may take for its territory temporary measures of the nature described in paragraph 2. The measures are to be revoked upon the demand of the national President or of the Reichstag.

A national law shall prescribe the details.

* * *

ART. 52—The national Cabinet consists of the national Chancellor and the national ministers.

ART. 53—The national Chancellor, and upon his proposal the national ministers, are appointed and dismissed by the national President.

ART. 54—The national Chancellor and the national ministers require for the conduct of their offices the confidence of the Reichstag. Each of them must retire if the Reichstag withdraws its confidence from him by an express vote.

ART. 55—The national Chancellor presides over the Cabinet and

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[3] Art. 114: Freedom of the individual; Right to be heard (habeas corpus).
Art. 115: Inviolability of the home.
Art. 117: Secrecy of the mails, telegraph and telephone.
Art. 118: Freedom of expression.
Art. 123: Freedom of assembly.
Art. 124: Freedom of association and organization.
Art. 153: Guaranty of property.

conducts its business according to an order of business which is adopted by the national Cabinet with the consent of the national President.

* * *

ART. 59—The Reichstag is authorized to impeach the national President, the national Chancellor, and the national ministers before the High Court of State for the German Reich, for having culpably violated the national Constitution or a national law. The motion for bringing the impeachment must be signed by at least one hundred members of the Reichstag, and requires the consent of the majority prescribed for constitutional amendments. The details are to be regulated by the national law regarding the High Court of State.

CHAPTER IV
THE REICHSRAT

ART. 60—A Reichsrat is established to represent the German states in the legislation and administration of the Reich.

ART. 61—In the Reichsrat every state has at least one vote. In the larger states one vote is given for each 700,000 inhabitants. A remainder of at least 350,000 inhabitants is counted as 700,000. No state may be represented by more than two-fifths of all the votes.[4]

German Austria, after its annexation to the German Reich, receives the right of participation in the Reichsrat with the number of votes corresponding to its population. Until that time the representatives of German Austria have advisory votes.[5]

The number of votes is to be established anew by the Reichsrat after every general census.

ART. 62—In the committees which the Reichsrat appoints from among its members, no state has more than one vote.

* * *

ART. 65—The chairmanship in the Reichsrat and in its committees is held by a member of the national Cabinet. The members of the

[4] As amended by law of March 25, 1921, RGBl. p. 440.

[5] This paragraph was not effective. On September 2, 1919, the Supreme Council of the Allied and Associated powers objected to it as in conflict with the Versailles Peace Treaty. On September 22, 1919, Germany signed at Paris an act declaring and recognizing the paragraph as null. Anschütz and some others insist, however, that since it has not been repealed by the regular process of constitutional amendment, it is still formally a part of the Constitution. See Anschütz, Reichsverfassung, 1926 edition, p. 201ff., and Giese, Reichsverfassung, 6th ed., p. 192.

national Cabinet have the right, and if requested, the duty, to participate in the deliberations of the Reichsrat and of its committees. During the deliberations, they must be heard at any time upon their request.

ART. 66—The national Cabinet and any member of the Reichsrat are entitled to place motions before the Reichsrat.

The Reichsrat regulates the conduct of its business by an order of business.

The plenary sessions of the Reichsrat are public. In accordance with provisions of the order of business, the public may be excluded from the discussion of individual subjects.

A vote is decided by a simple majority of those voting.

* * *

CHAPTER V

NATIONAL LEGISLATION

ART. 68—Proposals for laws are brought in by the national Cabinet or from the body of the Reichstag.

National laws are enacted by the Reichstag.

ART. 69—The bringing in of proposals for laws by the national Cabinet requires the consent of the Reichsrat. If an agreement is not reached between the national Cabinet and the Reichsrat, the national Cabinet may nevertheless bring in the proposal, but in so doing, must state the dissenting position of the Reichsrat.

If the Reichsrat decides upon a proposition of law, to which the Cabinet does not agree, the latter must bring in the bill before the Reichstag, with an explanation of its own viewpoint.

* * *

ART. 72—The publication of a national law is to be postponed for two months if this is demanded by one-third of the Reichstag. Laws which the Reichstag and the Reichsrat declare urgent, may be published by the national President notwithstanding this demand.

ART. 73—A law passed by the Reichstag it to be submitted to a popular referendum before its publication, if the national President so decides within one month.

A law, the publication of which is postponed upon the demand of

at least one-third of the Reichstag, is to be submitted to popular referendum if one-twentieth of the qualified voters so petition.

A popular referendum is also to be held if one-tenth of the qualified voters petition for the introduction of a bill. The popular petition must be based upon a completely drafted bill. This is to be placed before the Reichstag by the Cabinet, with a statement of the government's point of view. The referendum does not take place if the initiated bill is passed without change by the Reichstag.

Only the national President can order a popular referendum in respect to the budget, tax laws, and salary regulations.

A national law regulates the procedure in respect to the popular referendum and initiative.

ART. 74—A right of objection belongs to the Reichsrat against laws passed by the Reichstag.

The objection must be announced to the national Cabinet within two weeks after the final determination of the Reichstag, and within two more weeks at the latest the reasons must be supplied.

In case of objection, the law is laid before the Reichstag for another vote. If no agreement is reached thereby between the Reichstag and the Reichsrat, within three months the national President may order a popular referendum on the subject of disagreement. If the President does not make use of this right, the law does not go into effect. If the Reichstag has overruled the objection of the Reichsrat by a two-thirds majority, the President must publish the law within three months in the form decided upon by the Reichstag, or order a popular referendum.

ART. 75—An enactment of the Reichstag can be annulled by popular referendum only when a majority of the qualified voters participate in the vote.

ART. 76—The Constitution can be amended by way of legislation. However, decisions of the Reichstag to amend the Constitution are effective only if two-thirds of the legal membership is present and at least two-thirds of those present vote in the affirmative. . . .

ART. 77—The national Cabinet issues the general administrative provisions necessary for the execution of the national laws, in so far as the laws do not otherwise provide. The consent of the Reichsrat is required to these, if the execution of the national laws belongs to the state authorities.

CHAPTER VI

THE NATIONAL ADMINISTRATION

ART. 78—The cultivation of relationships with foreign states is exclusively a function of the Reich.

The states may conclude treaties with foreign countries, in respect to matters the regulation of which falls within the state legislative power; these treaties require the consent of the Reich.

Agreements with foreign powers in respect to changes in national boundaries are made by the Reich with the consent of the state affected. Changes in boundaries may take place only on the basis of a national law, except where a mere correction of the boundaries of uninhabited regions is concerned.

In order to assure the representation of interests arising from the special economic relationships or the geographical proximity of individual states in respect to foreign countries, the Reich decides upon the requisite arrangements and measures in agreement with the states concerned.

* * *

ART. 84—The Reich provides by law for the following matters:

1. The organization of the tax administration of the states, in so far as this is necessary for the uniform and impartial execution of the national tax laws.
2. The organization and the powers of the authorities charged with supervising the execution of the national tax laws.
3. The accounting with the states.
4. Compensation for the costs of administration in connection with the execution of the national tax laws.

* * *

CHAPTER VII

THE ADMINISTRATION OF JUSTICE

ART. 102—Judges are independent and are subject only to the law.

ART. 103—Ordinary jurisdiction is exercised by the Reichsgericht and the courts of the states.

* * *

ART. 108—According to the provisions of a national law, a High Court of State for the German Reich is to be established.

* * *

DIVISION II

FUNDAMENTAL RIGHTS AND DUTIES OF GERMANS

* * *

CHAPTER II

SOCIAL RELATIONS

ART. 130—Civil servants are servants of the entire public, not of a party.

All civil servants are guaranteed freedom of political opinion and freedom of association.

According to the more detailed provisions of national law, the civil servants enjoy special representation as civil servants.

* * *

TRANSITIONAL AND FINAL PROVISIONS

ART. 178—The Constitution of the German Reich of April 16, 1871, and the law on the provisional national authority of February 10, 1919, are repealed.

The other laws and ordinances of the Reich remain in effect in so far as they are not in conflict with this Constitution. The provisions of the peace treaty signed in Versailles on January 28, 1919, are not affected by this Constitution.

* * *

ART. 181—The German people, through its National Assembly, has adopted and established this Constitution. It goes into effect on the day of publication.

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65. Law to Combat the National Crisis[1]

(THE ENABLING ACT)

(March 24, 1933)

The Reichstag has enacted the following law which, with the consent of the Reichsrat and after determination that the requirements for laws changing the constitution have been complied with, is hereby promulgated:

ART. 1—National laws can be enacted by the national cabinet as well as in accordance with the procedure established in the constitu-

[1] Pollock and Heneman, *The Hitler Decrees*. Ann Arbor, Mich., 1934. p. 4.

tion. This applies also to the laws referred to in article 85, paragraph 2, and in article 87 of the constitution.

ART. 2—The national laws enacted by the national cabinet may deviate from the constitution insofar as they do not affect the position of the Reichstag and the Reichsrat. The powers of the president remain undisturbed.

ART. 3—The national laws enacted by the national cabinet are prepared by the chancellor and published in the *Reichsgesetzblatt.* They come into effect, unless otherwise specified, upon the day following their publication. Articles 68 to 77 of the constitution do not apply to the laws enacted by the national cabinet.

ART. 4—Treaties of the Reich with foreign states which concern matters of national legislation do not require the consent of the bodies participating in legislation. The national cabinet is empowered to issue the necessary provisions for the execution of these treaties.

ART. 5—This law becomes effective on the day of its publication. It becomes invalid on April 1st, 1937; it further becomes invalid when the present national cabinet is replaced by another.

Establishment and Early Phases of Military Occupation

The decisions made at Yalta and Potsdam for the establishment and conduct of the occupation of Germany are the hub around which allied policies in Germany revolved during the initial years of the occupation. The international machinery which was set up to carry out these policies was able to produce few measures such as the one included here abolishing the state of Prussia.

66. Yalta Agreement[1]

DECISIONS WITH REGARD TO GERMANY

(February 3–11, 1945)

The following statement is made by the Prime Minister of Great Britain, the President of the United States, and the Chairman of the Council of People's Commissars of the Union of Soviet Socialist Republics on the result of the Crimea Conference:

[1] Enactments and Approved Papers of the Control Council and Coordinating Committee. Part I, p. 1.

1. DEFEAT OF GERMANY

We have considered and determined the military plans of the three Allied Powers for the final defeat of the common enemy. The Military Staffs of the three allied Powers have met in daily meetings throughout the Conference. These meetings have been most satisfactory from every point of view and have resulted in closer coordination of the military effort of the three allies than ever before.

The fullest information has been interchanged. The timing, scope, and coordination of new and even more powerful blows to be launched by our armies and air forces into the heart of Germany from east, west, north, and south have been fully agreed and planned in detail.

Our combined military plans will be made known only as we execute them but we believe that the very close working partnership among the three Staffs attained at this Conference will result in shortening the war. Meetings of the three Staffs will be continued in the future whenever the need arises.

Nazi Germany is doomed. The German people will only make the cost of their defeat heavier to themselves by attempting to continue a hopeless resistance.

2. OCCUPATION AND CONTROL

We have agreed on common policies and plans for enforcing the unconditional surrender terms which we shall impose together on Nazi Germany after German armed resistance has been finally crushed. These terms will not be made known until the final defeat of Germany is accomplished.

Under the agreed plans the forces of the three Powers will each occupy a separate zone of Germany. Coordinated administration and control has been provided for under the plan through a Central Control Commission consisting of the Supreme Commanders of the three Powers with headquarters in Berlin.

It has been agreed that France should be invited by the three Powers, if she should so desire, to take a zone of occupation, and to participate as fourth member of the Control Commission. The limits of the French zone will be agreed by the four Governments concerned through their representatives on the European Advisory Commission.

It is our inflexible purpose to destroy German militarism and Nazism and to ensure that Germany will never again be able to disturb the peace of the world. We are determined to disarm and disband all German armed forces; break up for all time the German General

Staff that has repeatedly contrived the resurgence of German militarism; remove or destroy all German military equipment; eliminate or control all German industry that could be used for military production; bring all war criminals to justice and swift punishment and exact reparation in kind for the destruction wrought by Germans; wipe out the Nazi Party, Nazi laws, organizations, and institutions; remove all Nazi and militarist influences from public offices and from the cultural and economic life of the German people; and take in harmony such other measures in Germany as may be necessary to the future peace and safety of the world.

It is not our purpose to destroy the people of Germany, but only when Nazism and militarism have been extirpated will there be hope for decent life for Germans and a place for them in the comity of nations.

3. REPARATION BY GERMANY

We have considered the question of the damage caused by Germany to Allied Nations in this war, and recognized it as just that Germany be obliged to make compensation for the damage in kind to the greatest extent possible. A Commission for the Compensation of Damage will be established. The Commission will be instructed to consider the question of extent and methods for compensating damage caused by Germany to the Allied countries. The Commission will work in Moscow. . . .

(Signed) WINSTON S. CHURCHILL;
FRANKLIN D. ROOSEVELT;
V. STALIN.

Yalta

Protocol of Proceedings of Crimea Conference[1]

Excerpts:

IV. ZONE OF OCCUPATION FOR THE FRENCH AND CONTROL COUNCIL FOR GERMANY

It was agreed that a zone in Germany, to be occupied by the French forces, should be allocated to France. This zone would be formed

[1] On March 24, 1947, the State Department released the full text of some agreements reached at Yalta by the Big Three, which had not been fully covered by the communique given above.

out of the British and American zones and its extent would be settled by the British and Americans in consultation with the French provisional government.

It was also agreed that the French provisional government should be invited to become a member of the Allied Control Council for Germany.

V. REPARATION

The following protocol has been approved:

Protocol

On the Talks between the Heads of Three Governments at the Crimean Conference on the German Reparations in Kind

1. Germany must pay in kind for the losses caused by her to the Allied nations in the course of the war. Reparations are to be received in the first instance by those countries which have borne the main burden of the war, have suffered the heaviest losses and have organized victory over the enemy.

2. Reparation in kind are to be exacted from Germany in three following forms:

(a) Removals within two years from the surrender of Germany or the cessation of organized resistance from the national wealth of Germany located on the territory of Germany herself as well as outside her territory (equipment, machine tools, ships, rolling stock, German investments abroad, shares of industrial, transport and other enterprises in Germany, etc.), these removals to be carried out chiefly for purpose of destroying the war potential of Germany.

(b) Annual deliveries of goods from current production for a period to be fixed.

(c) Use of German labor.

3. For the working out on the above principles of a detailed plan for exaction of reparation from Germany an Allied reparation commission will be set up in Moscow. It will consist of three representatives—one from the Union of Soviet Socialist Republics, one from the United Kingdom and one from the United States of America.

4. With regard to the fixing of the total sum of the reparation as well as the distribution of it among the countries which suffered from

the German aggression, the Soviet and American delegations agreed as follows:

"The Moscow reparation commission should take in its initial studies as a basis for discussion the suggestion of the Soviet government that the total sum of the reparation in accordance with the points (a) and (b) of the Paragraph 2 should be 20,000,000,000 dollars and that 50 per cent of it should go to the Union of Soviet Socialist Republics."

The British delegation was of the opinion that, pending consideration of the reparation question by the Moscow reparation commission, no figures of reparation should be mentioned.

The above Soviet-American proposal has been passed to the Moscow reparation commission as one of the proposals to be considered by the commission.

* * *

VII. POLAND

* * *

"The three heads of government consider that the eastern frontier of Poland should follow the Curzon Line with some digressions from it in some regions of five to eight kilometers in favor of Poland. They recognize that Poland must receive substantial accessions of territory in the north and west. They feel that the opinion of the new Polish Provisional Government of National Unity should be sought in due course of the extent of the accessions and that the final delimitation of the western frontier of Poland should thereafter await the peace conference."

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67. Statement on Machinery of Control in Germany[1]

Made on June 5, 1945 by the Governments of the United States, the Union of Soviet Socialist Republics, the United Kingdom, and the Provisional Government of the French Republic

1. In the period when Germany is carrying out the basic requirements of unconditional surrender, supreme authority in Germany will be exercised, on instructions from their Governments, by the Soviet, British, United States, and French Commanders-in-Chief, *each in his own zone* of occupation, *and also jointly,* in matters affecting

[1] Department of State Bulletin, June 10, 1945. (Hereafter cited as DSB.)

Germany as a whole. The four Commanders-in-Chief will together constitute the *Control Council.* Each Commander-in-Chief will be assisted by a political adviser.

2. The Control Council, whose decisions shall be unanimous, will ensure appropriate uniformity of action by the Commanders-in-Chief in their respective zones of occupation and will reach agreed decisions on the chief questions affecting Germany as a whole.

3. Under the Control Council, there will be a permanent *Co-ordinating Committee* composed of one representative of each of the four Commanders-in-Chief and a Control Staff organized in the following Divisions (which are subject to adjustment in the light of experience):

Military: Naval; Air; Transport; Political; Economic; Finance; Reparation, Deliveries and Restitution; Internal Affairs and Communications; Legal; Prisoners of War and Displaced Persons; Manpower.

There will be four heads of each Division, one designated by each Power. The staffs of the Divisions may include civilian as well as military personnel, and may also in special cases include nationals of other United Nations appointed in a personal capacity.

4. The functions of the Co-ordinating Committee and of the Control Staff will be to advise the Control Council, to carry out the Council's decisions and to transmit them to appropriate German organs, and to supervise and control the day-to-day activities of the latter.

5. Liaison with the other United Nations Governments chiefly interested will be established through the appointment by such Governments of military missions (which may include civilian members) to the Control Council. These missions will have access through the appropriate channels to the organs of control.

6. United Nations organizations will, if admitted by the Control Council to operate in Germany, be subordinate to the Allied control machinery and answerable to it.

7. The administration of the *"Greater Berlin"* area will be directed by an Inter-Allied Governing Authority, which will operate under the general direction of the Control Council, and will consist of *four Commandants,* each of whom will serve in rotation as Chief Commandant. They will be assisted by a technical staff which will supervise and control the activities of the local German organs.

8. The arrangements outlined above will operate during the period of occupation following German surrender, when Germany is carrying out the basic requirements of unconditional surrender. Arrangements for the subsequent period will be the subject of a separate agreement.

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68. Potsdam Agreement[1]

III

Germany

THE ALLIED ARMIES are in occupation of the whole of Germany and the German people have begun to atone for the terrible crimes committed under the leadership of those whom in the hour of their success, they openly approved and blindly obeyed.

Agreement has been reached at this conference on the political and economic principles of a coordinated Allied policy toward defeated Germany during the period of Allied control.

The purpose of this agreement is to carry out the Crimea Declaration on Germany. German militarism and Nazism will be extirpated and the Allies will take in agreement together, now and in the future, the other measures necessary to assure that Germany never again will threaten her neighbors or the peace of the world.

It is not the intention of the Allies to destroy or enslave the German people. It is the intention of the Allies that the German people be given the opportunity to prepare for the eventual reconstruction of their life on a democratic and peaceful basis. If their own efforts are steadily directed to this end, it will be possible for them in due course to take their place among the free and peaceful peoples of the world.

The text of the agreement is as follows:

The Political and Economic Principles to Govern the Treatment of Germany in the Initial Control Period

A. POLITICAL PRINCIPLES

1. In accordance with the agreement on control machinery in Germany, supreme authority in Germany is exercised on instructions

[1] DSB, August 5, 1945.

from their respective governments, by the Commanders-in-Chief of the armed forces of the United States of America, the United Kingdom, the Union of Soviet Socialist Republics, and the French Republic, each in his own zone of occupation, and also jointly in matters affecting Germany as a whole, in their capacity as members of the Control Council.

2. So far as is practicable, there shall be uniformity of treatment of the German population throughout Germany.

3. The purposes of the occupation of Germany by which the Control Council shall be guided are:

(i) The complete disarmament and demilitarization of Germany and the elimination or control of all German industry that could be used for military production. To these ends:

(a) All German land, naval and air forces, the S.S., S.A., S.D., and Gestapo, with all their organizations, staffs and institutions, including the General Staff, the Officers' Corps, Reserve Corps, military schools, war veterans organizations and all other military and quasi-military organizations, together with all clubs and associations which serve to keep alive the military tradition in Germany, shall be completely and finally abolished in such manner as permanently to prevent the revival or reorganization of German militarism and Nazism.

(b) All arms, ammunition and implements of war and all specialized facilities for their production shall be held at the disposal of the Allies or destroyed. The maintenance and production of all aircraft and all arms, ammunition and implements of war shall be prevented.

(ii) To convince the German people that they have suffered a total military defeat and that they cannot escape responsibility for what they have brought upon themselves, since their own ruthless warfare and the fanatical Nazi resistance have destroyed German economy and made chaos and suffering inevitable.

(iii) To destroy the National Socialist Party and its affiliated and supervised organizations, to dissolve all Nazi institutions, to ensure that they are not revived in any form, and to prevent all Nazi and militarist activity or propaganda.

(iv) To prepare for the eventual reconstruction of German political life on a democratic basis and for eventual peaceful cooperation in international life by Germany.

4. All Nazi laws which provided the basis of the Hitler regime or

established discrimination on grounds of race, creed, or political opinion shall be abolished. No such discriminations, whether legal, administrative or otherwise, shall be tolerated.

5. War criminals and those who have participated in planning or carrying out Nazi enterprises involving or resulting in atrocities or war crimes shall be arrested and brought to judgment. Nazi leaders, influential Nazi supporters and high officials of Nazi organizations and institutions and any other persons dangerous to the occupation or its objectives shall be arrested and interned.

6. All members of the Nazi party who have been more than nominal participants in its activities and all other persons hostile to allied purposes shall be removed from public and semi-public office, and from positions of responsibility in important private undertakings. Such persons shall be replaced by persons who, by their political and moral qualities, are deemed capable of assisting in developing genuine democratic institutions in Germany.

7. German education shall be so controlled as completely to eliminate Nazi and militarist doctrines and to make possible the successful development of democratic ideas.

8. The judicial system will be reorganized in accordance with the principles of democracy, of justice under law, and of equal rights for all citizens without distinction of race, nationality or religion.

9. The administration of affairs in Germany should be directed towards the decentralization of the political structure and the development of local responsibility. To this end:

(i) Local self-government shall be restored throughout Germany on democratic principles and in particular through elective councils as rapidly as is consistent with military security and the purposes of military occupation;

(ii) All democratic political parties with rights of assembly and of public discussion shall be allowed and encouraged throughout Germany;

(iii) Representative and elective principles shall be introduced into regional, provincial and state (land) administration as rapidly as may be justified by the successful application of these principles in local self-government;

(iv) For the time being no central German government shall be established. Notwithstanding this, however, certain essential central German administrative departments, headed by state

secretaries, shall be established particularly in the fields of finance, transport, communications, foreign trade and industry. Such departments will act under the direction of the Control Council.

10. Subject to the necessity for maintaining military security, freedom of speech, press and religion shall be permitted, and religious institutions shall be respected. Subject likewise to the maintenance of military security, the formation of free trade unions shall be permitted.

B. ECONOMIC PRINCIPLES

11. In order to eliminate Germany's war potential, the production of arms, ammunition and implements of war as well as all types of aircraft and sea-going ships shall be prohibited and prevented. Production of metals, chemicals, machinery and other items that are directly necessary to a war economy shall be rigidly controlled and restricted to Germany's approved post-war peacetime needs to meet the objectives stated in paragraph 15. Productive capacity not needed for permitted production shall be removed in accordance with the reparations plan recommended by the Allied Commission on reparations and approved by the governments concerned or if not removed shall be destroyed.

12. At the earliest practicable date, the German economy shall be decentralized for the purpose of eliminating the present excessive concentration of economic power as exemplified in particular by cartels, syndicates, trusts and other monopolistic arrangements.

13. In organizing the German economy, primary emphasis shall be given to the development of agriculture and peaceful domestic industries.

14. During the period of occupation Germany shall be treated as a single economic unit. To this end common policies shall be established in regard to:

(a) Mining and industrial production and allocations;
(b) Agriculture, forestry and fishing;
(c) Wages, prices and rationing;
(d) Import and export programs for Germany as a whole;
(e) Currency and banking, central taxation and customs;
(f) Reparation and removal of industrial war potential;
(g) Transportation and communications.

In applying these policies account shall be taken, where appropriate, of varying local conditions.

15. Allied controls shall be imposed upon the German economy but only to the extent necessary:

(a) To carrying out programs of industrial disarmament and demilitarization, of reparations, and of approved export and imports.

(b) To assure the production and maintenance of goods and services required to meet the needs of the occupying forces and displaced persons in Germany and essential to maintain in Germany average living standards not exceeding the average of the standards of living of European countries. (European countries means all European countries excluding the United Kingdom and the Union of Soviet Socialist Republics.)

(c) To ensure in the manner determined by the Control Council the equitable distribution of essential commodities between the several zones so as to produce a balanced economy throughout Germany and reduce the need for imports.

(d) To control German industry and all economic and financial international transactions, including exports and imports, with the aim of preventing Germany from developing a war potential and of achieving the other objectives named herein.

(e) To control all German public or private scientific bodies, research and experimental institutions, laboratories, et cetera, connected with economic activities.

16. In the imposition and maintenance of economic controls established by the Control Council, German administrative machinery shall be created and the German authorities shall be required to the fullest extent practicable to proclaim and assume administration of such controls. Thus it should be brought home to the German people that the responsibility for the administration of such controls and any breakdown in these controls will rest with themselves. Any German controls which may run counter to the objectives of occupation will be prohibited.

17. Measures shall be promptly taken:

(a) To effect essential repair of transport;

(b) To enlarge coal production;

(c) To maximize agricultural output; and

(d) To effect emergency repair of housing and essential utilities.

18. Appropriate steps shall be taken by the Control Council to exercise control and the power of disposition over German-owned external assets not already under the control of United Nations which have taken part in the war against Germany.

19. Payment of reparations should leave enough resources to enable the German people to subsist without external assistance. In working out the economic balance of Germany the necessary means must be provided to pay for imports approved by the Control Council in Germany. The proceeds of exports from current production and stocks shall be available in the first place for payment for such imports.

The above clause will not apply to the equipment and products referred to in paragraphs 4 (A) and 4 (B) of the Reparation Agreement.

IV

Reparations from Germany

In accordance with the Crimea decision that Germany be compelled to compensate to the greatest possible extent for the loss and suffering that she has caused to the United Nations and for which the German people cannot escape responsibility, the following agreement on reparations was reached:

1. Reparation claims of the U.S.S.R. shall be met by *removals* from the zone of Germany occupied by the U.S.S.R. and from appropriate German external assets.

2. The U.S.S.R. undertakes to settle the reparation claims of Poland from its own share of reparations.

3. The reparation claims of the United States, the United Kingdom and other countries entitled to reparations shall be met from the western zones and from appropriate German external assets.

4. In addition to the reparations to be taken by the U.S.S.R. from its own zone of occupation, the U.S.S.R. shall receive additionally from the western zones:

(A) 15 per cent of such usable and complete industrial capital equipment, in the first place from the metallurgical, chemical and machine manufacturing industries, as is unnecessary for the German peace economy and should be removed from the western zones of Germany, in exchange for an equivalent value of food, coal, potash, zinc, timber, clay products, petroleum products, and such other commodities as may be agreed upon.

(B) 10 per cent of such industrial capital equipment as is unnecessary for the German peace economy and should be removed from the western zones, to be transferred to the Soviet Government on reparations account without payment or exchange of any kind in return.

Removals of equipment as provided in (A) and (B) above shall be made simultaneously.

5. The amount of equipment to be removed from the western zones on account of reparations must be determined within six months from now at the latest.

6. Removals of industrial capital equipment shall begin as soon as possible and shall be completed within two years from the determination specified in paragraph 5. The delivery of products covered by 4(A) above shall begin as soon as possible and shall be made by the U.S.S.R. in agreed instalments within five years of the date hereof. The determination of the amount and character of the industrial capital equipment unnecessary for the German peace economy and therefore available for reparations shall be made by the control council under policies fixed by the Allied Commission on Reparations, with the participation of France, subject to the final approval of the zone commander in the zone from which the equipment is to be removed.

7. Prior to the fixing of the total amount of equipment subject to removal, advance deliveries shall be made in respect of such equipment as will be determined to be eligible for delivery in accordance with the procedure set forth in the last sentence of paragraph 6.

8. The Soviet Government renounces all claims in respect of reparations to shares of German enterprises which are located in the western zones of occupation in Germany as well as to German foreign assets in all countries except those specified in paragraph 9 below.

9. The Governments of the United Kingdom and the United States of America renounce their claims in respect of reparations to shares of German enterprises which are located in the eastern zone of occupation in Germany, as well as to German foreign assets in Bulgaria, Finland, Hungary, Rumania and Eastern Austria.

10. The Soviet Government makes no claims to gold captured by the Allied troops in Germany.

V

Disposal of the German Navy and Merchant Marine

The conference agreed in principle upon arrangements for the use and disposal of the surrendered German fleet and merchant ships. It was decided that the three governments would appoint experts to work out together detailed plans to give effect to the agreed principles. A further joint statement will be published simultaneously by the three governments in due course.

VI

City of Koenigsberg and the Adjacent Area

The conference examined a proposal by the Soviet Government that pending the final determination of territorial questions at the peace settlement the section of the western frontier of the Union of Soviet Socialist Republics which is adjacent to the Baltic Sea should pass from a point on the eastern shore of the Bay of Danzig to the east, north of Braunsberg-Goldap, to the meeting point of the frontiers of Lithuania, the Polish Republic and East Prussia.

The conference has agreed in principle to the proposal of the Soviet Government concerning the ultimate transfer to the Soviet Union of the City of Koenigsberg and the area adjacent to it as described above subject to expert examination of the actual frontier.

The President of the United States and the British Prime Minister have declared that they will support the proposal of the conference at the forthcoming peace settlement.

VII

War Criminals

The three governments have taken note of the discussions which have been proceeding in recent weeks in London between British, United States, Soviet and French representatives with a view to reaching agreement on the methods of trial of those major war criminals whose crimes under the Moscow Declaration of October 1943 have no particular geographical localization. The three governments reaffirm their intention to bring those criminals to swift and sure justice. They hope that the negotiations in London will result in speedy agreement being reached for this purpose, and they regard it as matter of great importance that the trial of those major criminals should begin at the earliest possible date. The first list of defendants will be published before September first.

* * *

IX B

Tripartite Conference at Berlin

The following agreement was reached on the western frontier of Poland:

In conformity with the agreement on Poland reached at the Crimea

Conference the three heads of government have sought the opinion of the Polish Provisional Government of National Unity in regard to the accession of territory in the north and west which Poland should receive. The President of the National Council of Poland and members of the Polish Provisional Government of National Unity have been received at the conference and have fully presented their views. The three heads of government reaffirm their opinion that the final delimitation of the western frontier of Poland should await the peace settlement.

The three heads of government agree that, pending the final determination of Poland's western frontier, the former German territories east of a line running from the Baltic Sea immediately west of Swinemuende, and thence along the Oder River to the confluence of the western Neisse River and along the western Neisse to the Czechoslovak frontier, including that portion of East Prussia not placed under the administration of the Union of Soviet Socialist Republics in accordance with the understanding reached at this conference and including the area of the former city of Danzig, shall be under the administration of the Polish State and for such purposes should not be considered as part of the Soviet zone of occupation in Germany.

XIII

Orderly Transfers of German Populations

The conference reached the following agreement on the removal of Germans from Poland, Czechoslovakia and Hungary:

The three governments having considered the question in all its aspects, recognize that the transfer to Germany of German populations, or elements thereof, remaining in Poland, Czechoslovakia and Hungary, will have to be undertaken. They agree that any transfers that take place should be effected in an orderly and humane manner.

Since the influx of a large number of Germans into Germany would increase the burden already resting on the occupying authorities, they consider that the Allied Control Council in Germany should in the first instance examine the problem with special regard to the question of the equitable distribution of these Germans among the several zones of occupation. They are accordingly instructing their respective representatives on the Control Council to report to their governments as soon as possible the extent to which such persons have already

entered Germany from Poland, Czechoslovakia and Hungary, and to submit an estimate of the time and rate at which further transfers could be carried out, having regard to the present situation in Germany.

The Czechoslovak Government, the Polish Provisional Government and the Control Council in Hungary are at the same time being informed of the above, and are being requested meanwhile to suspend further expulsions pending the examination by the governments concerned of the report from their representatives on the Control Council.

XIV

Military Talks

During the conference there were meetings between the Chiefs of Staff of the three governments on military matters of common interest.

Approved:

J. V. STALIN
HARRY S. TRUMAN
C. R. ATTLEE.

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69. Proclamation No. 1

(Establishing the Control Council)[1]

To the People of Germany:

The Commanders-in-Chief of the Armed Forces in Germany of the United States of America, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the Provisional Government of the French Republic, acting jointly as members of the Control Council, do hereby proclaim as follows:

I

As announced on 5 June 1945, supreme authority with respect to Germany has been assumed by the Governments of the United States of America, the Union of Soviet Socialist Republics, the United Kingdom, and the Provisional Government of the French Republic.

[1] Control Council, Official Gazette, October 29, 1945.

II

In virtue of the supreme authority and powers thus assumed by the four Governments the Control Council has been established and supreme authority in matters affecting Germany as a whole has been conferred upon the Control Council.

III

Any military laws, proclamations, orders, ordinances, notices, regulations and directives issued by or under the authority of the respective Commanders-in-Chief for their respective Zones of Occupation are continued in force in their respective Zones of Occupation.

Done at Berlin, 30 August 1945.

DWIGHT D. EISENHOWER
General of the Army

B. H. ROBERTSON
Lt. Gen.
Deputy for:

BERNARD L. MONTGOMERY
Field Marshal

L. KOELTZ
Général de Corps d'Armée
pour P. KOENIG
Général de Corps d'Armée

G. ZHUKOW
Marshal of the Soviet Union

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70. Law No. 46: Abolition of the State of Prussia[1]

The Prussian State which from early days has been a bearer of militarism and reaction in Germany has de facto ceased to exist.

Guided by the interests of preservation of peace and security of peoples and with the desire to assure further reconstruction of the political life of Germany on a democratic basis, the Control Council enacts as follows:

[1] Control Council, Official Gazette, March 31, 1947.

ART. I—The Prussian State together with its central government and all its agencies is abolished.

ART. II—Territories which were a part of the Prussian State and which are at present under the supreme authority of the Control Council will receive the status of Laender or will be absorbed into Laender.

The provisions of this Article are subject to such revision and other provisions as may be agreed upon by the Allied Control Authority, or as may be laid down in the future Constitution of Germany.

ART. III—The State and administrative functions as well as the assets and liabilities of the former Prussian State will be transferred to appropriate Laender, subject to such agreements as may be necessary and made by the Allied Control Authority.

ART. IV—This law becomes effective on the day of its signature.

Done at Berlin on 25 February 1947.

P. KOENIG,
General d'Armee

V. SOKOLOVSKY,
Marshal of the Soviet Union

LUCIUS D. CLAY
for JOSEPH T. McNARNEY,
General

B. H. ROBERTSON
for SHOLTO DOUGLAS,
Marshal of the Royal Air Force

Three Power Agreement and Establishment of the West German Republic

After the failure of the Soviet Union to treat Germany as an economic unit as required by the Potsdam agreement, the three Western Allies, with much delay and hesitation, finally agreed at London in June, 1948 to move toward the establishment of a German Government for the three western zones of occupation. The bizonal experiment served a purpose but could only be transitional while the allies made up their minds. France finally decided that further delay in normalizing the situation in Germany would be dangerous. Persistent and intense negotiation among the three Western Allies was

necessary, however, in order to satisfy particularly French demands for security involving among other things the establishment of the International Ruhr Authority. After the signing of the Atlantic Pact, Britain, France, and the United States were able at Washington in April, 1949, to agree upon the Occupation Statute and the approval of the Basic Law which the Germans had been authorized to prepare. Elections to the Bundestag were held August 14, 1949, and members of the upper house, or Bundesrat, and the President were also elected, thus formally bringing into existence a democratically selected West German Government.

71. London Tripartite Agreement[1]

(7 June 1948)

In accordance with the announcement issued at the conclusion of the informal discussions on Germany between the representatives of the US, UK, France and the three Benelux countries a report containing agreed recommendations on all items discussed was submitted to their respective Governments. These recommendations have been submitted as a whole since their main provisions are mutually dependent and form an indivisible program. The principal features of this report are the following:

I. Association of the Benelux Countries in the Policy Regarding Germany

The recommendations include specific provisions for a close association between the Military Governors and the Benelux representatives in Germany on matters affecting Benelux interests. Moreover, full opportunities will be given the Benelux representatives to be kept informed of developments in the Western Zones.

II. The Role of the German Economy in the European Economy and Control of the Ruhr

(a) As stated in the communique of March 6 it had been agreed that for the political and economic well being of the countries of Western Europe and of a democratic Germany, there must be a close association of their economic life. This close association, which will enable Germany to contribute to and participate in European recovery, has been ensured by the inclusion on April 16 of the Combined Zone

[1] DSB, June 20, 1948.

and the French Zone in the organization for European economic co-operation as full members.

(b) It was agreed to recommend the establishment of an international authority for the control of the Ruhr in which the US, UK, France, Benelux countries and Germany would participate, and which does not involve the political separation of the Ruhr area from Germany. It does however contemplate control of the distribution of coal, coke and steel of the Ruhr in order that on the one hand industrial concentration in that area shall not become an instrument of aggression, and on the other will be able to make its contribution to all countries participating in a European Cooperative economic program, including of course Germany itself. A draft agreement containing the provisions for its establishment is attached as Annex I. This agreement is to be concluded by the U.S.A., UK and France as occupying powers. Moreover, the Benelux countries are to be fully associated with the preparation of the more detailed agreement provided for in Article 13, and are to be consulted as to the time when the authority begins to exercise its functions.

(c) Arising out of the discussions on the Ruhr it has been recommended that the principle of nondiscrimination against foreign interests in Germany be reaffirmed, and that each Government should promptly study the problem of safeguarding foreign interests in order that there may be subsequently established as soon as possible an inter-Governmental group to review the question and make recommendations to their Governments.

III. Evolution of the Political and Economic Organization of Germany

(a) Further consideration has been given by all Delegations to the problem of the evolution of the political and economic organization of Germany. They recognize, taking into account the present situation, that it is necessary to give the German people the opportunity to achieve, on the basis of a free and democratic form of government, the eventual re-establishment of German unity, at present disrupted. In these circumstances they have reached the conclusion that the German people in the different states should now be free to establish for themselves the political organization and institutions which will enable them to assume those governmental responsibilities which are compatible with the minimum requirements of occupation and control and which

ultimately will enable them to assume full governmental responsibilities. The Delegations consider that the people in the states will wish to establish a constitution with provisions which will allow all the German states to subscribe as soon as circumstances permit.

The Delegations have therefore agreed to recommend to their Governments that the Military Governors should hold a joint meeting with the Ministers-President of the Western Zones in Germany. At that meeting the Ministers-President will be authorized to convene a Constituent Assembly in order to prepare a constitution for the approval of the participating states.

Delegates to this Constituent Assembly will be chosen in each of the states in accordance with procedure and regulations to be determined by the legislative bodies of the individual states.

This constitution should be such as to enable the Germans to play their part in bringing to an end the present division of Germany not by the reconstitution of a centralized Reich but by means of a federal form of government which adequately protects the rights of the respective states, and which at the same time provides for adequate central authority and which guarantees the rights and freedoms of the individual.

If the constitution as prepared by the Constituent Assembly does not conflict with these general principles the Military Governors will authorize its submission for ratification by the people in the respective states.

At the meeting with the Military Governors the Ministers-President will also be authorized to examine the boundaries of the several states in order to determine what modifications might be proposed to the Military Governors for the purpose of creating a definitive system which is satisfactory to the peoples concerned.

(b) Further discussions have taken place between the United States, United Kingdom, and French Delegations on measures for coordinating economic policies and practices in the Combined Zone and the French Zone. Agreed recommendations have been reached on the joint conduct and control of the external trade of the whole area. It has been recognized that a complete economic merger of the two areas cannot effectively take place until further progress has been made toward establishing the necessary German institutions common to the entire area.

IV. Provisional Territorial Arrangements

The Delegations have agreed to submit for the consideration of their Governments proposals for dealing with certain minor provisional territorial adjustments in connection with the western frontier of Germany.

V. Security

(a) General provisions.

(b) Measures during the period in which the occupying powers retain supreme authority in Germany.

(c) Measures after the period in which the occupying powers retain supreme authority in Germany.

GENERAL PROVISIONS.

The US, UK and French Delegations reiterated the firm view of their Governments that there could not be any general withdrawal of their forces from Germany until the peace of Europe is secured and without prior consultation. It was further recommended that the Governments concerned should consult if any of them should consider that there was danger of resurgence of German military power or of the adoption by Germany of a policy of aggression.

MEASURES AFTER THE PERIOD IN WHICH THE OCCUPYING POWERS RETAIN SUPREME AUTHORITY IN GERMANY

It was affirmed that Germany must not again be permitted to become an aggressive power and that prior to the general withdrawal of the forces of occupation agreement will be reached among the Governments concerned with respect to necessary measures of demilitarization, disarmament and control of industry and with respect to occupation of key areas. Also there should be a system of inspection to ensure the maintenance of the agreed provisions of German disarmament and demilitarization.

The present recommendations, which in no way preclude and on the contrary should facilitate eventual four-power agreement on the German problem, are designed to solve the urgent political and economic problems arising out of the present situation in Germany. Because of the previous failure to reach comprehensive four-power decisions on Germany, the measures recommended mark a step forward

in the policy which the powers represented at these talks are determined to follow with respect to the economic reconstruction of Western Europe, including Germany, and with respect to the establishment of a basis for the participation for a democratic Germany in the community of free peoples.

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72. Military Security Board[1]

(17 December 1948)

PART I—TERMS OF REFERENCE

1. In accordance with the terms of the London Agreement, a Military Security Board for the Western Zones of Germany will be set up by the Military Governors in order to ensure the maintenance of disarmament and demilitarization in the interests of security.
2. The Board's responsibilities will cover the whole field of disarmament and demilitarization, taking into consideration the laws and directives which have been agreed already on a quadripartite basis. In particular the Board will advise the Military Governors on the maintenance and enforcement of disarmament and demilitarization restrictions. It will carry out the appropriate inspections and will recommend to the Military Governors measures necessary to:
   (a) prevent the revival of military or paramilitary organizations and of the militaristic spirit;
   (b) ensure that there shall be no manufacture or import of any arms, war materials or any other materials or equipment which are or may be prohibited;
   (c) prevent the infringement by Germans of restrictions in respect of certain industries;
   (d) ensure that any military buildings, structures, laboratories, and all shipyards, or factories capable of producing armaments which may be retained are used for peaceful purposes only;
   (e) ensure that scientific research is not directed to warlike ends;
   (f) ensure that in connection with the construction and opera-

[1] DSB, February 13, 1949.

tion of merchant shipping and the operation of civil airlines, no war potential is created.

3. In carrying out its task, the Board will:
   (a) Study the existing laws and directives, both quadripartite and zonal, and make recommendations if they require additions or amendments, and where advisable produce uniformity throughout the three zones;
   (b) Recommend to the Military Governors any laws or regulations to be enacted which may be necessary for the completion of disarmament, or for the prohibition or limitation of specified military, industrial, scientific research or other activities;
   (c) Ensure the implementation of the regulations by inspection and ensure that the statistics necessary for the Board are maintained by Germans. The reports of inspections will be presented to the Military Governors, together with the observations of the Board;
   (d) Advise the Military Governors on revisions, which may be necessary from time to time, of the prohibitions of and limitations on capacity or production imposed upon German industry;
   (e) Collect, centralize and keep up-to-date full documentation on the elements which might reconstitute a war potential in the military, industrial and scientific fields.

Part II—Construction and Functioning

4. The Military Security Board will be made up of the following elements:
   (a) A Commission
   (b) A Committee of Deputies
   (c) A Secretariat
   (d) Three Divisions:
       Military, Industrial and Scientific Research
   (e) Inspection Groups
5. Security in the Ruhr

The Board will establish such machinery and liaison for cooperation with the International Authority for the Ruhr as may be found necessary.

6. The Commission
   (a) The Commission will consist of three Officers, of general or equivalent rank, or their deputies, appointed by and representing the respective Military Governors.
   (b) In principle, it will meet once a month, or as necessary, for the ordinary sessions, under the chairmanship of one of the members in rotation, to examine the work undertaken by the Board; to prepare and present its recommendations to the Military Governors; to decide on any special missions of inspection to be carried out in the zones; to take all necessary measures to facilitate the functioning of the Board and all its implementing services.
   (c) Each member of the Commission may be assisted at the meetings by his Deputy, a Chief Secretary, or any other experts that he may deem necessary, either from the Board or from outside the Board.
   (d) The Commission will hold extraordinary meetings at the request of one of its members.
   (e) The majority rule will govern the decisions of the Commission, provided that the minority member may refer the question to the Military Governors, this to have a suspensory effect until the decision has been rendered.

7. Committee of Deputies

The Deputies to the Commission will form a permanent Committee at the headquarters of the Board in order to direct its business. In particular, they will coordinate the work of the Divisions, and provide a chairman (or the nationality of the chairman of the Commission for the month) at joint meetings of two or more Divisions.

* * *

9. Divisions
   (a) There will be three Divisions:
   Military, Industrial and Scientific Research. Within each Division, each power (US, UK and French) will establish and maintain its national element. These Divisions will operate on a coordinated basis. . . . While the internal organization of the national elements need not be identical, they should in general parallel each other in their functions and capabilities.

(b) Any specialist sections or working parties deemed necessary for the study of particular problems may be established within the Divisions. Such sections or parties may be integrated, all three Powers supplying members without obligation to maintain equality either in qualifications or numbers.

(c) Within the scope of the Terms of Reference, each Division, or any national element thereof, will be responsible, each in its own sphere or as specified by the Commission for the preparation of any necessary regulating measures and recommendations for the implementation and control thereof, which are to be submitted to the Commission. Recommendations of national elements shall be tripartitely considered and resolved, insofar as is possible, within the Divisions before being presented to the Commission.

(d) Divisional meetings will take place at the headquarters of the Board. Chairmanship will be rotated among the chiefs of the national elements thereof, so that the nationality of the Division chairmen will correspond to that of the Chairman of the Commission. The Chiefs of the national elements may be assisted by any members of their elements whom they deem necessary, or by experts temporarily attached for duty to that element or from outside.

(e) Resolution of matters of joint interest to two or more Divisions shall normally be accomplished through the medium of informal lateral coordination; however, joint divisional meetings may be arranged by the Committee of Deputies upon the request of any national element.

(f) During the period when existing organizations responsible for the control of industry and of scientific research are maintained in their present form, certain functions of the Board may, with the agreement of each Military Governor, be performed by personnel regularly assigned to full-time duty with the Board, or temporarily attached for such duty. As these organizations of each representative Military Government, whose work is associated with that of the Board, phase out, the proper divisions of the Board will be expanded to assume the necessary controls to prevent the resurgence of German military, industrial, or scientific war potential.

10. Inspection Groups

(a) The Divisions will organize, instruct and dispatch inspectors and/or integrated tripartite inspection groups formed from personnel assigned or attached to the Board as often as necessary in order to verify in the three Zones the conditions of execution of the measures ordered by the Military Governors. The Commission may order any special inspections it deems necessary.

(b) Administrative arrangements for these inspections will be made by the Secretariat.

(c) Inspection groups shall have free access at any time to inspect without prior notice for the purposes set forth in paragraph 2 hereof, any place, installation or activity, except that the local Military Government shall be given reasonably advance notice of such intended visits.

11. The creation of the Board implies that disarmament and demilitarization are matters of tripartite responsibility. Until the system of control at Land levels is changed, and as long as unilateral control continues in the Land, the Regional Commissioner (or his equivalent) in each Land will act as the agent of the Military Governors for disarmament and demilitarization. For this purpose he will report to the Military Governors through the Board and will receive his instructions through the same channel. He will provide such information as may be requested and will be responsible for the continuous observation of the execution of prescribed security measures. He will give full facilities for visits by the inspection groups referred to in paragraph 10 above. If he is succeeded by a Tripartite Control Commission, his function will be transferred to that commission. When and if Military Government is no longer adequately represented at Land level, the Board will establish such tripartite agencies as it deems necessary to ensure control in the lands.

12. Nomination of Members of the Board

The members of the Board and experts will be appointed by the respective Military Governors, and accredited to the Board by the corresponding member of the Commission.

13. Rules of Procedure

The Committee of Deputies will establish routine and procedure for the Board.

73. Ruhr Authority[1]

(December 19, 1948)

Whereas international security and general economic recovery require:—

* * *

Now therefore, in furtherance of the foregoing purposes and in order to establish an international control in the Ruhr in conformity with the agreed statement of principles contained in Annex C to the Report signed in London on the first day of June, 1948, at the conclusion of the Six Power Talks on Germany, the Governments of Belgium, France, Luxembourg, the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America have agreed as follows:—

Part I: The Authority

Art. 1—There is hereby established an International Authority for the Ruhr, hereinafter referred to as the *"Authority,"* the composition, powers and functions of which are as set forth herein.

Art. 2—The members of the Authority shall be the Signatory Governments and Germany.

Art. 3—The Authority shall consist of a Council composed of representatives of the Signatory Governments and, subject to the provisions of Article 4, of Germany. The Council shall be assisted by a Secretariat, headed by an Executive Secretary. The members shall also appoint alternate representatives.

Art. 4

(a) When a German Government is established, it may appoint a delegate to the Authority with the right to attend meetings of the Council. At such time as the German Government becomes entitled to cast the votes allocated to Germany, as provided in Article 9 (c), it may appoint a representative on the Council and an alternate.

(b) The Occupation Authorities concerned shall be represented at the Council by one of their nationals jointly designated by them, until such time as the votes allocated to Germany are cast by the German representative.

* * *

[1] DSB, January 9, 1949. The Ruhr Authority was formally established at London, on April 28, 1949.

Part II: Internal Organization and Procedure

Art. 9

(a) The voting rights of the several members of the Authority in the Council shall be:—

Belgium	1 vote
France	3 votes
Germany	3 votes
Luxembourg	1 vote
The Netherlands	1 vote
The United Kingdom	3 votes
The United States	3 votes

(b) Eight favourable votes shall be sufficient for every decision of the Authority, except as provided in Articles 13, 14, 17 and 24.

(c) The votes allocated to Germany shall be cast as a unit by the joint representative of the Occupation Authorities concerned appointed as provided in Article 4, until the Occupying Powers concerned determine that the German Government, by accession or by other means, has assumed the responsibilities placed upon Germany by the present Agreement. Thereafter such votes shall be cast by the German representative.

* * *

Part III: Functions

Art. 14

(a) The Authority shall make a division of coal, coke and steel from the Ruhr as between German consumption and export. Such division shall:—

(i) ensure adequate access to supplies of these products by countries cooperating in the common economic good, taking into account the essential needs of Germany;

(ii) be in accordance with the terms of any agreement among the Occupying Powers with respect to the allocation of coal, coke or steel which is in force at the time the division is made;

(iii) be consistent with the objectives set forth in the Convention for European Economic Cooperation and with any programme approved, or decision taken, by the Organization for European Economic Cooperation, which is applicable to the period for which such division is made.

(b) The export allocations of the Authority shall be in terms of minimum amounts of coal, coke and finished or semi-finished steel to be made available from the Ruhr for export. The Authority shall have the power to express these export allocations in terms of various qualities or types of coal, coke and finished or semi-finished steel. Exceptionally, the Authority may make an allocation of pig-iron if at any time it decides by twelve affirmative votes that such an allocation is necessary in order to ensure adequate access to supplies of pig-iron. In making export allocations of finished or semi-finished steel, the Authority shall be bound by, and shall act within, any agreements relating to the level of steel production in Germany which are in force at the time and to which the Occupying Powers concerned are party.

(c) Before the Authority begins to exercise its functions under this Article, it will agree with the Occupation Authorities concerned on a procedure for coordinating the decisions of the Authority with the preparation of proposed programmes and plans for submission to the Organization for European Economic Cooperation. This procedure shall be reviewed at any time at the request of any member, and in any case at the end of the Control Period or at such earlier time as may be agreed upon by the Occupying Powers.

ART. 15—The Authority shall have the right to examine transport, price and trade practices, quotes, tariffs, and other governmental measures or commercial arrangements instituted or permitted by the German authorities, which affect the coal, coke or steel of the Ruhr. If the Authority determines that such practices, measures or arrangements are artificial or discriminatory and are of such a nature as:—

(i) to impede access by other countries to the coal, coke or steel of the Ruhr,

(ii) to distort the movements of Ruhr coal, coke or steel in international trade, or

(iii) otherwise to prejudice the accomplishment of the purposes of the present Agreement,

the Authority shall decide that such practices, measures or arrangements shall be appropriately modified or terminated. In making its determinations under this Article the Authority shall have due regard for the requirements of international peace and security, for Germany's obligations under the Convention for European Economic Coopera-

tion, and for the need of the German authorities to afford legitimate protection to the commercial and financial position of Germany in international trade.

ART. 16

(a) During the Control Period, or until such earlier time as may be agreed upon by the Occupying Powers, the Authority shall bring to the attention of the Occupation Authorities concerned measures which would ensure, and after such Period or time the Authority shall itself ensure, in conformity with any international agreements relating to the protection of foreign interests in Germany in force at the time, to which the Signatory Governments are party,

(i) the safeguard and protection of foreign interests in coal, coke and steel enterprises in the Ruhr, and

(ii) the protection of such enterprises involving foreign interests from the application of discriminatory measures in any sector of their activity;

provided that when and to the extent that the protection of such foreign interests or enterprises is entrusted to any agency created or designatd by any international agreement to which the Signatory Governments are party, the functions of the Authority in this matter shall cease.

* * *

ART. 17

(a) During the Control Period, or until such earlier time as may be agreed upon by the Occupying Powers, the Occupation Authorities concerned will maintain such powers as may be necessary to enforce the disarmament of Germany, including power to control the supply of Ruhr coal, coke and steel to any industry which may be prohibited or limited in the interests of security by agreement among the Occupying Powers or under the terms of any international agreement to which they may become party.

(b) At the end of the Control Period, or at such earlier time as may be agreed upon by the Occupying Powers, the powers referred to in paragraph (a) of this Article shall be transferred to such international body as may be designated for these purposes by the peace settlement or by any international agreement to which the Signatory Governments are party, and the Authority shall cooperate with that international body in such ways as shall be

prescribed by the peace settlement or international agreement. If no such international body is established, these powers shall be transferred to the Authority to be exercised by the representatives of the Signatory Governments thereon.

ART. 18

(a) At the end of the Control Period, or at such earlier time as may be agreed upon by the Occupying Powers, such of the existing powers of the Occupation Authorities as are necessary to ensure:—

(i) that there shall not be allowed to develop, or be restored, any pattern of ownership in the Ruhr coal, coke or steel industries, or trade and marketing agreements among such industries, which would constitute excessive concentration of economic power;

(ii) that persons who have been, or may be, found to have furthered the aggressive designs of the National Socialist Party do not hold positions of ownership or control in the Ruhr coal, coke or steel industries or the trade and marketing organizations of such industries; and

(iii) that adequate information is made available for the purposes specified in subparagraphs (i) and (ii) above,

will be transferred to the Authority or the Military Security Board or its successor or to some other body created by international agreement and charged with ensuring the achievement of these objectives with respect to these and other industries in Germany. The Authority shall cooperate with any other body to which such powers may be transferred.

ART. 19

(a) At the end of the Control Period, or at such earlier time as may be agreed upon by the Occupying Powers, only such of the existing powers of the Occupation Authorities over the direction and management of the Ruhr coal, coke or steel industries as are necessary to ensure:—

(i) that the general policies and general programmes relating to production, development and investment in those industries are in conformity with the purposes stated in the preamble to the present Agreement and

(ii) that adequate information concerning such policies and programmes be made available,

will be transferred to the Authority, to the Military Security

Board or its successor, or to some other body created by international agreement.

* * *

PART IV: INFORMATION AND INVESTIGATION

ART. 20

(a) In order that the Authority may properly perform its functions and in order that it may determine whether its decisions are being appropriately carried out, the Authority shall have the right:—

(i) to obtain periodical reports, and such additional reports as it considers necessary, on production, distribution and consumption of Ruhr coal, coke and steel, including such forecasts of production, distribution and consumption as may be necessary to enable it to perform its functions under Article 14;

(ii) to obtain such information as it considers necessary concerning supplies of coal, coke and steel available to Germany from sources other than the Ruhr, and concerning exports from Germany of such products from sources other than the Ruhr; and

(iii) to make in the Ruhr any investigations including the examination of witnesses, which it considers necessary to verify the information obtained under this Article or other Articles of the present Agreement, and to determine the manner in which its decisions are being carried out, provided that similar investigations may also be made in other parts of Germany under a special procedure to be established in accordance with Article 13.

In the exercise of these rights, the Authority may make enquiries of individuals, including public officials, and public or private organizations, enterprises and firms, and may examine records and installations.

* * *

ART. 23—After the Control Period, or after such earlier time or times as may be agreed upon by the Occupying Powers, the German Government shall:—

(i) ensure that the decisions of the Authority under Articles 14 and 15 and the directions of the Authority under Article 16 are carried out, and that any powers transferred to the Authority under Articles 17, 18 and 19 can be effectively exercised;

(ii) take such action as is necessary to enable the Authority to exercise the rights provided for in Article 20; and

(iii) ensure the enjoyment of the privileges and immunities provided for in Article 28.

PART VI: DEFAULT

ART. 24

(a) Should the German Government fail to take any action required by Article 23 of the present Agreement, the representatives of the Signatory Governments on the Authority may serve notice in writing upon the German Government, which notice shall afford the German Government an opportunity, within a time determined by such representatives to be reasonable to appear and present reasons why it should not be declared in default.

(b) If the German Government does not present reasons satisfactory to the representatives of the Signatory Governments, such representatives may declare the German Government in default and in that event shall inform the German Government in writing of their decision. Such representatives shall then make recommendations as to the necessary and appropriate measures to be applied.

(c) Should representatives of the Signatory Governments decide that the German Government is taking, or permitting, action which if permitted to continue might frustrate the proper exercise of the functions of the Authority, and that it is expedient that such action should be suspended pending further investigation by the Authority and the formulation of a decision or direction, such representatives may serve preliminary notice in writing upon the German Government that such action shall be suspended, with immediate effect, for such a period as may seem appropriate, pending further consideration by the Authority.

(d) The German Government may, within fifteen days of the service of the preliminary notice in accordance with the provisions of paragraph (c) of this Article, request that the notice be set aside, and in that event shall be afforded a hearing at such time and place as may be determined by the representatives of the Signatory Governments. If the German Government fails to comply with the preliminary notice after:—

(i) a hearing has been held and such representatives have notified that Government that their decision has been maintained;

(ii) having failed to appear for a hearing at the time and place established; or

(iii) fifteen days have elapsed and no request that the notice be set aside has been made,

such representatives may without further formality declare the German Government in default and in that event shall inform that Government in writing of their decision. Such representatives shall then make recommendations as to the necessary measures to be applied.

(e) All decisions under this Article shall be reached by a majority of the votes allocated to the representatives of the Signatory Governments.

(f) During the Control Period, the recommendations provided for in paragraphs (b) and (d) of this Article shall be made to the Occupation Authorities.

(g) After the end of the Control Period, the recommendations provided for in paragraphs (b) and (d) of this Article will be made to the Signatory Governments. The measures recommended will be applied in accordance with the relevant provisions of the peace settlement or any international agreement to which the Signatory Governments are party.

PART VII: GENERAL PROVISIONS

ART. 25—The Authority may establish such formal or informal relationship with the United Nations and its subsidiary bodies, and with the Specialized Agencies and with other intergovernmental bodies, as may facilitate the performance of its functions.

ART. 26—The Powers of the Authority will not be exercised for the purpose of protecting the commercial or competitive interests of any country, nor for the purpose of preventing peaceful technological development or increased efficiency.

* * *

ART. 31—As soon as a German Government has been established, it may accede to the present Agreement by executing an instrument containing such undertakings with respect to the assumption of the responsibilities of the German Government under the Agreement and such other provisions as may be agreed by the Signatory Governments.

ART. 32—The present Agreement shall, subject to the provisions of

Article 33, continue in force until the coming into effect of a peace settlement for Germany and thereafter as provided in such peace settlement.

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74. Washington Agreement, April 1949[1]

(Washington, 8 April, 1949)

The Foreign Ministers of the United States, United Kingdom, and France have discussed in Washington the whole range of issues now pending in connection with Germany and have arrived at complete agreement.

The text of an Occupation Statute in a new and simpler form has been approved and is being transmitted to the German Parliamentary Council at Bonn. Agreement was reached on the basic principles to govern the exercise of Allied powers and responsibilities and also the tripartite Allied control machinery. The Foreign Ministers confirmed and approved agreements on the subject of plant dismantling, prohibited and restricted industries, and the establishment of an international Ruhr authority, all of which were recently negotiated in London.

The Occupation Statute will define the powers to be retained by the occupation authorities upon the establishment of the German federal republic and set forth basic procedures for the operation of Allied supervision. Subject only to the limitations of the Statute, the German federal state and the participating Laender will have full legislative, executive and judicial powers, in accordance with the basic law and with their respective constitutions. The Statute aims to permit the German people to exercise democratic self-government. Provision is made for a review of the terms of the Statute after a year in force.

With the establishment of the German federal republic there will be a marked change in the organization to carry out occupation responsibilities. Military Government as such will be terminated and the functions of the Allied authorities will become mainly supervisory. Each of the Allied establishments in Germany will come under the direction of a High Commissioner aside from the occupation forces which will

[1] Documents on the Creation of the German Federal Constitution, OMGUS, Civil Administration Division, 1949. p. 115.

remain headed by military commanders. The three High Commissioners together will constitute an Allied High Commission which will be the supreme Allied agency of control. In order to permit the German federal republic to exercise increased responsibility for domestic affairs and to reduce the burden of occupation costs, staff personnel shall be kept to a minimum.

The German government authorities will be at liberty to take administrative and legislative action and such action will have validity if not disapproved by Allied authorities. There will be certain limited fields in which the Allies will reserve the right to take direct action themselves, or to direct German authorities to take action. However, these fields will be limited, and aside from security matters the exercise of direct powers by the Allies is regarded in many instances as self-liquidating in nature.

It was agreed that a major objective of the three Allied governments was to encourage and facilitate the closest integration, on a mutually beneficial basis, of the German people under a democratic federal state within the framework of a European association. In this connection it is understood that the German federal republic will negotiate a separate bilateral ECA agreement with the US and should participate as a full member in the organization for European Economic Cooperation, thus becoming a responsible partner in the European Recovery Program.

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75. West German Occupation Statute[1]

(Berlin, April 10, 1949)

We, Gen. Pierre Koenig, Military Governor and Commander in Chief of the French zone of Germany; Gen. Lucius D. Clay, Military Governor and Commander in Chief of the United States zone of Germany; and Gen. Sir Brian Hubert Robertson, Military Governor and Commander in Chief of the British zone of Germany, do hereby jointly proclaim the following Occupation Statute:

I

During the period in which it is necessary that the occupation continue, the Governments of France, the United States and the United

[1] DSB, April 17, 1949.

Kingdom desire and intend that the German people shall enjoy self-government to the maximum possible degree consistent with such occupation, that federal states and the participating laender (German states) shall have, subject only to the limitations in this instrument, full legislative, executive and judicial powers in accordance with the basic law and with their respective constitutions.

II

In order to ensure the accomplishment of the basic purposes of the occupation, powers in the following fields are specifically reserved, including the right to request and verify information and statistics needed by the occupation authorities:

(a) Disarmament and demilitarization, including related fields of scientific research, prohibitions and restrictions on industry and civil aviation.

(b) Controls in regard to the Ruhr, restitution, reparations, non-discrimination in trade matters, foreign interests in Germany and claims against Germany.

(c) Foreign affairs, including international agreements, made by or on behalf of Germany.

(d) Displaced persons and admission of refugees.

(e) Protection, prestige and security of Allied forces, dependents, employes and their representatives, their immunities and satisfaction of occupation cost and their other requirements.

(f) Respect for the basic law and the land (state) constitutions.

(g) Control over foreign trade and exchange.

(h) Control over internal action, only to the minimum extent necessary to ensure use of funds, food and other supplies in such manner as to reduce to a minimum the need for external assistance to Germany.

(i) Control of the care and treatment in German prisons of persons charged before or sentenced by the courts or tribunals of the occupying powers or occupation authorities, over the carrying out of sentences imposed on them, and over questions of amnesty, pardon or release in relation to them.

III

It is the hope and expectation of the Governments of France, the United States and the United Kingdom that the occupation authorities will not have occasion to take action in the fields other than those specifically reserved above. The occupation authorities, however, re-

serve the right, acting under instructions of their Governments, to resume, in whole or in part, the exercise of full authority if they consider that to do so is essential to security or to preserve democratic government in Germany or in pursuance of the international obligations of their Governments. Before so doing, they will formally advise the appropriate German authorities of their decision and of the reasons therefore.

IV

The German Federal Government and the Governments of the Laender shall have the power, after due notification to the occupation authorities, to legislate and act in the fields reserved to these authorities, except as the occupation authorities otherwise specifically direct, or as such legislation or action would be inconsistent with decisions or actions taken by the occupation authorities themselves.

V

Any amendment of the basic law will require the express approval of the occupation authorities before becoming effective. Land constitutions, amendments thereof, all other legislation, and any agreements made between the Federal state and foreign Governments, will become effective twenty-one days after official receipt by the occupation authorities unless previously disapproved by them, provisionally or finally. The occupation authorities will not disapprove legislation unless in their opinion it is inconsistent with the basic law, and constitution, legislation or other directives of the occupation authorities themselves or the provisions of this instrument, or unless it constitutes a grave threat to the basic purpose of the occupation.

VI

Subject only to the requirements of their security, the occupation authorities guarantee that all agencies of the occupation will respect the civil rights of every person to be protected against arbitrary arrest, search or seizure, to be represented by counsel, to be admitted to bail as circumstances warrant, to communicate with relatives, and to have a fair and prompt trial.

VII

Legislation of the occupation authorities enacted before the effective date of the basic law shall remain in force until repeated or amended

by the occupation authorities in accordance with the following provisions:

(a) Legislation inconsistent with the foregoing will be repealed or amended to make it consistent herewith.

(b) Legislation based upon the reserved powers referred to in (a) and (b) will be repealed by the occupation on request from appropriate German authorities.

VIII

Any action shall be deemed to be the act of the occupation authorities under the powers herein reserved, and effective as such under this instrument, when taken or evidenced in any manner provided by any agreement between them. The occupation authorities may in their discretion effectuate their decisions either directly or through instructions to the appropriate German authorities.

IX

After twelve months, and in any event within eighteen months, of the effective date of this instrument the occupying powers will undertake a review of its provisions in the light of experience with its operation and with a view to extending the jurisdiction of the German authorities in the legislative, executive and judicial fields.

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76. Constitution of the Bonn Republic (Basic Law)[1]

Conscious of its responsibility before God and mankind, filled with the resolve to preserve its national and political unity and to serve world peace as an equal partner in a united Europe, the German people

> in the Laender Baden, Bavaria, Bremen, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern

has, by virtue of its constituent power, enacted this Basic Law of the

[1] Basic Law for the Federal Republic of Germany (Agreed Anglo-American Translation.) Adopted at Bonn by the Parliamentary Council, May 8, 1949. Bonn, 1949. Pp. 37.

Federal Republic of Germany to give a new order to political life for a transitional period.

It acted also on behalf of those Germans to whom participation was denied.

The entire German people is called upon to accomplish, by free self-determination, the unity and freedom of Germany.

I

Basic Rights

Art. 1—(1) The dignity of man shall be inviolable. To respect and protect it shall be the duty of all state authority.

(2) The German people therefore acknowledge inviolable and inalienable human rights as the basis of every human community, of peace and of justice in the world.

(3) The following basic rights shall be binding as directly valid law on legislation, administration and judiciary.

Art. 2—(1) Everyone shall have the right to the free development of his personality, insofar as he does not infringe the rights of others or offend against the constitutional order or the moral code.

(2) Everyone shall have the right to life and physical inviolability. The freedom of the individual shall be inviolable. These rights may be interfered with only on the basis of a law.

Art. 3—(1) All men shall be equal before the law.

(2) Men and women shall have equal rights.

(3) No one may be prejudiced or privileged because of his sex, descent, race, language, homeland and origin, faith or his religious and political opinions.

Art. 4—(1) Freedom of faith and conscience and freedom of religious and ideological (*weltanschauliche*) profession shall be inviolable.

(2) Undisturbed practice of religion shall be guaranteed.

(3) No one may be compelled against his conscience to perform war service as a combatant. Details shall be regulated by a federal law.

Art. 5—(1) Everyone shall have the right freely to express and to disseminate his opinion through speech, writing and illustration and, without hindrance, to instruct himself from generally accessible sources. Freedom of the press and freedom of reporting by radio and motion pictures shall be guaranteed. There shall be no censorship.

(2) These rights shall be limited by the provisions of the general laws, the legal regulations for the protection of juveniles and by the right of personal honour.

(3) Art and science, research and teaching shall be free. Freedom of teaching shall not absolve from loyalty to the constitution.

ART. 6—(1) Marriage and family shall be under the special protection of the state.

(2) The care and upbringing of children shall be the natural right of parents and the supreme duty incumbent upon them. The state shall watch over their activity.

(3) Children may be separated from the family against the will of those entitled to bring them up only on a legal basis if those so entitled fail to do their duty or if, on other grounds, a danger of the children being neglected arises.

(4) Every mother shall have a claim to the protection and care of the community.

(5) Illegitimate children shall, through legislation, be given the same conditions for their physical and spiritual development and their position in society as legitimate children.

ART. 7—(1) The entire educational system shall be under the supervision of the state.

(2) Those entitled to bring up the child shall have the right to decide whether it shall receive religious instruction.

(3) Religious instruction shall form part of the curriculum in the state schools with the exception of non-confessional schools. Religious instruction shall, without prejudice to the state's right of supervision, be given according to the principles of the religious societies. No teacher may be obliged against his will to give religious instruction.

(4) The right to establish private schools shall be guaranteed. Private schools as substitute for state schools shall require the sanction of the state and shall be subject to Land legislation. The sanction must be given if the private schools, in their educational aims and facilities, as well as in the scholarly training of their teaching personnel, are not inferior to the state schools and if a separation of the pupils according to the means of the parents is not encouraged. The sanction must be withheld if the economic and legal status of the teaching personnel is not sufficiently assured.

(5) A private elementary school shall be permitted only if the educational administration recognizes a specific pedagogic interest or, at

the request of those entitled to bring up children, if it is to be established as a general community school *(Gemeinschaftsschule)*, as a confessional or ideological school or if a state elementary school of this type does not exist in the Gemeinde.

(6) Preparatory schools shall remain abolished.

ART. 8—(1) All Germans shall have the right, without prior notification or permission, to assemble peacefully and unarmed.

(2) For open air meetings this right may be restricted by legislation or on the basis of a law.

ART. 9—(1) All Germans shall have the right to form associations and societies.

(2) Associations, the objects or activities of which conflict with the criminal laws or which are directed against the constitutional order or the concept of international understanding, shall be prohibited.

(3) The right to form associations to safeguard and improve working and economic conditions shall be guaranteed to everyone and to all professions. Agreements which seek to restrict or hinder this right shall be null and void; measures directed to this end shall be illegal.

ART. 10—Secrecy of the mail as well as secrecy of the post and telecommunications shall be inviolable. Restrictions may be ordered only on the basis of a law.

ART. 11—(1) All Germans shall enjoy freedom of movement throughout the federal territory.

(2) This right may be restricted only by legislation and only for the cases in which an adequate basis of existence is absent and, as a result, particular burdens would arise for the general public or in which it is necessary for the protection of juveniles from neglect, for combatting the danger of epidemics or in order to prevent criminal acts.

ART. 12—(1) All Germans shall have the right freely to choose their occupation, place of work and place of training. The practice of an occupation may be regulated by legislation.

(2) No one may be compelled to perform a particular kind of work except within the framework of an established general compulsory public service equally applicable to everybody.

(3) Forced labour shall be admissible only in the event of imprisonment ordered by a court.

ART. 13—(1) The dwelling shall be inviolable.

(2) Searches may be ordered only by a judge or in the event of im-

minent danger by other authorities provided by law and may be carried out only in the form prescribed therein.

(3) Interventions and restrictions may otherwise be undertaken only to avert a common danger or mortal danger to individuals and, on the basis of a law, also to prevent imminent danger to public safety and order, especially for the relief of the housing shortage, combatting the danger of epidemics or protecting juveniles exposed to dangers.

ART. 14—(1) Property and the right of inheritance shall be guaranteed. The contents and limitations shall be determined by legislation.

(2) Property shall involve obligations. Its use shall simultaneously serve the general welfare.

(3) Expropriation shall be admissible only for the wellbeing of the general public. It may be effected only by legislation or on the basis of a law which shall regulate the nature and extent of compensation. The compensation shall be determined after just consideration of the interests of the general public and the participants. Regarding the extent of compensation, appeal may be made to the ordinary courts in case of dispute.

ART. 15—Land and landed property, natural resources and means of production may, for the purpose of socialization, be transferred to public ownership or other forms of publicly controlled economy by way of a law which shall regulate the nature and extent of compensation. For the compensation, Article 14, paragraph (3), sentences 3 and 4, shall apply appropriately.

ART. 16—(1) No one may be deprived of his German citizenship. The loss of citizenship may occur only on the basis of a law and, against the will of the person concerned, only if the person concerned is not rendered stateless thereby.

(2) No German may be extradited to a foreign country. The politically persecuted shall enjoy the right of asylum.

ART. 17—Everyone shall have the right, individually or jointly with others, to address written requests or complaints to the competent authorities and to the popular representative bodies.

ART. 18—Whoever abuses the freedom of expression of opinion, in particular the freedom of the press (Article 5, paragraph (1)), the freedom of teaching (Article 5, paragraph (3)), the freedom of assembly (Article 8), the freedom of association (Article 9), the secrecy of mail, post and telecommunications (Article 10), property

(Article 14), or the right of asylum (Article 16, paragraph (2)), in order to attack the free, democratic basic order, shall forfeit these basic rights. The forfeiture and its extent shall be pronounced by the Federal Constitutional Court.

ART. 19—(1) Insofar as according to this Basic law a basic right may be restricted by legislation or on the basis of a law, the law must apply in general and not solely to the individual case. Futhermore, the law must name the basic right, indicating the Article.

(2) In no case may a basic right be affected in its basic content.

(3) The basic rights shall also apply to juridical persons within the country insofar as, according to their nature, they may be applied to such persons.

(4) Should any person's rights be infringed by public authority, he may appeal to the courts. Insofar as another authority is not competent, the appeal shall go to the ordinary courts.

II

THE FEDERATION AND THE LAENDER

ART. 20—(1) The Federal Republic of Germany is a democratic and social federal state.

(2) All state authority emanates from the people. It shall be exercised by the people in elections and plebiscites and by means of separate legislative, executive and judicial organs.

(3) Legislation shall be limited by the constitution, the executive and the administration of justice by legislation and the law.

ART. 21—(1) The parties shall participate in forming the political will of the people. They can be freely formed. Their internal organization must conform to democratic principles. They must publicly account for the sources of their funds.

(2) Parties which, according to their aims and the behavior of their members, seek to impair or abolish the free and democratic basic order or to jeopardize the existence of the Federal Republic of Germany, shall be unconstitutional. The Federal Constitutional Court shall decide on the question of unconstitutionality.

(3) Details shall be regulated by federal legislation.

ART. 22—The federal flag shall be black-red-gold.

ART. 23—For the time being, this Basic Law shall apply in the territory of the Laender Baden, Bavaria, Bremen, Greater Berlin, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern. It shall be put into force for other parts of Germany or their accession.

ART. 24—(1) The Federation may, by legislation, transfer sovereign powers to international institutions.

(2) In order to preserve peace, the Federation may join a system of mutual collective security; in doing so it will consent to those limitations of its sovereign powers which will bring about and secure a peaceful and lasting order in Europe and among the nations of the world.

(3) For the settlement of international disputes, the Federation will join a general, comprehensive, obligatory system of international arbitration.

ART. 25—The general rules of international law shall form part of federal law. They shall take precedence over the laws and create rights and duties directly for the inhabitants of the federal territory.

ART. 26—(1) Activities tending to disturb or undertaken with the intention of disturbing the peaceful relations between nations, and especially preparing for aggressive war, shall be unconstitutional. They shall be made subject to punishment.

(2) Weapons designed for warfare may be manufactured, transported or marketed only with the permission of the Federal Government. Details shall be regulated by a federal law.

ART. 27—All German merchantmen shall form a unified merchant marine.

ART. 28—(1) The constitutional order in the Laender must conform to the principles of the republican, democratic and social state based on the rule of law *(Rechtsstaat)* within the meaning of this Basic Law. In the Laender, Kreise and Gemeinden the people must have a representative assembly resulting from universal, direct, free, equal and secret elections. In Gemeinden, the Parish Meeting may take the place of an elected body.

(2) The Gemeinden must be guaranteed the right to regulate under their own responsibility all the affairs of the local community in accordance with the laws. The Gemeindeverbände also shall have the right of self-government within the limits of their legal sphere of functions and in accordance with the laws.

(3) The Federation shall guarantee that the constitutional order of the Laender shall correspond to the basic rights and the provisions of paragraphs (1) and (2).

ART. 29—(1) The federal territory shall be reorganized by a federal law with due regard to regional unity, historical and cultural connections, economic expediency and social structure. The reorganization shall create Laender which by their size and potentiality are able to fulfil efficiently the functions incumbent upon them.

(2) In areas which, in the reorganization of Laender after 8 May 1945, joined another Land without plebiscite, a certain change in the decision made concerning this subject may be demanded by popular initiative within one year after the coming into force of the Basic Law. The popular initiative shall require the consent of one-tenth of the population qualified to vote in Landtag elections. Should the popular initiative take place, the Federal Government must, in the draft law regarding the reorganization, include a provision determining to which Land the area concerned shall belong.

(3) After adoption of the law, in each area which it is intended should join another Land, that part of the law which concerns this area must be submittted to a referendum. If a popular initiative takes place in accordance with paragraph (2), a referendum must always be carried out in the area concerned.

(4) Insofar as thereby the law is rejected at least in one area, it must be reintroduced in the Bundestag. After re-enactment, it shall require accordingly acceptance by referendum in the entire federal territory.

(5) In a referendum, the majority of the votes cast shall decide.

(6) The procedure shall be regulated by a federal law. The reorganization shall be regulated before the expiry of three years after promulgation of the Basic Law and, should it be necessary in consequence of the accession of another part of Germany, within two years after such accession.

(7) The procedure regarding any other change in the existing territory of the Laender shall be regulated by a federal law, which shall require the approval of the Bundesrat and of the majority of the members of the Bundestag.

ART. 30—The exercise of the powers of the state and the performance of state functions shall be the concern of the Laender, insofar as this Basic Law does not otherwise prescribe or permit.

ART 31—Federal law shall supersede Land law.

ART. 32—(1) The maintenance of relations with foreign states shall be the affair of the Federation.

(2) Before the conclusion of a treaty affecting the special conditions of a Land, the Land must be consulted sufficiently early.

(3) Insofar as the Laender are competent to legislate, they may, with the approval of the Federal Government, conclude treaties with foreign states.

ART. 33—(1) Every German shall have in each Land the same civil *(staatsbürgerliche)* rights and duties.

(2) Every German shall have equal access to any public office in accordance with his suitability, ability and professional achievements.

(3) Enjoyment of municipal and national civil (*bürgerliche und staatsbürgerliche*) rights, access to public offices, as well as the rights acquired in the public service, shall be independent of religious confession. No one may be prejudiced on account of his adherence or non-adherence to a confession or ideology *(Weltanschauung)*.

(4) The exercise of state authority *(hoheitsrechtliche Befugnisse)* shall normally be assigned as permanent functions to members of the public service who are in a status of service and loyalty under public law.

(5) Law regarding the public service shall be regulated with due regard to the established principles concerning the legal status of professional officials *(Berufsbeamtentum)*.

ART. 34—If any person, in exercising the duties of a public office entrusted to him, violates his official obligation towards a third party, liability shall in principle rest with the state or his employing authority. In the case of wilful intent or gross negligence, the right of recourse shall be reserved. In respect to the claim for damages and in respect to the right of recourse, appeal to the ordinary courts must not be excluded.

ART. 35—All federal and Land authorities shall render each other mutual legal and official assistance.

ART. 36—In the highest federal authorities civil servants *(Beamte)* from all Laender shall be employed in equitable ratio. Persons employed in the other federal offices shall normally be selected from the Land in which they are employed.

ART. 37—(1) If a Land fails to fulfil its obligations towards the Federation under the Basic Law or any other federal law, the Federal Government may, with the approval of the Bundesrat, take the neces-

sary measures to force the Land by way of federal compulsion to fulfil its duties.

(2) In order to carry out federal compulsion, the Federal Government or its commissioner shall have the right to give orders to all Laender and their authorities.

III

The Bundestag

ART. 38—(1) The deputies of the German Bundestag shall be elected by the people in universal, free, equal, direct and secret elections. They shall be representatives of the whole people, not bound to orders and instructions and subject only to their conscience.

(2) Any person who has reached the age of 21 years shall be eligible to vote and any person who has reached the age of 25 years shall be eligible for election.

(3) Details shall be determined by a federal law.

ART. 39—(1) The Bundestag shall be elected for a term of four years. Its electoral period shall end four years after its first assembly or with its dissolution. The new election shall take place in the last three months of the electoral period; in the case of its dissolution, at the latest after 60 days.

(2) The Bundestag shall meet not later than thirty days after the election, nevertheless not before the end of the electoral period of the previous Bundestag.

(3) The Bundestag shall determine the closure and resumption of its sessions. The President of the Bundestag may convene it at an earlier date. He shall be obliged to do so if one-third of the members, the Federal President or the Federal Chancellor so demand.

ART. 40—(1) The Bundestag shall elect its President, his deputies and its clerks. It shall draw up its Standing Orders (Rules of Procedure).

(2) The President shall have charge of, and exercise police power in, the Bundestag building. No search or seizure may take place without his permission in the precincts of the Bundestag.

ART. 41—(1) The review of elections shall be the responsibility of the Bundestag. It shall decide also whether a deputy has lost his membership in the Bundestag.

(2) An appeal to the Federal Constitutional Court against a decision of the Bundestag shall be admissible.

(3) Details shall be regulated by a federal law.

ART. 42—(1) Meetings of the Bundestag shall be public. Upon a motion of one-tenth of its members or upon a motion of the Federal Government the public may, by a two-thirds majority, be excluded. A decision on the motion will be made in a closed meeting.

(2) Decisions of the Bundestag shall require the majority of votes cast insofar as the Basic Law does not determine otherwise. Standing Orders (Rules of Procedure) may admit exceptions in the case of elections to be held by the Bundestag.

(3) Accurate reports of the public meetings of the Bundestag and of its committees shall be privileged.

ART. 43—(1) The Bundestag and its committees may demand the presence of any member of the Federal Government.

(2) The members of the Bundesrat and of the Federal Government as well as the persons commissioned by them shall have access to all meetings of the Bundestag and its committees. They must be heard at any time.

ART. 44—(1) The Bundestag shall have the right and, upon the motion of one-fourth of its members, the obligation to set up an investigating committee, which shall take the necessary evidence in public proceedings. The public may be excluded.

(2) The provisions relating to criminal procedure shall apply appropriately to the investigations. Secrecy of the mail, post and telecommunications shall remain unaffected.

(3) The courts and administrative authorities shall be obliged to provide legal and official assistance.

(4) The decisions of the investigating committees shall not be subject to judicial review. The courts shall be free to evaluate and judge the facts on which the investigation is based.

ART. 45—(1) The Bundestag shall appoint a Standing Committee which shall safeguard the rights of the Bundestag vis-à-vis the Federal Government in the interval between two electoral periods. The Standing Committee shall also have the rights of an investigating committee.

(2) Wider powers, in particular the right to legislate, to elect the Federal Chancellor and to impeach the Federal President, shall not be within the province of the Standing Committee.

ART. 46—(1) A deputy may at no time be subject to legal or disciplinary action or otherwise be called to account outside the Bundestag because of his vote or any utterance in the Bundestag or in

one of its committees. This shall not apply in the case of defamatory insults.

(2) A deputy may be called to account or arrested for a punishable offence only with the permission of the Bundestag, unless he be apprehended while committing the offence or in the course of the following day.

(3) Furthermore, the permission of the Bundestag shall be required in respect of any other restriction of the personal freedom of a deputy or for the initiating of proceedings against a deputy in accordance with Article 18.

(4) Any criminal proceedings and any proceedings in accordance with Article 18 against a deputy, any detention and any other restriction of his personal freedom shall be suspended upon the demand of the Bundestag.

ART. 47—Deputies shall be entitled to refuse to give evidence concerning persons who have entrusted facts to them in their capacity as deputies or to whom they in this capacity have entrusted facts, as well as concerning these facts themselves. Insofar as this right of refusal to give evidence extends, the seizure of documents shall be inadmissible.

ART. 48—(1) Any person seeking election to the Bundestag shall have a claim to the leave necessary for his election campaign.

(2) No one may be prevented from assuming or exercising the office of a deputy. Notice of dismissal or dismissal for this reason shall be inadmissible.

(3) Deputies shall have a claim to adequate remuneration, which shall ensure their independence. They shall have the right to free travel in all publicly owned transport. Details shall be regulated by a federal law.

ART. 49—Articles 46, 47 and 48, paragraphs (2) and (3) shall apply to the members of the Praesidium and the Standing Committee as well as to their chief deputies also in the interval between two electoral periods.

IV

THE BUNDESRAT

ART. 50—The Laender shall participate through the medium of the Bundesrat in the legislation and the administration of the Federation.

ART. 51—(1) The Bundesrat shall consist of members of the Governments of the Laender which shall appoint and recall them. They may be represented by other members of their Governments.

(2) Each Land shall have at least three votes; Laender with more than two million inhabitants shall have four, Laender with more than six million inhabitants shall have five votes.

(3) Every Land may delegate as many members as it has votes. The votes of each Land may be given only as a block vote and only by members present or their representatives.

ART. 52—(1) The Bundesrat shall elect its President for one year.

(2) The President shall convene the Bundesrat. He must convene it if the representatives of at least two Laender or the Federal Government so demand.

(3) The Bundesrat shall take its decisions with at least the majority of its votes. It shall draw up its Standing Orders (Rules of Procedure). It shall meet in public. The public may be excluded.

(4) Other members or representatives of the Governments of the Laender may belong to the committees of the Bundesrat.

ART. 53—The members of the Federal Government shall have the right, and on demand the obligation, to participate in the debates of the Bundesrat and its committees. They must be heard at any time. The Bundesrat must be kept currently informed by the Federal Government on the conduct of federal affairs.

V

THE FEDERAL PRESIDENT

ART. 54—(1) The Federal President shall be elected, without discussion, by the Federal Convention. Every German who is eligible to vote in elections for the Bundestag and has reached the age of 40 years shall be eligible for election.

(2) The term of office of the Federal President shall be five years. Immediate re-election shall be admissible only once.

(3) The Federal Convention shall consist of the members of the Bundestag and an equal number of members elected by the popular representative bodies of the Laender according to the principles of proportional representation.

(4) The Federal Convention shall meet not later than thirty days before the expiry of the term of office of the Federal President, in the

case of premature termination not later than thirty days after this date. It shall be convened by the President of the Bundestag.

(5) After the expiry of the electoral period, the time limit of paragraph (4), sentence 1, shall begin with the first meeting of the Bundestag.

(6) The person who has received the votes of the majority of the members of the Federal Convention shall be elected. If such majority is not obtained by any candidate in two ballots, the person who receives most votes in a further ballot shall be elected.

(7) Details shall be regulated by a federal law.

ART. 55—(1) The Federal President may be a member neither of the Government nor of a legislative body of the Federation or a Land.

(2) The Federal President may not hold any other salaried office, carry on a trade or practise a profession or belong to the management or supervisory board of a profit-making enterprise.

ART. 56—On assuming office, the Federal President shall take the following oath in the presence of the assembled members of the Bundestag and the Bundesrat:

> "I swear that I shall dedicate my strength to the wellbeing of the German people, enhance what is to its advantage, ward off what might harm it, uphold and defend the Basic Law and the laws of the Federation, fulfil my duties conscientiously and do justice to every man. So help me God."

The oath may also be taken without the religious asseveration.

ART. 57—In the event of the inability of the Federal President to perform the duties of his office or in the event of a premature vacancy in the office, the functions of the Federal President shall be exercised by the President of the Bundesrat.

ART. 58—Orders and instructions of the Federal President shall require for their validity the counter-signature of the Federal Chancellor or the competent Federal Minister. This shall not apply to the appointment and dismissal of the Federal Chancellor, the dissolution of the Bundestag in accordance with Article 63 and a request in accordance with Article 69, paragraph (3).

ART. 59—(1) The Federal President shall represent the Federation in matters concerning international law. He shall conclude treaties with foreign states on behalf of the Federation. He shall accredit and receive the envoys.

(2) Treaties which regulate the political relations of the Federa-

tion or refer to matters of federal legislation shall require, in the form of a federal law, the approval or the participation of the corporations competent at the time for federal legislation. For administrative agreements the provisions concerning the federal administration shall apply appropriately.

ART. 60—(1) The Federal President shall appoint and dismiss the federal judges and the federal officials unless otherwise determined by law.

(2) He shall exercise the right of pardon on behalf of the Federation in individual cases.

(3) He may delegate these powers to other authorities.

(4) Article 46, paragraphs (2) to (4), shall apply appropriately to the Federal President.

ART. 61—(1) The Bundestag or the Bundesrat may impeach the Federal President before the Federal Constitutional Court on account of wilful violation of the Basic Law or any other federal law. The motion for impeachment must be brought in by at least one-quarter of the members of the Bundestag or one-quarter of the votes of the Bundesrat. The decision to impeach shall require the majority of two-thirds of the members of the Bundestag or of two-thirds of the votes of the Bundesrat. The prosecution shall be conducted by a person commissioned by the impeaching body.

(2) If the Federal Constitutional Court finds that the Federal President is guilty of a wilful violation of the Basic Law or of any other federal law, it may declare him to have forfeited his office. After the institution of impeachment proceedings, the Federal Constitutional Court may, by interim order, determine that the Federal President is prevented from performing the duties of his office.

VI

THE FEDERAL GOVERNMENT

ART. 62—The Federal Government shall consist of the Federal Chancellor and the Federal Ministers.

ART. 63—(1) The Federal Chancellor shall be elected, without discussion, by the Bundestag on the proposal of the Federal President.

(2) The person who has received the votes of the majority of the members of the Bundestag shall be elected. He shall be appointed by the Federal President.

(3) If the person nominated is not elected, the Bundestag may, within fourteen days after the ballot, elect a Federal Chancellor by more than one half of its members.

(4) If the Federal Chancellor is not elected within this time limit a new ballot shall take place immediately, in which the person who receives most votes shall be elected. If the person elected receives the votes of the majority of the members of the Bundestag the Federal President must, within seven days after the election, appoint him. If the person elected does not obtain this majority the Federal President must, within seven days, either appoint him or dissolve the Bundestag.

ART. 64—(1) The Federal Ministers shall be appointed and dismissed by the Federal President upon the proposal of the Federal Chancellor.

(2) The Federal Chancellor and the Federal Ministers, on assuming office, shall take before the Bundestag the oath provided in Article 56.

ART. 65—The Federal Chancellor shall determine and assume responsibility for general policy. Within the limits of this general policy, each Federal Minister shall direct his department individually and on his own responsibility. The Federal Government shall decide on differences of opinion between the Federal Ministers. The Federal Chancellor shall conduct its business in accordance with Standing Orders (Rules of Procedure) adopted by the Federal Government and approved by the Federal President.

ART. 66—The Federal Chancellor and the Federal Ministers may not hold any other salaried office, carry on a trade or practise a profession or belong to the management or, without the approval of the Bundestag, to the supervisory board of a profit-making enterprise.

ART. 67—(1) The Bundestag may express its lack of confidence in the Federal Chancellor only by electing a successor with the majority of its members and submitting a request to the Federal President for the dismissal of the Federal Chancellor. The Federal President must comply with the request and appoint the person elected.

(2) There must be an interval of 48 hours between the motion and the election.

ART. 68—(1) If a motion of the Federal Chancellor to receive a vote of confidence does not obtain the support of the majority of the members of the Bundestag, the Federal President may, upon the proposal of the Federal Chancellor, dissolve the Bundestag within 21 days.

The right of dissolution shall lapse as soon as the Bundestag, with the majority of its members, elects another Federal Chancellor.

(2) There must be an interval of 48 hours between the introduction of, and the vote on, the motion.

ART. 69—(1) The Federal Chancellor shall appoint a Federal Minister as his deputy.

(2) The office of the Federal Chancellor or of a Federal Minister shall end in any case with the assembly of a new Bundestag, the office of a Federal Minister also with any other termination of the office of the Federal Chancellor.

(3) At the request of the Federal President the Federal Chancellor, at the request of the Federal Chancellor or of the Federal President a Federal Minister, shall be obliged to carry out the duties of his office until the appointment of his successor.

VII

THE LEGISLATION OF THE FEDERATION

ART. 70—(1) The Laender shall have the right of legislation insofar as this Basic Law does not accord legislative powers to the Federation.

(2) The division of competence between the Federation and the Laender shall be determined in accordance with the provisions of this Basic Law concerning exclusive and concurrent legislation.

ART. 71—In the field of exclusive legislation of the Federation, the Laender shall have powers of legislation only if, and so far as, they are expressly so empowered in a federal law.

ART. 72—(1) In the field of concurrent legislation, the Laender shall have powers of legislation so long and so far as the Federation makes no use of its legislative right.

(2) The Federation shall have legislative right in this field insofar as a necessity for regulation by federal law exists because:

1. a matter cannot be effectively regulated by the legislation of individual Laender, or
2. the regulation of a matter by a Land law could prejudice the interests of other Laender or of the Laender as a whole, or
3. the preservation of legal or economic unity demands it, in particular the preservation of uniformity of living conditions extending beyond the territory of an individual Land.

ART. 73—The Federation shall have exclusive legislation on:

1. foreign affairs;

2. citizenship of the Federation;
3. freedom of movement, passports, immigration and emigration and emigration and extradition;
4. currency, money and coinage, weights and measures and regulation of time and calendar;
5. the unity of customs and commercial territory, commercial and navigation agreements, the freedom of traffic in goods and the traffic in goods and payments with foreign countries, including customs and frontier protection;
6. federal railways and air traffic;
7. post and telecommunications;
8. the legal status of persons in the employment of the Federation and of public law corporations under direct supervision of the Federal Government;
9. trade marks, copyright and publishing rights;
10. co-operation of the Federation and the Laender in the criminal police and in matters concerning the protection of the constitution, the establishment of a Federal Office of Criminal Police, as well as the combatting of international crime;
11. statistics for federal purposes.

ART. 74—Concurrent legislation shall extend to the following fields:

1. civil law, criminal law and execution of sentences, constitution of courts, court procedure, the bar, notaries and legal advice *(Rechtsberatung);*
2. census and registry matters;
3. associations and assemblies;
4. the right of sojourn and settlement of aliens;
5. the protection of German works of art against removal abroad;
6. matters relating to refugees and expellees;
7. public welfare;
8. citizenship of the Laender;
9. war damages and compensation *(Wiedergutmachung);*
10. provisions for war-disabled persons and surviving dependents, the welfare of former prisoners of war and the care of war graves;
11. law relating to the economy (mining, industry, power supply, crafts, trades, commerce, banking and stock exchanges, private insurances);
12. labour law, including the legal organization of enterprises, pro-

tection of workers and provision of employment, as well as social insurance of scientific research;

13. the furtherance of scientific research;
14. the law regarding expropriation insofar as it is concerned with the matters enumerated in Articles 73 and 74;
15. transfer of land and landed property, natural resources and means of production to public ownership or to other forms of publicly controlled economy;
16. prevention of the abuse of economic power;
17. promotion of agricultural and forestry production, safeguarding of food supply, import and export of agricultural and forestry products, deep-sea and coastal fisheries and coastal preservation;
18. transactions in landed property, law concerning land and agricultural lease, housing, settlements and homesteads;
19. measures against epidemic and infectious diseases affecting humans and animals, the licensing for medical and other healing professions and the healing trade and traffic in drugs, medicines, narcotics and poisons;
20. protection relating to traffic in food and stimulants as well as in necessities of life, in fodder, in agricultural and forestry seeds and seedlings, and protection of trees and plants against diseases and pests;
21. ocean and coastal shipping and aids to navigation, inland shipping, meteorological service, ocean channels and inland waterways used for general traffic;
22. road traffic, motor transport and the construction and maintenance of highways used for long-distance transport;
23. railways other than federal railways, except mountain railways.

ART. 75—The Federation shall have the right on the basis of Article 72 to issue general provisions concerning:

1. the legal status of persons employed in the public service of the Laender, Gemeinden and other public law corporations;
2. the general legal status of the press and motion pictures;
3. hunting, protection of nature and care of the countryside;
4. land distribution, regional planning and water conservation;
5. matters relating to registration and identity cards.

ART. 76—(1) Bills shall be introduced in the Bundestag by the Federal Government, by members of the Bundestag or by the Bundesrat.

(2) Federal Government bills shall first be submitted to the Bundesrat. The Bundesrat shall have the right to give its opinion on these bills within three weeks.

(3) Bundesrat bills shall be submitted to the Bundestag by the Federal Government, which must add a statement of its own views.

ART. 77—(1) Federal laws shall be passed by the Bundestag. After their adoption, they shall, without delay, be submitted to the Bundesrat by the President of the Bundestag.

(2) The Bundesrat may, within two weeks of the receipt of the adopted bill, demand that a committee composed of members of the Bundestag and Bundesrat be convened to consider the bill jointly. The composition and the procedure of this committee shall be regulated by Standing Orders (Rules of Procedure), which shall be agreed by the Bundestag and shall require the approval of the Bundesrat. The members of the Bundesrat deputed to this committee shall not be bound by instructions. If the approval of the Bundesrat is required for a law, both the Bundestag and the Federal Government may demand that it be convened. Should the committee propose an alteration of the adopted bill, the Bundestag must take a new decision.

(3) Insofar as the approval of the Bundesrat is not required for a law the Bundesrat may, if the procedure in accordance with paragraph (2) is completed, within one week veto a law passed by the Bundestag. The time limit for a veto shall begin in the case of paragraph (2), last sentence, with the receipt of the bill as re-adopted by the Bundestag, in all other cases with the conclusion of the procedure preceding the committee provided for in paragraph (2).

(4) Should the veto be adopted by the majority of the votes of the Bundesrat, it may be rejected by a decision of the majority of the members of the Bundestag. Should the Bundesrat have adopted the veto by a majority of at least two-thirds of its votes, the rejection by the Bundestag shall require a majority of two-thirds, or at least the majority of the members of the Bundestag.

ART. 78—A law passed by the Bundestag shall be enacted if the Bundesrat approves, does not bring in a motion in accordance with Article 77, paragraph (2), does not impose a veto within the time limit of Article 77, paragraph (3), withdraws its veto or if the veto is overridden by the Bundestag.

ART. 79—(1) The Basic Law may be amended only by a law which expressly alters or adds to the text of the Basic Law.

(2) Such a law shall require the approval of two-thirds of the members of the Bundestag and two-thirds of the votes of the Bundesrat.

(3) An amendment to this Basic Law by which the organization of the Federation into Laender, the basic co-operation of the Laender in legislation or the basic principles laid down in Articles 1 and 20 are affected, shall be inadmissible.

ART. 80—(1) By means of a law the Federal Government, a Federal Minister or the Land Governments may be authorized to issue orders *(Rechtsverordnungen)*. The contents, purpose and scope of such authorization shall be determined in the law. The legal basis must be cited in the order. If a law provides that an authorization may be further transferred, then the transfer of the authorization shall require an order (*Rechtsverordnung*).

(2) The approval of the Bundesrat shall be required, unless otherwise regulated by federal legislation, for orders *(Rechtsverordnungen)* of the Federal Government or a Federal Minister concerning principles and fees for the use of the facilities of the Federal railways and post and telecommunications, concerning the construction and operation of railways, as well as those issued on the basis of federal laws which require the approval of the Bundesrat or which are executed by the Laender on behalf of the Federation or as their own concern.

ART. 81—(1) Should, in the case of Article 68, the Bundestag not be dissolved, the Federal President may, on the request of the Federal Government with the approval of the Bundesrat, declare a state of legislative emergency for a bill, if the Bundestag rejects it despite the fact that the Federal Government has declared it to be urgent. The same shall apply if a bill has been rejected despite the fact that the Federal Chancellor had combined with it the motion described in Article 68.

(2) If the Bundestag, after the state of legislative emergency has been declared, again rejects the bill or passes it in a version stated by the Federal Government to be unacceptable, the bill shall be deemed adopted insofar as the Bundesrat approves it. The same shall apply if the bill has not been passed by the Bundestag within four weeks after its re-submission.

(3) During the term of office of a Federal Chancellor, any other bill rejected by the Bundestag may be passed within a period of six months after the initial declaration of a state of legislative emergency in accordance with paragraphs (1) and (2). After expiry of the period, a further

declaration of a state of legislative emergency shall be inadmissible during the term of office of the same Federal Chancellor.

(4) The Basic Law may neither be amended nor wholly or partially repealed or suspended by a law enacted in accordance with paragraph (2).

ART. 82—(1) Laws enacted according to the provisions of this Basic Law shall be engrossed by the Federal President with countersignature and published in the Federal Legal Gazette. Orders *(Rechtsverordnungen)* shall be signed by the issuing authority and, unless otherwise regulated by law, published in the Federal Legal Gazette.

(2) Each law and each order *(Rechtsverordnung)* shall specify the date of its coming into force. In the absence of such a provision, they shall come into force on the fourteenth day after the end of the day on which the Federal Legal Gazette has been issued.

VIII

THE EXECUTION OF FEDERAL LAWS AND THE FEDERAL ADMINISTRATION

ART. 83—The Laender shall execute the federal laws as their own concern insofar as this Basic Law does not otherwise determine or permit.

ART. 84—(1) If the Laender execute the federal laws as their own concern they shall regulate the establishment of the authorities and the administrative procedure insofar as federal laws approved by the Bundesrat do not otherwise determine.

(2) The Federal Government may, with the approval of the Bundesrat, issue general administrative provisions.

(3) The Federal Government shall exercise supervision to ensure that the Laender execute the federal laws in accordance with valid law. For this purpose the Federal Government may send commissioners to the highest Land authorities and, with their approval and, in the case of this approval being refused with the approval of the Bundesrat, also to the subordinate authorities.

(4) Should deficiencies established by the Federal Government in the execution of federal laws in the Laender not be overcome then, on application by the Federal Government or the Land concerned, the Bundesrat shall decide whether the Land has infringed law. Against the

decision of the Bundesrat, appeal may be made to the Federal Constitutional Court.

(5) For the execution of federal laws the Federal Government may, by federal legislation which shall require the approval of the Bundesrat, be granted in special cases the power to give individual instructions. They shall, except where the Federal Government considers the case urgent, be directed to the highest Land authorities.

ART. 85—(1) Where the execution of federal laws is delegated to the Laender by the Federation, the establishment of the authorities shall remain a concern of the Laender insofar as Federal legislation approved by the Bundesrat does not determine otherwise.

(2) The Federal Government may issue, with the approval of the Bundesrat, general administrative provisions. It may regulate the uniform training of officials and employees. The heads of the authorities at middle level shall be appointed with its agreement.

(3) The Land authorities shall be subject to the instructions of the highest competent federal authorities. Except where the Federal Government considers it urgent, the instructions shall be directed to the highest Land authorities. Execution of the instructions shall be ensured by the highest Land authority.

(4) Federal supervision shall extend to the legality and suitability of the manner of execution. The Federal Government may for this purpose demand submission of reports and documents and send commissioners to all authorities.

ART. 86—If the Federation executes the laws by direct federal administration or by public law corporations or institutions directly supervised by the Federation, the Federal Government shall, insofar as the law does not prescribe details, issue general administrative provisions. It shall regulate, insofar as it is not otherwise determined by the law, the establishment of the authorities.

ART. 87—(1) The foreign service, the federal finance administration, the federal railways, the federal postal services and, in accordance with the provisions of Article 89, the administration of the federal waterways and shipping, shall be conducted by a direct federal administration with its own lower level administrative offices. Federal frontier protection authorities and central offices for police information and communications, for the compilation of data for purposes concerning the protection of the constitution and for the criminal police may be established by federal legislation.

(2) Public law corporations directly supervised by the Federation shall be those carriers of social insurance whose sphere of competence extends beyond the territory of a Land.

(3) In addition, independent central federal authorities and new public law corporations and institutions directly supervised by the Federation may be established by federal legislation for matters on which the Federation has the power to legislate. Should the Federation acquire new functions in matters for which it has legislative competence, federal authorities at middle and lower levels may in case of urgent need be established with the approval of the Bundesrat and of the majority of the Bundestag.

ART. 88—The Federation shall establish a bank of currency and issue as Federal Bank.

ART. 89—(1) The Federation shall be the owner of the former Reich waterways.

(2) The Federation shall administer the federal waterways through its own authorities. It shall exercise those state functions relating to inland shipping extending beyond the territory of a Land and the functions of ocean-going shipping which are conferred on it by legislation. The Federation may delegate the administration of federal waterways, insofar as they lie within the territory of a Land, to this Land, upon request, to act on its behalf (*Auftragsverwaltung*). Should a waterway touch the territories of several Laender, the Federation may delegate (the administration) to the Land agreed upon by the Laender concerned.

ART. 90—(1) The Federation shall be the owner of the former Reich Autobahnen and Reich highways.

(2) The Laender, or such self-governing corporations under public law as are competent in accordance with Land law, shall administer the federal Autobahnen and other federal highways used for long-distance traffic on behalf of the Federation.

(3) At the request of a Land, the Federation may take over into direct federal administration federal Autobahnen and other federal highways used for long-distance traffic, insofar as they lie within the territory of this Land.

ART. 91—(1) In order to avert an imminent danger to the existence or the free democratic basic order of the Federation or a Land, a Land may call in the police forces of other Laender.

(2) If the Land in which the danger is imminent is not itself pre-

pared or in a position to combat the danger, the Federal Government may place the police in that Land or the police forces of other Laender under its instructions. The order *(Anordnung)* shall be rescinded after the danger has been overcome, otherwise at any time on demand from the Bundesrat.

IX

The Administration of Justice

Art. 92—Judicial authority shall be invested in the judges; it shall be exercised by the Federal Constitutional Court, by the Supreme Federal Court, by the federal courts provided for in this Basic Law and by the courts of the Laender.

Art 93—(1) The Federal Constitutional Court shall decide:

1. on the interpretation of this Basic Law in the event of disputes concerning the extent of the rights and duties of a high federal organ or of other participants accorded independent rights by this Basic Law or in the Standing Orders (Rules of Procedure) of a high federal organ;
2. in cases of differences of opinion or doubts on the formal and material compatibility of federal law or Land law with this Basic Law, on the compatibility of Land law with some other federal law, on the application of the Federal Government, of a Land Government or of one-third of the members of the Bundestag;
3. in cases of differences of opinion on the rights and duties of the Federation and the Laender, particularly in the execution of federal law by the Laender, and in the exercise of federal supervision;
4. on other public law disputes between the Federation and the Laender, between different Laender or within a Land, insofar as appeal to another court is not provided for;
5. in all other cases provided for in this Basic Law.

(2) Furthermore, the Federal Constitutional Court shall act in cases otherwise assigned to it by federal legislation.

Art. 94—(1) The Federal Constitutional Court shall consist of federal judges and other members. The members of the Federal Constitutional Court shall be elected half by the Bundestag and half by the Bundesrat. They may not belong to the Bundestag, the Bundesrat, the Federal Government or corresponding bodies of a Land.

(2) A federal law shall regulate its legal constitution and procedure

and determine in which cases its decisions shall have the force of law.

ART. 95—(1) To preserve the unity of federal law, a Supreme Federal Court shall be established.

(2) The Supreme Federal Court shall decide in cases where the decision is of fundamental importance for the uniformity of the administration of justice of the higher federal courts.

(3) The appointment of the judges of the Supreme Federal Court shall be decided jointly by the Federal Minister of Justice and a committee for the election of judges consisting of the Land Ministers of Justice and an equal number of members elected by the Bundestag.

(4) Otherwise the constitution of the Supreme Federal Court and its procedure shall be regulated by federal legislation.

ART. 96—(1) Higher federal courts shall be established for the spheres of ordinary, administrative, finance, labour and social jurisdiction.

(2) Article 95, paragraph (3), shall apply to the judges of the higher federal courts with the proviso that the place of the Federal Minister of Justice and the Land Ministers of Justice be taken by the Ministers competent for the particular matter. Their conditions of service must be regulated by a special federal law.

(3) The Federation may establish federal disciplinary courts for disciplinary proceedings against federal officials and federal judges.

ART. 97—(1) Judges shall be independent and subject only to the law.

* * *

ART. 99—By Land legislation the decision on constitutional disputes within a Land may be assigned to the Federal Constitutional Court, and the decision of final instance on matters involving the application of Land law to the higher federal courts.

ART. 100—(1) If a court considers unconstitutional a law the validity of which is pertinent to its decision, proceedings must be stayed and, if a violation of a Land Constitution is involved, the decision of the Land court competent for constitutional disputes shall be obtained and, if a violation of this Basic Law is involved, the decision of the Federal Constitutional Court shall be obtained. This shall also apply if the violation of this Basic Law by Land law or the incompatibility of a Land law with a federal law is involved.

(2) If in litigation it is doubtful whether a rule of international law

forms part of federal law and whether it creates direct rights and duties for the individual (Article 25), the court shall obtain the decision of the Federal Constitutional Court.

(3) If the court of a Land, in interpreting the Basic Law, intends to deviate from a decision of the Federal Constitutional Court or the constitutional court of another Land, the said constitutional court must obtain the decision of the Federal Constitutional Court. If, in interpreting other federal law, it intends to deviate from the decision of the Supreme Federal Court or a higher federal court, it must obtain the decision of the Supreme Federal Court.

ART. 101—(1) Extraordinary courts shall be inadmissible. No one may be prevented from appearing before his lawful judge.

(2) Courts for special matters may be established only by law.

ART. 102—The death sentence shall be abolished.

ART. 103—(1) Everyone brought before a court shall have a claim to proper legal hearing.

(2) An act may be punished only if it was punishable by law before the act was committed.

(3) No one may be punished more than once on account of the same act in pursuance of the general criminal laws.

ART. 104—(1) The freedom of the individual may be restricted only on the basis of a formal law and only with due regard to the forms prescribed therein. Detained persons may be subjected neither to physical nor mental ill-treatment.

(2) Only the judge shall decide on the admissibility and continued duration of a deprivation of liberty. If such deprivation is not based on the order of a judge, a court decision must be obtained without delay. The police may, on its own authority, hold no one in custody beyond the end of the day following the arrest. Details shall be regulated by legislation.

(3) Any person temporarily detained on suspicion of having committed a punishable act must, at the latest on the day following the arrest, be brought before a judge who shall inform him of the reasons for the arrest, interrogate him and give him an opportunity to raise objections. Without delay, the judge must either issue a warrant of arrest, setting out the reasons therefor, or order his release.

(4) A relative of the person detained or a person enjoying his confidence must be notified forthwith of any judicial decision in respect of the ordering or the continued duration of a deprivation of liberty.

X

Finance

Art. 105—(1) The Federation shall have exclusive legislation on customs and financial monopolies.

(2) The Federation shall have concurrent legislation on:

1. excise taxes and taxes on transactions, with the exception of taxes with localized application, in particular the taxes on real estate acquistion, incremental value and on fire protection,
2. the taxes on income, property, inheritance and donations,
3. "Realsteuern" (taxes on real estate and on businesses) with the exception of the fixing of tax rates

if it makes a claim on the taxes in their entirety or in part to cover federal expenditures or if the conditions of Article 72, paragraph (2), apply.

(3) Federal legislation on taxes the yield of which accrues in entirety or in part to the Laender or the Gemeinden (Gemeindeverbände) shall require the approval of the Bundesrat.

Art. 106—(1) Customs, the yield of monopolies, the excise taxes with the exception of the beer tax, the transportation tax, the turnover tax and property dues serving non-recurrent purposes shall accrue to the Federation.

(2) The beer tax, the taxes on transactions with the exception of the transportation tax and turnover tax, the income and corporation taxes, the property tax, the inheritance tax, the "Realsteuern" and the taxes with localized application shall accrue to the Laender and, in accordance with Land legislation, to the Gemeinden (Gemeindeverbände).

(3) The Federation may, by means of a federal law which shall require the approval of the Bundesrat, make a claim to a part of the income and corporation taxes to cover its expenditures not covered by other revenues, in particular to cover grants which are to be made to Laender to meet expenditures in the fields of education, public health and welfare.

(4) In order to ensure the working efficiency also of the Laender with low revenues and to equalize the differing burden of expenditure of the Laender, the Federation may make grants and take the funds necessary for this purpose from specific taxes of those accruing to the

Laender. A federal law, which shall require the approval of the Bundesrat, shall determine which taxes shall be utilized for this purpose and in what amounts and on what basis the grants shall be distributed among the Laender entitled to equalization; the grants must be handed directly to the Laender.

ART. 107—The final distribution of the taxes subject to concurrent legislation between the Federation and the Laender shall be effected not later than 31 December 1952 and by means of a federal law which shall require the approval of the Bundesrat. This shall not apply to the "Realsteuern" and the taxes with localized application. In this, both Federation and Laender shall be given a legal claim to certain taxes or shares in taxes corresponding to their functions.

ART. 108—(1) Customs, financial monopolies, the excise taxes subject to concurrent legislation, the transportation tax, the turnover tax and the non-recurrent property dues shall be administered by federal finance authorities. The structure of these authorities and the procedure to be applied by them shall be regulated by federal legislation. The heads of the authorities at middle level shall be appointed by agreement with the Land Governments. The Federation may delegate the administration of the non-recurrent property dues to the Land finance authorities to act on behalf of the Federation *(Auftragsverwaltung)*.

(2) Insofar as the Federation makes a claim to a part of the income and corporation taxes it shall have the right to administer them. It may however, delegate the administration to the Land finance authorities to act on behalf of the Federation.

(3) The remaining taxes shall be administered by Land finance authorities. The Federation may, by means of federal legislation which shall require the approval of the Bundesrat, regulate the structure of these authorities, the procedure to be applied by them and the uniform training of the officials. The heads of the authorities at middle level must be appointed by agreement with the Federal Government. The administration of the taxes accruing to the Gemeinden (Gemeindeverbände) may be transferred by the Laender in entirety or in part to the Gemeinden (Gemeindeverbände).

(4) Insofar as the taxes accrue to the Federation, the Land finance authorities shall act on behalf of the Federation. The Laender shall be liable with their revenues for a regular administration of these taxes; the Federal Minister of Finance may supervise the regular administration through federal plenipotentiaries who shall have the right to give

instructions to the authorities at middle and lower level.

(5) Finance jurisdiction shall be uniformly regulated by federal legislation.

(6) The general administrative provisions shall be issued by the Federal Government and, insofar as the administration is incumbent upon the Land finance authorities, with the approval of the Bundesrat.

ART. 109—The Federation and the Laender shall be self-supporting and independent of each other in their budget economy.

* * *

ART. 113—Decisions of the Bundestag and Bundesrat which increase the budget expenditure proposed by the Federal Government or include, or imply for the future, new expenditure, shall require the approval of the Federal Government.

ART. 114—The Federal Minister of Finance must present to the Bundestag and the Bundesrat an annual statement of all revenues and expenditures as well as of assets and liabilities. The audit thereof shall be carried out by an Audit Office *(Rechnungshof)* the members of which shall possess judicial independence. In order to secure a discharge for the Federal Government, the general statement of account and a survey of the assets and liabilities shall be submitted to the Bundestag and the Bundesrat in the course of the next fiscal year, together with the observations of the Audit Office. The auditing of accounts shall be regulated by a federal law.

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XI

TRANSITIONAL AND CONCLUDING PROVISIONS

ART. 116—(1) Unless otherwise regulated by law, a German within the meaning of this Basic Law is a person who possesses German nationality or who has been accepted in the territory of the German Reich as at 31 December 1937 as a refugee or expellee of German stock or as the spouse or descendant of such person.

(2) Former German nationals who between 30 January 1933 and 8 May 1945 were deprived of their nationality for political, racial or religious reasons, and their descendants, shall be regranted citizenship on application. They shall not be considered to have lost citizenship insofar as they took up residence in Germany after 8 May 1945 and have not expressed a wish to the contrary.

ART. 117—(1) Law which conflicts with Article 3, paragraph (2), shall remain in force until it is adjusted to this provision of the Basic Law, but not beyond 31 March 1953.

(2) Laws which restrict the right of freedom of movement in consideration of the present housing shortage shall remain in force until repealed by federal legislation.

ART. 118—The reorganization of the territory comprising the Laender Baden, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern may be accomplished, by agreement between the Laender concerned, in a manner deviating from the provisions of Article 29. Should an agreement not be reached, the reorganization shall be regulated by federal legislation which must provide for a referendum.

* * *

ART. 121—The majority of the members of the Bundestag and of the Federal Convention within the meaning of this Basic Law shall be the majority of their statutory number of members.

ART. 137—(1) The eligibility for election of officials *(Beamte)*, employees *(Angestellte)* of the public service and judges of the Federation, of the Laender and of the Gemeinden may be restricted by legislation.

(2) For the election of the first Bundestag, of the first Federal Convention and of the first Federal President of the Federal Republic of Germany the Electoral Law to be adopted by the Parliamentary Council shall apply.

(3) The functions of the Federal Constitutional Court pursuant to Article 41, paragraph (2), shall be exercised, pending its establishment, by the German High Court for the Combined Economic Area which shall decide in accordance with its Standing Orders (Rules of Procedure).

* * *

ART. 139—The legal provisions enacted for the liberation of the German people from national socialism and militarism shall not be affected by the provisions of this Basic Law.

ART. 140—The provisions of Articles 136, 137, 139 and 141 of the German Constitution of 11 August 1919 shall be an integral part of this Basic Law.

ART. 141—Article 7, paragraph (3), first sentence, shall not apply

in a Land in which on 1 January 1949 another legal Land regulation existed.

ART. 142—Without prejudice to Article 31, provisions of the Land Constitutions shall also remain in force, insofar as they conform to Articles 1 to 18.

ART. 143—(1) Whoever by force or the threat of force changes the constitutional order of the Federation or of a Land, deprives the Federal President of the powers accorded to him by this Basic Law or who by force or the threat of danger compels him to exercise his powers in a specific manner or not at all, or prevents the exercise of his powers, or deprives the Federation or a Land of a territory belonging to them shall be condemned to penal servitude for life or not less than 10 years.

(2) Whoever publicly incites to an action within the meaning of paragraph (1), or plots or otherwise arranges such an action in connivance with another person, shall be condemned to penal servitude up to 10 years.

(3) In less serious cases, a sentence of not less than two year's penal servitude in the cases provided for in paragraph (1), and of not less than one year's imprisonment in the cases provided for in paragraph (2), may be imposed.

(4) Whoever of his own free will gives up his activity or, in case of participation of several persons, prevents a conspiracy, may not be punished in accordance with the provisions of paragraphs (1) to (3).

(5) Insofar as the action is directed exclusively against the constitutional order of a Land, the highest court of the Land shall, in the absence of any other regulation in Land law, be competent to pass judgment. Otherwise the superior court *(Oberlandesgericht),* in the district of which the first Federal Government chooses its seat, shall be competent.

(6) The aforementioned provisions shall be valid pending another regulation by federal law.

ART. 144—(1) This Basic Law shall require acceptance by the popular representative bodies in two-thirds of the German Laender in which it shall initially be valid.

(2) Insofar as restrictions are imposed on the application of the Basic Law to one of the Laender enumerated in Article 23, paragraph (1), or to a part of one of these Laender, that Land or a part of that Land shall have the right, in accordance with Article 38, to send representatives to the Bundestag and, in accordance with Article 50, to the Bundesrat.

ART. 145—(1) The Parliamentary Council with the participation of the representatives of Greater Berlin shall in a public meeting confirm the adoption of this Basic Law, engross it and promulgate it.

(2) This Basic Law shall come into force at the end of the day of its promulgation.

(3) It shall be published in the Federal Legal Gazette.

ART. 146—This Basic Law shall become invalid on the day when a constitution adopted in a free decision by the German people comes into force.

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77. Memorandum by the Military Governors on the Basic Law[1]

(2 March, 1949)

1. My colleagues and I[2] have asked you to come here today in order that we might comment to you upon several provisions of your proposed Basic Law as it was passed by the Main Committee of the Parliamentary Council. We have studied this document in the light of the Aide Memoire which our Liaison Officers delivered to you on 22 November, 1948.

2. There are a number of provisions in the Basic Law which deviate from detailed principles set forth in that Aide Memoire. However, in viewing the document as a whole we are prepared to disregard some of these deviations but at the same time feel it necessary again to call your urgent attention to other provisions which, in our opinion, depart too far from these principles.

3. In the first place, we would like to point out that the powers of the federal government as now set forth in Article 36 are not defined with sufficient clarity adequately to safeguard the position of the states in a federal system. To correct this we suggest that you delete present Articles 36 and 36a and substitute therefor a new Article 36 based very largely upon your own language and which might read substantially as follows:

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[1] Documents on the Creation of the German Federal Constitution, *op. cit.*, p. 108.

[2] General Robertson, chairman of the meeting between the Military Governors and a Parliamentary Council Delegation.

Article 36

(1) The Laender shall retain the right to legislate in the fields hereinafter enumerated except where it is clearly impossible for a single Land to enact effective legislation or where the legislation if enacted would be detrimental to the rights or interests of other Laender; in such cases, and provided that the interests of several Laender are clearly, directly and integrally affected, the Federation shall have the right to enact such legislation as may be necessary or appropriate:

1. Civil law, criminal law and execution of sentences, constitution of courts, court procedure insofar as the Laender are not competent according to Article 112/2, the bar, notaries and legal advice (*Rechtsberatung*);
2. Census and registry matters;
3. Associations and assemblies;
4. The right of sojourn and settlement of aliens;
5. The protection of German works of art against removal abroad;
6. Matters relating to refugees and expellees;
7. Public welfare;
8. War damages and compensation (*Wiedergutmachung*);
9. Provisions for war-disabled persons and surviving dependents, the welfare of former prisoners of war and the care of war graves;
10. Law relating to the economy (mining, industry, power supply, crafts, trades, commerce, banking and stock exchanges, private insurances);
11. Labor law, including the legal organization of enterprises, protection of workers and provision of employment as well as social insurance including unemployment insurance;
12. The furtherance of scientific research;
13. Expropriation in matters on which the Federation has legislative power;
14. Transfer of land and landed property, natural resources and means of production to public ownership or to other forms of publicly controlled economy;
15. Prevention of the abuse of economic power;
16. Promotion of agricultural and forestry production, safeguarding of food supply, import and export of agricultural and forestry products, deep-sea and coastal fisheries and coastal preservation;

17. Transactions in landed property, law concerning land and agricultural lease, housing, settlements and homesteads;
18. Measures against epidemic and infectious diseases affecting humans and animals, the licensing for medical and other healing professions and the healing trade and traffic in drugs, medicines, narcotics and poisons;
19. Protection relating to traffic in food and stimulants as well as in necessities of life, in fodder, in agricultural and forestry, seeds and seedlings, and protection of trees and plants against diseases and pests;
20. Ocean and coastal shipping and aids to navigation, inland shipping, meteorological services, ocean channels and inland waterways used for general traffic;
21. Road traffic, motor transport and the construction and maintenance of highways used for long-distance transport;
22. Railways other than federal railways, except mountain railways;
23. Citizenship of the Federation and the Laender;
24. Hunting, protection of nature and care of the countryside;
25. Land distribution, regional planning and water conservation;
26. Matters relating to registration and identity cards.

4. In the second place, my colleagues and I would like you to understand that we are ultimately responsible for security and that the powers contained in Article 118c may not be exercised until specifically approved by the Occupation Authorities. This reservation upon the exercise of these police powers will be repeated at the time when you are formally advised of our action with regard to the constitution as a whole.

5. In the third place, we have noted with concern the extent to which the provisions regarding finance powers depart from the criteria agreed upon in London and transmitted to you in paragraph (d) of the Aide Memoire. We have already had occasion to advise you that in our opinion substantially the same provisions would result in "the Laender being left without adequate independent sources of revenue for the conduct of their affairs." We would suggest, therefore, several changes in Articles 122a, 122b and 123 which would enable these articles more nearly to satisfy the principles of financial organization which we believe to be of primary importance in a federal system. We suggest that these be re-worded to read substantially as follows:

Article 122a

The Federation shall have powers of exclusive legislation in customs and financial monopolies (Federal taxes) and of priority legislation on the following taxes (concurrent taxes):

1. Excise taxes and taxes on transactions, with the exception of taxes (Land taxes) with localised application, in particular the taxes on real estate acquisition, incremental value and on fire protection.

2. The taxes on income, property, inheritance and gifts (or donations),

3. "Realsteuern" (taxes on real estate and on businesses), with the exception of the fixing of tax rates.

Article 122b

The Federation shall exercise priority legislation in the field of concurrent taxes only to the extent that it may require the whole or any portion of the proceeds of any concurrent tax or taxes to cover its responsibilities. If the Federation takes over a portion of a concurrent tax the remaining portion shall be retained by the Laender as and where collected.

Article 123

1. The federal taxes shall be administered by federal finance authorities. The Federal Government may, if it so desires, administer, through federal financial authorities, those taxes which it imposes for authorized Federal purposes in their entirety, and the tax on income to the extent that such a tax is for federal purposes. The structure of the Federal finance authorities and the finance courts and the procedure to be applied by them shall be regulated by Federal law. The heads of the finance and customs authorities in the Laender shall be appointed by agreement with the governments of the Laender involved.

2. The Land taxes and concurrent taxes other than those referred to in Article 123 (1), shall be administered by Land finance authorities.

3. The raising of the "Realsteuer" shall be regulated by Land legislation.

To be consistent with what has been said above we wish to call your attention to the need for deleting Article 138c (4) and substituting a detailed specification of Land taxes.

6. In the fourth place, we wish to draw your attention to the fact that Article 129—1 (2) is not entirely clear as to the extent to which

the independence of the judiciary is insured. We urge you to give it your thoughtful attention particularly as to the safeguards provided in connection with the dismissal of judges.

7. In the fifth place, we consider that the possibilities for the Federation to establish its own administrative agencies (Articles 112/2 and 116) are wide. We would therefore like to point out that the Military Governors will have to give careful consideration at the time when such agencies are established to ensure that they do not represent too great a centralisation of power.

8. In the sixth place, we should like to clarify our position with regard to the question of the federal civil service. If principles with regard to the civil service as set out in Articles 27 (b) and 62 are to be embodied in the Constitution, they must be modified to conform to the principles enumerated in paragraphs (g) and (h) in our Aide Memoire of 22 November 1948.

9. A seventh matter which has concerned us is the question of the reorganization of the territories of the Laender as set out in Articles 25 and 26. In this connection we wish to draw your attention to the statements which we made to the Ministers President on the 20th of July, the pertinent portions of which were as follows:

> "We wish you to appreciate that the question of Land boundaries is one of great importance to us. We feel that the present is an appropriate time to deal with it, and we are ready to do so. However, it would be much more difficult for us to deal with it later on. It has, for example, reactions with regard to our own zonal boundaries. We do not feel that we should be willing to deal with the subject again at a later date prior to the conclusion of a peace treaty.
>
> "Moreover, the fixing of Land boundaries is important in relation to the constitution itself. We believe that we should recommend to our Governments that the boundaries which were recognized during the drafting of this constitution should remain unchanged, at least until a peace treaty is signed."

Our position today is the same as it was at that time and we feel we must now advise you that unless we unanimously agree to change this position it must remain so until the peace treaty. In this case also we will remind you of this decision at the time formal action is taken with regard to the Constitution as a whole.

10. Finally, my colleagues and I would like you to know that we understand the solicitude which the Parliamentary Council has shown

for Berlin. However, in view of the existing situation, that portion of Article 22 which refers to Berlin must be suspended. Nevertheless, there would be no objection to the responsible authorities in Berlin designating a small number of representatives to attend the meetings of the parliament.

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78. Military Governors' Letter of Approval of the Basic Law[1]

(12 May, 1949)

Dr. Konrad Adenauer
President of the Parliamentary Council
Bonn

Dear Dr. Adenauer:

1. The Basic Law passed on 8 May by the Parliamentary Council has received our careful and interested attention. In our opinion it happily combines German democratic tradition with the concepts of representative government and a rule of law which the world has come to recognize as requisite to the life of a free people.

2. In approving this constitution for submission to the German people for ratification in accordance with the provisions of Article 144 (1) we believe that you will understand that there are several reservations which we must make. In the first place, the powers vested in the Federation by the Basic Law, as well as the powers exercised by Laender and local Governments, are subject to the provisions of the Occupation Statute which we have already transmitted to you and which is promulgated as of this date.

3. In the second place, it should be understood that the police powers contained in Article 91 (2) may not be exercised until specifically approved by the Occupation Authorities. Likewise the remaining police functions of the Federation shall be governed by our letter to you of 14 April 1949 on this subject.

4. A third reservation concerns the participation of Greater Berlin in the Federation. We interpret the effect of Articles 23 and 144 (2) of the Basic Law as constituting acceptance of our previous request that while Berlin may not be accorded voting membership in the Bundestag or Bundesrat nor be governed by the Federation she may, nevertheless,

[1] Documents on the Creation of the German Federal Constitution, *op. cit.*, 138.

designate a small number of representatives to attend the meetings of those legislative bodies.

5. A fourth reservation relates to Articles 29 and 118 and the general question of the reorganization of Laender boundaries. Excepting in the case of Wuerttemberg-Baden and Hohenzollern our position on this question has not changed since we discussed the matter with you on 2 March. Unless the High Commissioners should unanimously agree to change this position the powers set forth in these articles shall not be exercised and the boundaries of all of the Laender excepting Wuerttemberg-Baden and Hohenzollern shall remain as now fixed until the time of the peace treaty.

6. Fifthly, we consider that Article 84, paragraph 5 and Article 87, paragraph 3, give to the Federation very wide powers in the administrative field. The High Commissioners will have to give careful consideration to the exercise of such powers in order to insure that they do not lead to excessive concentration of authority.

7. At our meeting with you on 25 April, we proposed to you a formula to interpret in English the intention of Article 72 (2), 3. This formula which you accepted as conveying your meaning read as follows:

" . . . because the maintenance of legal or economic unity demands it in order to promote the economic interests of the Federation or to insure reasonable quality of economic opportunity to all persons." We wish you to know that the High Commissioner will interpret this article in accordance with this text.

8. In order to eliminate the possibility of future legal controversy, we would like to make it clear that when we approved constitutions for the Laender we provided that nothing contained in those constitutions could be interpreted as restricting the provisions of the Federal constitution. Conflict between Laender constitutions and the provisional Federal constitution must, therefore, be resolved in favor of the latter.

9. We should also like it to be clearly understood that upon the convening of the legislative bodies provided for in the Basic Law, and upon the election of the President and the election and appointment of the Chancellor and the Federal Ministers, respectively, in the manner provided for in the Basic Law, the Government of the Federal Republic of Germany will then be established and the Occupation Statute shall thereupon enter into force.

10. On the completion of their final task as laid down in Article

145, 1, the Parliamentary Council will be dissolved. We wish to take this occasion to compliment the members of the Parliamentary Council on their successful completion of a difficult task performed under trying circumstances, on the manifest care and thoroughness with which they have done their work and on their devotion to the democratic ideals toward the achievement of which we are all striving.

B. H. ROBERTSON
General
Military Governor
British Zone

PIERRE KOENIG
General d'Armee
Military Governor
French Zone

LUCIUS D. CLAY
General, US Army
Military Governor
US Zone

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79. Electoral Law

(May 10, 1949)

FOR THE FIRST BUNDESTAG AND THE FIRST FEDERAL CONVENTION OF THE FEDERAL REPUBLIC OF GERMANY[1]

A. BUNDESTAG ELECTIONS

ART. 1

(1) Entitled to vote shall be anyone who, on the day of the election:
  (1) is a German subject;
  (2) has completed his 21st year;
  (3) and at least three months before the day of the election is domiciled in, or, in absence of another domicile, has his abode within the federal territory.

(2) Should the provisions of paragraph (1) item 1) above not apply, all those persons of German stock shall also be entitled to vote, who, on 1 January 1945, had their permanent residence within the boundaries of the German Reich as it existed on 1 March 1938, or were domiciled outside those frontiers, and have fled, or been expelled from there, or have been released from war captivity, and who are unable to return to their homeland and have taken up their permanent abode within the federal territory.

[1] Monthly Report of the Military Governor, OMGUS, May 1949, No. 47, pp. 180–187.

ART. 2—Excluded from voting shall be anyone:

(1) who is interdicted or under temporary guardianship or who, by reason of mental deficiency, is under supervision;

(2) who by judgment of a court has legally lost his civic rights;

(3) who according to provisions for denazification (*politische Saeuberung*) existing in the land in which he has his domicile is not entitled to vote;

(4) who, by reasons of his connection with National Socialism, has been arrested by Military Government or has been dismissed, suspended or excluded from his occupation or an influential position in public or private life, and whose determination of legal classification by denazification proceedings is still pending on the day of the election.

ART. 3—The right to vote shall be suspended for persons who on account of mental illness or weakness are lodged in a sanatorium or asylum, or serving a term in prison.

ART. 4—Only he whose name appears on an electoral list or register, or who holds an election certificate, may vote.

ART. 5

(1) Every enfranchised person shall be eligible for election:
   (a) who is 25 years old on the day of the election;
   (b) who on the day of the election has possessed German citizenship for at least one year or who has not hitherto possessed German citizenship and is a refugee or expellee within the meaning of Article 1, paragraph 2;
   (c) and who on 8 May 1949 according to the existing law of the Land in which he is a candidate was eligible for election to the Landtag. Provisions which make eligibility for election dependent on a specified domicile or legal residence or a specified period of domicile or legal residence in a Land shall not apply.

(2) Official (*Beamte*) and judges of the Federation as well as officials of a public law corporation or institution under direct federal supervision or any of the establishments set out in Article 130 of the Basic Law which exercise state authority (*Hoheitsbefugnisse*) shall apply for transfer to the inactive list before accepting election to the Bundestag. The transfer of the officials to the inactive list shall be made for the duration of their membership in the Bundestag without claim to inactive status pay while their claims

apply according to employees of aforementioned administrations which exercise state authority.

ART. 6—An elected candidate shall become a deputy only after he has made a written declaration of acceptance of his election to the Land election officer.

ART. 7—A deputy shall lose his seat:

(1) by non-acceptance;

(2) by subsequent loss of franchise;

(3) by deprivation through a criminal court of the rights derived from public elections;

(4) by declaration of invalidity of the election, or any other form of elimination in the course of electoral review proceedings;

(5) by a subsequently ascertained correction of the election results.

Non-acceptance must be notified to the Land election officer and, after the first convocation of the Bundestag, to the President of the Bundestag; it must be in writing and may not be revoked.

ART. 8

(1) The Bundestag shall consist of at least 400 deputies who shall be elected in the Laender of the Federation in accordance with the following procedure:

The Laender shall elect:	
Baden	11 deputies
Bavaria (including Lindau)	78 "
Bremen	4 "
Hamburg	13 "
Hesse	36 "
Lower-Saxony	58 "
North Rhine-Westphalia	109 "
Rhineland-Palatinate	25 "
Schleswig-Holstein	23 "
Wuerttemberg-Baden	33 "
Wuerttemberg-Hohenzollern	10 "

(2) The Land Governments shall, in an approximate proportion of 60 to 40, distribute the seats allocated to their Laender between districts and supplementary Land nomination lists.

ART. 9—One deputy shall be elected in each electoral district. The candidate who gains the most votes shall be elected.

ART. 10

(1) All votes cast in a Land for each party shall be added together and from this total the mandates accruing to each party shall be

calculated according to the maximum figure procedure (de Hondt).

(2) From the number of deputies thus compilated for each party, the number of mandates acquired by it in the electoral districts shall be deducted. The seats then accruing to it from the supplementary Land nomination lists shall be allocated in order of precedence of those nominations.

(3) Mandates won in the electoral districts shall also remain acquired to the party even if they exceed the figure ascertained according to paragraph 1. In such a case the total number of seats envisaged for the Land shall be correspondingly increased. This increased total shall be taken as a basis for the calculation in paragraph 1.

(4) Parties whose total number of votes amounts to less than 5% of the valid votes within a Land shall not be considered in the calculation and allocation of seats according to paragraphs 1 to 3.

(5) The provision contained in paragraph 4 shall not apply, if the party obtained a seat in an electoral district of the Land.

ART. 11

(1) Written district nominations for each electoral district must be delivered to the district election officer at the latest on the 17th day before the election, during working hours up to 18.00 hours; they must be signed by at least 500 electors of the electoral district. If it is stated in the nomination of a candidate that he stands for a political party, then the signature of the Land party authority competent for the electoral district shall suffice.

(2) Each nomination may contain the name of only one candidate and shall give the surname, christian name, date of birth, place of birth, occupation and address. If the candidate stands for a political party, the designation of the party must likewise be given.

(3) Each candidate shall submit his consent in writing and at the same time an officially attested certificate to the effect that he has complied with the provisions for eligibility. Those supporting documents shall be handed in by the day and time provided for in paragraph 1.

(4) Surnames, christian names, occupation and address of the signatories of the nomination must be given.

ART. 12—Each candidate may only be named on one nomination of an electoral district.

ART. 13—Each voter shall have one vote. The casting of a vote shall

be accomplished by putting a cross against the name of the district nominee to whom he wishes to give his vote.

* * *

ART. 15—If a candidate declines to accept election, if a deputy dies or loses his seat (cf. Article 7), then, in case he had been elected upon district nomination, a by-election shall take place; otherwise, the candidate next in order of precedence on the same supplementary Land nomination list shall take his place.

ART. 16—The combination of nomination lists of several parties is inadmissible.

ART. 17—The nomination of candidates for electoral districts and supplementary Land nomination lists shall be determined by secret vote at a meeting of the political party concerned to which a number of delegates corresponding either to the number of members or to the statutory provisions of the party concerned shall be duly invited. An attested copy of the minutes of this meeting must accompany the nomination.

* * *

B. ELECTIONS TO THE FEDERAL CONVENTION

ART. 24

(1) The delegates to be elected in accordance with Article 54 of the Basic Law of the Federal Republic of Germany from the land parliaments as members of the Federal Convention shall be elected according to the principles of proportional representation.

(2) The Ministers President shall, within three days after the election results have been ascertained, determine the number of delegates to be elected by each Land parliament. The Land parliaments shall, immediately after the receipt of this information, proceed to the election of the delegates and shall transmit the result of the election together with the declaration of acceptance to the Ministers President.

* * *

C. CONCLUDING AND TRANSITIONAL PROVISIONS

ART. 26—Greater Berlin shall have the right to send eight delegates to the Bundestag in an advisory capacity, until the Land Berlin will join the Federal Republic of Germany.

ART. 27—This law shall become effective together with the Basic Law for the Federal Republic of Germany as adopted by the Parliamentary Council.

80. Election Statistics

Comparison of Valid Votes Cast in the Bundestag Election and in the Last Landtag Elections[1]

	14 Aug 1949 Bundestag Election		1946/47 Landtag Elections	
Party[2]	1000 Votes	Per Cent	1000 Votes	Per Cent
CDU/CSU	7,359.0	31.0	6,560.4	37.7
SPD	6,934.9	29.2	6,089.5	35.0
FDP/BDV/DVP	2,829.9	11.9	1,614.9	9.3
KPD	1,361.7	5.7	1,634.5	9.4
BP	986.4	4.2	0	0
DP	939.9	4.0	448.9	2.6
DKP/DRP	429.0	1.8	67.5	0.4
EVD	26.1	0.1	0	0
RSF	216.7	0.9	0	0
RWVP	21.9	0.1	13.5	0
SSW	75.3	0.3	99.5	0.6
WAV	681.8	2.9	225.4	1.3
ZP	727.5	3.1	593.5	3.4
Independents and Local District Parties	1,141.6	4.8	0.5	0
Other	0	0	63.2	0.3
Total Valid Ballots	23,731.7	100.0	17,411.3	100.0

Deputies Elected to the Bundestag by Party and Laender
Federal Republic of Germany
14 August 1949

	Party[2]												
Laender	CDU CSU	SPD	FDP BDV DVP	KPD	BP	DP	DKP DRP	SSW	WAV	ZP	Independents	Total	Deputies
Baden	7	3	2	0	0	0	0	0	0	0	0	12	
Bavaria	24	18	7	0	17	0	0	0	12	0	0	78	
Bremen	1	3	0	0	0	1	0	0	0	0	0	5	
Hamburg	3	6	2	1	0	1	0	0	0	0	0	13	
Hesse	9	13	12	2	0	0	0	0	0	0	0	36	
Lower Saxony	12	24	5	0	0	12	5	0	0	0	0	58	
North Rhine-Westphalia	43	37	10	9	0	0	0	0	0	10	0	109	
Rhineland-Palatinate	13	7	4	1	0	0	0	0	0	0	0	25	
Schleswig-Holstein	8	8	2	0	0	3	0	1	0	0	1	23	
Wuerttemberg-Baden	12	10	7	2	0	0	0	0	0	0	2	33	
Wuerttemberg-Hohenzollern	7	2	1	0	0	0	0	0	0	0	0	10	
Total	139	131	52	15	17	17	5	1	12	10	3	402	

[1] Monthly Report of the Military Governor, OMGUS, July 1949, No. 49, pp. 13–14.

[2] For names of political parties, see list on page 428.

Political Parties

	German	*English*
BP	Bayern Partei	Bavarian Party
BDV	Bremer Demokratische Volkspartei	Bremen Democratic People's Party
CDU	Christlich-Demokratische Union	Christian Democratic Union
CSU	Christlich-Soziale Union	Christian Social Union
DKP	Deutsche Konservative Partei	German Conservative Party
DP	Deutsche Partei	German Party
DRP	Deutsche Rechtspartei	German Rightist Party
DVP	Demokratische Volkspartei	Democratic People's Party
EVD	Europaeische Volksbewegung Deutschlands	European People's Movement in Germany
FDP	Freie Demokratische Partei	Free Democratic Party
KPD	Kommunistische Partei Deutschlands	Communist Party of Germany
RSF	Radikal Soziale Freiheitspartei	Radical Social Freedom Party
RWVP	Rheinisch-Westfaelische Volkspartei	Rhenish-Westphalian People's Party
SPD	Sozialdemokratische Partei Deutschlands	Social Democratic Party of Germany
SSW	Sued-Schleswigsche Waehlervereinigung	South Schleswig Voters' League
WAV	Wirtschaftliche Aufbau Vereinigung	Economic Reconstruction Party
ZP	Zentrumspartei	Center Party

The Allied High Commission and the Bonn Republic

As Western Germany assumed the reins of government, the three allies established a High Commission to observe, and if necessary, to control certain aspects of the occupation which now became civilian rather than military. The United States is represented by a High Commissioner, and through him and the other two allied High Commissioners negotiations, like the one given here in the so-called Bonn Protocol, are regularly conducted with the constituted German authorities.

81. Executive Order

Establishing the Position of United States High Commissioner for Germany[1]

By virtue of the authority vested in me by the Constitution and the Statutes, including the Foreign Service Act of 1946 (60 Stat. 999), and as President of the United States and Commander-in-Chief of the Armed Forces of the United States, it is ordered as follows:

[1] Executive Order 10062. Federal Register, 41 (1949), 2965.

1. There is hereby established the position of United States High Commissioner for Germany, which position shall be that of Chief of Mission, Class 1, in accordance with the provisions of the said Foreign Service Act of 1946.

2. The United States High Commissioner for Germany, hereinafter referred to as the High Commissioner, shall be the supreme United States authority in Germany. The High Commissioner shall have the authority, under the immediate supervision of the Secretary of State (subject, however, to consultation with and ultimate direction by the President), to exercise all of the governmental functions of the United States in Germany (other than the command of troops), including representation of the United States on the Allied High Commission for Germany when established, and the exercise of appropriate functions of a Chief of Mission within the meaning of the Foreign Service Act of 1946.

3. With respect to military matters, the Commander of the United States Armed Forces in Germany shall continue to receive instructions directly from the Joint Chiefs of Staff. On request of the High Commissioner, such Commander shall take necessary measures for the maintenance of law and order and such other action as is required to support the policy of the United States in Germany. If major differences arise over policy affecting military matters, necessary reports and recommendations shall be referred to the Department of State and to the National Military establishment for resolution. In the event of an emergency involving the security of the United States Forces in Europe, such Commander may take whatever action he considers essential to safeguard the security of his troops.

4. In the event that the High Commissioner shall assume his duties in accordance with this Executive Order prior to the date that the Military Government of the United States Zone of Germany is terminated, he shall during such interval report to the Secretary of Defense, through the Secretary of the Army, and shall be the United States Military Governor with all the powers thereof, including those vested in the United States Military Governor under all international agreements.

(s) HARRY S. TRUMAN

The White House,
June 6, 1949.

82. Charter of the Allied High Commission for Germany[1]

Establishment of Allied High Commission and Transfer of Control

I

1. An Allied High Commission (hereinafter referred to as the High Commission) is hereby established for the exercise of supreme Allied authority in the Federal Republic of Germany. The High Commission shall be headed by three High Commissioners, one designated by each of the three powers signatory hereto.

2. As from the date of the entry into force of the Occupation Statute all authority with respect to the control of Germany or over any governmental authority thereof, vested in or exercised by the respective commanders-in-chief of the forces of occupation of the three powers in Germany, from whatever source derived and however exercised, will be transferred to the three High Commissioners respectively, to be exercised in accordance with the provisions hereof and of the Occupation Statute.

3. The forces of occupation of the three powers in Germany shall remain stationed in their respective zone of occupation. Command of the forces of occupation in each zone and control of their related military establishments shall remain with the respective commanders of the forces of occupation in such zones.

4. Legislation of the occupation authorities enacted before the effective date of the occupation statute shall remain in force until repealed or amended or otherwise replaced as provided in the Occupation Statute.

II

Functions of the High Commission

1. The High Commission shall exercise control over the Federal Government and the governments of its constituent Laender as provided in the Occupation Statute. In the exercise of the powers reserved to the occupation authorities under said Statute, the High Commission shall reach its decisions in accordance with the provisions of the

[1] Monthly Report of the Military Governor, OMGUS, June 1949, No. 48, pp. 116–122.

"Agreement as to Tripartite Controls" among the three powers dated 8 April 1949 and attached hereto and made a part of this instrument as Annex A. These decisions shall constitute a joint exercise of the authority of all the three High Commissioners.

2. The High Commission shall act only through the Federal or appropriate Land government except where direct action or legislation by the High Commission is necessary, or appropriate for the due exercise of any of the powers reserved to the occupation authorities under the Occupation Statute.

3. The headquarters of the High Commission shall be at the seat of the German Federal Government which, together with a surrounding area to be defined, will constitute a special area directly under the High Commission, and excluded from any individual zone of occupation. The necessary special arrangements in connection with the definition and administration of this area in as far as they concern the Allies will be determined subsequently by the High Commission.

III

ORGANIZATION OF THE HIGH COMMISSION

1. The organization of the High Commission at its headquarters shall be tripartite in character and shall consist of:

a. An Allied Council (hereinafter referred to as "The Council") composed of the three High Commissioners. Each High Commissioner shall nominate a deputy or permanent representative who will take his place on the Council in his absence. The deputies or permanent representatives of the respective High Commissioners acting together may function as an Executive Committee of the Council if the Council so decides;

b. Such committees or bodies as the Council may from time to time establish. These committees and bodies shall advise the Council in their respective spheres and shall exercise such executive functions as the Council may delegate to them. The number, functions and organization of such committees or bodies may be changed, adjusted or eliminated entirely by the Council in the light of experience. Subject to the above, in order to ensure continuity of operation, the Council initially shall be assisted by committees respectively for political affairs, foreign trade and exchange, finance, economics, law and by the Military Security Board. Each

committee shall be assisted by such associated staff as it may require and as the Council approves;

c. An Allied General Secretariat.

The Council

2. The Council shall constitute the supreme authority of the High Commission. The Council shall meet as frequently as it considers necessary and at any time upon the request of any of its members. The chairmanship of the Council and its various committees shall be held in monthly rotation, by each of its members. The Council shall fix the time and place of its meetings and shall establish appropriate rules and procedures for the conduct of its business. Decisions of the Council shall be reached in accordance with Annex A hereof.

Committees

3. The composition of each Committee and its terms of reference shall be fixed by the Council. Initially, such Committees, together with their respective terms of reference, shall be as follows:

a. The Political Affairs Committee, consisting of the three Political Advisers to the respective High Commissioners, will be concerned with all political and foreign affairs of the German Federal and Land governments coming within the competence of the Council;

b. A Foreign Trade and Exchange Committee consisting of the respective Economic and Finance Advisers of each of the High Commissioners.

(i) The Committee shall observe the economic, financial and foreign trade policies of the German authorities and shall advise the Council if such policies or any action taken or proposed to be taken pursuant thereto is likely to have such adverse effect on the foreign trade or foreign exchange resources of the German Government as is likely to increase its need for external assistance.

(ii) The members of the Committee shall automatically be members of the Board of Directors of the Joint Export-

Import Agency (hereinafter referred to as "JEIA") and in conjunction with the other directors shall be charged with the orderly liquidation of JEIA at the earliest practicable date. The committee shall assume any control functions presently exercised by JEIA as may warrant retention when the liquidation of JEIA is completed.

(iii) It is understood that the German Federal Republic will become party to the convention for European Economic Cooperation and will execute a bilateral agreement with the Government of the United States. It is further understood that thereafter the functions of the High Commission in respect of the matters referred to in (i) will be appropriately modified;

c. The Economics Committee, consisting of the three Economics Advisers to the respective High Commissioners, shall observe the general economic policies of the German authorities and shall advise the Council as to the exercise of its powers in this connection reserved under the Occupation Statute. The Committee shall advise the Council on all matters relating to the decartelization and deconcentration of German industry;

d. The Finance Committee, consisting of the Finance Advisers to the respective High Commissioners, shall observe the general financial policies of the German authorities, and shall advise the Council as to the exercise of its powers in this connection reserved under the Occupation Statute. To the extent necessary within the limits of the provisions of the Occupation Statute the Finance Committee shall succeed to and shall assume the functions heretofore exercised by the Allied Bank Commission;

e. The Law Committee, consisting of the Legal Advisers to the respective High Commissioners, shall advise the Council and its committees on all legal and judicial affairs arising out of the work of the High Commission.

f. The Military Security Board shall deal with all matters of demilitarization, disarmament, industrial prohibitions and limitations, and scientific research, in accordance with its existing terms of reference.

* * *

IV

LAND COMMISSIONERS

2. To achieve uniformity in the exercise of its powers, the High Commission shall be represented at the seat of government of each of the constituent Laender by an Allied Land Commissioner who shall be solely responsible to the Council for ensuring due compliance on the part of the Land authorities with the Council's decisions and directives. The Land Commissioner shall report and be solely responsible to the Council for all matters of tripartite concern in the Land and shall be the exclusive channel of communication and liaison between the Council and the Land Government with respect to such matters.

* * *

3. Each High Commissioner shall designate an observer together with a small personal staff to be agreed in each case by the High Commissioners concerned, to each of the Land Commissioners outside of his own zone for purposes of consultation and information.

* * *

Paris,
20th June, 1949.

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83. Text of Protocol of Agreements Reached between the Allied High Commissioners and the Chancellor of the German Federal Republic on November 22, 1949[1]

Following upon the meeting of the three Foreign Ministers in Paris on November 9 and 10 the United Kingdom, French and United States High Commissioners were authorized to discuss with the Federal Chancellor the letters which he had addressed to them on the subject of dismantling with a view to a final settlement of this problem. The instructions to the High Commissioners also covered a wider field and required them to examine with the Chancellor other points to be included in a general settlement. Discussions took place accordingly on November 15, 17 and 22 on the Petersberg.

The discussions were animated throughout by the desire and the

[1] DSB, December 5, 1949.

determination of both parties that their relations should develop progressively upon a basis of mutual confidence. Meanwhile, their primary objective is the incorporation of the Federal Republic as a peaceful member of the European community and to this end German association with the countries of Western Europe in all fields should be diligently pursued by means of her entry into the appropriate international bodies and the exchange of commercial and consular representation with other countries. Both the High Commissioners and the Chancellor appreciate that progress towards this objective must depend upon the establishment of a true sense of security in Western Europe and they have addressed themselves particularly to this end. In all these matters they have been encouraged to find a wide community of ideas and intention and they have in particular agreed upon the following:

I. The High Commission and the Federal Government are agreed to promote the participation of Germany in all these international organizations through which German experience and support can contribute to the general welfare. They record their satisfaction at the various steps already achieved in this direction citing German participation in OEEC, the desire expressed on both sides that the Federal Republic should be promptly admitted to the Council of Europe as an associate member and the proposed signature of a bilateral agreement with the Government of the United States of America covering ECA assistance.

II. The Federal Government, appreciating the desirability of the closest possible cooperation by Germany in the rehabilitation of Western European economy, declares its intention of applying for membership in the International Authority for the Ruhr in which, at present, the Federal Government is only represented by an observer, it being understood between both parties that German accession will not be subject to any special conditions under Article 31 of the agreement for the establishment of the Authority.

III. The Federal Government further declares its earnest determination to maintain the demilitarization of the Federal territory and to endeavor by all means in its power to prevent the re-creation of Armed Forces of any kind. To this end the Federal Government will cooperate fully with the High Commission in the work of the Military Security Board.

IV. It is further agreed between them that the Federal Government

shall now initiate the gradual re-establishment of consular and commercial relations with those countries where such relations appear advantageous.

V. The Federal Government affirms its resolve as a freely elected democratic body to pursue unreservedly the principles of freedom, tolerance and humanity which unite the nations of Western Europe and to conduct its affairs according to those principles. The Federal Government is firmly determined to eradicate all traces of Nazism from German life and institutions and to prevent the revival of totalitarianism in this or any form. It will seek to liberalize the structure of government and to exclude authoritarianism.

VI. In the field of decartelization and monopolistic practices the Federal Government will take legislative action corresponding to decisions taken by the High Commission in accordance with Article 2 (B) of the Occupation Statute.

VII. The High Commission has communicated to the Chancellor the terms of an agreement reached by the three powers for the relaxation of the present restrictions on German shipbuilding.

The main provisions now agreed are as follows:

The construction of ocean-going ships excluding those primarily designed for passengers, and tankers up to 7,200 tons, fishing vessels up to 650 tons and coastal vessels up to 2,700 tons not exceeding 12 knots service speed may begin forthwith. The number of such ships to be constructed shall not be limited.

The Federal Government may, with the approval of the High Commission acquire or construct before December 31, 1950 six special ships exceeding these limitations of size and speed. Further particulars on this point were communicated to the Chancellor.

The Federal Chancellor raised the question of the construction and repair of ships in German shipyards for export. The High Commissioners informed him that this matter was not discussed by the Committee of Experts and that they were not in a position to give him a final decision on it. However, they will meanwhile authorize German shipyards to construct for export ships of the types and within such limits of numbers as are applicable to construction for the German economy; they will authorize repair of foreign ships without restriction.

VIII. On the question of dismantling, the High Commission has received the present position in the light of the assurances given by the Federal Government and has agreed to the following modification of

the programme. The following plants will be removed from the reparations list and dismantling of their equipment will cease forthwith.[2]

* * *

Except that electric furnaces not essential to the functioning of the works will continue to be dismantled or destroyed.

C. Further dismantling at the I.G. Farben plant at Ludwishafen will not take place except for the removal of the equipment for the production of synthetic ammonia and methanol to the extent provided for in the reparations programme.

D. All dismantling in Berlin will cease and work on the affected plants will be again rendered possible.

It is understood that equipment already dismantled will be made available to IARA[3] except in the case of Berlin. The present modification of the reparations list will not affect the existing prohibitions and restrictions upon the production of certain materials. Dismantled plants may be reconstructed or re-equipped only as permitted by the Military Security Board and those plants at which dismantling has been stopped will be subject to suitable control to ensure that the limitation on the production of steel (11.1 million tons per annum) is not exceeded.

IX. The question of the termination of the state of war was discussed. Although such termination may be as consistent with the spirit of this protocol, it presents considerable legal and practical difficulties which need to be examined.

X. The High Commissioners and the Federal Chancellor have signed this protocol with the joint determination to carry into effect the purposes stated in the preamble hereof and with the hope that their understandings will constitute a notable contribution to the incorporation of Germany into a peaceful and stable European community of nations.

Initialled:

B. H. ROBERTSON
A. FRANCOIS-PONCET
J. J. McCLOY

K. ADENAUER

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[2] List of 10 Synthetic Oil and Rubber Plants, and 7 Steel Plants.
[3] Inter-Allied Reparations Agency.