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CONSTITUTIONS
of
NATIONS

SECOND PRINTING
OF THE
SECOND EDITION

CONSTITUTIONS

of

NATIONS

SECOND EDITION

The first compilation in the English language of the texts of the constitutions of the various nations of the world, together with summaries, annotations, bibliographies, and comparative tables

VOLUME I

AFGHANISTAN to FINLAND

Semina
DEPARTMENT O
OSMANIA UNIVER
S. No.....
Sec. No.....

by

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PRINTED IN THE NETHERLANDS

In three Volumes

VOLUME I

AFGHANISTAN to FINLAND

TO

THE ONCOMING GENERATIONS

FOREWORD TO THE SECOND EDITION

Since the publication of the first edition in 1950 major changes have occurred in the texts or status of the constitutions of 35 of the total of 89 nations—approximately 40 percent of them.[1] Five new countries have become generally recognized sovereign nations.[2]

Other changes in the second edition include improvements in translations and summaries, revisions of tables, and additions to bibliographies.

The Editor apologizes to subscribers whose orders for the first edition could not be filled. The edition was exhausted and it has not been possible, until now, to act upon orders recently received.

Consideration is being given to placing this compilation on the basis of loose leaf supplements, with current changes being supplied annually to subscribers. That would involve the necessity of a very considerable increase in the price, or else a substantial annual service charge. For the present that is not being attempted. Old subscribers will be given preference in the distribution of copies of this second edition, and new subscribers will receive copies in the order of receipt of their subscriptions.

The Editor is particularly indebted to the Pan American Union which supplied the English texts of the new Latin American constitutions, and to the Foreign Offices, the Embassies in Washington and Canberra, the United Nations Missions and the Information Offices of many of the countries, for the texts of constitutions and amendments, as well as much other helpful information.

United States Embassy
Canberra, Australia
January 1. 1956

Amos J. Peaslee

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[1] Albania, Bhutan, Brazil, Cambodia, Denmark, Egypt, El Salvador, Germany, Greece, Haiti, Hungary, India, Indonesia, Iran, Israel, Jordan, Laos, Libya, Mexico, Nepal, the Netherlands, New Zealand, Nicaragua, Pakistan, Poland, Portugal, Rumania, Switzerland, Syria, Thailand, United States of America, Uruguay, Venezuela, Viet Nam and Yugoslavia.

[2] Cambodia, Indonesia, Laos, Libya, Viet Nam.

FOREWORD TO THE FIRST EDITION

This is the first compilation ever published in the English language of all of the national constitutions of the world.[1]

The British Foreign Office in 1938 announced the publication of such a work, but the war and many constitutional changes intervened, and only one volume of that project ever appeared.[2]

The general plan of these volumes and much of their text have been scrutinized before publication by a group of authorities on constitutional and international law, and literature. They are not responsible for the comments or conclusions, but their criticisms and suggestions have been most helpful. The group includes Ralph G. Albrecht, George Agnew Chamberlain, Frederic R. Coudert, Willard B. Cowles, Wadsworth Cresse, Jr., John Erskine, George A. Finch, Christopher B. Garnett, John N. Hazard, Gerald J. McMahon, Martin Hill, Manley O. Hudson, Wilfred Jenks, Alfred D. Lindley, Harold H. Martin, John J. McCloy, John W. Nason, Harold E. Stassen, Dorothy Stratton, Edgar Turlington, William Roy Vallance, Sarah Wambaugh, and Thomas Raeburn White.

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[1] The excellent French compilation *Les Constitutions Modernes* by F. R. Dareste and P. Dareste (see Revised Editions by Joseph Delpech and Julien Laferriere, Librairie du Recueil Sirey, Paris) has not been reproduced in English, nor is it current. Other foreign collections and partial English compilations include *Modern Constitutions* by Walter Fairleigh Dodd (Chicago University Press, 1902); *Federal and Unified Constitutions* by Arthur Percival Newton (Longmans Green, 1923); *American Constitutions* by José Ignacio Rodriguez (Government Printing Office, Washington, 1907); *Les Constitutions de l'Europe Nouvelle* and *Les Constitutions des Nations Americaines*, by B. Mirkine-Guetzevitch (Librairie Delgrave, Paris 1932); *Constituciones Políticas de América*, by Andrés Maria Lazcano y Mazón (Cultural, S. A., Havana, 1942); *Konstitutsii Burzhuaznykh Stran* (Constitutions of Bourgeois Countries, published in Leningrad and Moscow in 1935–36); *The New Constitutions of Europe* by McBain and Rogers (Doubleday Page, 1922); *The Constitutions of the States at War, 1914–19*, by Herbert Francis Wright (Government Printing Office, Washington, 1919); *Constitutions, Electoral Laws, Treaties of States of the Near and Middle East*, by Helen Miller Davis (Duke University Press, 1947); and *The Constitutions of the Americas* by Russell H. Fitzgibbon (Chicago Univ. Press, 1948).

See also *Constitutional Provisions concerning Social and Economic Policy*, published by the International Labour Office, 1944 and *Collection des constitutions, chartes et lois fondamentales des peuples de l'Europe et des deux Amériques*, by Pierre Armand Dufau, *et al.*, Paris, 1821–23; *Constituciones políticas de la América meridional* by Justo Arosemena, Havre, 1870; *Les constitutions de tous les pays civilisés*, by Princesse de Lesignano, Brussels, 1880; *Recopilación de las constituciones vigentes en Europa y América*, by Francisco de Heredia, Madrid, 1884; *The Convention Manual of the Sixth New York State Constitutional Convention*, 1894, Vol. III, Part II, Albany, N. Y. 1894; *Die Staatsverfassungen des Erdballs*, Charlottenburg, 1909; *Constituciones vigentes de los estados americanos*, by Rafael Altamira y Crevea, Madrid, 1929–30; and *Las Constituciones de América*, by Leonardo Pasquel, Mexico D. F., 1943.

[2] *Constitutions of All Countries*, Vol. 1, "The British Empire", Foreign Office, H.M.S.O., London, 1938.

I am particularly indebted to Dr. Ivan Kerno, the chief legal officer of the United Nations for his generous introduction; and to the Foreign Offices and Washington Embassies of many of the nations, and Edgar Turlington and Dexter Brigham, two of my law partners, for their extensive assistance.

Translations and studies were contributed by Senator Edgar H. Brookes, Ma. Litt., of South Africa; James Christie, C.M.G., LL.M., counsel to the New Zealand Law Drafting Office; José F. Estigarribia, former President of the Republic of Paraguay; Arturo Despradel, Secretary of Foreign Relations of the Dominican Republic, and Professor Gunnar Thoroddson of the University of Iceland. Several translations from Spanish and French texts have been made by my daughters, Dorothy Waddington Peaslee of the Secretariat of the United Nations, and Lucy P. Dougall. Some research was done by Rubén Gonzales Sosa and Gustavo García Guerrero, of Mexico. The indexing and much of the final checking of proof were done by James Wood.

The excellent reproduction of the national seals and coats of arms is the work of my friend and associate in the Army and at the Versailles Peace Conference, Joseph P. Sims of Philadelphia. Mr. Sims was accorded the courtesy of access to the unrivaled collection of the National Geographic Society.

The present effort is intended for the use of persons primarily interested in present day problems of world government. Since the process of constitution-building—both international and national—is likely to be a major interest and occupation for some years yet to come, it is hoped that these volumes may find a welcome among statesmen and public officials, lawyers and jurists, business men and labor leaders, educators and students.

Justice House, *Amos J. Peaslee*
Clarksboro, New Jersey, U.S.A.
June 1, 1949

CONSTITUTIONS OF NATIONS

INTRODUCTION TO THE FIRST EDITION

by

DR IVAN KERNO

Assistant Secretary-General in charge of the Legal Department

United Nations

As nations have grown closer together through the years an increasing interest in the lives and customs of other peoples has been evident in every corner of the globe. This desire for greater understanding is not an idle curiosity, but a universal necessity if the peoples of the world are, in the words of the Charter of the United Nations, "to practice tolerance and live together in peace with one another as good neighbors." Perhaps the need is nowhere of greater importance than in the understanding of the different legal systems and the fundamental constitutional principles of government. This need is particularly evident to those of us with the United Nations who from day to day must deal with the inter-relations of the Member States.

Mr. Peaslee's *Constitutions of Nations* is a real contribution to this essential understanding of fundamental principles of government of the various countries, and is thus a welcome response to a real and vital need. A scholarly work of this character, presenting the texts of the constitutions of the nations of the world, not only makes available to a much wider audience these indispensable materials for the study of international and national constitution building, but also immeasurably lightens the research burden of those who must daily deal with the legal relations of states. Mr. Peaslee's publication should prove very useful to international and national statesmen, officials, lawyers, educators and students of international affairs.

The compilation of the constitutions of the states of the world is a project which might well have been undertaken by the United Nations itself. Indeed such a task was suggested and discussed. Abstracts from constitutional materials dealing with human rights and fundamental freedoms are being published in the United Nations Yearbook on Human Rights. But it was recognized that even for the work in the field of human rights

the complete texts of the constitutions would be desirable, and in many instances necessary. There are in existence, of course, several compilations and partial compilations of constitutions as enumerated in Mr. Peaslee's Foreword to this collection. All of these are extremely valuable, but none of them now present the completely up-to-date and comprehensive collection which Mr. Peaslee has compiled. In addition Mr. Peaslee brings us the first complete work of this kind ever published in the English language. The bibliographies, tables, and summaries add to the convenience and value of the collection.

Mr. Peaslee is eminently qualified by his long and active experience in the fields of both international and constitutional law to prepare a publication of the present character. His name is well known to most practicing lawyers and jurists throughout the world. As Secretary General of the International Bar Association he is doing much to promote the growth of international law and to establish and maintain friendly relations among the members of the legal profession of every country. Such activity is itself a great service to the United Nations and to its cause, the cause of peace, which is the fervent desire of all peoples everywhere.

Under Article 13 of the Charter of the United Nations the General Assembly has been entrusted with the task of initiating studies and making recommendations for the purpose of encouraging the progressive development of international law and its codification. With this objective in view the General Assembly has established an International Law Commission whose eminent members will contribute greatly to the growth and clarification of the law of nations. The ILC must have the cooperation not only of governments and scientific institutions, but of individual jurists throughout the world. Publications such as Mr. Peaslee's *Constitutions of Nations* are a great contribution to the important task of encouraging the development of international law, and it is hoped that other projects undertaken by the lawyers and scholars of every country may be of equal service in advancing the task which lies ahead.

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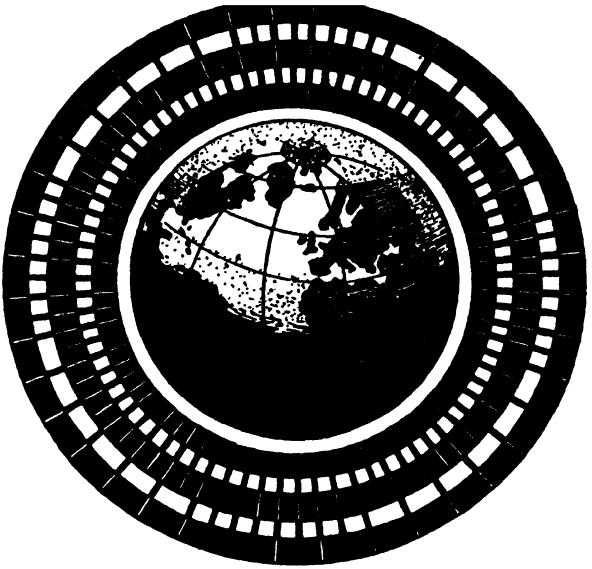
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GENERAL SUMMARY[1]

by AMOS J. PEASLEE

INTERNATIONAL STATUS

The two and a half billion human beings of the world are now organized into approximately eighty-nine political entities which claim, and are accorded internationally for most purposes, sovereign national status.

The List of Nations

The yardstick for measuring precisely what constitutes a "nation" is not easy to find. The list of nations obviously cannot be limited to the present members of the United Nations.[2] Nor can the list be as inclusive as the memberships of the Universal Postal Union and of some other international bodies which sometimes include colonies, territories and similar units.

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[1] The seal or coat of arms which appears over this heading is a form which was designed by the late Joseph P. Sims as a suggestion for the United Nations seal. This form was used first in the book "United Nations Government" by Amos J. Peaslee, published by G. P. Putnams Sons in 1945.

[2] There are seventy six members of the United Nations at the date of our going to press.

In the present rapidly changing world complete agreement as to any list of "nations" is not to be expected. There are borderline cases in the list dealt with in these volumes and there would be, we believe in any other list. Nor do we think it would be profitable for the purposes of this compilation to enter into detailed discussion of the distinction between *de facto* and *de jure* recognition, nor to discuss extensively the status of a "state" as sometimes distinguished from that of a "nation".

The list of "nations" dealt with in these volumes is offered as our best judgment of an appropriate list for this particular purpose and at this particular moment of going to press (January 1, 1956).

Membership in International Organizations

No attempt has been made in this work to analyze completely the membership of the various nations of the world in all of the 100 or more international governmental organizations which now exist.[1] Seventy-six of the eighty-nine nations are members of the United Nations. Of these, fifty-one were authorized to sign the Charter at San Francisco in June, 1945, and twenty-five[2] have since been admitted to membership. Six applications for membership are pending.[3]

All of the nations which are members of the United Nations are automatically, by reason thereof, parties to the Statute of the International Court of Justice.[4] In addition Switzerland and Liechtenstein have adhered to the Statute of the International Court of Justice, although they are not members of the United Nations[5]. Of the seventy-eight parties to the Statute of the International Court of Justice, thirty-five have accepted compulsory jurisdiction of the Court under article 36 of its Statute, with various reservations and conditions.[6] Automatic jurisdiction of the Court has also been accepted under the constitutions of various Specialized Agencies of the United Nations and under conventions, and trusteeship and other international agreements.[7]

Forms of National Governments

Written or Unwritten Constitutions

Of the total of eighty-nine nations, eighty, or approximately 90 percent,

[1] See Table I, and "International Governmental Organizations", Peaslee, Nijhoff, the Hague, and the Justice House, New York, 1956, and the list contained in the Yearbook of International Organizations, Brussels, and that published yearly by the Economic and Social Council of the United Nations.

[2] Afghanistan, Albania, Austria, Bulgaria, Burma, Cambodia, Ceylon, Finland, Hungary, Iceland, Indonesia, Ireland, Israel, Italy, Jordan, Laos, Libya, Nepal, Pakistan, Portugal, Rumania, Spain, Sweden, Thailand and Yemen.

[3] Democratic Republic of Viet Nam, Japan, Korea, the Mongol People's Republic. People's Democratic Republic of Korea, and Viet Nam.

[4] See Art. 93 of the Charter of the United Nations.

[5] See Yearbook of the Court, 1951–52, pp. 36–43.

[6] Ibid.

[7] Ibid.

have "written constitutions" in the sense that their basic organic law is expressed in a single written document or documents intended as the outline of the form of government of the nation and as the supreme definition of the functions and powers of the legislative, executive, and judicial organs of government.[1] In two instances [2] written constitutions are in the process of being prepared, and some governments are functioning under interim or provisional constitutions.[3]

Ages of National Constitutions

The recent origin of most of the national constitutions is particularly noteworthy. Forty, or about 45 percent of all of the written national constitutions, are less than ten years old; and fifty-six, or about 70 percent of them, are less than 25 years old.[4]

Although the United States ranks as a relatively young nation in the Family of Nations, its constitution, whose success, as Sir Henry Sumner Maine said, "has blinded men to its novelty", is the oldest of all written national constitutions now in force.

Federal or Unitary

The dividing line between "federal" nations and "unitary" nations is sometimes as difficult to trace as the line between "nations" and lesser political units. In many cases the constitution itself expressly draws the distinction.

About sixteen nations may be classified as having governments of the federal type.[5] Thirteen constitutions contain express language to that effect, namely Argentina, Australia, Austria, Brazil, Canada, Germany, India, Libya, Mexico, Switzerland, Union of Soviet Socialist Republics, Venezuela and Yugoslavia. The constitution of Pakistan may, when finalized, indicate a federal form. The United States of America belongs in this classification, as do also Burma, the Union of South Africa and Viet Nam. Czechoslovakia is a "unitary state of two Slav nations."

Republican or Monarchical

Fifty-six or approximately 63 percent of the nations describe or commonly refer to their form of government as a "republic." Some of these also use the terms "democratic" or "republican-democratic" or "peoples republic" or "Soviet socialist republic" or similar language. Switzerland's constitution describes the government as a "confederation", but the confederation is frequently referred to as a republic.

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[1] See Table II. In a few instances, there are two or more coordinate documents, but for practical purposes they constitute a "written constitution".

[2] Egypt, Pakistan.

[3] Cuba, Indonesia, Nepal.

[4] See Table II.

[5] See Table II, and texts of respective constitutions.

The list of "republics" includes Albania, Andorra, Argentina, Austria, Bolivia, Brazil, Bulgaria, Burma, Byelorussia, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, El Salvador, Finland, France, Germany, Guatemala, Haiti, Honduras, Hungary, India, Indonesia, Ireland, Israel, Italy, Korea, Lebanon, Liberia, Mexico, the Mongolian People's Republic, Nicaragua, Panama, Paraguay, Peru, the Philippines, Poland, Portugal, Rumania, San Marino, Switzerland, Syria, Turkey, Ukrainian SSR, USSR, United States of America, Uruguay, Venezuela, Viet Nam and Yugoslavia.

The combined populations of the nations which are generally described as "republics" is about 1,700,000,000 persons, constituting about 70 percent of the world's total of approximately 2,500,000,000 human beings.

There are twenty-seven Monarchies, Kingdoms, Empires, Sultanates or Principalities constituting about 29 percent of the total number of nations and containing about 218,000,000 persons, less than 10 percent of the total. These include Afghanistan, Belgium, Bhutan, Cambodia, Denmark, Ethiopia, Greece, Iran, Iraq, Japan, Jordan, Laos, Libya, Liechtenstein, Luxembourg, Monaco, Muscat and Oman, Nepal, Netherlands, Norway, Saudi Arabia, Spain, Sweden, Thailand, United Kingdom of Great Britain and Northern Ireland, Vatican City, and Yemen.

There are seven members of the Commonwealth of Nations, variously described as dominions, commonwealths or republics,[1] Australia, Canada, Ceylon, India, New Zealand, Pakistan and the Union of South Africa, constituting about 8 percent of the number of nations and containing about 451,000,000 people, or less than 20 percent of the total.

Relations of Legislative, Executive, and Judicial Organs

Most of the nations, particularly the increasing number in which sovereignty is conceived of as resting in the people, recognize the convenient distinction between legislative, executive, and judicial functions. The constitutions usually classify the organs of government under those three titles.

The power to interpret the text of the constitution when disagreements arise respecting its meaning is usually conferrred upon, or exercised by, the courts. No attempt has been made in this compilation to exhaust that subject in cases where, as in the constitutions of the United States, the text of the document is silent; but from the language contained in the constitutions it appears that there is express constitutional power in the courts to declare legislation or executive decrees, or both, unconstitutional in at least 36 countries, namely, Argentina, Austria, Bolivia, Brazil, Burma, Chile, China, Colombia, Costa Rica, Cuba, Denmark, El Salvador,

[1] The Statute of Westminster refers to Australia as a "Commonwealth," and to Canada and New Zealand as "dominions." India is described as a "republic" in the Declaration of the London Conference of Prime Ministers of April 27, 1949.

Germany, Guatemala, Haiti, Honduras, India, Iran, Iraq, Ireland, Italy, Japan, Jordan, Korea, Liechtenstein, Mexico, Monaco, Mongolian People's Republic, Nicaragua, Panama, Philippines, Switzerland, Syria, Thailand, Uruguay and Venezuela.

Even where no such express power is granted in the constitution, a number of nations holding the concept that sovereignty rests in the people, have followed the reasoning of Chief Justice Marshall of the Supreme Court of the United States in the famous case of *Marbury v. Madison* [1] and permit the courts to interpret the constitution.[2]

In a few instances [3] the power of interpreting the constitution is expressly granted to some other department of the government.

Sources of Sovereign Power

In general there are two prevailing concepts regarding the source of sovereign power: (1) that sovereign power originates in the people themselves who erect their governmental institutions, and (2) that sovereignty is vested in a monarch or other supreme person, and stems downward as a grant to the people.

Sovereign People

The language of the constitutions on this point shows a substantial preponderance of opinion favoring the concept that sovereignty rests in the people.[4] In sixty-six nations, constituting about 71 percent of the

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[1] In that case, *Marbury v. Madison*, 1 Cranch 137, decided in 1803, the Congress of the United States (Legislative Department) had passed a law purporting to confer upon the Courts (Judicial Department) authority to issue certain peremptory orders against the Secretary of State (Executive Department). The Supreme Court of the United States held that the limits of power of the respective Departments of Government were defined by the Constitution and could not be changed by an Act of the Legislative Department; hence that the Act was void as repugnant to the Constitution. The Court, in its opinion, said:

> "Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the nation, and, consequently, the theory of every such government must be, that an act of the legislature, repugnant to the constitution, is void.
>
> This theory is essentially attached to a written constitution, and, is consequently, to be considered, by this court, as one of the fundamental principles of our society.
>
> It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each."

[2] See Table VII, and consider particularly Australia, Canada, Greece, India, Jordan, New Zealand, Pakistan, Paraguay, Sweden and Syria.

[3] Albania, Bulgaria, Byelorussia, Czechoslovakia, Ecuador, Portugal, and the Ukrainian SSR. See also Finland.

[4] Several constitutions of nations having a republican or democratic form of government as distinguished from the monarchical form, refer to the source of sovereignty as lying in the "nation". On the basis of the context of their constitutions or their history, it seems proper to classify these nations in the group recognizing sovereignty in the "people."

total number of nations and comprehending about 80 percent of the world's total population, this concept appears in existing constitutional provisions.[1] These nations include Albania, Andorra, Argentina, Austria, Belgium, (notwithstanding the fact that the constitution provides for an hereditary King), Bolivia, Brazil, Bulgaria, Burma, Byelorussian SSR (the "whole body of citizens"), Chile (the "nation"), China (the "whole body of citizens"), Colombia (the "nation"), Costa Rica (the "nation"), Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, El Salvador, Finland, France, Germany, Greece (the "nation"), Guatemala, Haiti (the "whole body of citizens"), Honduras, Hungary, Iceland, India, Indonesia, Iran (conferred on the monarch by the people), Iraq (as a trust confided to the King by the people), Ireland, Italy, Japan (although an empire), Jordan, Korea, Laos, Lebanon, Liberia, Libya (the "nation"), Luxembourg (the "nation"), Mexico, the Mongolian People's Republic ("urban and rural workers"), Nicaragua, Panama, Paraguay, Peru, Philippines, Poland, Portugal, (the "nation"), Rumania, San Marino, Spain, Switzerland, Syria, Thailand, Turkey (the "nation"), Ukrainian SSR ("workers in cities and villages"), Union of Soviet Socialist Republics ("working people of town and country"), United States of America, Uruguay (the "nation") Venezuela, Viet Nam and Yugoslavia.

In still others the concept of sovereign power is that it rests more or less jointly in a sovereign and the people. Included in this group of nations are Afghanistan, Australia, Canada, Ceylon, Denmark, Netherlands, New Zealand, Norway, Pakistan, Sweden and the United Kingdom. If these nations are added to the 66, the list becomes 77 nations; the percentage of nations becomes 85 percent; and the percentage of the world's total population who consider the people to be a source of sovereign power becomes over 95 percent.

Sovereign Monarchs

The constitutions of most of the nations which recognize a monarchical head of their government declare or imply that the source of sovereign power lies in the monarch, or in the monarch and the people.[2] This is the situation in Afghanistan, Australia, Bhutan, Cambodia, Canada, Ceylon, Denmark, Ethiopia, Liechtenstein, Monaco, Muscat and Oman, Nepal, Netherlands, New Zealand, Norway, Saudi Arabia, Sweden, Union of South Africa, United Kingdom, Vatican City and Yemen.

In Australia, Canada, Ceylon, Denmark, New Zealand, the Netherlands, Norway, Pakistan, Sweden, the Union of South Africa and the United Kingdom, there are strong concepts that sovereign power rests in the people. However there are frequently official references to the Crown as the source of sovereign power. Historically the grants of civil and consti-

[1] See Table III for references to Articles in individual constitutions.
[2] Id.

tutional rights in those countries have stemmed from the monarch or parliament to the people. The inhabitants of the United Kingdom are currently described as "British subjects."[1] In most of the members of the Commonwealth of Nations a Governor General sits as the symbol of the Crown and the link of the Commonwealth. Hence although most power is in fact exercised by the people in those nations, sovereign power is treated from the constitutional standpoint as having originated in a monarch, and not in the people.

Rights of the People

There are few written constitutions, whether the form of government be republican or monarchical, that do not enumerate various rights of the people which the constitution purports to guarantee to them.[2]

The rights of the people most frequently mentioned in national constitutions relate to assembly and association, conscience and religion, correspondence and domicile (inviolability), education, equality, health and motherhood, individual liberty and fair legal processes, labor, movement within, and to and from the nation, non-retroactivity of law, petition, property, social security, and freedom of speech and press.

About 88 percent of the national constitutions contain clauses respecting individual liberty and fair legal process; 83 percent respecting freedom of speech and the press; 82 percent respecting property rights; 80 percent respecting the right of assembly and association; 80 percent respecting rights of conscience and religion; 79 percent respecting secrecy of correspondence and inviolability of domicile; 78 percent respecting education; 73 percent respecting equality; 64 percent respecting the right to petition; 56 percent respecting labor; 51 percent respecting social security; 47–$^1/_2$ percent respecting rights of movement within, and to and from the nation; 47 percent respecting health and motherhood; and 35 percent respecting the non-retroactivity of laws.[3]

Legislative Departments

Bicameral and Unicameral

The prevailing type of legislative bodies of the nations is bicameral.[4] Membership in one of the two chambers is usually smaller than membership in the other, and the tenure of office in the smaller house is usually longer than in the larger one. The method of selection of members of the two

[1] British Nationality Act, effective January 1, 1949.

[2] For a tabulation of these see Table IV. See also Yearbook on Human Rights, United Nations.

[3] See Table IV.

[4] Since the first edition of this compilation four nations which previously had bicameral legislative bodies have adopted unicameral ones (Denmark, Egypt, New Zealand and Thailand); of the new nations, three (Cambodia, Laos and Libya) have adopted what may be called bicameral legislatures and three have adopted unicameral legislatures (Indonesia, Israel and Viet Nam).

houses varies. Frequently the so-called upper or smaller house is purely consultative in character.

The following forty-nine nations, constituting approximately 55 percent of the total number of nations, and representing about 65 percent of the world's population, employ the bicameral legislative system: Afghanistan, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Burma, Cambodia, Canada, Ceylon, Chile, Colombia, Cuba, Dominican Republic, Ecuador, Ethiopia, France, Germany, Haiti, Iceland, India, Iran, Iraq, Ireland, Italy, Japan, Jordan, Laos, Liberia, Libya, Mexico, Mongolian People's Republic, Netherlands, Nicaragua, Norway, Pakistan, Peru, Philippines, Portugal, Sweden, Switzerland, Union of South Africa, USSR, United Kingdom, United States of America, Uruguay, Venezuela and Yugoslavia.

The following thirty-eight nations, constituting about 44 percent of the total number of nations and 32 percent of the world's population, have only one legislative house: Albania, Andorra, Bhutan, Bulgaria, Byelorussian SSR, China, Costa Rica, Czechoslovakia, Denmark, Egypt, El Salvador, Finland, Greece, Guatemala, Honduras, Hungary, Indonesia, Israel, Korea, Lebanon, Liechtenstein, Luxembourg, Monaco, New Zealand, Panama, Paraguay, Poland, Rumania, San Marino, Saudi Arabia, Spain, Syria, Thailand, Turkey, Ukrainian SSR, Vatican City, Viet Nam and Yemen.

Muscat and Oman, and Nepal have no elected body of representatives, the latter pending the adoption of a definitive constitution.

Names of Legislative Bodies [1]

The words "National Assembly" (or corresponding words in the original text where the text is not English) are to be found as the name for the legislative body in seven Constitutions of nations having a unicameral legislature, namely, Bulgaria, Czechoslovakia, Korea, Panama, Rumania, Turkey and Viet Nam. A "Chamber of Deputies" is found in four such Constitutions, Indonesia, New Zealand, Paraguay, and Syria. Other names are "Diet" in Finland and Liechtenstein, and "Supreme Soviet" in the Byelorussian SSR and the Ukrainian SSR, a "Congress" in Guatemala and Honduras, a "General Council" in Andorra and San Marino, a "Parliament" in Greece and Hungary, a "People's Convention" in Albania, a "Legislative Yuan" and a "Government Council" in China, a "Legislative Assembly" in Costa Rica, a "Folketting" in Denmark, a "Council of Ministers" in Egypt, a "Legislative Assembly" in El Salvador, a "Knesseth" in Israel, a "Seym" in Poland, a "National Council" in Monaco, an "Advisory Council" in Saudi Arabia, a "Cortes" in Spain and a "Consultative Assembly" in Yemen.

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[1] Some differences arise merely from the selection of English names by translators.

Among the bicameral legislative bodies the most frequent name of the Upper House is a "Senate" (or corresponding name in the original text). It is employed in the following 29 nations: Argentina, Australia, Belgium, Bolivia, Brazil, Canada, Ceylon, Chile, Colombia, Cuba, Dominican Republic, Ecuador, Ethiopia, Haiti, Iran, Iraq, Ireland, Italy, Jordan, Liberia, Libya, Mexico, Nicaragua, Peru, Philippines, Union of South Africa, United States of America, Uruguay and Venezuela. The following other names or appropriate translations of foreign names for the upper house appear: "House of Nobles" in Afghanistan, "Federal Council" in Austria, "Chamber of Nationalities" in Burma, "Council of the Kingdom" in Cambodia, "Council of the Republic" in France, "Bundesrat" and "Laender Chamber" in Germany, "Upper House" in Iceland, "Council of States" in India, "House of Councillors" in Japan, "Council of the King" in Laos, "Little Khural" in the Mongolian People's Republic, "First Chamber" in The Netherlands, "Lagthing" in Norway, "Corporative Chamber" in Portugal, "Upper Chamber" in Sweden, "Council of States" in Switzerland, "Soviet of Nationalities" in the USSR, "House of Lords" in the United Kingdom, and "Council of Producers" in Yugoslavia.

The name "Chamber" or "House" of "Deputies" (or corresponding name in the original text) is employed in 15 nations for the lower house of their bicameral legislative bodies, to-wit: Argentina, Bolivia, Brazil, Burma, Chile, Dominican Republic, Ecuador, Ethiopia, Haiti, Iraq, Italy, Mexico, Nicaragua, Peru and Venezuela. The name "Chamber" or "House" of "Representatives" is used in 13 nations, to-wit: Australia, Belgium, Ceylon, Colombia, Cuba, Ireland, Japan, Jordan, Liberia, Libya, Philippines, United States of America and Uruguay. The lower house is entitled the "National Council" in Afghanistan, Austria and Switzerland, and the "National Assembly" in Cambodia, France, Iran, Laos and Portugal; the "House of Commons" in Canada and the United Kingdom; the "Bundestag" and the "Volkskammer" in Germany; the "Lower House or Chamber" in Iceland and Sweden; the "House of the People" in India; the "Great People's Khural" in the Mongolian People's Republic; the "Second Chamber" in The Netherlands: the "Odelsthing" in Norway; the "Soviet of the Union" in the Union of Soviet Socialist Republics; and the "Federal Council" in Yugoslavia.

Tenure of Office

The fixed tenure of office in the unicameral legislative bodies ranges from two years in El Salvador to six years in Czechoslovakia, Honduras and Luxembourg. The average term is four years.

The fixed tenure of office in the upper houses of bicameral legislative bodies ranges from three years in the Mongolian People's Republic to ten years in the Union of South Africa. The average is six years. The

tenure is for life as to some or all of the members in Canada and the United Kingdom.

The fixed tenure of office in the lower houses where the bicameral system is employed ranges from two years in Colombia, Ecuador, Iran and the United States of America to seven years as a maximum in Ireland. The average is four years.

About forty percent of the national Constitutions contain express authority for the dissolution of one or both houses before the expiration of the term provided.[1]

Methods of Selection

The prevailing practice among unicameral legislative bodies and in the lower houses of bicameral legislative bodies is selection by direct popular election. Among the exceptions to this rule are Andorra and San Marino, where the heads of families make the selection; Ceylon, where six of the members of the lower house are appointed by the Governor General; China, where the representation is according to occupational and racial groups; Ethiopia, where the lower house is chosen by dignitaries and local chiefs "until the people are capable of electing them;" Saudi Arabia, where the legislators are designated by the King; Spain, where some are elected and some appointed from occupational groups; and the Vatican City, where power is vested in the Pope, or during a vacancy in the Pontifical See, in the Holy College. In New Zealand it is provided that the membership must include 76 Europeans and 4 Maoris. In Norway the members of both houses are elected as one body and then proceed to divide themselves into an upper and lower house.

In the upper houses of the bicameral legislative bodies there is more variation in the methods of selecting their membership. In 23 nations all of the members are selected by popular election: Argentina, Australia, Bolivia, Brazil, Burma, Chile, Colombia, Cuba, Dominican Republic, Ecuador, France, Iceland, Italy, Japan, Liberia, Mexico, Nicaragua,[2] Norway, Peru, Philippines, Union of Soviet Socialist Republics, United States of America and Uruguay. In the following 17 nations all of the members are appointed by the Head of State and/or appointed or elected by the other legislative body, or by the legislative bodies of the states or provinces: Afghanistan, Austria, Canada, Ethiopia, Germany, Haiti, Iraq, Jordan, Laos, Libya, Mongolian People's Republic, Netherlands, Sweden, Switzerland, Union of South Africa, United Kingdom,[3] and

[1] The countries include the following: Australia, Austria, Belgium, Burma, Cambodia, Canada, Ceylon, Czechoslovakia, Denmark, Ethiopia, Finland, France, Egypt, Germany, Greece, Hungary, India, Iraq, Ireland, Israel, Italy, Japan, Jordan, Laos, Lebanon, Libya, Luxembourg, Netherlands, New Zealand, Portugal, Sweden, Syria, Union of South Africa, United Kingdom, Yugoslavia. See Table V for references to Articles in individual Constitutions.

[2] All ex-presidents are members ex officio.

[3] Largely hereditary.

Venezuela. In the following six nations there is a combination of these methods: Belgium, Ceylon, Cambodia, India, Iran and Ireland. The upper chamber is chosen in whole or in part by occupational or racial groups or special organizations in Portugal and Yugoslavia.

Executive Departments

Titles

The title most commonly employed for the Chief Executive of a nation is "President" or its equivalent in the language of the constitution. The following forty-one countries, comprising about 46 percent of the total number of nations, and 61 percent of the world's population, have Presidents: Argentina, Austria, Bolivia, Brazil, Burma, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, El Salvador, Finland, France, Germany, Guatemala, Haiti, Honduras, Iceland, India, Indonesia, Ireland, Israel, Italy, Korea, Lebanon, Liberia, Mexico, Nicaragua, Panama, Paraguay, Peru, Philippines, Portugal, Syria, Turkey, United States of America, Venezuela and Yugoslavia.

A King, Emperor, Grand Duke, Prince, Sultan or other royal personage is contemplated in the constitutions of twenty-eight countries comprising about 31 percent of the total number of nations and 10 percent[1] of the world population: Afghanistan, Australia (through the British Crown), Belgium, Bhutan, Cambodia, Canada (through the British Crown), Ceylon (through the British Crown), Denmark, Ethiopia, Greece, Iran, Iraq, Jordan, Laos, Libya, Luxembourg, Monaco, Muscat and Oman, Nepal, Netherlands, New Zealand (through the British Crown), Norway, Saudi Arabia, Sweden, Thailand, the Union of South Africa (through the British Crown) the United Kingdom and Yemen.

Japan has an Emperor but calls the Cabinet its executive power. Spain is entitled a monarchy and has a "chief of state" as its chief executive. Viet Nam is styled a republic but has a royal personage as its chief of state. Liechtenstein entitles the executive the "Government in Council" but its head is appointed by the Prince.

The chief executive consists of a Council, variously described, or Praesidium or simply "the Government", in Albania, Bulgaria, Byelorussian SSR, Egypt, Hungary, Mongolian People's Republic, Poland, Rumania, San Marino, Switzerland, Ukrainian SSR, Union of Soviet Socialist Republics, and Uruguay.

Most of the members of the British Commonwealth of Nations (other than the United Kingdom) have a "Governor General" acting for the Crown. These commonwealths or dominions, like the United Kingdom, maintain a parliamentary system of government with a Prime Minister and

[1] If Australia, Canada, Ceylon, New Zealand and the Union of South Africa are eliminated this percentage is reduced to about 8 percent.

other ministers who are members of, or closely responsible to, the legislative body. The Governor General in some cases also has an advisory "Privy Council" or "Federal Executive Council."[1]

Methods of Selection [2]

The chief executives of nations are selected by direct vote of the people in the following twenty-eight countries: Argentina, Austria, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Finland, Guatemala, Haiti, Honduras, Iceland, Indonesia, Ireland, Liberia, Mexico, Nicaragua, Panama, Paraguay, Peru, Philippines, Portugal, Uruguay and Venezuela.

In the United States of America the election is by Presidential Electors, who are elected by the people. In Albania, Bulgaria, Burma, Byelorussian SSR, Czechoslovakia, France, Germany, Hungary, Israel, Italy, Japan, Korea, Lebanon, Mongolian People's Republic, Poland, Rumania, San Marino, Spain, Switzerland, Syria, Turkey, Ukrainian SSR, Union of Soviet Socialist Republics, Yugoslavia, the Chief Executive is selected by the legislative branch of the government. In the nations which have kings or other royal heads of state the title is usually hereditary.

Tenure of Office [3]

The tenure of office of chief executives where the term is a fixed period ranges from 4 years in fourteen countries to 8 years in Liberia. The average fixed tenure of office is 5 years. In twenty-eight countries the term of office of the entire executive power is independent of the legislative department of government, and the constitutions provide that the Ministers are responsible to the executive power.[4] There are also maximum fixed terms in a number of other countries, but in forty-eight or about 54 percent of all the countries (including those whose chief executive has a fixed tenure and those where this is not the case) there is constitutional authority or requirement for the resignation or dismissal of a part of the executive officers of the government (usually the Prime Minister and Council of Ministers) if they cease to have the confidence of the legislative body.[5]

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[1] In Canada, Art. 11, Australia Sec. 61.

[2] See Table VI for references to individual Constitutions.

[3] See Table VI and individual Constitutions.

[4] Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Iceland, Korea, Liberia, Mexico, Nicaragua, Panama, Paraguay, Peru, Philippines, Portugal, Switzerland, United States of America, Uruguay and Venezuela.

[5] These include Afghanistan, Albania, Australia, Austria, Belgium, Bulgaria, Burma, Byelorussian SSR, Cambodia, Canada, Ceylon, China, Denmark, Finland, France, Germany, Greece, Hungary, India, Iran, Iraq, Ireland, Israel, Italy, Japan, Jordan, Lebanon, Laos, Libya, Liechtenstein, Luxembourg, Mongolian People's Republic, Nepal, Netherlands, Norway, New Zealand, Pakistan, Poland, Rumania, Sweden, Syria, Thailand, Turkey, Ukrainian SSR, Union of South Africa, Union of Soviet Socialist Republics, the United Kingdom and Yugoslavia.

In a number of other countries there is no express constitutional provision or the constitution merely states that the chief executive or Council of Ministers is appointed by the chief of state, presumably at his pleasure.[1]

Limitations on Succession [2]

In thirty-one nations there are limitations upon the Constitutional right of the chief executive to serve more than one term. In El Salvador and Mexico the president may never be reelected. In seven nations, namely, Burma, China, France, Ireland, Paraguay, Philippines and the United States of America the chief executive may only be reelected once.

In the following countries he may be elected for a second term only after the lapse of a specified period of time: Bolivia, Brazil, Chile, Colombia Costa Rica, Cuba, Ecuador, Guatemala, Haiti, Honduras, Lebanon, Liberia, Nicaragua, Panama, Peru, Switzerland, Syria and Uruguay. In Austria, Czechoslovakia, Germany and Korea the chief of state may be immediately reelected once and then only after a lapse of a specified period of time.

Judicial Departments

Names and Functions of Highest Courts

A supreme judicial tribunal is provided for in seventy-one (about 78 percent) of the written constitutions. The prevailing name applied in the constitutions to the highest judicial court is "Supreme Court," or the equivalent of that name in the original text.[3] Other names employed include "Supreme Court of Justice," "High Court," "Court of Cassation," "Court of Appeal," "Federal Tribunal," "Constitutional Court" and "Judicial Yuan."

Other nations have supreme judicial courts though they are not provided for in any written constitution.[4] Some nations provide in their constitutions for the trial of ministers or other officials for malfeasance in office either by a specially convened court or before other tribunals.[5] The highest judicial courts deal chiefly with appeals from lower courts. Where the government is federal in form the highest court usually has original jurisdiction of suits between the states which make up the federation.[6]

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[1] Such countries might include Egypt, Indonesia, Monaco, Spain, Vatican City and Viet Nam.

[2] See Table VI, and individual Constitutions.

[3] See Table VII, and individual constitutions.

[4] Ethiopia, France (but see Const. Art. 83, which does provide for a "Superior Council of the Judiciary"), Iceland, Iraq, Jordan, Spain, Syria, United Kingdom.

[5] See, for example, Afghanistan, Art. 95; Denmark, Art. 66; Iraq, Art. 81; Lebanon, Art. 80; Liechtenstein, Art. 104; Norway, Art. 86; United States of America, Art 1., Sec. 6.

[6] Argentina, Art. 95; Australia, Art. 73; Brazil, Art. 101; Burma, Art. 135; Mexico, Art. 105; Switzerland, Art. 110; United States of America, Art. 111, Sec. 2; Venezuela, Art. 133.

The constitutions of most of the nations provide for their system of lower courts, [1] although in a number of cases the provisions regarding lower courts are contained in statutes and not in the constitutions.

Methods of Selection

Thirty-eight constitutions provide that the judges of the highest courts shall be selected by appointment of the Chief Executive, either with or without approval of one or more of the legislative bodies.[1]

Twenty-seven constitutions provide that the judges of the highest court shall be elected by one or more of the national legislative bodies.[1] Many of the constitutions do not specify the methods of selection, that being left to statutory provision.

Tenure of Office of Highest Judges

In the constitutions of twenty-six nations the tenure of office of the members of the highest court is a fixed term of years. This term varies from two years in the case of El Salvador to twelve years in the case of Italy. The average is six years. In thirty-four constitutions tenure is for life or is during good behavior, or is until a specific retirement age.[2]

Areas and Populations

The areas of the eighty-nine "nations" of the world vary from 0.16 square miles in the case of Vatican City to 8,473,000 square miles in the case of USSR.

The estimated populations vary from 940 in the case of Vatican City to 483,870,000 in the case of China.

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[1] See Table VIII, and individual constitutions.
[2] See Table VII, and individual constitutions.

Details

of

National Constitutions



AFGHANISTAN

SUMMARY

International Status

Afghanistan was not an original member of the United Nations, but was admitted to membership in November, 1946, and thus automatically [1] is a party to the Statute of the International Court of Justice of 1945. It is not, as of the time of our going to press, subject to compulsory jurisdiction under Article 36 of its Statute.[2] A legation was established by the United States at Kabul in 1942. Previously the American Minister to Iran served concurrently as Minister to Afghanistan.

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[1] By virtue of Art. 93 of the Charter of the United Nations.
[2] See Yearbook of the Court, 1951–52, pp. 35–43.

Afghanistan was admitted to the League of Nations in 1934 and was a party to the 1928 Paris Treaty for the renunciation of war. It did not sign or ratify the Statute of the Permanent Court of International Justice of 1921. It is a member of the Postal Union and other international organizations.[1]

The Afghan State was formed in the middle of the eighteenth century under the sovereignty of Ahmed Shah, who became Emperor in 1747. The jurisdiction of the territory had been disputed by Persia, Turkestan and India. After the death of Ahmed Shah's son, internal wars occurred and unity was not again achieved until 1826. During the second half of the nineteenth century Afghanistan was a field of rivalry between Great Britain and Russia. In 1907 Russia declared Afghanistan outside the Russian sphere of influence. The independence of Afghanistan was proclaimed, under King Aman Ullah Khan, in November, 1919. It was recognized by Great Britain in 1922 and by Russia in 1926. On the return of King Aman Ullah Khan from a tour in Europe in 1927, many political and social reforms were introduced. A revolt resulted in his abdication. Mohammed Nadir Shah, who became King at the end of 1929, was assassinated in 1933, and was succeeded by his son, Mohammed Zahir Shah.

Form of National Government

Afghanistan has a written constitution adopted October 31, 1931.[2] It provides for a centralized monarchy. "All places and parts of the Kingdom constitute a single entity."[3] The country is divided into provinces each of which is administered by a governor and an advisory committee.[4] In case of "unrest and rebellion tending to the disturbance of the public peace," the "government has the power to adopt the measures necessary to put down the insurrection and restore peace." [5]

A written constitution was promulgated in 1921 and a second one on April 19, 1923. A new constitution was promulgated by an assembly which gathered in July, 1931.

The official religion is the Hanafi sect of the faith of Islam.[6]

Source of Sovereign Power

The source of sovereign power is impliedly in the crown with the approval of the nation.[7]

Rights of the People

The Constitution contains an extensive declaration of the rights of Afghanistan subjects. "All residents of the Kingdom are equal" [8] and

[1] See Table I.

[2] Amended September 3, 1932, February 22, 1933, April 15, 1934, and August 18, 1938.

[3] Const. of 1931, Art. 2. [4] Id., Art. 71. [5] Id., Art. 104.

[6] Id., Art. 1. [7] Id., Art. 5. [8] Id., Art. 3.

there is no "distinction of creed and religion";[1] but Afghan subjects—who include all residents—are "required to observe the injunctions and prohibitions of the government in religious and political matters."[2] Foreign subjects may not own land in Afghanistan.[3]

The Constitution declares that there is "no interference with personal liberty,"[4] and provides against imprisonment or punishment without an order "in accordance with the Shariat of Islam or the appropriate laws," and against slavery. Levies and forced labor, "except during the time of war," are prohibited,[5] and the rack and other kinds of torture are abolished.[6] Freedom "within the limits of the appropriate regulations" in trade, industry, and agriculture is guaranteed,[7] also compensation for property taken by the government,[8] except in cases of persons "residing abroad making propaganda or intrigues against the Afghan Government."[9]

Privacy of the residence[10] and of correspondence[11] and freedom of the press with some limitations respecting religion, and the free entry of foreign newspapers "which do not contain matter against religion and the policy of the Afghan Government",[12] are protected.

Primary education is compulsory.[13] Public schools are under the supervision of the government for the protection of religious instruction[14] and foreigners are not permitted to open schools except to "teach arts, industries, and foreign languages."[15]

Subjects may be taken into government service as required,[16] and civil servants enjoy extensive constitutional protection.[17]

Legislative Department

Legislative power is exercised by a bicameral legislative body consisting of the National Council and the House of Nobles.

The popular chamber is the Shura-i-Milli, or National Council, dating from the year 1930 A.D.[18] Its members are elected from the provinces and districts for three year terms[19] and "are representative of all the inhabitants of the country."[20] In 1948 it had 109 members.

"All regulations and procedure, the framing and existence of which are essential to strengthen the foundations of the government and for the administration of the affairs of the country will be passed by the National Council."[21]

The Council has power respecting taxes and revenues,[22] new regulations,[23] concessions and companies,[24] loans,[25] highways and rail-

[1] Const. of 1931, Art. 9. [2] Id., Art. 10.
[3] Addendum of February 22, 1933, par. 2. [4] Const., Art. 11.
[5] Id., Art. 18. [6] Id., Art. 19. [7] Id., Art. 12.
[8] Id., Art. 15. [9] Id., Art. 17. [10] Id., Art. 16.
[11] Id., Art. 109. [12] Id., Art. 23. [13] Id., Art. 20.
[14] Id., Art. 22. [15] Id., Art. 21. [16] Id., Art. 14.
[17] Id., Arts. 84–86. [18] Id., Art. 27. (1309 A.H. equals 1930 A.D.)
[19] Id., Arts. 29, 31. [20] Id., Art. 28. [21] Id., Art. 41.
[22] Id., Art. 42. [23] Id., Art. 44. [24] Id., Arts. 45, 46.
[25] Id., Art. 47.

ways,[1] and may review action by ministerial authority taken while the Council is not in session.[2] It may petition the King but must first request the Minister of Court to arrange an audience.[3]

The House of Nobles is made up of "experienced and farsighted persons" appointed by the King.[4] In 1948 it had 45 members.

Measures passed by the House of Nobles require approval by the National Council and vice versa, except that measures passed by the National Council may become effective with royal assent without action by the House of Nobles if the nobles are not in session, and the King may also settle a disagreement between the nobles and the council respecting a measure approved by the nobles but not by the council.[5]

Executive Department

Executive power is vested in the King, and succession is "in accordance with the selection of His Majesty and the people." [6]

The administration of the country is carried on by ministers who are selected by the Prime Minister with the approval of the King.[7] They are responsible to the council.[8]

Judicial Department

Ordinary law suits are tried, according to Islamic law, by the regular courts of justice. Commercial disputes are referred to special law courts. Government ministers charged with misdemeanors are tried by a Supreme Court organized temporarily for that purpose.[9]

All of the courts are declared to be "free from any kind of interference," but they have power to sit *in camera*.[10] All Afghanistan subjects who "are not satisfied with a decision and order of a court may appeal to higher authorities up to the ministry concerned and, if still not satisfied, to the Prime Minister and His Majesty the King." [11] There is a prohibition against the setting up of any "special tribunal to settle particular cases out of court." [12]

Area, Population, Language

The area of Afghanistan is 250,000 square miles. The estimated population is 12,000,000. The languages spoken are Pushtu and Persian.

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[1] Const., Art. 48. [2] Id., Art. 32. [3] Id., Art. 49.
[4] Id., Art. 67. [5] Id., Arts. 68–70. [6] Id., Art. 5.
[7] Id., Art. 73 [8] Id., Art. 76.
[9] Communication received by the editor from the Vice-President of the Press Department of the Afghan Government, January, 1948.
[10] Const., Art. 90. [11] Id., Art. 24. [12] Id., Art. 93.

FUNDAMENTAL PRINCIPLES of the GOVERNMENT OF AFGHANISTAN

October 31, 1931 [1]
(with Addendum — February 22, 1933)

General Principles

1. The faith of Afghanistan is the sacred faith of Islam, and the official religion and that of the population in general is the Hanafi religion. The King of Afghanistan should be a follower of this religion. Followers of other religions, such as Hindus and Jews, who live in Afghanistan, provided they do not infringe the ordinary rules of conduct and propriety, also enjoy protection.

2. As the Afghan Government enjoys complete independence in the administration of its internal and external affairs, all places and parts of the Kingdom constitute a single entity under the command and the exalted direction of His Majesty the King, and no distinction is made between different parts of the Kingdom.

3. The city of Kabul is the capital of Afghanistan, and all residents of the Kingdom are equal in the eyes of the Government. The residents of the city of Kabul have no special rights as compared with those of other cities and towns of the Afghan Kingdom.

4. The official flag of Afghanistan is black, red, and green, and bears in the center an ear of wheat, a Mihrab (arch), and a pulpit.

Rights of the King

5. In appreciation of the devotion shown and services rendered by His Majesty, the Ghazi Mohammad Nadir Shah Afghan, in obtaining the independence and deliverance of the land of Afghanistan, and the uprooting of oppression and despotism, the Afghan nation in general has recognized His Majesty as a fit and worthy King of his country, and has accepted him as such with the greatest esteem and respect. His Majesty the King, at the time of his accession to the throne of independent Afghanistan, publicly undertook, in the presence of the representatives and nobility of Afghanistan, to carry on the administration in accordance with the dictates of the expounders of the sacred Shariat of the Holy Prophet (peace be upon him!) and the Hanafi religion and the fundamental principles of the country, and to regard the preservation of the independence of Afghanistan as one of his most important duties, to be true to his nation

[1] Published in *Islah*, Kabul, November 2, 1931; French text in Dareste, *Les Constitutions Modernes*, vol. 5, p. 501; English translation in *British & Foreign State Papers*, vol. 134 (1931), pp. 1192–1204.

and country, and not to infringe the above-mentioned stipulations. The noble Afghan nation therefore agrees that the crown of Afghanistan will be transferred to the family of this King, who desires the progress of the country, and that succession to the throne will be in accordance with the selection of His Majesty and the people of Afghanistan.

6. The King of Afghanistan, before his accession to the thone, shall make and sign the following declaration in the chamber of the National Council and in the presence of the members:

> "I swear by Almighty God and the sacred Koran, knowing that God the Glorious is omnipresent and omniscient, to rule according to the Shariat of Mahomet (peace be upon him!) and the fundamental rules of the country [and to strive] for the protection of the glorious religion of Islam, the independence of Afghanistan, and the rights of the nation, and for the defence, progress, and prosperity of the country, so help me God through the blessing of the sacred spiritual force of the blessed saints (the approval of God be upon them!)."

7. In Friday sermons the name of the King will be mentioned, and coin of the realm will bear his name, and other rights as follows will vest in the King:

Bestowal of rank and office, awards of honors, appointment of the prime minister, sanction of the appointment, transfer and dismissal of ministers, assent to measures passed by the National Council, proclamation and enforcement of the same, protection and carrying out of the Shariat and civil laws, command of the military forces of Afghanistan in general, declaration of war and conclusion of peace and treaties generally, remission and reduction of punishments in general according to Shariat law.

8. An allotment for the expenses of the King should be included in the budget of the country.

General Rights of Afghan Subjects

9. All persons residing in the Kingdom of Afghanistan are called Afghan subjects without any distinction of creed and religion. Afghan nationality is acquired or lost in accordance with the nationality laws.

10. All Afghan subjects, although required to observe the injunctions and prohibitions of their Government in religious and political matters, are free to enjoy all rights conferred by Shariat law.

11. There is no interference with personal liberty. No one is imprisoned or punished without an order in accordance with the Shariat or the appropriate laws. The practice of slavery is forbidden in Afghanistan. No male or female may keep any person as a slave.

12. Afghan subjects are free, within the limits of the appropriate regulations, in all matters relating to trade, industry, and agriculture.

13. All Afghan subjects have equal rights and duties under the Shariat law and the law of the State.

14. Any Afghan subject, according to his ability and capacity, is taken into Government service as required.

15. In Afghanistan the movable and immovable property of everyone is protected. In the event of any immovable property being required by Government in the public interest, the value of it will be paid to the

owner according to Shariat law and the special code concerned, before it is taken over.

16. The residence of every Afghan subject is safe from every sort of interference. No official or other person may enter a private residence without an order under Shariat law or the law of the land.

17. Confiscation of both movable and immovable property is forbidden, with the exception of that belonging to persons residing abroad making propaganda or intrigues against the Afghan Government.

18. Levies of money and forced labor are prohibited, except during time of war.

19. The rack and other kinds of torture are absolutely abolished. No punishment can be inflicted which is not prescribed by the law of the land and the sacred Shariat law.

20. Primary education for the children of Afghan subjects is compulsory.

21. In Afghanistan, instruction in the knowledge of Islam is unrestricted. Every Afghan subject is permitted to impart Islamic religious instruction. Foreigners, however, with the exception of those engaged to teach arts, industries, and foreign languages, are not permitted to open and conduct schools in the Kingdom of Afghanistan.

22. The public schools of Afghanistan are under the supervision of the Government, so that the education and culture imparted by these institutions may, without infringing the articles of the Islamic faith, provide the benefits which accrue from the study of literature, art, and science. But there will be no interference with principles of education which are concerned with the faith and religion of the "Ahl-i-Zimma." [1]

23. Publications and newspapers of Afghanistan, such as are not against religion, are under no restrictions save as provided by the special law relating to them. The right of publishing news belongs only to the Government and to Afghan subjects. The entry into Afghanistan of foreign newspapers which do not contain matter against religion and the policy of the Afghan Government is unrestricted.

24. The settlement of personal disputes and other matters between subjects falls within the province of the courts of justice and other official departments connected therewith, and such persons as are not satisfied with a decision and order of a court may appeal to higher authorities up to the ministry concerned and, if still not satisfied, to the Prime Minister and His Majesty the King.

25. Fixed revenues and taxes are recovered in accordance with a separate code.

26. Nothing may be recovered from anyone beyond what is laid down in the Government codes.

Shura-i-Milli (*National Council*)

Formation of the Body

27. The National Council was introduced at the instance of His

[1] "Ahl-i-Zimma," i.e., the "Ahl-i-Kitab ("people of the Book," viz., Jews and Christians) who are under the protection of a Moslem ruler.

Majesty the King, with the approval of the Jirga, held at Kabul in the year 1309.

28. This body is solely composed of individuals who are interested in the social and political affairs of Afghanistan, i.e., they are representatives of all the inhabitants of the country.

29. The National Council is composed of members elected from the province of Kabul and other provinces and districts, and it assembles at the capital.

30. The number of members of the National Council is stated in the election rules and is fixed.

31. The term for which members of this Council are elected is three years.

The first session commences from the opening day of the National Council, and it is laid down that new elections will be held at the expiry of each term of three years. If voters wish to re-elect the same member, they are at liberty to do so.

32. Dates of sessions and recesses of the National Council will be laid down in the National Council regulations.

If during a recess the government deems it necessary to frame regulations for the National Council, these will be approved by the Government as a temporary measure and brought into force by His Majesty's command. If these temporary regulations are approved by the National Council when it reassembles, they will be added to the regulations, otherwise they may be modified or rejected by the aforesaid National Council.

33. A meeting of the National Council can also be summoned during a recess to consider and settle important questions, and, should it be impossible to call a general meeting on account of the urgency of the matter to be discussed, the members for Kabul and neighboring districts only will hold a meeting of the National Council.

34. When the National Council meets, at least half of the members must be present, and a decision will be reached on the unanimous vote or on a majority of votes.

35. The National Council will, at the opening of each session, present an address to His Majesty the King, who will make a reply.

36. Members attending the council for the first time will take and sign the following oath.

37. Form of oath: "We, the undersigned, on account of the confidence imposed in us by the nation and the Government, swear by God the Great and the sacred Koran that we will remain true to our nation and Government."

38. Members of the National Council have full liberty to express their views before the Council, and no objection can be raised on these grounds.

39. All debates of the National Council, since the results of debates will later become law, will be open to representatives of newspapers and visitors, who, however, in accordance with the restrictions laid down in the National Council regulations, have only the right to attend and listen.

Duties

40. The National Council will manage its internal affairs, such as

selection of president and vice-president, clerical staff and other members, framing of rules of debate, etc., as laid down in the National Council regulations.

41. All regulations and procedure the framing and existence of which are essential to strengthen the foundations of the Government and for the administration of the affairs of the country will be passed by the National Council.

42. Adjustment of financial matters, rejection or adoption of taxes and revenues, and fresh proposals emanating from the Government will be subject to the approval of the National Council.

43. One of the duties of the National Council is to examine and pass the national budget after it has been prepared and submitted by the revenue ministry.

44. New regulations will be brought into force and existing laws amended or repealed on being passed by the National Council, whether the necessity for them has been expressed by the Council itself or by ministers.

45. Grants of concessions or the formation of companies and public firms of every kind will be sanctioned by the National Council.

46. Contracts, agreements, and grants of concessions (monopolies), whether relating to trade, industry, agriculture, etc., and whether Afghan or foreign, will be concluded with the approval of the National Council.

47. Every loan raised by the Government, whether in the country or abroad, shall first be approved by the National Council.

48. Extension of public highways and [building of] railways, whether to be paid for by Government, or Afghan or foreign firms or companies, depends entirely upon the approval of the National Council.

49. The National Council has the right whenever necessary to submit a petition to the King. The petition, however, will in all circumstances be submitted by a deputation composed of the president and six members selected by all members from among themselves. The deputation will first request the Minister of Court to arrange an audience.

50. Ministers may attend the sittings of the National Council to hear debates. They have also the right, having obtained the permission of the president, to explain and elucidate matters [under discussion]. Seats are reserved in the council chamber for ministers.

51. Whenever the necessity for new laws is felt, the proposal is initiated by a ministry, and put before the National Council by a minister or the prime minister, and will come into force after it has passed the National Council and received the assent of His Majesty the King.

52. In case of need, the president may, either of his own motion, or on the proposal of ten members of the Council, or that of a minister, call a secret meeting, from which newspaper correspondents and visitors will be excluded, and may also appoint a secret committee composed of certain selected members, to which other members will not have the right of entry. But the outcome of the deliberations of the secret committee or meeting as the case may be, will be regarded as passed, provided the matter is discussed in the presence of three-quarters of the selected members, and

supported by a majority of votes. If the measure is not agreed to in the secret meeting, it will not be announced to the Council, and the latter will not discuss it.

53. In the event of a secret meeting being convened on the motion of the president, the latter is authorized to publish its deliberations so far as may be suitable. But if the meeting is called at the instance of a minister, the publication will be contingent upon the permission of such minister.

54. Ministers have the right to withdraw any measure, however much it may have been discussed by the Council; but if a measure is introduced by a minister at the desire of the Council, withdrawal of such measure is contingent upon the consent of the Council.

55. A bill introduced by a minister and rejected by the Council will be returned with the latter's observations. The bill will again be read in the Council, when the minister may accept or refute the observations of the Council.

56. When rejecting or accepting a measure, the members of the National Council will give a clear and explicit statement of their views, and no one may seek to influence or threaten them. Members of the Council will indicate their approval or disapproval of a measure by visible means, such as a black or white [voting] paper, and in such a manner as to be obvious to newspaper representatives and visitors.

Introduction of Measures by the Council

57. Every measure introduced by a member of the Council may be debated, provided that at least a quarter of the members approve it. The measure will then be forwarded to the president in writing, and the latter may first refer it to a committee for investigation.

58. A group of members of the National Council, selected by the rest of the members, approved by the president, and called a "committee", will, in the first instance, carefully investigate measures brought before the National Council and submit to the Council through the president such matters as require discussion, with a statement of its own views. The measure will then, with the permission of the president, be discussed by the Council. Proposals which are incomplete or do not require the assent of the Council will be returned by the president to the ministry concerned with a statement of his reasons for doing so. A committee will consist of at least ten persons.

59. A minister who is interested in a bill admitted for discussion in the Council under Article 57 should be informed of the time of the debate at which the bill will be discussed in committee, or in the Council so that he may either attend in person or send an assistant. A copy of the bill and connected papers, except in the case of urgent measures, should be forwarded by the Council to the ministry concerned for the information of the minister or his assistant ten to fifteen days in advance.

60. Should a minister for any reason disapprove of a bill brought before the Council, he must explain his objections and satisfy the Council of their validity.

61. If the National Council asks for information from a minister, he

is obliged to reply, and, in the absence of reasonable grounds, he is not permitted to delay his reply except when the matter is secret, and it is to the interest of the nation and the Government that it should not be revealed for a certain period. After the lapse of that period, however, the matter must be announced to the Council.

62. Personal petitions on subjects which have not been considered by official departments up to the ministry concerned can be made to the National Council by a petitioner's local member. Such petitions are forwarded by the president of the National Council to the Prime Minister for consideration.

63. The National Council, if it is not in session at the time of the King's death, must assemble within twenty days at most.

64. If the term of office of members has expired before the death of the King, and other members have not been elected, the Council will be composed of the former members.

65. Measures passed by the National Council should not contravene the canons of the religion of Islam or the policy of the country.

66. Measures passed by the National Council will generally come into force after they have been signed by His Majesty the King.

The House of Nobles

67. The House of Nobles consists of experienced and far-sighted persons who will be selected and appointed directly by His Majesty the King. It will meet at Kabul.

68. Passing of measures rests with the National Council and the House of Nobles. Proposals placed before the latter house by ministers are decided, after considerations and debate, by a majority of votes and forwarded to the National Council for approval. As a counterpart to this, measures approved by the National Council are examined and confirmed by the House of Nobles.

69. If the House of Nobles be not in session at the time of the opening of the National Council, measures passed by the latter do not remain suspended, but come into force after receiving the royal assent.

70. Measures passed by the House of Nobles and sent to the National Council, if not approved by the latter, are, in view of their importance, referred to another committee composed of an equal number of members of each House.

The minimum number of members is twenty. This select committee investigates the matters in question and communicates its opinion to the National Council. In the event of the opinion of the select committee being opposed to that of the National Council, the matter will be referred to His Majesty the King and decided under his exalted direction.

Provincial Advisory Committees

71. In the chief town of each governor's province, whether Naib-ul-Hukuma, Hukamat-i-Ala or Hukumat-i-Kalan, an advisory committee will be set up.

72. The mode of election, number of members, and duties of this committee are set forth in the appropriate regulations.

Duties and Rights of Ministers

73. The administration of the country is carried on by ministers, who are selected by the Prime Minister with the approval of His Majesty.

74. The Prime Minister is the president of the cabinet, and in his absence the minister in charge of the Prime Minister's office will perform the duties of president.

75. Moslems, being Afghan subjects, are alone eligible for appointment as ministers.

76. Ministers are responsible to the National Council as regards the policy of the Government in general, and the ministry under their charge in particular. His Majesty the King is therefore free from all responsibility.

77. The responsibility of ministers and the policy relating to them will be fixed by regulation.

78. Ministers dispose of matters within their powers, and submit those beyond their powers to the Prime Minister who deals with them up to the limit of his authority and submits such cases as may be beyond his powers for the orders of His Majesty the King.

79. When a minister is suspected of an offence connected with his official duties he will take his trial in the Diwan-i-Ali [Supreme Court]. Charges against a minister in his private capacity will be referred to the courts of justice as in the case of other subjects.

80. A minister under suspicion will be suspended from public duties until the result of his trial is published and he is acquitted.

81. During the absence of a minister, the assistant in the ministry, or a deputy who may be appointed for the purpose, will exercise all the powers of a minister.

82. With the permission of His Majesty the King, a committee of enquiry will be selected from, and appointed by, the National Council, in accordance with the appropriate regulations, to investigate the general conduct of ministers and government servants.

83. The number of ministries, the organization of departments, and the duties of each have been laid down in the fundamental regulations.

Rights of Civil Servants

84. Civil servants in general are appointed to posts for which they are fit and suitable, in accordance with the articles laid down in the appropriate regulations. Unless he resigns, or the exigencies of government service require his transfer or dismissal, no civil servant will be dismissed. Civil servants who behave well and are diligent in the discharge of their duties will be entitled to promotion in their grades and ranks, and pension according to the appropriate regulations.

85. All civil servants, in order of seniority, are required to obey their superiors in accordance with the regulations on the subject. Officers and their subordinates should in no circumstances issue an order which contravenes the regulations. In the event of a subordinate being ordered by a superior to act in contravention of the rules in any instance, the sub-

ordinate should, before taking such action, report to the central office of his ministry or the Prime Minister.

86. Duties of civil servants are laid down in the respective codes. Every civil servant is held responsible for discharging his duties in accordance with the instructions laid down in the regulations on the subject.

Courts

87. General suits under Shariat law will be filed in the courts of justice.

88. Suits filed in the Shariat courts are dealt with in accordance with the principles of the Hanafi religion.

89. All courts are free from any kind of interference.

90. Cases are tried openly in the courts of justice, with the exception of those which the judge directs shall be heard *in camera*.

91. Every person may plead in court any provision of Shariat law to protect his rights.

92. Courts of justice may not delay the hearing and decision of cases, except as provided by Shariat law.

93. No one may set up a special tribunal to settle particular cases out of court.

94. The classification of courts and their powers had been laid down in the fundamental regulations.

Diwan-i-Ali (Supreme Court)

95. A supreme court is summoned temporarily, as required, to try government ministers, and is dissolved after dealing with the cases referred to it.

96. The method of summoning a supreme court and the procedure therein are laid down in a special code.

Financial Matters

97. All government taxes are realized in accordance with a special code.

98. Every year a budget, showing the income and expenditure of the Government, is prepared according to Article 43.

The budget is the basis on which revenue is collected and expenditure made.

Money for government expenditure will be recovered and spent in accordance therewith.

99. After the annual budget has been checked, a final statement of accounts, comprising actual figures of income and expenditure for the year, is prepared.

100. There is a special code governing the form of the final statement of accounts, the preparation of the budget, and the method of checking.

101. Reduction or remission of revenues is dealt with in accordance with a special code.

Administration of Provinces

102. The principle of the administration of provinces is based on three fundamental rules, i.e., delegation of authority, allotment of duties, and

fixation of responsibility. On the basis of the above-mentioned rules, the duties of provincial civil servants are classified and fixed, and their authority limited according to the appropriate principles. Every civil servant is held responsible to his superior in all official matters.

103. Civil servants are posted to provinces from each ministry separately. The public approach the appropriate branches for the disposal of business and the satisfaction of their requirements.

104. If signs of unrest and rebellion, tending to the disturbance of the public peace, be discovered in any part of the country, the Government has the power to adopt the measures necessary to put down the insurrection and restore peace.

105. The formation of municipalities and their duties are governed by a special code.

Army

106. Recruitment of the army and its duties and rights are governed by a special code.

107. No member of the army may be deprived of his pay or rank otherwise than as laid down in the regulations.

108. Foreign subjects, with the exception of doctors and military instructors, are not accepted in military employment.

Miscellaneous Principles

109. Immunity of correspondence is one of the rights of the people. Letters and other communications from the public on which postage has been paid will not be opened by any post office or at any other place, except under an order of search from a court, but will be delivered closed to the addressee.

110. Whenever a verbal order is given to a minister or other civil servant by His Majesty or the Prime Minister, he should obtain such orders in writing and signed by the King or the Prime Minister.

I direct that these orders and regulations be brought into force.

Dated the 8th Aqrab, 1310 (October 31, 1931).

(Seal of the King)

Addendum [1]

1. Officials of the foreign ministry, military officers, and such Afghan students as are sent abroad to be educated at Government expense are not allowed to marry foreign subjects.

2. Foreign subjects have absolutely no right to own land in Afghanistan. Foreign legations in Afghanistan will, in accordance with agreements concluded with their respective countries, be accorded reciprocal treatment.

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[1] Original text published in *Islah*, February 22, 1933.

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ALBANIA

NOTE

The text of the Constitution of Albania of March 15, 1946 is published in full in the first edition (1950) of this work. Since that time the editor is advised that a new Constitution has been adopted. Unfortunately it has not been possible up to the time of our going to press to obtain a copy of it.

Albania is a member of the United Nations. Its application for admission originally made in 1946 was approved December 14, 1955 as a part of the so-called "package deal".

Albania joined the League of Nations as an invited State in 1920. It was a party to the 1928 Paris Treaty and to the Statute of the Permanent

Court of International Justice of 1921.[1] It is a member of the Postal Union and of other international organizations.[2]

Albania, after centuries of subjection to Turkish rule, declared its independence in November, 1912, and was recognized as a neutral autonomous principality under international guarantee in July, 1913. It disappeared as a state at the beginning of World War I, its German Prince abdicating and proceeding to Germany. Its independence was again recognized, by the Conference of Ambassadors at Paris, in November, 1921. It was proclaimed a republic in January, 1925. The republic became a monarchy, and its President, Colonel Ahmed Zogu, became King of the Albanians, under the name of Zog, in September, 1928.

A treaty of mutual support and cooperation, concluded between Albania and Italy on November 27, 1926, was followed, on November 22, 1927, by a twenty-year defensive alliance of the two countries; on July 29, 1931, by an "original statute", in which Italy, Germany, Austria, Hungary, France, Great Britain, and Russia declared the neutrality of Albania; and on April 7, 1939, by the occupation of the whole of Albania by Italian forces. A new constitution or statute for the Albanian people, signed by the King of Italy as "King-Emperor" on June 3, 1939, provided that the "Albanian State is a constitutional monarchy" and that "the throne is hereditary according to salic law in the dynasty of His Majesty Victor Emanuel III, King of Italy and Albania, Emperor of Ethiopia."

The 1939 Constitution provided for a legislative body designated as the "Superior Fascist Corporation Council". It was similar in form to the Italian Chamber of Fasces and Corporations. Its ex-officio members were the components of the council of the Albanian Fascist Party and the Albanian Economic Cooperative Council.[3]

In October, 1940, Italian forces invaded Greece from Albania. They were driven back by the Greeks, who occupied a part of Southern Albania until they were, in turn, expelled by German and Italian forces in April, 1941. Albanian authorities were thereafter given limited rights in the government of their country.

On May 24, 1944, a committee to govern the portion of Albania that had been liberated was set up by General Enver Hoxha. A provisional

[1] On September 17, 1930, it accepted the optional clause (Art. 36) regarding compulsory jurisdiction on specified conditions, and this declaration was renewed for another five years from September 17, 1935. Though not them a party to the Statute of the International Court of Justice of 1945, it accepted the jurisdiction of that Court for the Corfu Channel Case, the first case brought before the court. See Order of Court of July 31, 1947, and Judgment of March 25, 1948.

[2] See Table I.

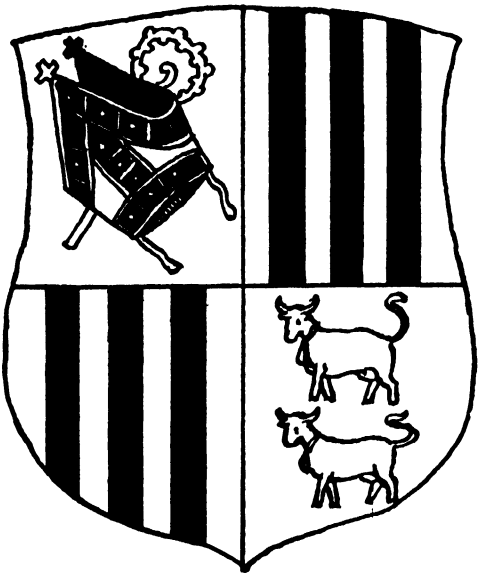
[3] Differences of opinion were expressed as to whether the action of Italy contemplated a "personal union", or an "incorporate union," or an "outright annexation," or a "protectorate." See letter to New York *Times*, June 18, 1939, from Faik Konitza of the former Albanian Legation in Washington. *Cf.* Angelo P. Sereni, "The Legal Status of Albania," in *Political Science Review*, Vol. XXXV (1940), pp. 311 ff., and *The Italian Conception of International Law* (Columbia University Press, 1943), pp. 291-2.

government under General Hoxha was established in November, 1944. A republic was proclaimed on January 11, 1946, and a new constitution was promulgated on March 15, 1946. On July 4, 1950 a new constitution was promulgated.

Albania's area is 10,629 square miles. It has a population of about 1,200,000. The language is Albanian.

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ANDORRA

SUMMARY

International Status

Andorra is a tiny double suzerainty in the Pyrenees under the joint control of France and Spain.

Before 1278, the Spanish heiress of the Condes of Castelbo, Suzerains of Andorra, married the Frenchman, Roger Bernard, Comte de Foix. The Bishop of Urgel's objections resulted in a double suzerainty between the Bishops of Urgel and the Comtes de Foix, which lasted for centuries. France later assumed the rights of the Comtes de Foix.

Andorra has an area of about 191 square miles and a population of about 5,500. It claims to have enjoyed undisturbed sovereignty since

1278 and was granted a constitution as a republic by Napoleon in 1806. It was occupied by a Fighting French police force of General de Gaulle on November 15, 1944.

Andorra is a member of the Postal Union.

Form of National Government

Andorra adopted a Plan of Reform on May 31, 1866.

It is governed by two vicars, a General Council and a judiciary. The Bishop of Urgel (Spanish) and the French Government participate in the selection of some officials.

Electors are restricted to the heads of families.[1] The parishes are made up of "cuarts." [2]

There are provisions for communal authorities, for a board of elections (*presidencia*) composed of at least a president, two assessors and a secretary, and for commissioners of accounts.[3]

Members of the Council serve for four years.[4] Their services are gratuitous,[5] and they are subject to personal liability for unauthorized conduct.[6]

Area, Population, Language

Andorra has an area of 465 square kilometres and a population of about 5,000. The language spoken is Catalan.

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[1] Plan of Reform of 1866, Art. 1.
[2] Id., Art. 4.
[3] Id., Arts. 4 and 5.
[4] Id., Art. 8.
[5] Id., Art. 7.
[6] Id., Art. 16.

PLAN OF REFORM ADOPTED IN THE VALLEYS OF ANDORRA

31ST of MAY, 1866[1]

1. Every voter must be an Andorran living in a parish, the head of a family, of age, and in his right mind. A foreigner married to a woman who is an only child and heiress can also be a voter; provided he has lived for not less than three years in the country, and has not been found guilty of contempt or indifference for the things and affairs of the country, according to the judgment of the honorable Common (*Comu*) whenever there is doubt, save that recourse can always be had to the sovereign Prince.

2. Those who shall have received the majority of votes in the elections contemplated in Article 1 and carried out according to the rules of Article 5, may be elected commissioners of the people.

3. To be elected a qualified communal authority or a member of the General Council, it is necessary first to have the qualications of Article 1, to be a person of good life and customs, to possess one's family estate and means corresponding to the interests to be administered as a qualified authority. However, although he may unite in himself all the conditions of a true citizen, no one may be elected a member of the municipalites or of the General Council if he should have debts to the Common unless he shall offer the equivalent thereof to the said Common.

4. The elections take place in each parish in the principal locality on a day known and agreed upon as between the local authority and the people. After fixing the day and the hour of the voting and the place, the local authorities shall meet in order to preside over the poll. The board of elections (*presidencia*) shall be composed of at least a president, two assessors, and a secretary. The major or the minor consul shall be president, or lacking both, then any individual designated by them. The other members of the Common and the four members of the General Council shall also have the right to assist the president. Those shall be elected who shall have obtained a majority of the votes of those present, be they few or many. The representatives of the *cuarts* that make up each parish may become members of the board of elections. The individuals possessing the most family wealth shall initially be members of the board of elections.

5. For the designation of commissioners of accounts, the proper authority shall preside and the people alone shall vote. Initially the board of elections shall be constituted according to Article 4.

The voters can record before the board of elections in writing or orally

[1] Translated from Dareste, *Les Constitutions Modernes*, vol. 1, p. 279

their identification and their ballot. If certain *cuarts* of one parish can present one commissioner and the other *cuarts* another, the vote can be separate if there is agreement on this manner of procedure, and it can be the same for other votings. Once the polls are closed, the votes shall be counted. Those who shall have obtained an absolute majority shall be proclaimed legally commissioned. If no one has obtained an absolute majority, those who have received the greatest number of votes shall be submitted to a new vote; the voters should vote for one of them and he who shall have the majority shall be proclaimed legally commissioned. If in the first round of voting one name receives the same number of votes as the two most favored, the three names shall be submitted to a second round, and an absolute majority shall decide, as has just been provided. If by chance no one obtains an absolute majority, the two names having received the most votes shall be retained and the majority shall decide on the following round as has just been provided; and if equality of votes continues, the two names shall be placed in an urn and he shall be elected who is first drawn. Those elected who shall have obtained a majority of votes and who accept the designation shall be named legally commissioned for two years, at the expiration of which they can be re-elected if they obtain again a majority of the votes, depending always upon their willingness to accept the commission. They shall participate in drawing up the accounts; an abstract to this end shall be submitted to them in advance by the consuls of the Common. If there is not agreement, the General Council shall decide, except that recourse shall be had to the Sovereign Prince if an accord is not achieved within the Council.

6. The year of the consulate shall end on December 31; the consuls must render their accounts between the said date and February 2 of the following year.

To name the authorities constituting the Common, all the voters of each parish shall have a right to vote. The board of elections shall be designated in conformity with Article 4. The voters shall vote first, then the authorities, for the members destined to form the Common and fulfilling the conditions of Article 3, the vote taking place according to Article 5 If the first round shall not result in an absolute majority, a second round shall take place in conformity with Article 5, and those who shall have received the absolute majority of those present shall be named. Once constituted, the Common shall name, by majority, the major consul and minor consul in accordance with the provisions of Article 8. The body shall then be organized with all the duties, obligations and prerogatives which pertained to previous communal authorities, with the exception of the prerogatives and representation in the General Council. For the nomination of the major and minor consuls, the alternative form up to now in usage the *cuarts* constituting each parish shall be observed. All service shall be gratuitous.

7. To name the four members of the General Council, all of the voters of each parish shall also have the right to vote. The communal authorities shall preside as provided; initially the provisions of Article 4 shall be observed. The voters shall vote first on the personages having

the qualifications fixed in Article 3, and then the authorities. Those elected shall be designated, one by one, according to Article 5; in the absence of an absolute majority on the first round, there shall be a second in the form of the aforesaid Article 5; those who shall obtain the absolute majority of those present shall be named members of the General Council. The General Council shall have the same prerogatives as hitherto, as much in the nomination of the syndics as for that of all other chiefs, these in order that its members shall be relieved of the labors of the parish which will be in the charge of the communal authorities. The services of the Council shall also be gratuitous.

In order that the term of the mandate of a communal authority and of a general councillor shall equally be of four years, initially half of the elected shall serve four years and the other half two years; to determine the half whose offices shall expire, Article 8 shall be observed.

8. The consuls named shall serve four years, like the other members of the Common, with the rank of consul during the two first years and that of councillor in the two others. In consequence the members of the Common should every two years choose the two consuls above mentioned among the five new ones, in such a manner that the elected can be equally two years consuls and two years councillors, like their predecessors and so on, henceforth. Those elected shall obtain the absolute majority of the votes of the members of the Common; or lacking this, a relative majority, observing an alternation by virtue of which the major consul shall once out of twice be of one group of *cuarts* and the minor of the other, and the opposite on the following renewal. During the two first years the oldest man of one group of *cuarts* and the oldest man of the other group shall be councillors. Then with the renewing of half of the members of the Common it shall be so done that the groups of *cuarts* constituting each parish shall have the number of representatives appropriate to it. The changing of the said half shall for the first time be effected in observance of the forms hereafter stated; after the first time, it will happen that one of the two halves will have fulfilled the term of four years, while the other will have only served two years; and replacing will be necessary for the five, as having finished the four years of their office. To replace for the first time the half leaving office, the names of all of the members of the Common shall be placed in an urn with the exception of those of the two consuls ending their consulates and remaining in the Common, as has been said, in the capacity of councillors until the end of their four years. Of the eight names submitted to the drawing, five shall be drawn and these shall be replaced by an election according to Article 6. If the parish is divided into two groups of *cuarts*, four names of one group shall be placed in one urn, four of the other in a second; three names shall be drawn from the first and two from the second in order to obtain the five that will form the half. The nomination of substitutes shall be made on the basis of three for the group from which three have been drawn, and of two for the other group from which two have been drawn.

The determination of the half of the members of the General Council destined to be changed after two years shall be made, the first time, by

placing in an urn the names of the four members from each parish and drawing out two; the individuals thus designated shall be replaced by election as has been said in Article 7.

9. Those who shall be legally elected by the Common shall be obliged to serve if they have not reached the age of retirement, or if they do not have another public or personal obligation. However, those who have been members of the General Council, *battles*, provosts, or syndics cannot be obliged to serve for the consulate, even by the will of the Common, unless four years have passed since the day when they left these offices until the one on which they are recalled by a majority to be authorities.

10. Those elected to the General Council are equally obliged to serve, if they have not reached the age of retirement or have not some public or personal obligation, and if four years have passed since the time they were members of the General Council, *battles*, provosts, or syndics, up to the time on which they again become authorities. If one of the four members of the General Council should happen to die, the remaining three shall take care first to name a substitute, who shall be chosen from the corresponding group of *cuarts* and shall serve only the unexpired term, and then notify the General Council. If a member of the Common should die, this body shall take care to name a substitute, who shall be chosen from the corresponding group of *cuarts* and shall serve only the unexpired term, and his election shall be by an absolute majority of the votes of that body or, for lack of that, a relative majority. If a commissioner of the people should die, his successor must be chosen from the group of *cuarts* which had elected the deceased; in order that this successor be considered as a legal commissioner, it will suffice that the fact be declared on a list that a substitute has been elected by a majority of the voters having taken part in the last election.

11. If any difficulty presents itself in the application of the above articles, recourse shall be made to the General Council which shall deliver a declaration of execution obligatory for all the parishes in general and for each in particular, saving recourse to the sovereign Prince.

12. After the establishment of the authorities of the Common and of the General Council, the consuls of each of the six parishes shall remit twenty-four duros to the respective members of the General Council; the latter will keep them in a fund for their expenses, of which they shall make a written report to the consuls, who will in turn make them hold a new deposit of twenty-four duros, on condition that in every case an appropriate receipt has been given. Moreover, the consuls shall have the obligation to hold at the disposal of the respective members of the General Council the *cuestia* of France, the gift and the *cuestia* of the Bishop, the salaries of the employees, and that which is customary in the known councils of each year.

13. To prepare and procure the best success in the practice of the procedures (*visuras*), the two consuls of the respective parishes shall be present at the court of first instance, together with the two councillors, in order to give the first judgment there. If there is an appeal the two consuls of the other parishes shall attend the court of second instance to

hear and decide; if there is a third attempt at recourse, the General Council shall be present with its assessor; and in the light of what the latter may supply them, the Council will issue its decision. The secretary of protocol shall also be there. The writ shall be given in the first instance into the hands of the major or minor consul, and if these are absent or sick, of a person designated as their substitute; in the second and third instance, into the hand of the syndic or of his substitute.

14. The syndic shall have, as hitherto, the power of making appropriate decisions as representative of the General Council but always observing the good usage of consulting the Council on the first occasion of applying such decisions in order to secure the approbation of the Council.

15. It is equally expedient, for the exact fulfillment of good usage that if some difficult and grave question arise in the Vale, the General Council should call in three or four individuals of each parish, from among those who have the most wealth and capacity, in order to advise jointly as to the best solution, as much to negotiate with the Co-Princes as to settle all other matters.

16. The communal authorities and those of the General Council can be called to account by individuals before competent jurisdictions on the subject of debts contracted toward them as individuals without there being need for previous authorization; it is only in the case of debts contracted as authorities that the authorization of the syndic shall be necessary to call to account the consuls and the members of the General Council and that of the General Council to call to account the syndics. The General Council and the syndics must, moreover, give the said authorization as soon as the claimant makes proof of default of payment. In case of the resusal of said authorization, recourse may be had to the sovereign Prince.

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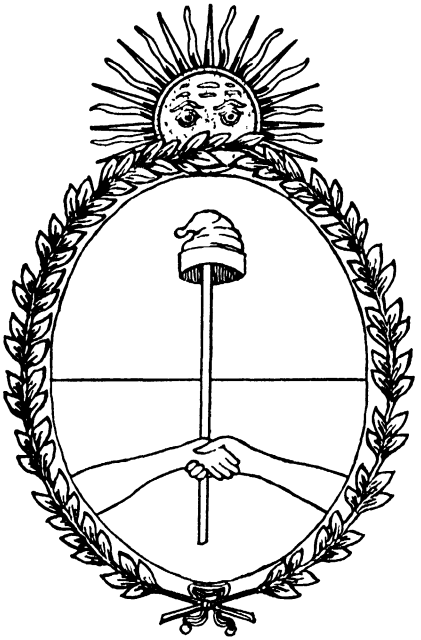
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ARGENTINA

SUMMARY

International Status

Argentina is a member of the United Nations. It signed the Charter of that organization at San Francisco on June 26, 1945 and deposited its ratification September 24, 1945. It was a signatory of the Declaration of the United Nations of January 1, 1942.

It is a member of the Organization of the American States, the Postal Union and numerous other international organizations.[1] It became a member of the League of Nations in 1920 as an invited state. It was not

[1] See Table I. The name "Organization of the American States" was adopted at Bogotá April 30, 1948.

a party to the Statute of the Permanent Court of International Justice of 1921, but is, by virtue of its membership in the United Nations,[1] a party to the Statute of the International Court of Justice of 1945. It is not subject to the compulsory jurisdiction of that Court under Article 36 of its Statute.[2] It was not a party to the 1928 Paris Treaty for the renunciation of war.

Form of National Government

The Argentine Republic has a written constitution adopted in 1949.[3] It provides that the Argentine Republic adopts for its government "the representative, federal republican form." [4] Each of the several component provinces has a constitution "under the republican representative system." [5]

The sources of revenue for the federal government are import and export duties, economic activities and services conducted by the government, the sale or lease of national lands, "taxes ... equitably and proportionately ... levied upon the population by the general Congress," and loans and credits.[6]

The federal government supports the Roman Catholic Apostolic Church [7] and the President must be a Roman Catholic and a native of Argentina. [8]

There are fourteen provinces in addition to the capital, and ten territories. Provinces create their own constitutions and elect their own provincial and local officials.[9] They may, with the knowledge of the Federal Congress, enter into certain partial treaties among themselves.[10] They are prohibited from declaring or making war among themselves and are required to submit disputes between themselves to the Supreme Court of Justice.[11] By action taken in 1894 and 1900 ten national territories were organized and provision was made for their elevation to provincial status on the basis of having 60,000 inhabitants. Originally Congress was granted the power to examine the provincial constitutions and to reject them in case they did not agree with the principles of the Federal Constitution. That clause is no longer in force.

The Constitution of 1853, replaced by the Constitution of 1949, was the successor to a number of constitutional experiments: Provisional Statute of 1811 and Regulations on individual safety and freedom of the press; Provisional Statute of 1815; Provisional Regulations of 1817; Constitution of 1819 and Constitution of 1826. The Constitution of 1853 was sanctioned by a General Constituent Congress which the Province of

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[1] See Art. 93 of the Charter of the United Nations.
[2] As of the time of going to press. See Yearbook of the Court 1951–52, pp. 35-43.
[3] Effective March 16, 1949. [4] Const. of 1949, Art. 1. [5] Id., Art. 5.
[6] Id., Art. 4. [7] Id., Art. 2. [8] Id., Art. 77.
[9] Id., Arts. 98, 99. [10] Id., Art. 100. [11] Id., Art. 102.

Buenos Aires did not attend, maintaining itself apart from the Argentine Confederation until 1860. A National Convention *ad hoc* in which the 14 Provinces were represented in 1860 considered the reforms proposed by the Province of Buenos Aires after a serious civil war, and sanctioned the Constitution of 1853.[1]

Source of Sovereign Power

The preamble to the Argentine Constitution states that it was created by "the representatives of the people of the Argentine Nation, assembled in the General Constituent Congress by the will and election of the provinces which compose it, in fulfillment of pre-existing pacts . . . ."

Rights of the Provinces and People

The federal government guarantees to each province a republican form of government.[2] Full faith is accorded in each province to the public acts and judicial proceedings of every other province;[3] citizens of each province enjoy all the rights, privileges and immunities of citizens in other provinces, and extradition is a reciprocal obligation.[4] Custom-houses other than national ones and tariffs other than those sactioned by Congress are prohibited.[5] Free circulation of goods manufactured within the republic is guaranteed;[6] and transit duties are prohibited.[7] There is a prohibition against the establishment of any new province in the territory of one or more of the existing provinces and against the consolidation of provinces, without the consent of the legislatures of the provinces concerned and of Congress.[8]

All inhabitants (whether citizens or not) are guaranteed, in accordance with law, the right to work and practice any lawful industry; to navigate and trade; to make petitions to the authorities; to assemble; to enter, stay in, travel over, and leave the Argentine territory; to publish their ideas through the press; to use and dispose of their property; and to associate for useful purposes. Freedom of religion and of teaching are also guaranteed.[9] There are express prohibitions against slavery, racial discriminations, titles of nobility, personal privileges, and prerogatives of blood or birth.[10] Expropriations are prohibited without compensation.[11] Punishments without trial are prohibited.[12] No person can be compelled to be a witness against himself.[12] The domicile is inviolable, as are also correspondence and private papers.[12] There are prohibitions against death for political reasons and torture.[12]

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[1] Based on information supplied by the American Embassy at Buenos Aires in a letter to the editor, 6 October 1947.

[2] Const., Art. 6. [3] Id., Art. 7. [4] Id., Art. 8.
[5] Id., Art. 9. [6] Id., Art. 10. [7] Id., Arts. 11, 12.
[8] Id., Art. 13. [9] Id., Art. 26. [10] Id., Arts. 27, 28.
[11] Id., Art. 38. [12] Id., Art. 29.

Foreigners who enter the country without violating the laws "enjoy all the civil rights of Argentinians, as well as political rights, five years after having obtained Argentinian nationality."[1] They "acquire Argentinian nationality at the end of five years of continuous residence, in the absence of express declaration to the contrary."[2] Military service is compulsory for Argentine citizens.[3]

There are clauses, introduced in the 1949 Constitution, dealing with the rights of the laborer, the family, old age, education and culture and the social functions of property, capital, and economic activity.[4]

Legislative Department

Argentina has a bi-cameral legislative body composed of a House of Deputies and a Senate.[5] The Federal Congress has twenty-eight express powers which follow in many respects the powers of the Congress of the United States of America, and also a general grant of power to make all laws and regulations necessary to execute the express powers.[6] The procedure relative to the enactment of laws also follows closely the pattern of the Constitution of the United States.[7]

HOUSE OF DEPUTIES

The House of Deputies is composed of one representative for each 100,000 inhabitants. Members are elected by a simple plurality of votes of the voters.[8] In 1948 there were 158 members of the House of Deputies. Deputies serve for six years.[9]

The House of Deputies has the power to impeach before the Senate, the President, Vice-President, Ministers, and members of the Supreme Court and inferior courts.[10]

SENATE

The Senate is composed of two senators for each province and two for the capital, elected directly by the people.[11] In 1948 there were 30 members of the Senate. Senators serve for six years.[12] The Vice-President of the republic is president of the Senate.[13]

Executive Department

The President is elected for a six-year term of office and is eligible for reelection.[14] The President and Vice-President are elected directly by the people by simple plurality of votes.[15] The President has twenty-three

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[1] Const. of 1949, Art. 31. [2] Id., Art. 31. [3] Id., Art. 32.
[4] Arts. 37–40, incl. [5] Id., Art. 41. [6] Id., Art. 68.
[7] Id., Arts. 69–74. [8] Id., Art. 42 [9] Id., Art. 44.
[10] Id., Art. 46. [11] Id., Art. 47. [12] Id., Art. 49.
[13] Id., Art. 50. [14] Id., Art. 78. [15] Id., Art. 82.

enumerated powers which follow in many respects those of the President of the United States of America.[1]

There is a cabinet of ministers secretaries of state who report to the President, and may attend the sessions of Congress, and may take part in debates, but cannot vote.[2]

Judicial Department

Judicial power is vested in a Supreme Court of Justice and such inferior courts as Congress may establish.[3] Jurisdiction of the federal courts extends to all cases arising under the Constitution and laws of the nation; under treaties with foreign nations; suits referring to ambassadors, ministers plenipotentiary and foreign consuls; admiralty, maritime and aeronautical jurisdiction; suits where the nation is a party; cases arising in the federal capital and in places governed by Congressional legislation; and suits between two or more provinces ,between one province and the citizens of another province, and between the nation or a province or its inhabitants and a foreign State.[4]

The Supreme Court has original and exclusive jurisdiction in matters concerning ambassadors, ministers and foreign consuls and, generally speaking, those in which a province is a party.[5]

Area, Population, Language

The area of the Argentine Republic is 1,079,965 square miles. Its estimated population on January 1, 1952 was 18,007,172. The principal language spoken is Spanish.

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[1] Const. of 1949, Art. 83. [2] Id., Art. 84. [3] Id., Art. 89.
[4] Id., Art. 95. [5] Id., Art. 96.

CONSTITUTION of the ARGENTINE REPUBLIC[1]

March 16, 1949

PREAMBLE

We, the representatives of the people of the Argentine Nation, assembled in General Constituent Congress by the will and election of the provinces which compose it, in fulfillment of pre-existing pacts, with the object of constituting the national unity, confirming justice, insuring domestic peace, providing for the common defense, promoting the general welfare and the national culture, and securing the benefits of liberty to ourselves, to our posterity, and to all men of the world who may desire to dwell in the Argentine land; ratifying the irrevocable decision to establish a Nation socially just, economically free and politically sovereign; and invoking the protection of God, source of all reason and justice, do ordain, decree ,and establish this Constitution for the Argentine Nation.

PART FIRST

FUNDAMENTAL PRINCIPLES

Chapter I

Form of Government and Political Declarations

Art. 1. The Argentine Nation adopts for its government the representative, federal, republican form, as established by the present Constitution.

Art. 2. The Federal Government supports the Roman Catholic Apostolic Church.

Art. 3. The authorities which exercise the Federal Government shall reside in the city which shall be declared by a special law of Congress to be the Capital of the Republic, a previous cession of the territory which shall become federal being made by one or more of the provincial legislatures.

Art. 4. The Federal Government provides for the expenses of the Nation with the funds of the National Treasury, formed with the proceeds of import and export duties and of the economic activities conducted and services rendered by it; with those of the sale or lease of national lands; with whatever other taxes shall equitably and proportionately be levied upon the population by the general Congress, and by whatever loans and credit operations shall be decreed by the said Congress for emergencies of the Nation or for undertaking of national utility.

[1] New provisions translated by Edgar Turlington from the Spanish text published in *El Laborista*, Buenos Aires, March 12, 1949. Constitution became effective upon publication in *Diario de Sesiones*, March 16, 1949.

Art. 5. Each province shall adopt for itself a constitution, under the republican representative system, in accordance with the principles, declarations, and guarantees of the national Constitution, insuring its administration of justice, its municipal régime, primary education, and the co-operation sought by the Federal Government with a view to the execution of this Constitution and the laws of the Nation issued thereunder. On these conditions, the Federal Government guarantees to each one of the provinces the enjoyment and exercise of its institutions.

Art. 6. The Federal Government intervenes in the territory of the provinces in order to guarantee the republican form of government, or to repel foreign invasions, and at the request of their constituted authorities, to support or re-establish them, should they have been deposed by sedition or by invasion from another province.

Art. 7. The public acts and judical proceedings of one province enjoy full faith in the others: and Congress may, be general laws, determine what shall be the probative form of these acts and proceedings, and the legal effects which they shall produce.

Art. 8. The citizens of each province enjoy all the rights, privileges, and immunities inherent in the title of citizen in the others. The extradition of criminals is a reciprocal obligation among all the provinces.

Art. 9. Throughout the territory of the Nation there shall be no customhouses other than the national ones, in which the tariffs sanctioned by Congress shall be in force.

Art. 10. The circulation in the interior of the Nation of goods of national production or manufacture is free from duties as is also that of goods and merchandise of all kinds introduced into the country through the national customhouses.

Art. 11. Articles of national or foreign production or manufacture as well as livestock of all kinds, passing through the territory of one province to another, shall be free from so-called transit duties; the same freedom shall likewise be enjoyed by the vehicles, railway cars, airplanes, boats, or beasts by which they are transported; and no other duty, whatever its denomination may be, shall hereafter be imposed upon them for their passing through the territory.

Art. 12. Boats or airplanes bound from one province to another shall not be obliged to enter, anchor, alight, moor, or pay dues by reason of transit.

Art. 13. New provinces may be admitted into the Nation; but a province cannot be established in the territory of another or others, or one consolidated from several, without the consents of the legislatures of the provinces concerned and of Congress.

Art. 14. The people do not deliberate nor govern except through their representatives and authorities created by this Constitution. Any armed force or meeting of persons assuming the rights of the people and petitioning in the latter's name commits the crime of sedition.

Art. 15. The State does not recognize the liberty to attack liberty. This principle is without prejudice to the individual right to express thought in the field of speculation, subject only to the provisions of law.

The State does not recognize national or international organizations, whatever their aims, which maintain principles opposed to the individual liberties recognized in this Constitution, or contrary to the democratic system on which the Constitution is based. Those who belong to any of the said organizations may not perform public duties in connection with any of the powers of the State.

The organization and activity of militia or similar groups other than those of the States, as well as the use of uniforms or distinctive symbols of organizations whose objects are prohibited by this Constitution or the laws of the Nation, are prohibited.

Art. 16. Congress shall take action for the amendment of the present legislation in all its branches with a view to adapting it to this Constitution.

Art. 17. The Federal Government shall encourage European immigration; and shall not be able to restrict, limit, or burden with any tax whatsoever the entrance into Argentine territory of foreigners who arrive with the object of tilling the ground, improving the industries, and introducing and teaching the sciences and arts.

Art. 18. Navigation of the interior rivers of the Nation is free for all flags, in so far as it is not incompatible with the requirements of the defense, the common security or the general welfare of the State and subject to the regulations that are dictated by the national authority.

Art. 19. The Federal Government is bound to consolidate its relations of peace and commerce with foreign powers by means of treaties that are in conformity with the principles of public right laid down by this Constitution.

Art. 20. Congress shall not confer on the national executive, nor the provincial legislatures on the provincial governors, extraordinary powers, nor the whole of the public authority, nor assent to submissions or supremacies whereby the life, honor, or fortunes of the Argentines will be at the mercy of governments or any person whatever. Acts of this nature shall be utterly void and shall render those who formulate or consent to them or authorize them with their signatures, liable to be called to account and to be punished as infamous traitors to their country.

Art. 21. The Constitution may be amended entirely or in any of its parts. The necessity for a reform must be declared by Congress with the vote of two-thirds of its members present; but it shall not be effected except by a convention called for the purpose.

A special law shall establish the punishment for those who in any way advocate or propagate methods or systems proposing the use of violence to suppress or change the Constitution or any of its basic principles and those who organize, establish, direct or belong to an association or entity which has as its visible or concealed purpose the accomplishment of such ends.

Art. 22. This Constitution, the laws of the Nation dictated by Congress in consequence thereof, and the treaties with foreign powers are the supreme law of the Nation; and the authorities of each province are obliged to conform thereto, notwithstanding any rule to the contrary which the provincial laws or constitutions may contain, with the exception, so far as

the Province of Buenos Aires is concerned, of the treaties ratified following the Pact of November 11, 1859.

Art. 23. The Federal Congress shall not pass any laws restricting the liberty of press or establishing the federal jurisdiction thereon.

Art. 24. The judges of the federal courts may not at the same time be judges of the provincial courts, nor does the federal service, whether civil or military, give residence in the province in which it is performed and which is not where the employee habitually resides, this being understood as to the right of obtaining employment in the province in which he accidentally resides.

Art. 25. The denominations successively adopted since 1810 up to the present, namely: United Provinces of the River Plate, Argentine Republic, Argentine Confederation, shall henceforth be names which may be used indiscriminately for the designation of the government and territory of the provinces, but the words "Argentine Nation" shall be used in the enactment and approval of the laws.

Chapter II

Rights, Duties and Guarantees of Personal Liberty

Art. 26. All inhabitants of the Nation enjoy the following rights, in accordance with the laws which regulate the exercise thereof, namely: of working and practising any useful and lawful industry; of navigating and trading; of making petitions to the authorities; of assembling; of entering, staying in, traveling over and leaving the Argentine territory; of publishing their ideas through the press without previous censorship; of using and disposing of their property; of associating for useful purposes; of freely professing their religion; of teaching and learning.

Art. 27. In the Argentine Nation there are no slaves. Those who are in any way brought in shall be free by the mere fact of setting foot on the territory of the Republic.

Art. 28. The Argentine Nation does not admit racial differences, prerogatives of blood or of birth; in it there are no personal privileges, or titles of nobility. All its inhabitants are equal before the law and admissible for employment, without any other requisite than capacity. Equality and proportionality are the bases of taxation and of the public burdens.

Art. 29. No inhabitant of the Nation may be punished except after trial and conviction under laws anterior to the commission of the offense; nor shall he be tried by special commissions or removed from the jurisdiction of the courts which under the laws in force when the offense was committed should take cognizance of his case. The penal law most favorable to the accused shall always be applied, even retroactively. Soldiers and persons assimilated to the military status shall be subject to the military jurisdiction in the cases established by law. The same jurisdiction shall be applicable to persons who commit offenses punishable under the Code of Military Justice and subject under the pertinent law to the military tribunals. Nobody may be compelled to be a witness

against himself or be arrested except by virtue of a written order from a competent authority. The defense of person and of rights before the courts is inviolable. The domicile is inviolable, as also the epistolary correspondence and private papers; and a law is to determine in what cases and with what reasons their search and seizure shall be allowed. The judges may not amplify legal charges by analogy nor interpret the law loosely to the prejudice of the accused. In case of doubt the construction most favorable to the accused must be followed. The penalty of death for political reasons and all kinds of torture and scourging are forever abolished. The prisons shall be healthy and clean and adequate for the social re-education of the persons confined therein; and any measure which under pretext of precaution causes them to be mortified beyond what security demands will bring responsibility upon the judge or official who authorizes it.

Any inhabitant may, in person or through his relatives or friends, file a writ of habeas corpus with the competent judicial authority for the investigation of the basis and proceedings of any restriction or threat to the liberty of his person. The tribunal shall cause the person complained of to appear and, on summary proof of the violation, shall cause the restriction or threat to cease immediately.

Art. 30. The private actions of men which in no way offend the public order or morality, nor injure a third party, are only reserved to God and are exempt from the authority of the magistrates. No inhabitant of the Nation shall be obliged to do what the law does not command nor be deprived of what it does not forbid. No personal service may be exacted except by virtue of law or judgment based on law.

Art. 31. Foreigners who enter the country without violating the laws shall enjoy all the civil rights of Argentinans, as well as political rights, five years after having obtained Argentinian nationality. Upon their petition they may be naturalized if they have resided two consecutive years in the territory of the Nation, and they shall acquire Argentinian nationality automatically at the end of five years of continuous residence in the absence of express declaration to the contrary.

The law shall establish the causes, formalities and conditions for the grant of nationality and for its loss, as well as for the expulsion of foreigners from the country.

Art. 32. Every Argentine citizen is obliged to arm himself in defense of the country and of this Constitution, in accordance with whatever laws Congress shall enact for the purpose and the decrees of the national executive power.

No one may hold public employment or office, civil or military, unless he has sworn to be loyal to the country and to support this Constitution

Art. 33. Treason against the Nation shall consist only in taking up arms against her, or in adhering to her enemies, giving them aid and comfort. Congress shall declare by a special law the punishment of this crime, but the penalty for treason shall apply only to the offender and no infamy therefrom shall affect his relatives, regardless of the degree of relationship.

Art. 34. In case of internal commotion or foreign attack endangering the exercise of this Constitution and of the authorities created thereby, the province or territory where the perturbation of order exists shall be declared in state of siege, the constitutional guarantees there being suspended. But during this suspension the President of the Republic may not condemn by himself, or apply penalties. His power shall be limited, in such a case, with respect to persons, to arresting them or conveying them from one point of the Nation to another, if they should not prefer to leave the Argentine territory. There may likewise be declared a state of warning and alarm in case of a disturbance of the public order which threatens the normal course of living or the essential activities of the population. A law shall determine the legal effect of such a measure, but this shall not suspend the constitutional guarantees though it will limit them temporarily to such extent as may be indispensable. With reference to persons, the powers of the President shall be restricted to detaining them or transferring them from one place to another in the territory, for a period of not more than thirty days.

Art. 35. The rights and guarantees recognized by this Constitution may not be altered by the laws regulating their exercise but shall protect no inhabitant of the Nation to the prejudice, injury or loss of another. Abuses of these rights which prejudice the community or entail any form of human exploitation constitute offenses which shall be published by law.

Art. 36. The declaration, rights, and guarantees which the Constitution enumerates shall not be considered to be a denial of other rights and guarantees not enumerated, but which arise from the principle of sovereignty of the people and the republican form of government.

Chapter III

Rights of the Laborer, the Family, Old Age and Education and Culture

Art. 37. The following special rights are declared:

I Of the Laborer

1. Right to work—.Labor is the indispensable means for satisfying the spiritual and material needs of the individual and the community, the basis of all the achievements of civilization and the foundation of general prosperity; hence the right to work must be protected by society, considering it with the dignity which it merits and providing occupation for those who need it.

2. Right to just remuneration.—Since capital, income and interest are the exclusive products of human labor, the community must organize and reactivate the sources of production in such a way as to facilitate and assure to the worker a moral and material remuneration which satisfies his vital needs and compensates him for the yield obtained and the effort exerted.

3. Right to self-development.—The improvement of the human condition and the pre-eminence of values of the spirit impose the neces-

sity of raising the level of culture and professional aptitude, enabling all intelligences to orient themselves in the direction of knowledge, and make it incumbent upon society to stimulate individual effort by providing the means by which, with equality of opportunity, every individual may exercise the right to learn and to develop his capacities.

4. Right to suitable working conditions.—The consideration due to the human being, the importance of regarding labor as a social function, and mutual respect among the factors contributing to production establish the sacred right of individuals to demand fair and just conditions for the conduct of their activities and the obligation of society to assure the strict observance of the rules by which such conditions are prescribed and regulated.

5. Right to preservation of health.—Care for the physical and moral health of individuals must be a primary and constant preoccupation of society, which has the responsibility for seeing to it that the labor system meets adequate standards of hygiene and safety, that it does not require excessive exertion and that it affords due opportunity for recuperation by rest.

6. Right to comfort.—The right of laborers to comfort, which finds its minimum expression in the availability of shelter, clothing and food adequate to meet the needs of themselves and their families without anxiety and in such a way as to enable them to work with satisfaction, to rest without preoccupations and to advance spiritually and materially to a reasonable extent, entails the social necessity of raising the standard of living and work by the direct and indirect means permitted by economic development.

7. Right to social security.—The right of individuals to be protected in cases of diminution, suspension or loss of capacity to work entails the obligation of society to assume the burden of making loans or of establishing systems of compulsory insurance to supply wholly or in part the inadequacies or inaptitudes normally existing at certain periods of life or resulting from misfortunes incident to contingent risks.

8. Right to protection of family.—The protection of the family is one of the natural aims of the individual, since it gives rise to his loftiest emotions, and every undertaking for its welfare should be stimulated and favored by the community as the best means of promoting the improvement of the human race and the establishment of spiritual and moral principles which constitute the essence of community life.

9. Right to economic improvement.—The productive capacity and the desire to advance find a natural incentive in the possibilities of economic improvement. Society should therefore support and favor individual initiative to this end, and should stimulate the development and use of capital as an active element in production and as a contribution to general prosperity.

10. Right to the defense of professional interests.—The right to form unions freely and the right to participate in other lawful activities for the defense of professional interests are essential rights of workers and should be respected and protected by society, assuring their free exercise and repressing every act which may obstruct or impede it.

II The Family

The family, as primary and fundamental nucleus of society, shall be the object of special protection by the State, which respects its rights as to its establishment and defense and the accomplishment of its purposes.

1. The State protects marriage, guarantees the legal equality of spouses and the rights of parents;
2. The State shall constitute the economic unit of the family under the provisions of a special law;
3. The State guarantees the family property in conformity with the provisions of a special law;
4. Care for and assistance to mother and child shall have the special and privileged consideration of the State.

III Old Age

1. Right to assistance.—Every aged person has the right to full protection, at the expense of his or her family. In case of abandonment, the State must provide such protection, either directly or through institutions existing or to be established for this purpose, without prejudice to the right of the State or of such institutions to recover their contributions upon demand from solvent members of families which are remiss.
2. Right to shelter.—The right to hygienic housing with a minimum of household conveniences is inherent in the human condition.
3. Right to food.—The provision of wholesome food adequate for the age and physical condition of everyone must be studied in a special manner.
4. Right to clothing.—Decent clothing suitable to the climate is a part of the preceding right.
5. Right to care of physical health.—The care of the physical health of the aged must be of very special and permanent concern.
6. Right to care of moral health.—The free enjoyment of spiritual development, compatible with morals and religion, must be assured.
7. Right to recreation.—Aged persons must be recognized as having the right to a reasonable minimum of entertainment so that they may pass with satisfaction their hours of waiting.
8. Right to work.—When conditions permit, occupation in productive labor therapy must be provided. The impairment of personality will thus be avoided.
9. Right to tranquillity.—To enjoy tranquillity, free from anxiety and preoccupations, in the last years of life, is the patrimony of old age.
10. Right to respect.—Aged persons have the right to the respect and considerations of others.

IV Education and Culture

The responsibility for education and instruction rests upon the family and upon the private and official establishments which collaborate with the family in conformity with the laws. For this purpose the State shall

establish primary, secondary and technical-professional schools, and universities and academies.

1. Teaching shall be directed toward the development of the physical vigor of the young, the development of their intellectual faculties and social potentialities, their professional training, the formation of character and the integral cultivation of all the personal, family and civic virtues.

2. Elementary primary education is obligatory and shall be free in the State schools. Primary instruction in the rural schools shall be directed toward inculcating in the boy the love of country life and training him professionally for rural tasks and toward preparing the girl for domestic duties in the country. The State shall create, for this purpose, the institutes necessary to prepare a specialized corps of teachers.

3. Vocational guidance of the young, as a complement to instruction and education, is a social function which the State supports and promotes by institutions to guide the young toward the activities for which they possess natural aptitudes and capacity, in order that a proper choice of vocation may be for their own advantage and for that of society.

4. The State entrusts to the universities the higher education which prepares the young for the cultivation of the sciences in the service of the spiritual aims and to the credit of the Nation and for the practice of the professions and the technical arts for the welfare of society. The universities have the right to govern themselves within the limits established by a special law which shall regulate their organization and functioning.

A law shall divide the national territory into university regions within each of which the respective university shall exercise its functions. Each of the universities, in addition to organizing the universal fields of knowledge in which it must give instruction, shall encourage thorough study of the literature, history and folklore of its zone of cultural influence and shall promote technical arts and applied sciences with a view to the development of the resources and the increase of the economic activities of the region.

The universities shall establish compulsory interdepartmental courses for the political education of the students, in order that every student may become acquainted with the characteristics of the Argentinian, the spiritual, economic, social and political facts regarding his country, the historical evolution and mission of the Argentine Republic, and may become aware of the responsibility which he must assume for the achievement and consolidation of the aims recognized and determined in this Constitution.

5. The State protects and promotes the development of the sciences and the fine arts, the practice of which is free, though it does not exempt artists and scientists from social duties. The academies are responsible for the teaching of culture and for post-university scientific investigations, for which object they have the right to adopt autonomous government within the limits established by a special regulatory law.

6. Capable and deserving students have the right to enter the highest grades of instruction. The State assures the exercise of this right by scholarship, grants to families and other provisions to be made by competition among the students of all the schools.

7. The artistic and historic resources, as well as the national landscapes irrespective of their ownership, are part of the cultural patrimony of the Nation and shall be under the guardianship of the State, which may order the expropriations necessary for their defense and prohibit the exportation or sale of artistic treasures. The State shall organize a register of artistic and historic resources and shall provide for their custody and conservation.

Chapter IV

The Social Function of Property, Capital and Economic Activity

Art. 38. Private property has a social function and shall, therefore, be subject to the obligations established by law for the public welfare. It is the duty of the State to supervise the distribution and use of land, to intervene for the purpose of developing and increasing its yield in the interest of the community, and to afford each farm worker or farming family the opportunity to become the owner of the land which he or it cultivates. Expropriation on the ground of public utility or general interest must be authorized by law and previously compensated. Congress alone imposes the taxes mentioned in Article 4. Every author or inventor is the exclusive owner of his work, invention or discovery, for the term accorded him by law. The confiscation of property is forever stricken from Argentinian law. No armed body may make requisitions or demand assistance of any kind in time of peace.

Art. 39. Capital must be at the service of the national economy and must have the social welfare as its principal object. The various forms of its use may not be contrary to the purposes of common benefit of the Argentine people.

Art. 40. The organization of wealth and its utilization are for the advancement of the public welfare, under an economic order compatible with the principles of social justice. The State, pursuant to a law, may intervene in the economy and monopolize specified activities for the protection of general interests and subject to the limits fixed by the fundamental rights guaranteed in this Constitution. With the exception of imports and exports, for which the State shall be responsible in accordance with the limitations and the system determined by law, all economic activities shall be organized by free private initiative, provided that they are not ostensibly nor covertly designed to dominate the national market, to eliminate competition or to earn usurious profits.

Minerals, waterfalls, deposits of petroleum, coal and gas, and other natural sources of energy, with the exception of plants, are imprescriptible and inalienable properties of the Nation, with the corresponding participation in their products, to be agreed upon with the provinces.

The public services belong originally to the State and may not under any theory be alienated or granted for administration. Those which may be in private possession shall be transferred to the State, by purchase or by expropriation after compensation, when a national law so determines.

The price upon expropriation of concessions of public services shall be that of the original cost of the property subject to administration, less the sums which may have been amortized over the period since the grant of the concession, plus the sums in excess of reasonable profit, which shall be considered also as recovery of the capital invested.

PART SECOND

AUTHORITIES OF THE NATION

TITLE I

THE FEDERAL GOVERNMENT

SECTION I

THE LEGISLATIVE POWER

Art. 41. A Congress consisting of two houses, one of deputies of the Nation and another of senators of the provinces and capital, shall be vested with the legislative power of the Nation.

Chapter I

The House of Deputies

Art. 42. The House of Deputies shall consist of representatives elected directly by the people of the provinces and of the capital, which are considered in this respect as electoral departments of one state, and by simple plurality of votes. The number of representatives will be one for every one hundred thousand inhabitants or fraction thereof of not less than fifty thousand. After the completion of the general census, which shall be taken every ten years, Congress will determine the representation in accordance with the census and may increase, but not lessen, the representation indicated for each deputy. The representation of a district shall not be less than two.

Art. 43. To be elected a deputy a person must have attained the age of twenty-five years, have been four years a citizen in the case of native Argentinians and ten years in the case of naturalized persons, and have been born in the province or have two years of immediate residence in the province for which he is to be chosen.

Art. 44. The deputies shall be chosen for six years and may be reelected; but the House shall be renewed by half of its members every three years. To this end the members appointed for the first legislature, upon meeting, shall draw lots to determine who must go out after the first period.

Art. 45. When vacancies occur in the representation, the government of the province or of the capital shall proceed to a legal election of a new member.

Art. 46. The House of Deputies has exclusive power to impeach before the Senate, the President, the Vice-President, the Ministers, and the

members of the Supreme Court of Justice of the Nation in such cases of responsibility as are initiated against them by reason of malfeasance or for crimes in the exercise of their offices; or for common crimes. Impeachment shall be after investigation, and a declaration by a vote of two-thirds of the deputies present at the meeting that there are grounds for the proceeding.

Chapter II

The Senate

Art. 47. The Senate shall be composed of two senators for each province and two for the capital elected directly by the people. Each senator shall have one vote.

Art. 48. The requirements for election as senator are: to be a native Argentinian, to have attained to the age of thirty years, to have been ten years a citizen, and to have been born in the province which elects him or to have had two years of immediately prior residence therein.

Art. 49. The senators are elected for six years and can be re-elected; but the Senate will be renewed every three years by half, deciding by drawing lots at the original assembly those who must retire at the end of the first three-year period.

Art. 50. The Vice-President of the Nation shall be president of the Senate, but shall have no vote unless the votes are equally divided.

Art. 51. The Senate will appoint a temporary president who will preside in case of the absence of the Vice-President, or when he shall exercise the office of President of the Nation.

Art. 52. The Senate has the power to judge in public trial the persons impeached by the House of Deputies, and when sitting for that purpose, its members shall take oath. When the person accused is the President of the Nation, the Senate shall be presided over by the president of the Supreme Court. No person shall be convicted without the concurrence of two-thirds of the members present.

Art. 53. The judgment shall not go further than to remove the accused from office, and disqualification to hold any office of honor, trust, or salary under the Nation. But the party convicted shall, nevertheless, be subject to indictment, trial, and punishment according to law before ordinary courts.

Art. 54. The Senate may also authorize the President of the Nation to declare a state of siege in one or more places in the Republic in case of foreign invasion.

Art. 55. When any vacancy occurs in the Senate through death, resignation, or otherwise, the government of the province affected shall proceed immediately to the election of a new member.

Chapter III

Provisions Common to Both Houses

Art. 56. Both houses shall assemble every year in ordinary sessions from the first of May until the thirtieth of September. The President

of the Nation may call special sessions or prolong the sessions. At the special sessions no matters shall be dealt with except those specified in the call.

During the recess of the legislative houses, the President of the Nation may convoke the Senate for the sole purpose of the necessary approval of appointments which require such approval under the Constitution.

Art. 57. Each house is the judge of the legality of the elections, rights and titles of its own members. Neither house shall hold meetings without the presence of a majority of its members; but a smaller number may compel the attendance of absent members in such manner and under such penalties as each house shall provide.

Art. 58. Both houses shall open and close their sessions simultaneously. Neither house, during the sessions, shall without authorization of the other adjourn its meetings for more than three days.

Art. 59. Each house shall regulate its own proceedings, and by a two-thirds vote of those present may punish any of its members for disorderly conduct in the discharge of his functions or remove him for physical or moral inability occurring after becoming a member, and even expel him from the body; but a majority of one more than half of the members present at a meeting shall be sufficient to decide upon the voluntary resignation of a member.

Art. 60. Senators and deputies, upon taking office, shall take an oath to fulfill correctly their duties, and to proceed in everything in conformity with the requirements of this Constitution.

Art. 61. No member of Congress may be indicted, judicially questioned, or molested for opinions or speeches pronounced during his continuance in office as legislator.

Art. 62. No senator or deputy may be arrested from the day he is elected until he ceases to hold office, except when taken in the act of committing a crime which deserves the penalty of death, or a disgraceful or corporal punishment, in which case notice shall be given to the house to which the member belongs with a compendious report of the fact.

Art. 63. When a written charge is presented before the ordinary courts against any senator or deputy, the house of which he is a member examining the indictment in public trial may, by a two-thirds vote of those present, suspend the accused from office and place him at the disposal of the competent court to be tried.

Art. 64. Each of the houses may request of the executive power the information which it may consider necessary with respect to questions within the competence of the houses. The executive power may choose between furnishing the information in writing, furnishing it by the head of the government in person, and sending one of the ministers to present the information verbally.

Art. 65. No member of Congress shall be appointed by the executive power to any employment or commission, without the previous authorization of the respective house, except to the scale posts.

Art. 66. Provincial governors may not be members of Congress.

Art. 67. The compensation of senators and deputies shall be paid by the Treasurer of the Nation, in amounts fixed by law.

Chapter IV

Powers Vested in Congress

Art. 68. Congress shall have power:

(1) To legislate regarding external customhouses and establish import and export duties;

(2) To levy direct taxes for a definite period of time throughout the Nation, whenever the defense, the common safety and the general welfare of the Nation shall so require;

(3) To borrow money on the credit of the Nation;

(4) To provide for the use and disposition of the national lands;

(5) To establish and suppress official banks and legislate concerning the banking system, credit and issue of bills throughout the Nation. In no case may the organizations established be mixed or private entities;

(6) To arrange payment of the internal and external debt of the Nation;

(7) To fix annually, or for a longer period up to a maximum of three years, on the proposal of the executive power, the budget of expenses for the administration of the Nation, and to approve or disapprove annually the accounts of disbursement;

(8) To grant subsidies from the National Treasury to those provinces whose incomes do not suffice, according to their budgets, to cover their ordinary expenses;

(9) To regulate the navigation of the rivers, establish the ports which it shall consider necessary, to create and suppress customhouses;

(10) To adopt a uniform standard of weights and measures for the whole Nation;

(11) To enact civil, commercial, penal, mining, aeronautical, sanitary and social justice codes, which shall not alter the local jurisdiction and shall be applied by the federal or provincial courts, depending on whose jurisdiction the things or persons come under; and especially to enact general laws for all the Nation on naturalization and citizenship in conformity with the principle of nationality by birth, and also on bankruptcies, counterfeiting of the current money and public documents of the State;

(12) To regulate commerce with foreign nations and among the provinces;

(13) To legislate exclusively concerning the public services belonging to the Nation, or conducted by industrial agencies of the national State, or connecting the federal capital or a federal territory with a province, or connecting two provinces or any point in the national territory with a foreign State;

(14) To arrange definitely the limits of the territory of the Nation ,to fix those of the provinces, create new ones, and determine by particular legislation the organization, administration, and government which the national territories remaining out of the limits fixed to the provinces, must have, and to establish the control of the waters of the interprovincial rivers and their tributaries;

(15) To provide for the security of the frontiers;

(16) To provide for the prosperity of the country, for the hygiene, morality, public health and social assistance, for the progress and welfare of all the provinces, and the advancement of science by organizing general and university instruction; to promote industry, immigration, the construction of railways and navigable canals and the establishment of other means of transportation by air and land; the colonization of lands belonging to the Nation or becoming available through abolition of large private estates, bringing about the development of small agricultural properties and the establishment of new communities with the lands, waters and public services necessary to assure the health and social welfare of their inhabitants; the introduction and establishment of new industries, the importation of foreign capital, and the exploration of the interior rivers

by protective laws and by temporary concessions of privileges and stimulating rewards;

(17) To constitute tribunals inferior to the Supreme Court of Justice, create and abolish offices, to fix the duties of the same, to grant pensions, to decree honors, and to grant general amnesties;

(18) To accept or reject, in joint sessions of the houses, the reasons for resignation of the President or Vice-President of the Republic, and declare the occasion for proceeding to a new election;

(19) To approve or reject treaties signed with other nations and agreements with the Vatican, and to arrange the exercise of the ecclesiastical patronage in the whole Nation;

(20) To admit into the territory of the Nation new religious orders in addition to those already existing;

(21) To authorize the executive power to declare war or make peace;

(22) To authorize reprisals and to make rules concerning captures;

(23) To fix the strength of the armed forces in time of peace and of war, to provide regulations and rules for governing them, and to pass special legislation concerning expropriations and requisitions in time of war;

(24) To allow the introduction of foreign troops into the territory of the Nation and to allow national troops to leave the country, except for reason of international courtesy, in which case the authorization of the executive power shall be sufficient;

(25) To proclaim a state of siege in one or more parts of the Nation in case of internal disorder and to approve or suspend a state of siege declared by the executive power during a recess of the Congress;

(26) To exercise exclusive legislative power in the territory of the national capital and in other places obtained by puchase or cession in any of the provinces for the establishment of forts, arsenals, airdromes, warehouses, and other establishments of public service or national utility;

(27) To make all laws and regulations that may be necessary to execute the above powers and all others granted by the present Constitution to the government of the Argentine Nation;

(28) To sanction the control of the federal district and fix for one year or for longer periods up to a maximum of three years, on the proposal of the President of the Republic, the budget of administrative expenses of the district;

(29) To issue the law for the election of the President, Vice-President, senators and deputies.

Chapter V

The Formation and Sanction of Laws

Art. 69. Laws may originate in either of the houses of Congress by bills presented by their members or by the executive power.

Art. 70. A bill, once approved by the house of its origin, proceeds for discussion to the other house. Approved by both, it shall be presented to the executive power for his study; and if he approves it, he shall promulgate it as law.

Art. 71. Every bill is considered approved by the executive power if it is not returned within twenty working days.

Art. 72. No bill totally disapproved by one of the houses shall be reintroduced during the sessions of the same year. But if it only is added to or corrected by the other house, it will go back to the original house; and if in this one the additions or corrections are approved of by absolute majority of the members present, it shall be sent to the executive power of the Nation. If the additions or corrections are disapproved, it shall

again return to the revising house, and if they are here sanctioned again by a majority of two-thirds of the members, the bill shall be sent to the other house where such additions or amendments shall not be deemed rejected except by the vote of two-thirds of the members present.

Art. 73. A bill disapproved as a whole by the executive power shall be returned with the objections to the house where it originated for a new discussion; and if it is confirmed by a two-thirds vote of those present, it shall be sent again to the other house. If the bill is sanctioned in both houses by the same majority, the bill becomes law and goes to the executive for its promulgation.

If the bill is disapproved only in part by the executive power, only the disapproved part is returned with his objections, and the procedure is the same as when the veto is total.

In all such cases the votes of both houses shall be determined by yeas or nays, and both the names and opinions of the persons voting, as well as the objections of the executive power, shall be immediately published in the press. If the houses do not agree about the objections, the bill cannot be reconsidered in the sessions of that year.

Art. 74. In the enactment of laws, the following formula shall be used: The Senate and House of Deputies of the Argentine Nation, assembled in Congress, sanction with strength of law.

Section II

THE EXECUTIVE POWER

Chapter I

Its Nature and Duration

Art. 75. The executive power of the Nation shall be vested in a citizen with the title of "President of the Argentine Nation."

Art. 76. In case of sickness, absence from the country, death, resignation or removal of the President from office, the executive power shall be exercised by the Vice-President of the Nation. In case of removal, death, resignation or inability of the President and Vice-President of the Nation, Congress shall provide what officer is to act as president until the disability is removed or a new president is elected.

Art. 77. To be eligible to the office of President or Vice-President of the Nation, a person must have been born in Argentine territory, must belong to the Catholic Church, and must possess the other qualifications required to be chosen a senator.

Art. 78. The President and Vice-President hold their offices for the term of six years and may be re-elected.

Art. 79. The President's power ceases on the day on which the period of six years expires; no circumstance that may have interrupted it being sufficient reason to complete it later.

Art. 80. The President and Vice-President receive for their services a compensation paid from the Treasury of the Nation. Within the same

period they shall not hold any other office, or receive any other emolument from the Nation or from any province.

Art. 81. Upon assuming office, the President and Vice-President shall take the following oath administered by the president of the Senate, Congress being assembled: "I, N. N., swear by God our Lord and these Holy Gospels to perform faithfully and patriotically the office of President (or Vice-President) of the Nation and to observe and to cause others to observe faithfully the Constitution of the Argentine Nation. Should I not do so, may God and the Nation require it of me."

Chapter II

Manner and Time of Election of President and Vice-President of the Nation

Art. 82. The President and Vice-President of the Nation shall be elected directly by the people, by simple plurality of votes, the provinces, federal capital and national territories constituting a single district for this purpose. The election must be held three months before the end of the term of the President in office. The election returns shall be made by the agency or agencies established by law.

Chapter III

Powers Vested in the Executive

Art. 83. The President of the Nation has the following powers:

(1) He is the supreme chief of the Nation and has charge of the general administration of the country;

(2) He issues the instructions and regulations necessary for the execution of the laws of the Nation, being careful not to modify their spirit with exceptions in the regulations, and he exercises police power over the interprovincial rivers for the purposes specified in Article 68, paragraph (14);

(3) He is the immediate and local chief of the capital of the Nation, but may delegate his functions as such in the manner determined by the administrative regulations;

(4) He collaborates in the formation of the laws according to the Constitution and promulgates them;

(5) He appoints the members of the Supreme Court of Justice and of the other inferior federal courts, with the consent of the Senate;

(6) He may grant pardons or commute penalties for crimes under the federal jurisdiction, upon a prior report of the appropriate court, except in cases of impeachment, by the House of Deputies;

(7) He grants pensions, retirements, licenses, and the enjoyment of gratuity funds in accordance with the laws of the Nation;

(8) He exercises the rights of the national patronage in the appointment of bishops for the cathedral churches selected from three names proposed by the Senate;

(9) He makes effective or witholds the decrees of the Councils, the Bulls, Apostolics and Rescripts of the Roman Pope, subject to the approval of the Supreme Court; a law, however, being required when they contain general and permanent provisions.

(10) He appoints and removes ambassadors and ministers plenipotentiary with the consent of the Senate, and by himself alone appoints and removes the ministers of the cabinet, the officers of his secretariats, the

consular agents and other administrative employees whose appointment is not otherwise provided for by this Constitution;

(11) He calls and opens annually the sessions of Congress, both houses assembling for this purpose on the 1st of May of each year; gives information on this occasion to Congress as to the state of the Nation, the reforms promised by the Constitution, and recommends to their consideration such measures as he shall deem necessary and desirable;

(12) He extends the ordinary sessions of Congress or convokes special sessions when a serious consideration of order or progress so requires, and he convokes the Senate as provided in Article 56;

(13) He causes the collection of the revenues of the nation, and decrees the disbursement thereof according to the law or budget of national expenses; causes currency to be issued, fixes its value and that of foreign currencies;

(14) He concludes and signs treaties of peace, of trade, of navigation, of alliance, of boundaries and neutrality, agreements with the Pope, and other negotiations required for the maintenance of good relations with foreign nations ,receives their ministers and admits their consuls;

(15) He is commander-in-chief of all the armed forces of the Nation;

(16) He appoints the military officers of the Nation; for the chief officers of the armed forces with the consent of the Senate, and by himself on the battlefields;

(17) He governs the armed forces and sees to their organization and distribution according to the necessities of the Nation;

(18) He declares war and grants letters of reprisal, with the authority and approval of Congress;

(19) He declares a state of siege with the consent of the Senate in one or several parts of the Nation in case of invasion and for a limited time. In case of internal disorder, he has such power only when Congress is in recess, that being a power vested in that branch of the government. He also declares the state of warning and alarm in one or more parts of the country in case of disturbance of the public order which threatens the normal course of living or the essential activities of the populations, for a limited time, and gives account to Congress. The President exercises these powers within the limits prescribed by Article 34;

(20) He may require whatever reports he considers proper from the chiefs of all the branches and departments of the administration, and through them from other employees, all being obliged to supply them;

(21) He may not leave the national territory without authorization of Congress. During the recess of Congress, he may leave without authorization only in cases of grave necessity of public service;

(22) The President shall have power to fill vacancies of employment that require the consent of the Senate and which occur during recess, by granting commissions which must be considered in the next legislature;

(23) He provides for the establishment and control of the public services mentioned in paragraph (13) of Article 68.

Chapter IV

The Ministers of the Executive Power

Art. 84. The conduct of the affairs of the Nation shall be in charge of ministers secretaries of State, who shall countersign and authenticate the acts of the President with their signature, those acts being otherwise not valid. A law of the Nation, on the proposal of the executive power, shall determine the names and the branches of the ministries, as well as the coordination of their respective activities.

To be a minister it is necessary to meet the conditions required for a

deputy and also to be a native Argentinian. Ministers enjoy the immunities granted to members of Congress by Articles 61 and 62 of the Constitution.

They shall receive for their services a compensation fixed by law.

Art. 85. Each minister is responsible for the acts he legalizes; and jointly responsible for those to which he consents with his colleagues.

Art. 86. Ministers may not in any case make decisions on their own account, excepting with regard to matters concerning the economical and administrative régime of their respective Departments.

They shall annually present to the President of the Nation detailed reports of the state of the affairs of their respective departments.

Art. 87. They may not be senators or deputies without resigning the employment of ministers.

Art. 88. The President of the Nation and his ministers may attend the joint or separate sessions of the houses, make statements before them, and take part in the debates, but cannot vote.

Section III

THE JUDICIAL POWER

Chapter I

Its Nature and Duration

Art. 89. The judicial power of the Nation shall be vested in one Supreme Court of Justice, and in such inferior courts as Congress may establish in the territory of the Nation.

Art. 90. In no case may the President of the Nation exercise judicial functions, or interfere with trials in process, or reopen the finished ones.

Art. 91. The judges of the Supreme Court of Justice and of the inferior courts of the Nation are irremovable and shall hold their offices during good behavior: They shall receive for their services a compensation which shall be determined by law and which cannot be diminished during their continuance in office. The judges of the inferior courts shall be tried and removed in the manner determined by a special law, subject to prosecution by members of the judicial power itself.

Art. 92. To be a member of the Supreme Court of Justice it is necessary to be a native Argentinian, a lawyer graduated at a national university, with ten years of practice and thirty years of age.

Art. 93. The judges of the Supreme Court, on assuming their posts, shall take an oath, administered by the president of the same, to fulfill their duties, administer justice well and faithfully and in conformity with the provisions of the Constitution.

Art. 94. The Supreme Court of Justice shall provide for its own internal and economic regulation, and shall appoint its subordinate employees. It shall exercise supervision over the judges and tribunals constituting the judiciary of the Nation.

In the capital of the Republic all the tribunals are of national character.

Art. 95. The Supreme Court of Justice and the inferior courts of the

Nation shall have jurisdiction of all cases turning upon points governed by the Constitution; by the laws of the Nation, with the reservations specified in paragraph (11) of Article 68; and by treaties with foreign nations; of all suits referring to ambassadors, ministers plenipotentiary and foreign consuls; in cases of admiralty, maritime and aeronautical jurisdiction; in suits in which the Nation is a party; in cases arising in the federal capital and in places governed by the legislation of Congress; in suits between two or more provinces; between one province and the citizens of another province; and between the Nation or a province or its inhabitants and a foreign State.

The Supreme Court of Justice shall have jurisdiction, as a court of cassation, in the interpretation and comprehension of the codes referred to in paragraph (11) of Article 68.

The interpretation which the Supreme Court gives to articles of the Constitution on special appeal and to the codes and laws in proceedings for cassation, must be followed by the national and provincial judges and tribunals.

Art. 96. The Supreme Court of Justice shall have original and exclusive jurisdiction in cases arising between a Nation or a province or its inhabitants and a foreign State; in cases concerning ambassadors, ministers plenipotentiary or foreign consuls; and in cases between the Nation and one or more provinces or between the provinces.

TITLE II

PROVINCIAL GOVERNMENTS

Art. 97. The provinces retain all power not delegated by this Constitution to the Federal Government, and any expressly reserved by special pacts at the time of their incorporation into the union.

Art. 98. They create for themselves their own local institutions and are governed by them. They elect their governors and legislators and other provincial officers without interference by the Federal Government.

Art. 99. Each province adopts its own constitution, in accordance with the provisions of Article 5.

Art. 100. The provinces may, with the knowledge of the Federal Congress, enter into partial treaties among themselves referring to the administration of justice, economic interests and works of general utility; and promote by protective laws and with their own resources their industry, immigration, construction of railroads and navigable canals, colonization of provincial lands, establishment of new industries, importation of foreign capital and exploration of their rivers.

Art. 101. The provinces shall not exercise any power delegated to the Nation. They cannot enter into partial treaties of a political character; nor enact laws regarding trade or navigation, internal or external; nor establish provincial customhouses; nor coin money; nor establish banks with the authority to issue banknotes without authorization from the federal Congress; nor enact the codes mentioned in Article 68, paragraph (11), after Congress shall have enacted them; nor enact special laws re-

garding citizenship and naturalization, bankruptcies, counterfeiting of money or State documents; nor lay any duty of tonnage; nor arm ships of war or organize armies except in case of foreign invasion or of danger so imminent as to admit no delay, an account thereof immediately to be given to the Federal Government; nor appoint or receive foreign agents; nor admit new religious orders.

Art. 102. No province can either declare or make war against another province. Their complaints must be submitted to and decided by the Supreme Court of Justice. Their hostilities are acts of civil war and are considered sedition or mutiny, which the Federal Government must suppress and punish in accordance with law.

Art. 103. The provincial governors are natural agents of the Federal Government for the execution of the Constitution and laws of the Nation.

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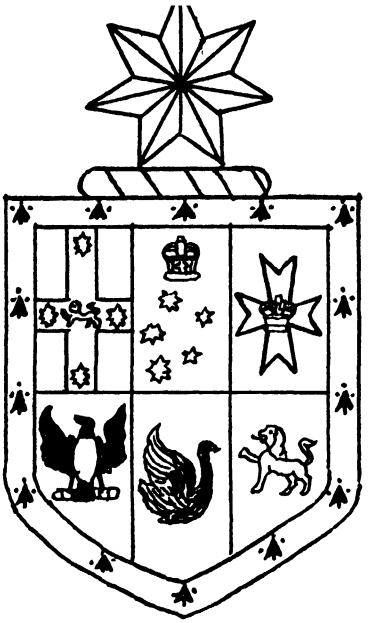
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AUSTRALIA

SUMMARY

International Status

Australia is a member of the United Nations, having signed the Charter in San Francisco on June 26, 1945, and deposited its ratification on September 20, 1945. It was a member of the League of Nations. It was a party to the Statute of the Permanent Court of International Justice of 1921 and accepted its optional clause relating to compulsory jurisdiction. This acceptance is deemed to be in force with respect to the International Court of Justice.[1] It is automatically a party to the Statute of the International Court of Justice of 1945 by virtue of its membership in the

[1] See Yearbook of the Court, 1951–52, pp. 35–43.

United Nations.[1] It is a member of numerous other international organizations.[2]

Australia was first accorded independent international status in 1919. At the Versaille Peace Conference in that year, the United Kingdom requested separate representation in the Assembly of the League of Nations for Australia, Canada, New Zealand, and the Union of South Africa. This was accorded.

Australia's status vis-à-vis the British Commonwealth of Nations was defined in the report of the Inter-Imperial Relations Committee of the Imperial Conference of 1926 (often referred to as "The Balfour Declaration"), along with that of Canada, New Zealand, South Africa and the Irish Free State in the following terms:

> "They are autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations."

The Statute of Westminster was passed in 1931 as a statutory recognition of certain of the resolutions of 1926 and of a subsequent Conference in 1930 and the report of an expert committee. It was the acknowledgment of an established fact that the Imperial Parliament will not legislate for the Dominions except at their request.[3] The Statute of Westminster was adopted in Australia in 1942.[4]

Form of National Government

Australia's government is that of a federal commonwealth consisting of a federation of six states [5] and extensive territorial interests.[6]

The Commonwealth was constituted as such by an Act of the British Parliament of July 9, 1900, and was inaugurated January 1, 1901. Its constitution was incorporated in that act and has been amended by four subsequent acts.[7]

The powers of the federal government extend to external affairs; foreign and interstate trade; taxation (but not discriminatory among

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[1] See Art. 93 of the Charter of the United Nations.

[2] See Table I.

[3] Nicholas, The Australian Constitution, p. 16; See under Canada for the text of the Statute of Westminster.

[4] Statute of Westminster Adoption Act 1942.

[5] New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania.

[6] The "internal" territories are Northern Territory and Australian Capital Territory. The "external" territories are Papua and New Guinea, Norfolk Island, Nauru Ashmore and Cartier Islands. Australian Antarctic Territory claimed includes Heard and McDonald Islands, and the Cocos-Keeling Islands.

[7] Constitution Alteration (Senate Elections) 1906 (No. 1 of 1907); Constitution Alteration (State Debts) 1909 (No. 3 of 1910); Constitution Alteration (State Debts) 1928 (No. 1 of 1929); Constitution Alteration (Social Services) 1946 (No. 53 of 1946).

the states); bounties on production and exports; postal, telegraphic, telephonic, and like services; defense; lighthouses and navigation; quarantine; fisheries; census; currency; banking; insurance; weights and measure; bills and notes; bankruptcy; patents and copyrights; naturalization; corporations; marriage; divorce; invalid and old age pensions; immigration and emigration; and interstate labor disputes.[1] The federal government has plenary power to make laws with respect to the territories[2]

The federal government may make agreements with the states respecting their public debts and may take over their debts or manage and arrange for their payment.[3]

Powers not expressly granted to the federation remain in the states.[4]

State laws which are inconsistent with valid federal laws are declared to the extent of such inconsistency to be invalid.[5]

Source of Sovereign Power

There is no express statement in the Australian constitution of the source of sovereign power. The constitution itself was embodied in an Act of the British Parliament and there are various references to the Crown in it and in Australian statutes. The Act to constitute the Commonwealth [6] refers in the opening paragraph and also in other paragraphs to the "people" of the various states who "have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established."

Rights of the People

The Constitution provides for freedom of religion[7] and for equality of treatment of citizens throughout the Commonwealth. [8] However, in common with the United Kingdom and some other members of the Commonwealth of Nations, the Constitution does not contain a declaration of the rights of the people. In practice the courts of Australia, like other courts administering the common law, protect certain long recognized personal and property rights from infringement by governmental bodies.

Legislative Department

The Federal Parliament consists of the Queen, the Senate and House of Representatives.

The Queen is represented by the Governor General.

The Senate has sixty members, ten from each of the states elected for six years, by direct election, each state voting as a whole.[9] The House of

[1] Const., Sec. 51.
[2] Id. Sec. 122
[3] Id. Sec. 105A.
[4] Id. Sec. 107.
[5] Id. Sec. 109.
[6] An Act to constitute the Commonwealth of Australia, 9 July, 1900.
[7] Const., Sec. 116.
[8] id. Sec. 117.
[9] Id. Sec. 7.

Representatives is elected by direct suffrage for a term of three years, subject to the possibility of dissolution.[1] The number of representatives for each state is ascertained by fixing a quota, i.e., by dividing the population of the Commonwealth by twice the number of Senators and then dividing the population of the State by the quota so ascertained, subject to the right of every original State to a minimum number of five members.[2] The Representation Act 1948 expanded the composition of both the Senate and the House of Representatives. By it the House of Representatives is composed of one hundred and twenty one members, excluding the non-voting members for the Northern Territory and the Australian Capital Territory.

The federal Parliament has legislative powers set forth in thirty-nine express categories.[3]

Executive Department

Executive power is vested in the Queen and is exercisable by the Governor General as the Queen's representative.[4] The Constitution provides for a Federal Executive Council to advise the Governor General, composed of ministers of state, chosen and summoned by the Governor General.[5] Provision is made for Ministers of State for the Commonwealth who must be members of Parliament, appointed by the Governor General to administer such departments of State as the Governor General in Council may establish.[6]

Judicial Department

There is a federal supreme court known as the High Court of Australia[7] with a chief justice and six judges having original and appellate jurisdiction with limited appeal to the Judicial Committee of the Privy Council.[8]

Judges of the High Court and courts created by the Federal Parliament are appointed by the Governor General in Council[9] acting on the advice of his ministers.

Area, Population, language

Australia has an area of 2,974,581 square miles and a population (1951 estimate) of 8,538,734. English is the prevailing language.

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[1] Const., Sec. 24, 28. [2] Id., Sec. 24. [3] Id., sec. 51.
[4] Id., sec. 61. [5] Id., sec. 62. [6] Id., sec. 64.
[7] Id., sec. 71. [8] Id., sec. 73, 74. [9] Id., sec. 72.

THE COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT[1]

July 9, 1900

An Act to constitute the Commonwealth of Australia.

Whereas the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established:

And whereas it is expedient to provide for the admission into the Commonwealth of other Australasian Colonies and possessions of the Queen:

Be it therefore enacted by the Queen'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. This Act may be cited as the Commonwealth of Australia Constitution Act.

2. The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom.

3. It shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also, if Her Majesty is satisfied that the people of Western Australia have agreed thereto, of Western Australia, shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia. But the Queen may, at any time after the proclamation, appoint a Governor-General for the Commonwealth.

4. The Commonwealth shall be established, and the Constitution of the Commonwealth shall take effect, on and after the day so appointed. But the Parliaments of the several colonies may at any time after the passing of this Act make any such laws, to come into operation on the day so appointed, as they might have made if the Constitution had taken effect at the passing of this Act.

5. This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the courts, judges, and people of every State and of every part of the Commonwealth, notwithstanding

[1] (63 & 64 Vict. Chapter 12.)

anything in the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth.

6. "The Commonwealth" shall mean the Commonwealth of Australia as established under this Act.

"The States" shall mean such of the colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, Western Australia, and South Australia, including the northern territory of South Australia, as for the time being are parts of the Commonwealth, and such colonies or territories as may be admitted into or established by the Commonwealth as States; and each of such parts of the Commonwealth shall be called "a State."

"Original States" shall mean such States as are parts of the Commonwealth at its establishment.

7. The Federal Council of Australasia Act, 1885, is hereby repealed, but so as not to affect any laws passed by the Federal Council of Australasia and in force at the establishment of the Commonwealth.

Any such law may be repealed as to any State by the Parliament of the Commonwealth, or as to any colony not being a State by the Parliament thereof.

8. After the passing of this Act the Colonial Boundaries Act, 1895, shall not apply to any colony which becomes a State of the Commonwealth; but the Commonwealth shall be taken to be a self-governing colony for the purposes of that Act.

9. The Constitution of the Commonwealth shall be as follows:—

CONSTITUTION of the COMMONWEALTH OF AUSTRALIA[1]

July 9, 1900 (with Amendments)

ACT TO CONSTITUTE THE COMMONWEALTH

This Constitution is divided as follows:

CHAPTER I—THE PARLIAMENT
Part I—General
Part II—The Senate
Part III—The House of Representatives
Part IV—Both Houses of the Parliament
Part V—Powers of the Parliament
CHAPTER II—THE EXECUTIVE GOVERNMENT
CHAPTER III—THE JUDICATURE
CHAPTER IV—FINANCE AND TRADE
CHAPTER V—THE STATES
CHAPTER VI—NEW STATES
CHAPTER VII—MISCELLANEOUS
CHAPTER VIII—ALTERATION OF THE CONSTITUTION

CHAPTER I

THE PARLIAMENT

Part I

General

1. The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives, and which is hereinafter called "The Parliament," or "The Parliament of the Commonwealth."

2. A Governor-General appointed by the Queen shall be Her Majesty's representative in the Commonwealth, and shall have and may exercise in the Commonwealth during the Queen's pleasure, but subject to this Constitution, such powers and functions of the Queen as Her Majesty may be pleased to assign to him.

3. There shall be payable to the Queen out of the Consolidated Revenue Fund of the Commonwealth, for the salary of the Governor-General, an annual sum which, until the Parliament otherwise provides, shall be ten thousand pounds.

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[1] Text of the Constitution as altered to January 1, 1947, taken from a publication of the Commonwealth Government Printer, kindly supplied by the Australian Embassy in Washington.

The salary of a Governor-General shall not be altered during his continuance in office.

4. The provisions of this Constitution relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the Queen may appoint to administer the Government of the Commonwealth; but no such person shall be entitled to receive any salary from the Commonwealth in respect of any other office during his administration of the Government of the Commonwealth.

5. The Governor-General may appoint such times for holding the sessions of the Parliament as he thinks fit, and may also from time to time, by Proclamation or otherwise, prorogue the Parliament, and may in like manner dissolve the House of Representatives.

After any general election the Parliament shall be summoned to meet not later than thirty days after the day appointed for the return of the writs.

The Parliament shall be summoned to meet not later than six months after the establishment of the Commonwealth.

6. There shall be a session of the Parliament once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

Part II

The Senate

7. The Senate shall be composed of senators for each State, directly chosen by the people of the State, voting, until the Parliament otherwise provides, as one electorate.

But until the Parliament of the Commonwealth otherwise provides, the Parliament of the State of Queensland, if that State be an Original State, may make laws dividing the State into divisions and determining the number of senators to be chosen for each division, and in the absence of such provision the State shall be one electorate.

Until the Parliament otherwise provides there shall be six senators for each Original State. The Parliament may make laws increasing or diminishing the number of senators for each State, but so that equal representation of the several Original States shall be maintained and that no Original State shall have less than six senators.

The senators shall be chosen for a term of six years, and the names of the senators chosen for each State shall be certified by the Governor to the Governor-General.

8. The qualification of electors of senators shall be in each State that which is prescribed by this Constitution, or by the Parliament, as the qualification for electors of members of the House of Representatives; but in the choosing of senators each elector shall vote only once.

9. The Parliament of the Commonwealth may make laws prescribing the method of choosing senators, but so that the method shall be uniform for all the States. Subject to any such law, the Parliament of each State may make laws prescribing the method of choosing the senators for that State.

The Parliament of a State may make laws for determining the times and places of elections of senators for the State.

10. Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State, for the time being, relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections of senators for the State.

11. The Senate may proceed to the despatch of business, notwithstanding the failure of any State to provide for its representation in the Senate.

12. The Governor of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the Senate the writs shall be issued within ten days from the proclamation of such dissolution.

13. As soon as may be after the Senate first meets, and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of (the third year) *three years*,[1] and the places of those of the second class at the expiration of (the sixth year) *six years*,[1] from the beginning of their term of service; and afterwards the places of senators shall become vacant at the expiration of six years from the beginning of their term of service.

The election to fill vacant places shall be made (in the year at the expiration of which) *within one year before* [1] the places are to become vacant.

For the purposes of this section the term of service of a senator shall be taken to begin on the first day of (January) *July* [1] following the day of his election, except in the cases of the first election and the election next after any dissolution of the Senate, when it shall be taken to begin on the first day of (January) *July* [1] preceding the day of his election.

14. Whenever the number of senators for a State is increased or diminished, the Parliament of the Commonwealth may make such provision for the vacating of the places of senators for the State as it deems necessary to maintain regularity in the rotation.

15. If the place of a senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State for which he was chosen shall, sitting and voting together, choose a person to hold the place until the expiration of the term, or until the election of a successor as hereinafter provided, whichever first happens. But if the Houses of Parliament of the State are not in session at the time when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of fourteen days after the beginning of the next session of the Parliament of the State, or until the election of a successor, whichever first happens.

At the next general election of members of the House of Representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to

[1] As amended by section 2 of the Constitution Alteration (Senate Elections) Act, 1906. The words in brackets have been repealed; amendments are shown in italics.

hold the place from the date of his election until the expiration of the term.

The name of any senator so chosen or appointed shall be certified by the Governor of the State to the Governor-General.

16. The qualifications of a senator shall be the same as those of a member of the House of Representatives.

17. The Senate shall, before proceeding to the despatch of any other business, choose a senator to be the President of the Senate; and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President.

The President shall cease to hold his office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office or his seat by writing addressed to the Governor-General.

18. Before or during any absence of the President, the Senate may choose a senator to perform his duties in his absence.

19. A senator may, by writing addressed to the President, or to the Governor-General if there is no President or if the President is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

20. The place of a senator shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the Senate, fails to attend the Senate.

21. Whenever a vacancy happens in the Senate, the President, or if there is no President or if the President is absent from the Commonwealth, the Governor-General, shall notify the same to the Governor of the State in the representation of which the vacancy has happened.

22. Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

23. Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote. The President shall in all cases be entitled to a vote; and when the votes are equal the question shall pass in the negative.

Part III

The House of Representatives

24. The House of Representatives shall be composed of members directly chosen by the people of the Commonwealth, and the number of such members shall be, as nearly as practicable, twice the number of the senators.

The number of members chosen in the several States shall be in proportion to the respective numbers of their people, and shall, until the Parliament otherwise provides, be determined, whenever necessary, in the following manner:

(i) A quota shall be ascertained by dividing the number of the people of the Commonwealth, as shown by the latest statistics of the Commonwealth, by twice the number of the senators:

(ii) The number of members to be chosen in each State shall be determined by dividing the number of the people of the State, as shown by the latest statistics of the Commonwealth, by the quota; and if on such

division there is a remainder greater than one-half of the quota, one more member shall be chosen in the State.

But notwithstanding anything in this section, five members at least shall be chosen in each Original State.

25. For the purposes of the last section, if by the law of any State all persons of any race are disqualified from voting at elections for the more numerous House of the Parliament of the State, then, in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State shall not be counted.

26. Notwithstanding anything in section twenty-four, the number of members to be chosen in each State at the first election shall be as follows:

New South Wales	23	South Australia	6
Victoria	20	Tasmania	5
Queensland	8		

Provided that if Western Australia is an Original State, the numbers shall be as follows:

New South Wales	26	South Australia	7
Victoria	23	Western Australia	5
Queensland	9	Tasmania	5

27. Subject to this Constitution, the Parliament may make laws for increasing or diminishing the number of the members of the House of Representatives.

28. Every House of Representatives shall continue for three years from the first meeting of the House, and no longer, but may be sooner dissolved by the Governor-General.

29 Until the Parliament of the Commonwealth otherwise provides, the Parliament of any State may make laws for determining the divisions in each State for which members of the House of Representatives may be chosen, and the number of members to be chosen for each division. A division shall not be formed out of parts of different States.

In the absence of other provisions, each State shall be one electorate.

30. Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous House of Parliament of the State; but in the choosing of members each elector shall vote only once.[1]

31. Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State for the time being relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections in the State of members of the House of Representatives.

32. The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives.

After the first general election, the writs shall be issued within ten days

[1] The franchise qualification was determined by the Commonwealth Franchise Act, 1902.

from the expiry of a House of Representatives or from the proclamation of a dissolution thereof.

33. Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker or if he is absent from the Commonwealth the Governor-General in Council may issue the writ.

34. Until the Parliament otherwise provides, the qualifications of a member of the House of Representatives shall be as follows:

(i) He must be of the full age of twenty-one years, and must be an elector entitled to vote at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen:

(ii) He must be a subject of the Queen, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a colony which has become or becomes a State, or of the Commonwealth, or of a State.

35. The House of Representatives shall, before proceeding to the despatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker.

The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing addressed to the Governor-General.

36. Before or during any absence of the Speaker, the House of Representatives may choose a member to perform his duties in his absence.

37. A member may by writing addressed to the Speaker, or to the Governor-General if there is no Speaker or if the Speaker is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

38. The place of a member shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the House, fails to attend the House.

39. Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

40. Questions arising in the House of Representatives shall be determined by a majority of votes other than that of the Speaker. The Speaker shall not vote unless the numbers are equal, and then he shall have a casting vote.

Part IV

Both Houses of the Parliament

41. No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

42. Every senator and every member of the House of Representatives

shall before taking his seat make and subscribe before the Governor-General, or some person authorized by him, an oath or affirmation of allegiance in the form set forth in the schedule to this Constitution.[1]

43. A member of either House of the Parliament shall be incapable of being chosen or of sitting as a member of the other House.

44. Any person who:

(i) Is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power: or

(ii) Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer: or

(iii) Is an undischarged bankrupt or insolvent: or

(iv) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth: or

(v) Has any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons:

shall be incapable of being chosen or of sitting as a senator or a member of the House or Representatives.

But sub-section iv does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half-pay, or a pension by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

45. If a senator or member of the House of Representatives:

(i) Becomes subject to any of the disabilities mentioned in the last preceding section: or

(ii) Takes the benefit, whether by assignment, composition, or otherwise of any law relating to bankrupt or insolvent debtors: or

(iii) Directly or indirectly takes or agrees to take any fee or honorarium for services rendered to the Commonwealth, or for services rendered in the Parliament to any person or State:

his place shall thereupon become vacant.

46. Until the Parliament otherwise provides, any person declared by this Constitution to be incapable of sitting as a senator or as a member of the House of Representatives shall, for every day on which he so sits, be liable to pay the sum of one hundred pounds to any person who sues for it in any court of competent jurisdiction.

47. Until the Parliament otherwise provides, any question respecting the qualification of a senator or of a member of the House of Representatives, or respecting a vacancy in either House of the Parliament, and any question of a disputed election to either House, shall be determined by the House in which the question arises.

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[1] Not printed.

48. Until the Parliament otherwise provides, each senator and each member of the House of Representatives shall receive an allowance of four hundred pounds a year, to be reckoned from the day on which he takes his seat.[1]

49. The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each House, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

50. Each House of the Parliament may make rules and orders with respect to:

(i) The mode in which its powers, privileges, and immunities may be exercised and upheld:

(ii) The order and conduct of its business and proceeding either separately or jointly with the other House.

Part V.

Powers of the Parliament[2]

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:

(i) Trade and commerce with other countries, and among the States:

(ii) Taxation; but so as not to discriminate between States or parts of States:

(iii) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth:

(iv) Borrowing money on the public credit of the Commonwealth:

(v) Postal, telegraphic, telephonic, and other like services:

(vi) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth:

(vii) Lighthouses, lightships, beacons and buoys:

(viii) Astronomical and meteorological observations:

(ix) Quarantine:

(x) Fisheries in Australian waters beyond territorial limits:

(xi) Census and statistics:

(xii) Currency, coinage, and legal tender:

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[1] By the Parliamentary Allowances Act, 1907, the amount of the allowance was increased to £600 a year; and by the Parliamentary Allowances Act, 1920, to £1,000 a year. The latter Act also apportioned special allowances to the President of the Senate; the Speaker of the House of Representatives; the Chairman of Committees in each House; and the Opposition Leader in each House. The Income Tax (Salaries) Act, 1930, provided for a tax of 10 per cent on each periodical payment of the allowance. This Act was repealed by the Financial Emergency Act, 1931, which reduced the amount of the allowance to £800 a year. The Financial Emergency Act, 1932, further reduced the amount of the allowance to £750 a year. The Financial Relief Act, 1933, increased the amount of the allowance to £825 a year.

[2] Particulars of proposed laws which were submitted to referenda are referred to in Chapter III (General Government) of the Official Year Book of the Commonwealth of Australia.

(xiii) Banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money:

(xiv) Insurance, other than State insurance; also State insurance extending beyond the limits of the State concerned:

(xv) Weights and measures:

(xvi) Bills of exchange and promissory notes:

(xvii) Bankruptcy and insolvency:

(xviii) Copyrights, patents of inventions and designs, and trade marks:

(xix) Naturalization and aliens:

(xx) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth:

(xxi) Marriage:

(xxii) Divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants:

(xxiii) Invalid and old-age pensions:

(xxiiia) The provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorize any form of civil conscription), benefits to students and family allowances: [1]

(xxiv) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States:

(xxv) The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceeding of the States:

(xxvi) The people of any race, other than the aboriginal race in any State, for whom it deemed necessary to make special laws:

(xxvii) Immigration and emigration.

(xxviii) The influx of criminals:

(xxix) External affairs:

(xxx) The relations of the Commonwealth with the islands of the Pacific;

(xxxi) The acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws:

(xxxii) The control of railways with respect to transport for the naval and military purposes of the Commonwealth:

(xxxiii) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State:

(xxxiv) Railway construction and extension in any State with the consent of that State:

(xxxv) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State:

(xxxvi) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides:

(xxxvii) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:

(xxxviii) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia:

(xxxix) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any department or officer of the Commonwealth.

52. The Parliament shall, subject to this Constitution, have ex-

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[1] Inserted by section 2 of the Constitution Alteration (Social Service) Act, 1946.

clusive power to make laws for the peace, order, and good government of the Commonwealth with respect to:

(i) The seat of government of the Commonwealth, and all places acquired by the Commonwealth for public purposes:
(ii) Matters relating to any department of the public service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth:
(iii) Other matters declared by this Constitution to be within the exclusive power of the Parliament.

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed laws so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

54. The proposed law which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

55. Laws imposing taxation shall deal only with the imposition of taxation, and any provisions therein dealing with any other matter shall be of no effect.

Laws imposing taxation, except laws imposing duties of customs or of excise, shall deal with one subject of taxation only; but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of excise shall deal with duties of excise only.

56. A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor-General to the House in which the proposal originated.

57. If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the

Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and of the House of Representatives shall be taken to have been carried, and if the proposed law, with the amendments if any, so carried is affirmed by an absolute majority of the total number of members of the Senate and House of Representatives, it shall be taken to have been duly passed by both Houses of the Parliament, and shall be presented to the Governor-General for the Queen's assent.

58. When a proposed law passed by both Houses of the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to this Constitution, that he assents in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure.

The Governor-General may return to the House in which it originated any proposed law so presented to him, and may transmit therewith any amendments which he may recommend, and the Houses may deal with the recommendation.

59. The Queen may disallow any law within one year from the Governor-General's assent, and such disallowance on being made known by the Governor-General by speech or message to each of the Houses of the Parliament, or by Proclamation, shall annul the law from the day when the disallowance is so made known.

60. A proposed law reserved for the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent the Governor-General makes known, by speech or message to each of the Houses of the Parliament, or by Proclamation, that it has received the Queen's assent.

Chapter II

THE EXECUTIVE GOVERNMENT

61. The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative,

and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.

62. There shall be a Federal Executive Council to advise the Governor-General in the government of the Commonwealth, and the members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure.

63. The provisions of this Constitution referring to the Governor-General in Council shall be construed as referring to the Governor-General acting with the advice of the Federal Executive Council.

64. The Governor-General may appoint officers to administer such departments of State of the Commonwealth as the Governor-General in Council may establish.

Such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Federal Executive Council, and shall be the Queen's Ministers of State for the Commonwealth.

After the first general election no Minister of State shall hold office for a longer period than three months unless he is or becomes a senator or a member of the House of Representatives.

65. Until the Parliament otherwise provides, the Ministers of State shall not exceed seven in number, and shall hold such offices as the Parliament prescribes, or, in the absence of provision, as the Governor-General directs.

66. There shall be payable to the Queen out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of the Ministers of State, an annual sum which until the Parliament otherwise provides, shall not exceed twelve thousand pounds a year.[1]

67. Until the Parliament otherwise provides, the appointment and removal of all other officers of the Executive Government of the Commonwealth shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council or by a law of the Commonwealth to some other authority.

68. The command in chief of the naval and military forces of the Commonwealth is vested in the Governor-General as the Queen's representative.

69. On a date or dates to be proclaimed by the Governor-General after the establishment of the Commonwealth the following departments of the public service in each State shall become transferred to the Commonwealth:

Posts, telegraphs, and telephones:

Naval and military defence:

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[1] By the Ministers of State Acts, 1915 and 1917, the Ministers of State may exceed seven, but shall not exceed nine. £15,300 annually was allotted by these Acts for their salaries; and £ 800 per annum each was added by the Parliamentary Allowances Act 1920. The Income Tax (Salaries) Act, 1930 provided for a tax of 15 per cent on each periodical payment of salary and allowance. This Act was repealed by the Financial Emergency Act, 1931, which reduced the above-mentioned amounts to £11,857 10s. Od. and £620 respectively. The Financial Emergency Act, 1932, reduced the last mentioned amounts to £10,710 and £600 respectively. The Financial Relief Act, 1933, increased the amounts to £12,240 and £640 respectively.

Lighthouses, lightships, beacons, and buoys:
Quarantine.

But the departments of customs and of excise in each State shall become transferred to the Commonwealth on its establishment.

70. In respect of matters which, under this Constitution, pass to the Executive Government of the Commonwealth, all powers and functions which at the establishment of the Commonwealth are vested in the Governor of a Colony, or in the Governor of a Colony with the advice of his Executive Council, or in any authority of a Colony, shall vest in the Governor-General, or in the Governor-General in Council, or in the authority exercising similar powers under the Commonwealth, as the case requires.

Chapter III

THE JUDICATURE

71. The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction. The High Court shall consist of a Chief Justice, and so many other Justices, not less than two, as the Parliament prescribes.

72. The Justices of the High Court and of the other Courts created by the Parliament:

(i) Shall be appointed by the Governor-General in Council:
(ii) Shall not be removed except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity:
(iii) Shall receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during their continuance in office.

73. The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences:

(i) Of any Justice or Justices exercising the original jurisdiction of the High Court:
(ii) Of any other federal court, or court exercising federal jurisdiction; or of the Supreme Court of any State, or of any other court of any State from which at the establishment of the Commonwealth an appeal lies to the Queen in Council.
(iii) Of the Inter-State Commission, [1] but as to questions of law only:

and the judgment of the High Court in all such cases be final and conclusive.

But no exception or regulation prescribed by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter in which at the establishment of

[1] See note to Section 101.

the Commonwealth an appeal lies from such Supreme Court to the Queen in Council.

Until the Parliament otherwise provides, the conditions of and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court.

74. No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question, howsoever arising, as to the limits *inter se* of the Constitutional powers of the Commonwealth and those of any State or States, or as to the limits *inter se* of the Constitutional powers of any two or more States, unless the High Court shall certify that the question is one which ought to be determined by Her Majesty in Council.

The High Court may so certify if satisfied that for any special reason the certificate should be granted, and thereupon an appeal shall lie to Her Majesty in Council on the questions without further leave.

Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal prerogative to grant special leave of appeal from the High Court to Her Majesty in Council. The Parliament may make laws limiting the matters in which such leave may be asked, but proposed laws containing any such limitation shall be reserved by the Governor-General for Her Majesty's pleasure.

75. In all matters:

(i) Arising under any treaty:
(ii) Affecting consuls or other representatives of other countries:
(iii) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party:
(iv) Between States, or between residents of different States, or between a State and a resident of another State:
(v) In which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Commonwealth:

the High Court shall have original jurisdiction.

76. The Parliament may make laws conferring original jurisdiction on the High Court in any matter:

(i) Arising under this Constitution, or involving its interpretation:
(ii) Arising under any laws made by the Parliament:
(iii) Of Admiralty and maritime jurisdiction:
(iv) Relating to the same subject-matter claimed under the laws of different States.

77. With respect to any of the matters mentioned in the last two sections the Parliament may make laws:

(i) Defining the jurisdiction of any federal court other than the High Court:
(ii) Defining the extent to which the jurisdiction of any federal court shall be exclusive of that which belongs to or is invested in the courts of the States:
(iii) Investing any court of a State with federal jurisdiction.

78. The Parliament may make laws conferring rights to proceed

against the Commonwealth or a State in respect of matters within the limits of the judicial power.

79. The federal jurisdiction of any court may be exercised by such number of judges as the Parliament prescribes.

80. The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State, the trial shall be held at such place or places as the Parliament prescribes.

Chapter IV

FINANCE AND TRADE

81. All revenues or moneys raised or received by the Executive Government of the Commonwealth shall form one Consolidated Revenue Fund, to be appropriated for the purposes of the Commonwealth in the manner and subject to the charges and liabilities imposed by this Constitution.

82. The costs, charges, and expenses incident to the collection, management, and receipt of the Consolidated Revenue Fund shall form the first charge thereon; and the revenue of the Commonwealth shall in the first instance be applied to the payment of the expenditure of the Commonwealth.

83. No money shall be drawn from the Tresury of the Commonwealth except under appropriation made by law.

But until the expiration of one month after the first meeting of the Parliament, the Governor-General in Council may draw from the Treasury and expend such moneys as may be necessary for the maintenance of any department transferred to the Commonwealth and for the holding of the first elections for the Parliament.

84. When any department of the public service of a State becomes transferred to the Commonwealth, all officers of the department shall become subject to the control of the Executive Government of the Commonwealth.

Any such officer who is not retained in the service of the Commonwealth shall, unless he is appointed to some other office of equal emolument in the public service of the State, be entitled to receive from the State any pension, gratuity, or other compensation, payable under the law of the State on the abolition of his office.

Any such officer who is retained in the service of the Commonwealth shall preserve all his existing and accruing rights, and shall be entitled to retire from office at the time, and on the pension or retiring allowance, which would be permitted by the law of the State if his service with the Commonwealth were a continuation of his service with the State. Such pension or retiring allowance shall be paid to him by the Commonwealth; but the State shall pay to the Commonwealth a part thereof, to be calculated on the proportion which his term of service with the State bears to his

whole term of service, and for the purpose of the calculation his salary shall be taken to be that paid to him by the State at the time of the transfer.

Any officer who is, at the establishment of the Commonwealth, in the public service of a State, and who is, by consent of the Governor of the State with the advice of the Executive Council thereof, transferred to the public service of the Commonwealth, shall have the same rights as if he had been an officer of a department transferred to the Commonwealth and were retained in the service of the Commonwealth.

85. When any department of the public service of a State is transferred to the Commonwealth:

(i) All property of the State of any kind, used exclusively in connection with the department, shall become vested in the Commonwealth; but, in the case of the departments controlling customs and excise and bounties, for such time only as the Governor-General in Council may declare to be necessary:

(ii) The Commonwealth may acquire any property of the State, of any kind used, but not exclusively used in connection with the department; the value thereof shall, if no agreement can be made, be ascertained in, as nearly as may be, the manner in which the value of land, or of an interest in land, taken by the State for public purposes is ascertained under the law of the State in force at the establishment of the Commonwealth:

(iii) The Commonwealth shall compensate the State for the value of any property passing to the Commonwealth under this section; if no agreement can be made as to the mode of compensation, it shall be determined under laws to be made by the Parliament:

(iv) The Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred.

86. On the establishment of the Commonwealth, the collection and control of duties of customs and of excise, and the control of the payment of bounties, shall pass to the Executive Government of the Commonwealth.

87. During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, of the net revenue of the Commonwealth from duties of customs and of excise, not more than one-fourth shall be applied annually by the Commonwealth towards its expenditure.

The balance shall, in accordance with this Constitution, be paid to the several States, or applied towards the payment of interest on debts of the several States taken over by the Commonwealth.

88. Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth.

89. Until the imposition of uniform duties of customs:

(i) The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth.

(ii) The Commonwealth shall debit to each State:

(a) The expenditure of the Commonwealth incurred solely for the maintenance or continuance, at the time of transfer, of any department transferred from the State to the Commonwealth;

(b) The proportion of the State, according to the number of its people, in the other expenditure of the Commonwealth.

(iii) The Commonwealth shall pay to each State month by month the balance (if any) in favour of the State.

90. On the imposition of uniform duties of customs the power of the Parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods ,shall become exclusive.

On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or of excise, or offering bounties on the production or export of goods, shall cease to have effect, but any grant of, or agreement for, any such bounty lawfully made by or under the authority of the Government of any State shall be taken to be good if made before the thirtieth day of June, one thousand eight hundred and ninety-eight, and not otherwise.

91. Nothing in this Constitution prohibits a State from granting any aid to, or bounty on, mining for gold, silver, or other metals, nor from granting ,with the consent of both Houses of the Parliament of the Commonwealth expressed by resolution, any aid to, or bounty on, the production or export of goods.

92. On the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.

But notwithstanding anything in this Constitution, goods imported before the imposition of uniform duties of customs into any State, or into any Colony which, whilst the goods remain therein, becomes a State, shall, on thence passing into another State within two years after the imposition of such duties, be liable to any duty chargeable on the importation of such goods into the Commonwealth, less any duty paid in respect of the goods on their importation..

93. During the first five years after the imposition of uniform duties of customs, and thereafter until the Parliament otherwise provides:

(i) The duties of customs chargeable on goods imported into a State and afterwards passing into another State for consumption, and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption, shall be taken to have been collected not in the former but in the latter State:

(ii) Subject to the last sub-section, the Commonwealth shall credit revenue, debit expenditure, and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs.

94. After five years from the imposition of uniform duties of customs, the Parliament may provide, on such basis as it deems fair, for the monthly payment to the several States of all surplus revenue of the Commonwealth.

95. Notwithstanding anything in this Constitution, the Parliament of the State of Western Australia, if that State be an Original State, may during the first five years after the imposition of uniform duties of customs impose duties of customs on goods passing into that State and not originally imported from beyond the limits of the Commonwealth; and such duties shall be collected by the Commonwealth.

But any duty so imposed on any goods shall not exceed during the first of such years the duty chargeable on the goods under the law of Western Australia in force at the imposition of uniform duties, and shall not exceed during the second, third, fourth, and fifth of such years respectively, four-

fifths, three-fifths, two-fifths, and one-fifth of such latter duty, and all duties imposed under this section shall cease at the expiration of the fifth year after the imposition of uniform duties.

If at any time during the five years the duty on any goods under this section is higher than the duty imposed by the Commonwealth on the importation of the like goods, then such higher duty shall be collected on the goods when imported into Western Australia from beyond the limits of the Commonwealth.

96. During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit.

97. Until the Parliament otherwise provides, the laws in force in any Colony which has become or becomes a State with respect to the receipt of revenue and the expenditure of money on account of the Government of the Colony, and the review and audit of such receipt and expenditure, shall apply to the receipt of revenue and the expenditure of money on account of the Commonwealth in the State in the same manner as if the Commonwealth, or the Government or an officer of the Commonwealth, were mentioned whenever the Colony, or the Government or an officer of the Colony, is mentioned.

98. The power of the Parliament to make laws with respect to trade and commerce extends to navigation and shipping, and to railways the property of any State.

99. The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.

100. The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

101. There shall be an Inter-State Commission,[1] with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this Constitution relating to trade and commerce, and of all laws made thereunder.

102. The Parliament may by any law with respect to trade or commerce forbid, as to railways, any preference or discrimination by any State, or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable, or unjust to any State; due regard being had to the financial responsibilities incurred by any State in connexion with the construction and maintenance of its railways. But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the Inter-State Commission.

103. The members of the Inter-State Commission:

[1] The Commission was brought into existence in 1913, under Act No. 33 of 1912, by the appointment of Commissioners for seven years. When this period expired no fresh appointments were made.

(i) Shall be appointed by the Governor-General in Council:

(ii) Shall hold office for seven years, but may be removed within that time by the Governor-General in Council, on an address from both Houses of the Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity:

(iii) Shall receive such remuneration as the Parliament may fix; but such remuneration shall not be diminished during their continuance in office.

104. Nothing in this Constitution shall render unlawful any rate for the carriage of goods upon a railway, the property of a State, if the rate is deemed by the Inter-State Commission to be necessary for the development of the territory of the State, and if the rate applies equally to goods within the State and to goods passing into the State from other States.

105. The Parliament may take over from the States their public debts [as existing at the establishment of the Commonwealth],[1] or a proportion thereof according to the respective numbers of their people as shown by the latest statistics of the Commonwealth, and may convert, renew, or consolidate such debts, or any part thereof; and the State shall indemnify the Commonwealth in respect of the debts taken over, and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States.

105A [2]

(1) The Commonwealth may make agreements with the States with respect to the public debts of the States, including:

(a) The taking over of such debts by the Commonwealth;

(b) The management of such debts;

(c) The payment of interest and the provision and management of sinking funds in respect of such debts;

(d) The consolidation, renewal, conversion, and redemption of such debts;,

(e) The indemnification of the Commonwealth by the States in respect of debts taken over by the Commonwealth; and

(f) The borrowing of money by the States or by the Commonwealth or by the Commonwealth for the States.

(2) The Parliament may make laws for validating any such agreement made before the commencement of this section.

(3) The Parliament may make laws for the carrying out by the parties thereto of any such agreement.

(4) Any such agreement may be varied or rescinded by the parties thereto.

(5) Every such agreement and any such variation thereof shall be binding upon the Commonwealth and the States parties thereto notwithstand-

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[1] Under section 2 of the Constitution Alteration (State Debts) Act, 1909, the words in brackets are omitted.

[2] Under section 2 of the Constitution Alteration (State Debts) Act, 1928, the Constitution was amended by the insertion of this section.

ing anything contained in this Constitution or the Constitution of the several States or in any law of the Parliament of the Commonwealth or of any State.

(6) The powers conferred by this section shall not be construed as being limited in any way by the provisions of section one hundred and five of this Constitution.

Chapter V

THE STATES

106. The Constitution of each State of the Commonwealth shall, subject to this Constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of the State.

107. Every power of the Parliament of a Colony which has become or becomes a State, shall, unless it is by this Constitution exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be.

108. Every law in force in a Colony which has become or becomes a State, and relating to any matter within the powers of the Parliament of the Commonwealth, shall, subject to this Constitution, continue in force in the State; and, until provision is made in that behalf by the Parliament of the Commonwealth, the Parliament of the State shall have such powers of alteration and of repeal in respect of any such law as the Parliament of the Colony had until the Colony became a State.

109. When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

110. The provisions of this Constitution relating to the Governor of a State extend and apply to the Governor for the time being of the State, or other chief executive officer or administrator of the government of the State.

111. The Parliament of a State may surrender any part of the State to the Commonwealth; and upon such surrender, and the acceptance thereof by the Commonwealth, such part of the State shall become subject to the exclusive jurisdiction of the Commonwealth.

112. After uniform duties of customs have been imposed, a State may levy on imports or exports, or on goods passing into or out of the State such charges as may be necessary for executing the inspection laws of the State; but the net produce of all charges so levied shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

113. All fermented, distilled, or other intoxicating liquids passing into any State or remaining therein for use, consumption, sale, or storage, shall be subject to the laws of the State as if such liquids had been produced in the State.

114. A State shall not, without the consent of the Parliament of the Commonwealth, raise or maintain any naval or military force, or impose any tax on property of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property of any kind belonging to a State.

115. A State shall not coin money, or make anything but gold and silver coin a legal tender in payment of debts.

116. The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

117. A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

118. Full faith and credit shall be given, throughout the Commonwealth, to the laws, the public Acts and records, and the judicial proceedings of every State.

119. The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

120. Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences, and the Parliament of the Commonwealth may make laws to give effect to this provision.

Chapter VI

NEW STATES

121. The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit.

122. The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

123. The Parliament of the Commonwealth may, with the consent of the Parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed on, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.

124. A new State may be formed by separation of territory from a

State, but only with the consent of the Parliament thereof, and a new State may be formed by the union of two or more States or parts of States, but only with the consent of the Parliaments of the States affected.

Chapter VII

MISCELLANEOUS

125. The seat of government of the Commonwealth shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and shall be in the State of New South Wales, and be distant not less than one hundred miles from Sydney.

Such territory shall contain an area of not less than one hundred square miles, and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor.

The Parliament shall sit at Melbourne until it meets at the seat of government.

126. The Queen may authorize the Governor-General to appoint any person, or any persons jointly or severally, to be his deputy or deputies within any part of the Commonwealth, and in that capacity to exercise during the pleasure of the Governor-General such powers and functions of the Governor-General as he thinks fit to assign to such deputy or deputies, subject to any limitations expressed or directions given by the Queen; but the appointment of such deputy or deputies shall not affect the exercise by the Governor-General himself of any power or function.

127. In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted.

Chapter VIII

ALTERATION OF THE CONSTITUTION

128. This Constitution shall not be altered except in the following manner:

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives.

But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by

the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State qualified to vote for the election of the House of Representatives.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails.

And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent.

No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.

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AUSTRIA

SUMMARY

International Status

The Austrian State Treaty of July 27, 1955 between the U.S.S.R., the United Kingdom, the U.S.A., France and Austria abolished the Allied Commission for Austria and restored Austria's status as a Sovereign nation.

The Moscow Declaration of November 1943 declared null and void the Anschluss, and officially proclaimed the reestablishment of an independent Austria as one of the major Allied war aims. On July 4, 1945 Austria was divided into four zones within its 1937 frontiers for purposes of occupation. An Allied Control Council was established in Vienna (also divided into four

sectors) to exercise supreme authority in all matters affecting Austria as a whole. The provisional government, set up by Dr. Karl Renner on April 27, 1945 to restore the Republic of Austria in the spirit of the Constitution of 1920–29, was recognized by the Allied Council on October 20, 1945. However, after the elections which were held in November 1945, the Austrian government had in fact a large measure of freedom from control by the Allied Council. Through an Allied Control Agreement signed on June 28, 1946, the authority of the Austrian Government was extended to cover the entire country and, except for specific reservations pertaining to questions of demilitarization, disarmament, property of Allied nations, and German assets, was free to legislate for the whole country.

Austria is a member of the United Nations. Its application for admission, originally made in 1947, was approved on December 14, 1955. It is a member of various international organizations. Austria was admitted to the League of Nations in 1920. It signed the Statute of the Permanent Court of International Justice of 1921 on June 18, 1921, and deposited its ratification on July 23, 1921.

Until 1918, Austria formed part of the Austro-Hungarian Empire with an area of 261,259 square miles, under the House of Hapsburg. In Vienna, Prague and Budapest, there were insurrections in 1848, which resulted in a constitution. It was a highly centralized one, however, and in 1851 was abrogated. The defeat of Austria by Prussia in 1866, and exclusion of the former from the new German Confederation resulted in a compromise with Hungary and a constitutional revision. The defeat of the Central Powers in 1918 brought about the dissolution of the Empire. From 1920 to 1938, Austria was an independent republic. It was declared annexed to Germany by a law effective March 13, 1938.

Form of National Government

The Constitution of October 10, 1920, as amended in 1925 and 1929, was declared to be in force on May 1, 1945 by a transitional constitutional law abrogating constitutional laws and executive decrees issued after March 5, 1933. The Constitution declares Austria a federal democratic republic composed of nine States or Laender as follows: Burgenland, Carinthia, Lower Austria, Upper Austria, Salzburg, Styria, Tyrol, Vorarlberg and Vienna.[1] The federal territory "forms a uniform currency, economic and customs area." [2] Citizens of each land are granted the same rights and duties in every other land as the citizens of that land.[3] The federal authorities are granted certain express legislative power with respect to a number of local affairs within provinces, including school regulations, labor laws, public health laws affecting workers and employees, road police, land reform, and other similar matters.[4] The federation is given in certain

[1] Const., 1929, Arts. 1, 2. [2] Id., Art. 9. [3] Id., Art. 6.
[4] Id., Arts. 10–15.

of these spheres the "power of legislation as to basic principles", with a proviso that "the power of enabling legislation and the power of execution" rests with the Laender.[1] "Unless a subject matter has been specifically assigned by the Federal Constitution to the Bund as to legislation or execution, it shall remain within the autonomous competence of the Laender." [2]

Before the Anschluss, Austria had been governed under the Constitution of April 24, 1934 which was promulgated after the government had dissolved the lower house of Parliament in 1933, outlawed the Communist and National Socialist Parties, first curtailed and then suppressed the Social Democratic Party, and dissolved the free labor unions. The 1934 Constitution was on corporative lines.

Source of Sovereign Power

The "law emanates from the people." [3]

Rights of the People

The Constitution declares that all federal citizens are equal before the law[4] and that no one can be withheld from the judge assigned to him by law.[5]

Legislative Department

The Constitution provides for legislative functions to be carried on by the Federal Assembly composed of the National Council and the Federal Council.[6] The National Council is "elected by the people of the Bund (Federation) according to the principles of proportional representation and on the basis of equal, direct, secret, and personal suffrage of men and women who have completed their" twentieth year.[7] Voting is compulsory. The term is four years subject to dissolution.[8]

The Federal Council is composed of representatives of the Laender in proportion to their populations and elected by the respective land Diets.[9]

Executive Department

The executive power is vested in a "Federal President" elected by the population of the Federation by direct and secret ballot.[10] He is required to have a majority of all votes cast. The term is six years and he can be re-elected for the immediately following term once only.[11] The Federal Government is formed of the Federal Chancellor and Vice Chancellor, and other federal ministers.[12] They are responsible to the National Council.[13]

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[1] Const., 1929, Art. 12.
[2] Id., Art. 15
[3] Id., Art. 1.
[4] Id., Art. 7.
[5] Id., Art. 83
[6] Id., Art. 24, 38.
[7] Id., Art. 26.
[8] Id., Art. 27, 29.
[9] Id., Art. 34, 35.
[10] Id., Art. 60 (1)
[11] Id., Art. 60 (5)
[12] Id., Art. 69.
[13] Id., Art. 76.

Judicial Department

Judicial power is vested in a Supreme Court and other courts. The judges are "independent in the exercise of their judicial functions." [1] A separate "Administrative Court" is provided to "safeguard the legality of all acts of the entire public administration". [2]

A separate Constitutional Court is provided for, which decides on the illegality of ordinances and the unconstitutionality of laws.[3] It also decides upon violations of international law.[4] It consists of fourteen members and six substitute members, appointed by the federal President with membership until they reach seventy years of age. [5]

Area Population, Language

Austria has an area of 32,369 square miles and a population (1954 census) of 6,933,905. The official language is German. [6]

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[1] Const., 1929, Art. 87. [2] Id,. Art. 129. [3] Id., Arts. 139, 140.
[4] Id., Art. 145. [5] Id., Art. 147. [6] Id., Art. 8.

FEDERAL CONSTITUTION OF AUSTRIA[1]

1920 with amendements of 1925 and 1929

FEDERAL CONSTITUTIONAL LAW

CHAPTER I

General Provisions

Art. 1. Austria is a democratic republic. Its law emanates from the people.

Art. 2. (1) Austria is a Federal State.

(2) The Federal State is composed of the autonomous *Länder* (States) of Burgenland, Carinthia, Lower Austria, Upper Austria, Salzburg, Styria, Tyrol, Vorarlberg, and Vienna.

Art. 3. (1) The territory of the Federal State consists of the territories of the Austrian *Länder*.

(2) Alteration of Federal boundaries, affecting also the boundaries of a *Land*, as well as alteration of *Land* boundaries within the Federal territory may take place—except as provided by peace treaties—only by concurrent constitutional laws of the *Bund* (Federation) and the *Land*, the boundaries of which are affected thereby.

Art. 4. (1) The Federal territory forms a uniform currency, economic, and customs area.

(2) Inter-*Land* custom barriers or other restrictions on communications may not be established within the Federal territory.

Art. 5. (1) Vienna is the Federal capital and the seat of the highest Federal Authorities.

(2) For the duration of a state of emergency, the Federal President may, at the request of the Federal Government transfer the seat of the highest Federal Authorities to another locality in the Federal territory.

Art. 6. There is a *Land* citizenship for each *Land*. The qualification requisite for *Land* citizenship is the *Heimatrecht* (right of domicile) in a *Gemeinde* (municipality) of the *Land*. The conditions for the acquisition and loss of *Land* citizenship are the same in each *Land*.

(2) *Land* citizenship carries with it Federal citizenship.

(3) In each *Land* every Federal citizen has equal rights and duties with the citizens of that *Land*.

(4) A foreigner, on taking up by public appointment a post as teacher at an Austrian university or at another school of the same rank, acquires the *Land* citizenship of the *Land*, in which the school is situated and at the same time the *Heimatrecht*, in the *Gemeinde*, of his place of office.

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[1] Translation prepared by the Foreign Office in Vienna in cooperation with the Legal Department of the United States Embassy in Vienna, and kindly supplied to the Editor by the Austrian Legation in Canberra.

Art. 7. (1) All Federal citizens are equal before the law. Privileges based upon birth, sex, social position, class, or creed are abolished.

(2) All public employees, including the members of the Federal army, are guaranteed the unrestricted exercise of their political rights.

Art. 8. Without prejudice to the rights conceded by Federal law to linguistic minorities, the German language is the official language of the Republic.

Art. 9. The generally recognized rules of international law are held to be component parts of the Federal law.

Art. 10. (1) The *Bund* shall have powers of legislation and execution in respect to the following matters:

1. The Federal Constitution especially elections to the *Nationalrat*, plebiscites as provided by the Federal Constitution; Constitutional jurisdiction.

2. Foreign relations, including political and commercial representation in relation with foreign countries, in particular the conclusion of all international treaties, marking out of boundaries, trade in goods and livestock with foreign countries, and customs.

3. Regulation and supervision of entrance into and departure from the Federal territory; immigration and emigration; passports, deportation, (interdiction of sojourn), expulsion and extradition from or through the Federal territory.

4. Federal finances especially taxes to be collected exclusively or in part for the *Bund*; monopolies.

5. Money; credit, *produce and stock exchanges*; banking, weights and measures; standards and hallmarking.

6. Civil law, including the law of economic associations; criminal law with the exception of administrative penal law and administrative penal procedure in matters falling within the autonomous competence of the *Länder*, administration of justice; institutions for the protection of society against criminals, destitutes or other dangerous persons, such as workhouses and similar establishments; administrative jurisdiction, copyright, the press, expropiations for slum clearance; other expropriations unless they concern matters falling within the independent competence of the *Länder*; matters pertaining to public notaries, lawyers, and related professions.

7. Maintenance of public peace, order and safety, exclusive of the local safety police; laws of association and assembly; matters concerning the personal status of individuals, including registration of births, marriages, and deaths, and change of name; alien police and registrations of residence; matters pertaining to weapons, ammunition and explosives; use of firearms.

8. Matters concerning trade and industry; professional representation before public authorities and brokerage; measures against unfair competition; patent matters as well as the protection of (*designs*), trademarks and other designations of commodities; matters relating to patent attorneys; (*engineers*) and consulting engineers; chambers for trade, commerce and industry; establishment of professional representations in so far as they extend to the whole Federal territory, except those in the field of agriculture and forestry.

9. Traffic by rail, water and air; automobiles; matters concerning roads declared by Federal law to be Federal highways on account of their importance in intercommunication; river and navigation police; post, telegraph, and telephone.

10. Mining; forestry including wood-transport by water; water rights; regulation and maintenance of waterways for the purpose of flood control or for the purpose of navigation and rafting; regulation of torrents;

construction and maintenance of waterways, standardization, systematization of electrical establishments and plants; safety measures in these fields, right of way for electric power transmission in so far as the transmission extends across the boundary of two or more *Länder*,matters concerning steam boilers and power engines; surveying.

11. Labor law and protection of workers and other employees not engaged in agriculture or forestry; social insurance and contractual insurance; chambers for workers and other employees.

12. Public health, exclusive of the disposal or burial of the dead, as well as municipal sanitation and first aid services; however in respect to hospitals and sanatoria, health resorts, and medicinal springs only their sanitary supervision; veterinary affairs; foodstuffs, including food inspection.

13. Scientific and technical archives and libraries; art colletions and institutions, scientific collections and institutions, all matters pertaining to the Federal theatres, however the determination of building line and level, furthermore supervision by building authorities concerning the exterior of the theatre buildings are not included; protection of monuments; matters pertaining to religion; census as well as other statistics, unless they serve only the interests of one *Land*; endowments and foundations not intended to serve the interests of one *Land* only and not hitherto autonomously administered by the *Lander*.

14. Organization and operation of the Federal police and the Federal gendarmerie; establishment and organization of other guards, including their equipment and right to make use of their weapons.

15. Military affairs; war damages and welfare measures concerning veterans and their dependants; the care of war graves; such measures taken because of or subsequent to a war as are necessary to safeguard the uniform administration of economic affairs, especially the supply of necessary commodities to the population.

16. Establishment of Federal authorities and other Federal agencies; Federal employment regulations.

(2) In the Federal laws issued according to p. 1, item 10, the *Land* legislature may be authorized to enact enabling laws with regard to certain specifically designated provisions of the Federal law. The rules stipulated in Article 15, paragraph 6, shall be applied *mutatis mutandis* to these *Land* laws. The execution of these Enabling Laws falls within the competence of the *Bund*. Enabling Ordinances which are based on the enabling provisions of the *Land* law require, however, a previous agreement with the *Land* goverment concerned.

Art. 11. (1) The *Bund* shall have the power of legislation, but the *Land* shall have the power of execution in respect to the following matters:

1. Citizenship and *Heimatrecht*.
2. Professsional representations not included in Article 10 but exclusive of those pertaining to agriculture and forestry.
3. Public housing.

(2) Administrative procedure, the general rules of administrative penal law, administrative penal procedure and administrative execution are regulated by Federal laws. Provided there exists a demand for the enactment of uniform rules, this also applies to matters which otherwise are within the legislative power of the *Länder*, expecially matters pertaining to taxation.

(3) Ordinances to the laws enacted under paragraphs 1 and 2 shall be

issued by the Federal Government provided nothing different has been stipulated in these laws.

(4) The administration of the laws and enabling ordinances issued under paragraph 2 falls within the competence of the *Bund* or the *Länder* depending on whether the executive powers for the matters forming the subject of the procedure belong to the competence of the *Bund* or of the *Länder*.

(5) Final decision on procedures before administrative authorities for administrative offenses shall be exercised by special administrative penal boards to be established within the framework of the competent authorities. The members of these boards are independent in the exercise of their office, and are not bound by any order. The board is presided over by the head of the administrative authority concerned or by a deputy appointed by him; the deputy must have legal training. The *Bund* appoints two members even in case the boards are not established within the framework of Federal authorities. The right of pardon provided for by the law, is exercised on recommendation of the administrative penal boards. In penal administrative cases originating within the indirect Federal administration such pardons are granted by the *Landeshauptmann* (Governor), in cases originating within the autonomous *Land* competence by the governments (*Landesregerungen*). Details concerning the organization and operation of the administrative penal boards are regulated by Federal law.

Art. 12. (1)The *Bund* shall have the power of legislation as to basic principles, but the *Länder* shall have the power of enabling legislation and the power of execution in respect to the following matters:

1. Organization of administration in the *Länder*.
2. Poor relief; population policy; public sanatoria; protection of maternity, infancy, and adoloscence; hospitals and nursing homes.
3. Public institutions for the extra-judicial adjustment of controversies.
4. Labor law and protection of workers and other employees in agriculture and forestry.
5. Land reform, including specially agrarian re-adjustment operations and resettlement.
6. Protection of plants against disease and pests.
7. Matters concerning electric power, in so far as it is not included in Article 10.
8. Highway police with the exception of the Highway police on Federal highways which falls under Article 10 item 9.
9. Service regulations for *Land* employees performing official duties.

(2) In matters pertaining to land reform (paragraph 1, item 5), the decision in the supreme instance and in the *Land* instance rests with boards composed of a chairman and of judges, civil servants and experts. The board which acts as supreme instance is established within the framework of the competent Federal Ministry. The organization, the functions and the procedure of the boards, as well as the principles concerning the organization of further authorities engaged in land reform, are regulated by Federal law.

(3) If and in so far as decisions of *Land* authorities in matters pertaining to electric power conflict with one another, or if the *Land* Government is

the only *Land* authority with power to decide the question concerned the right of decision shall pass to the appropriate Federal Ministry, provided that the party concerned submits a request to this effect within a time limit which shall be fixed by Federal law. Upon the decision of the Federal Ministry, the previous decisions of the *Land* authorities are invalidated.

Art. 18. The respective competence of the *Bund* and of the *Länder* in the field of taxation are regulated by a special Federal Constitutional Law (Constitutional Finance Law).

Art. 14. A special Federal Constitutional Law shall regulate the competence of the *Bund* and of the *Länder* in regard to schools, education and adult education.

Art. 15. (1) Unless a subject matter has been specifically assigned by the Federal Constitution to the *Bund* as to legislation or execution, it shall remain within the autonomous competence of the *Länder*.

(2) In matters of local safety police (*Sicherheitspolizei*), that is to say, that part of the police which affects in the first place the interest of the *Gemeinde* and which the *Gemeinde* can exercise within its boundaries by its own resources, the Bund may supervise the handling of these affairs by the *Gemeinde* and redress any shortcomings perceived by orders given to the *Landeshauptmann* (Article 103). For this purpose, Federal inspectors may be sent to the *Gemeinden*; the Landeshauptmann is to be informed thereof in each case.

(3) The laws of the *Länder* in matters concerning theaters, cinemas as well as public shows, displays and entertainments shall within the jurisdictional district of Federal police authorities delegate to these Federal police authorities at least the supervision of such performances except when technical equipment, building and fire protection matters are concerned, and also permit the latter authorities to concur in the issuance in the first instance of such licenses as may be required by the laws concerned.

(4) Identical laws of the *Bund* and of the *Land* concerned determine to what extent executive power shall be conferred upon Federal police authorities within their jurisdictional districts in matters concerning highway police on highways other than Federal highways.

(5) In so far as acts of execution in construction matters may affect Federal owned buildings which serve public purposes, such as giving accommodation to Federal authorities, to Federal offices, or to public institutions—including schools and hospitals—or which serve as barracks for members of the armed forces or for other federal employees, such acts fall within the indirect federal administration. The last decision on appeals rests with the competent Federal Minister. The determination of the building line and level, however, even in this case, belongs to the executive power of the *Länder*.

(6) In so far as the power of legislation has been reserved to the *Bund* only as to basic priciples, the *Länder* shall have the power of enabling legislation within the scope determined by Federal Law. Federal law may fix a period of time for the enactment of enabling legislation, which period without the consent of the *Bundesrat*, shall not be less than six months and no more than one year. If a *Land* does not observe this time-

limit the power of enabling legislation for such *Land* passes to the *Bund*. Upon the enactment by the *Land* of the enabling law, the Federal enabling law shall cease to be effective.

(7) If an act of execution on the part of a *Land* in respect to the subjects covered by Articles 11 and 12 shall be effective in several *Länder*, such *Länder* shall first of all take steps to reach an agreement on the matter. If agreement cannot be reached within six months from the day the question arose, the power to perform such an act passes, at the request of one of the *Länder* concerned or of one of the interested parties, to the appropriate Federal Ministry. The details may be regulated by the Federal law issued in accordance with articles 11 and 12.

(8) The *Bund* shall have the right to enforce the observance of its regulations in respect to such subjects as are reserved for Federal legislation in accordance with articles 11 and 12.

(9) The *Länder* are empowered to issue all rules necessary for the regulation of matters which are within the scope of their legislative competence, even in the field of civil and criminal law.

Art. 16. (1) The *Länder* are bound, within the limits of their independent competence, to take such measures as are necessary for the execution of international treaties. Should a *Land* fail to comply in due time with this obligation, its competence in the matter, and particularly in the enactment of the necessary legislation, will pass to the *Bund*.

(2) Likewise, the *Bund*, when carrying out treaties with foreign states, shall have the right of supervision even in regard to such matters as come within the autonomous competence of the *Länder*. In this case the *Bund* shall have the same rights towards the *Länder* as in matters of indirect Federal administration (Art. 102).

Art. 17. (1) The provisions of Articles 10–15 in respect to the powers of legislation and execution shall in no way affect the status of the *Bund* as holder of private rights.

(2) The *Bund* may never, in all these legal relations, be placed by the legislation of any *Land* in a less favorable position than the *Land* itself.

Art. 18. (1) The entire public administration shall be carried on only on the basis of the laws.

(2) Every administrative authority may issue ordinances within its competence on the basis of the laws.

(3) If for the prevention of an imminent and irreparable damage to the common welfare, the immediate enactment of measures, which according to the Constitution require a decision of the *Nationalrat*, becomes necessary at a time when the latter is not in session, or is not able to convene in due time, or is obstructed in its activity by *force majeure*, the Federal President, on the proposition of the Federal Government and on his and the Federal Government's responsibility, may take these measure by way of provisional law-amending ordinances. The proposition of the Federal Government shall be made in agreement with the permanent sub-committee (Art. 55, paragraph 2) to be appointed by the Main Committee of the *Nationalrat*. Such an ordinance shall be counter-signed by the Federal Government.

(4) Every ordinance issued according to paragraph 3 shall be submitted

by The Federal Government to the *Nationalrat* without delay. The *Nationalrat* shall be convened by the Federal President, if it is not in session at the time or if it is in session, by its own President, for one of the eight days following the day on which the ordinance has been submitted to the *Nationalrat*. Within four weeks after such submittal, the *Nationalrat* shall adopt an appropriate Federal law in lieu of the ordinance or demand, by a resolution, that the ordinance be immediately rescinded by the Federal Government. In the latter case, the Federal Government shall at once comply to this demand. In order that the resolution of the *Nationalrat* may be adopted in due time, its President has to submit the motion for voting at the latest on the day before the last day of the four weeks period. More detailed regulations are prescribed by the rules of procedure of the *Nationalrat*. If the ordinance has been rescinded by the Federal Government according to the preceding provisions, the legal provisions which were repealed by such ordinance shall re-enter into force as of the day on which the ordinance was rescinded.

(5) The ordinances referred to in paragraph 3 must not contain provisions which would involve: a change of constitutional law; a permanent financial burden of the *Bund*, or a financial burden of the *Länder*, *Bezirke* (districts) or *Gemeinden*; the imposition of financial obligations upon Federal citizens; alienation of public property; measures concerning matters referred to in Article 10, item 11; or, finally, measures concerning the right of free association, or the protection of tenants.

Art. 19. (1) The highest executive officers are the Federal President, the Federal Ministers and Secretaries of State, and the members of the *Land* Governments.

(2) The officers mentioned in subparagraph 1 and other persons exercising public functions may be restricted by Federal law from engaging in Private business.

Art. 20. (1) Under the direction of the highest officer of the *Bund* and of the *Länder* the administration is carried on in accordance with the law, by officers elected for a certain period or by appointed professional officers. Unless otherwise provided by the Constitution they are bound by the instructions of their superiors and are responsible to them for the exercise of their office. A subordinate may decline to follow an instruction if this instruction is issued either by an incompetent officer or if the carrying out of the instructions would constitute a violation of the criminal law.

(2) Unless otherwise provided by law, all officers entrusted with duties within the Federal *Land* or *Gemeinde* administration are bound to treat as confidential all facts of which they obtain knowledge exclusively through their official duties if it is in the interest of the *Bund*, *Länder* or *Gemeinden* or a party to treat these facts as confidential (official obligations to secrecy). Officers appointed by a general representative body are not bound by this obligation to secrecy in relation to this representative body when the latter expressly asks for information on such facts.

Art. 21. (1) The employment regulations including the salary scale and disciplinary regulations concerning the employees of the *Bund* and of the *Länder* who carry out administrative duties, shall be made by Federal

law according to uniform principles (Article 10, item 16 and Article 12, item 9). This law shall also contain provisions determining the extent to which representatives of employees may participate in the regulation of the rights and duties of such employees without prejudice to the supreme authority in service matters exercised by the Bund and the Länder.

(2) Supreme authority in service matters concerning the employees of the *Bund* is exercised by the highest officers of the *Bund*; concerning employees of the *Länder* by the highest officers of the *Länder*. The president of the Court of Audits exercises the supreme authority of the *Bund* in service matters concerning the employees of this court.

(3) The appointment of employees of district and local *Gemeinden* who perform administrative duties and the service regulations concerning such employees, shall be made in connection with the organisation of the administration.

(4) The possibility of an interchange of service between the *Bund* the *Länder* and the *Gemeinden* shall always be open to public employees. Such transfer shall take place with the consent of the authorities exercising the supreme authority in service matters. Special arrangement to facilitate interchange of service may be made by Federal law.

(5) Titles of office for the officers of the *Bund*, the *Länder* or the *Gemeinden* may be created in a uniform manner by Federal law. Such titles shall be protected by law.

Art. 22. All agencies of the *Bund* the *Länder* or the *Gemeinden* shall render mutual assistance within their competence as prescribed by law.

Art. 23. (1) The *Bund*, the *Länder*, the districts, the *Gemeinden*, and the other corporations and institutes under public law shall be liable for damage which the persons acting as their officers while engaged in the execution of the laws have inflicted by a faulty illegal act upon anyone.

(2) Persons acting as officers of an authority mentioned in paragraph (1) shall, as far as they are guilty of malice or gross negligence, be liable to this authority for the damage for which the authority has indemnified the damaged person.

(3) Persons acting as officers of one of the authorities mentioned in paragraph (1) shall be liable for the damage which they directly inflicted to the authority by illegal acts while engaged in the execution of the laws.

(4) Detailed provisions of paragraphs (1) through (3) shall be made by Federal Law.

(5) A Federal Law may also determine how far, in the field of post, telegraph and telephone matters, special provisions differing from the principles established in paragraphs (1) through (3) shall apply.

Chapter II

FEDERAL LEGISLATION

A. The Nationalrat

Art. 24. The federal legislation is exercised by the *Nationalrat* (National Council), together with the *Bundesrat* (Federal Council).

Art. 25. (1) The seat of the *Nationalrat* shall be Vienna, the Federal capital.

(2) For the duration of a state of emergency the Federal President at the request of the Federal Government, may convene the *Nationalrat* in any other locality within the Federal territory.

Art. 26. (1) The *Nationalrat* shall be elected by the people of the *Bund* according to the principles of proportional representation and on the basis of equal, direct, secret, and personal suffrage of the men and women who have completed (their twenty first) year [1] of age. The Federal electoral law determines whether and under what conditions persons who are not Federal citizens may have the right to vote on the basis of reciprocity guaranteed by international treaty. Voting is compulsory in the *Länder* where such compulsory voting has been established by *Land* law. Detailed regulations concerning electoral procedure and compulsory voting, where introduced, are stipulated by Federal law. This Federal law shall also determine the reasons which excuse non-participation in the voting in spite of the existence of compulsory voting.

(2) The Federal territory shall be divided into contiguous electoral districts whose boundaries shall not overlap the boundaries of the Länder. The number of deputies allotted to the qualified voters of an electoral district (electoral body) shall be in proportion to the number of citizens who, in accordance with the results of the last census, had their domicile in the electoral district. A division of the electorate into other electoral bodies shall not be permissible.

(3) The polling day shall be a Sunday or other public holiday.

(4) Every qualified voter who is more than (twenty-nine years) [2] of age before the 1st of January of the year in which the election is held, shall be eligible for election.

(5) Exclusion from the right to vote and from the right to stand for election can only be effected by a sentence or an order of the Courts.

(6) The elections of the *Nationalrat* and of the Federal President, and the referendum according to Article 46, are to be carried out and conducted by election boards which have also to assist in the procedure of scrutinizing the popular initiative. Representatives of the political parties participating in the election shall be voting members of the election boards. In addition to these party representatives, persons who are, or have been judges shall be members of the main election board. The number of the members of the election boards shall be determined by the election law. The number of members—disregarding the members who are or have been judges—which shall be allocated to each political party participating in the election shall be in proportion to its strength shown at the last election of the *Nationalrat*.

(7) The electoral registers shall be drawn up by the municipalities (however, in municipalities, being the seat of a Federal police authority

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[1] Under the Federal Election Law of 1949, BGBl. Nr. 129/1943, reduced to 20 years.
[2] Under the Federal Election Law of 1949, BGBl. Nr. 129/1949, reduced to 26 years.

they shall be drawn up by this authority in cooperation with the municipality.)[1]

Art. 27. (1) The legislative period of the *Nationalrat* shall last four years, beginning from the day of its first meeting, but in any case continuing to the day on which the new *Nationalrat* meets.

(2) The newly elected *Nationalrat* shall be convened by the Federal President not later than the thirtieth day after the election. The election shall be arranged by the Federal Government in such a manner as to enable the newly elected *Nationalrat* to meet on the day after the expiration of the fourth year of the legislative period of the old *Nationalrat.*

Art. 28. (1) The Federal President shall convene the *Nationalrat* in each year for two regular sessions, one spring session and one autumn session. The spring session shall last at least two months but should not last longer than until June 15th. The autumn session shall last at least four months but should not begin prior to October 15th.

(2) The Federal President may convene the *Nationalrat* also for extraordinary sessions. If the Federal Government or at least one third of the members of the *Nationalrat* or if the *Bundesrat* so demand, the Federal President shall convene the *Nationalrat* for an extraordinary session within two weeks.

(3) On a resolution of the *Nationalrat* the Federal President declares the session of the *Nationalrat* closed.

(4) When within the same legislative period a new session of the *Nationalrat* is opened, the *Nationalrat* shall resume its work at that stage in which it was left at the end of the preceding session. At the end of a session, specified committees may be instructed by the *Nationalrat* to continue their work.

(5) Within the same session, the meetings of the *Nationalrat* are convened and closed by its President. Within the same session, the latter shall convene a meeting at the latest within five days if at least one-fourth of the members of the *Nationalrat* or if the Federal Government should so demand.

Art. 29. (1) The Federal President may dissolve the *Nationalrat.* However, he is authorized to do this only once for the same reason. In this case the election of the new *Nationalrat* shall be arranged by the Federal Government in such a way that the newly elected *Nationalrat* may convene at the latest on the hundredth day after the dissolution.

(2) Before the expiration of the legislative period the *Nationalrat* may dissolve itself by ordinary law.

(3) In case of a dissolution according to paragraph 2 as well as after expiration of the period for which the *Nationalrat* has been elected, its legislative period shall last until the newly elected *Nationalrat* meets.

Art. 30. (1) The *Nationalrat* shall choose from among its members its President and its Second and Third Presidents.

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[1] Rendered obsolete by § 29 (5) of the Federal Election Law of 1949, BGBl. Nr. 129 1949.

(2) The business of the *Nationalrat* shall be conducted in accordance with a special law and autonomous rules of procedure to be adopted by the *Nationalrat* within the limits of that law. The law concerning the rules of procedure shall be passed only when one-half of the members are present, and by a majority of two-thirds of the votes cast.

(3) The President of the *Nationalrat* is authorized to appoint the employees of the Chancellery of the President of the *Nationalrat*.

Art. 31. A resolution of the *Nationalrat* requires the presence of at least one-third of the members and the absolute majority of the votes cast unless this law otherwise provides.

Art. 32. (1) The meetings of the *Nationalrat* shall be public.

(2) On demand made by the chairman or by one-fifth of the members present, the public shall be excluded if the Nationalrat so resolves after the withdrawal of the listeners.

Art. 33. Nobody shall be held responsible for publishing truthful reports of the proceedings at the public meetings of the *Nationalrat* or its committees.

B. The Bundesrat (Federal Council)

Art. 34.. (1) The *Länder* shall be represented in the *Bundesrat* in proportion to the number of citizens in each *Land* in accordance with the following conditions.

(2) The *Land* having the largest number of citizens shall delegate twelve members and each other *Land* a proportionate number of members as corresponds to the ratio between the number of its citizens and the number of citizens in the first-mentioned *Land*; in establishing this ratio a remainder in excess of one-half shall count as one. Each *Land* shall, however, have a minimum representation of three members. For each member a substitute shall be appointed.

(3) The number of members to be thus delegated by each *Land* shall be established by the Federal President after each general census.

Art. 35. (1) The members of the *Bundesrat* and their substitutes shall be elected by the *Landtage* (Land Diets) for the duration of their own legislative period according to the principles of proportional representation, but at least one seat shall fall to the party having the second highest number of seats in the *Landtag* or (if several parties have an equal number of seats) the second highest number of votes at the last election to the *Landtag*. When the claims of several parties are equal, the issue shall be decided by lot.

(2) The members of the *Bundesrat* shall not necessarily be members of the Landtag which delegates them; they shall, however, be eligible for election to that *Landtag*.

(3) After the expiration of the legislative period of a *Landtag* or after its dissolution, the members of the *Bundesrat* delegated by it shall continue in office until the new *Landtag* has carried out the election to the *Bundesrat*.

(4) The provisions of Article 34 and 35 may be amended only when, in the *Bundesrat*— apart from the majority of votes normally required

for the passing of a measure in that body—the majority of representatives of at least four *Länder* have approved the amendment.

Art. 36. (1) The Chairmanship of the *Bundesrat* shall pass in turn every six months to each of the different *Länder* in alphabetical order.

(2) The office of Chairman shall be assumed by the member heading the list of the *Land* entitled to the Chairmanship. The appointment of the Deputy Chairmen shall be regulated by the rules of procedure of the *Bundesrat*.

(3) The *Bundesrat* shall be convened by its Chairman at the seat of the *Nationalrat*. The Chairman shall be bound to convene the *Bundesrat* immediately at the request of at least one-fourth of its members or of the Federal Government.

Art. 37. (1) A resolution of the *Bundesrat* requires the presence of at least one-third of the members and the absolute majority of the votes cast unless this law otherwise provides.

(2) The *Bundesrat* shall determine its rules of procedure by resolution. This resolution may be adopted only when one-half of the members are present, and by a majority of two-thirds of the votes cast.

(3) The meetings of the *Bundesrat* shall be public. In accordance with the rules of procedure the public may, however, be excluded by resolution. The provisions of Article 33 shall apply also to the public meetings of the *Bundesrat* and its Committees.

C. The Bundesversammlung (Federal Assembly)

Art. 38. The *Nationalrat* and the *Bundesrat* convene as *Bundesversammlung* in a joint public meeting at the seat of the *Nationalrat* for administering the oath of office of the Federal President as well as for a resolution on a declaration of war.

Art. 39. (1) With the exception of the cases provided for by Article 60, paragraph 6, Article 63, paragraph 2, Article 64, paragraph 2, and Article 68 paragraph 2, the *Bundesversammlung* is convened by the Federal President. The chairmanship shall be assumed alternately by the President of the *Nationalrat* and the chairman of the *Bundesrat*, beginning with the former.

(2) The rules of procedure of the *Nationalrat* shall be applied *mutatis mutandis* to the meeting of the *Bundesversammlung*.

(3) The provisions of Article 33 shall apply also to the meetings of the *Bundesversammlung*.

Art. 40. (1) The resolutions of the *Bundesversammlung* shall be authenticated by its chairman and countersigned by the Federal Chancellor.

(2) The resolutions of the *Bundesversammlung* on a declaration of war shall be officially promulgated by the Federal Chancellor.

D. Federal Legislative Procedure

Art. 41. (1) Draft laws shall be submitted to the *Nationalrat* either as motions of its members or as bills of the Federal Government. The *Bundesrat* may submit bills to the *Nationalrat* through the Federal Government.

(2) Every proposal signed by 200,000 *Länder* voters or by one-half of

the voters of each of three *Länder* (popular initiative) shall be submitted by the Federal Government to the *Nationalrat* for action in accordance with its rules of procedure. The popular initiative shall be couched in the form of a draft law.

Art. 42. (1) Every law passed by the *Nationalrat* shall be communicated without delay by its President to the Federal Chancellor, who shall immediately communicate it to the *Bundesrat.*

(2) Except as otherwise provided by constitutional law, an enacted law may be authenticated and promulgated only if the *Bundesrat* had not raised a motivated objection thereto.

(3) Such an objection shall be communicated in writing to the *Nationalrat* through the agency of the Federal Chancellor within eight weeks after the enacted law has reached the *Bundesrat.*

(4) If the *Nationalrat* in the presence of at least one-half of its members reaffirms its original resolution, the law shall be authenticated and promulgated. Should the *Bundesrat* resolve not to raise any objection or if no motivated objection has been raised within the period of time prescribed by paragraph 3, the law shall be authenticated and promulgated.

(5) The *Bundesrat* may not object to resolutions of the *Nationalrat* in respect to a law concerning the representation of the Federal President, under Article 64 paragraph 1, or to a law concerning the rules of procedure of the *Nationalrat,* the dissolution of the *Nationalrat,* the grant of the federal budget estimates, the approval of the final budget accounts, the issue or conversion of Federal loans, or the disposal of Federal property. Such laws enacted by the *Nationalrat* shall be authenticated and promulgated without further procedure.

Art. 43. If the *Nationalrat* so resolves, or if a majority of the members of the *Nationalrat* so demands, any law enacted by the *Nationalrat* shall, upon conclusion of the procedure prescribed in Article 42, but before its authentication by the Federal President, be submitted to a referendum.

Art. 44. (1) Constitutional laws or constitutional provisions contained in ordinary laws may be enacted by the *Nationalrat* only in the presence of at least one-half of its members and by a majority of two-thirds of the votes cast. They shall be specifically designated as such ("constitutional law", "constitutional provision");

(2) Any total revision of the Federal Constitution shall, upon conclusion of the procedure prescribed in Article 42, but before authentication by the Federal President, be submitted to a referendum of the entire people of the Federal State; but a constitutional amendment need be so submitted only on demand of one-third of the members of the *Nationalrat* or of the *Bundesrat.*

Art. 45. (1) An absolute majority of the valid votes cast in the referendum shall decide.

(2) The result of the referendum shall be officially promulgated.

Art. 46. (1) Regulations concerning the procedure of the popular initiative and of the referendum shall be prescribed by Federal law.

(2) Every citizen of the Federal State qualified to participate in the elections to the *Nationalrat* shall be qualified to participate in the popular initiative and referendum.

(3) The Federal President shall order the referendum.

Art. 47. (1) The signature of the Federal President shall authenticate that the Federal laws have been enacted in accordance with the Constitution.

(2) The Federal Chancellor shall submit Federal laws for authentication.

(3) The authentication shall be counter-signed by the Federal Chancellor and the competent Federal Ministers.

Art. 48. Federal laws and the international treaties referred to in Article 50 shall be promulgated with reference to the enactment of the *Nationalrat*; Federal laws based on referendum shall be promulgated with reference to the result of the referendum.

Art. 49. (1) The Federal laws and the treaties referred to in Article 50 shall be promulgated by the Federal Chancellor in the Federal Law Gazette (*Bundesgesetzblatt*). Unless otherwise explicitly provided, they shall become effective at the expiration of the day on which the number of the Federal Law Gazette containing the promulgation is issued and distributed, and unless otherwise explicitly provided, they shall apply to the entire Federal territory.

E. Cooperation of the Nationalrat and of the Bundesrat with the Executive Power of the Bund

Art. 50. (1) All political treaties, and other treaties in so far as they contain provisions modifying existing laws, require for their validity the approval of the *Nationalrat*.

(2) The provisions of article 42, paragraphs (1) to (4), and, if a constitutional law be modified by a treaty, those of article 44, paragraph (1), are applicable, *mutatis mutandis*, to resolutions of the *Nationalrat* regarding the approval of treaties.

Art. 51. (1) The Federal Government shall submit to the *Nationalrat*, not later than ten weeks before the expiration of the current fiscal year, an estimate of the income and expenditure of the *Bund* for the ensuing fiscal year.

(2) Federal expenditures which are not provided for by the Federal Finance Law or by a special law, require before being made, the constitutional approval of the *Nationalrat*. This approval shall be requested by the Federal Minister of Finance. In case of emergency, the expenditure, if not exceeding one million Schillings, may be made with the consent of the Main Committee of the *Nationalrat*; the approval of the *Nationalrat* shall be requested subsequently.

(3) If the draft of the Federal budget submitted in due time (paragraph 1) to the *Nationalrat* by the Federal Government is not constitutionally approved by the *Nationalrat* before the end of the fiscal year and if no provisional arrangement is made by federal law until that date, then during the first two months of the ensuing fiscal year the taxes, public charges and fees shall be collected according to the existing provisions, and the federal expenditures shall be made on account of the appropriation to be legally determined, except expenditures of a kind not especially provided for in the last Federal Finance Law. The upper limit of the admissible federal expenditures is determined by the appropriations

contained in the draft of the budget submitted to the *Nationalrat*. One-twelfth of these appropriations shall be the basis of the federal expenditures of one month. Expenditures required for the fulfillment of legal obligations are to be made to the extent these obligations fall due. Appointments of officials, likewise, are to be made in conformity with the draft of the budget submitted to the *Nationalrat*. Moreover, the provisions of the last Federal Finance Law, in so far as they do not concern figures, shall be applied *mutatis mutandis* also during the two months mentioned above.

Art. 52. The *Nationalrat* and the *Bundesrat* are entitled to examine the conduct of public business by the Federal Government, to interrogate the members of the Federal Government on all matters relating to the execution of the laws, and to demand all pertinent information as well as to express by declaration their wishes in respect to the exercise of the executive power.

Art. 53. (1) By resolution, the *Nationalrat* may set up committees of investigation.

(2) The courts and all other public authorities shall be obliged to comply with requests of these committees for the taking of evidence; upon their demands, all public authorities shall produce their records to them.

(3) The procedure of the committees of investigation shall be regulated by the law concerning the rules of procedure of the *Nationalrat*.

Art. 54. The *Nationalrat* shall participate in fixing railroad, postal, telegraph and telephone rates and prices of articles subject to monopoly, as well as salaries of persons permanently employed in enterprises of the *Bund*. The character of such participation shall be determined by federal constitutional law.

Art. 55. (1) The *Nationalrat* shall choose from among its own members, according to the principles of proportional representation, the Main Committee; federal laws may provide that certain ordinances of the Federal Government or of a Federal Minister require the agreement of the Main Committee. If it is necessary, the Main Committee shall also be convened between sessions of the *Nationalrat* (Article 28).

(2) The Main Committee shall choose from among its own members a permanent sub-committee whose prerogatives are determined by this law. The members of the sub-committee are chosen according to the principle of proportional representation. This principle shall be so applied that at least one member of each party represented in the Main Committee shall be a member of the sub-committee. The members and the substitute-members of the permanent sub-committee shall have their residence at the seat of the *Nationalrat*. The rules of procedure shall provide that the permanent sub-committee may be convened and may meet at any time. When the *Nationalrat* is dissolved by the Federal President according to Article 29, paragraph 1, the permanent subcommittee shall exercise the function of participating in the executive power which otherwise according to this law belongs to the *Nationalrat* (Main Committee).

F. Status of the Members of the Nationalrat and of the Bundesrat

Art. 56. When acting in the exercise of their office the members of the *Nationalrat* and the members of the *Bundesrat* are not bound by instructions.

Art. 57. (1) The members of the *Nationalrat* shall never be held responsible for any votes cast in the exercise of their office and they shall be held responsible only by the *Nationalrat*, for any oral utterances made in this capacity.

(2) No member of the *Nationalrat* may, without the consent of this body, be subjected to arrest or any other official prosecution for a penal act unless he is apprehended in the act of committing a crime. In case the authority competent for prosecution asks the *Nationalrat* to consent to the arrest or to any other official prosecution of any of its members, that body shall decide the question within six weeks. Unless the *Nationalrat* demands within this period that the prosecution be postponed for the duration of the legislative period, the arrest or other official prosecution may take place. The time during which the *Nationalrat* is not in session is not included in this period of time nor does the statute of limitations run during this time.

(3) In case a member of the *Nationalrat* has been apprehended in the act of committing a crime, the authority concerned shall immediately notify the President of the *Nationalrat* of the arrest. The arrest shall be cancelled or the entire prosecution deferred for the duration of the legislative period, if the *Nationalrat*, or—at the time during which the *Nationalrat* is not in session—the permanent committee entrusted with this function so demands.

(4) In order to give the *Nationalrat* the opportunity of taking its decision in due time, the President shall put the request for extradition to the vote at the latest on the day before the last day of the six weeks period; the rules of procedure shall contain more detailed regulations.

(5) The immunity of the members of the *Nationalrat* (paragraphs 1–3) ends on the day on which the newly elected *Nationalrat* meets; the immunity of organs of the *Nationalrat* whose functions extend beyond this date, shall end with the expiration of their functions.

Art. 58. During the entire term of their function the members of the *Bundesrat* shall enjoy the immunity of members of the *Landtag* which delegated them.

Art. 59. (1) Nobody may be a member of the *Nationalrat* and of the *Bundesrat* at the same time.

(2) Public employees including the members of the Federal Army, need no leave of absence to exercise their functions as members of the *Nationalrat* or of the *Bundesrat*. Should they seek election to the *Nationalrat* the time off necessary for this purpose shall be granted to them. Detailed regulations shall be provided by the public service regulations.

Chapter III

THE EXECUTIVE POWER OF THE BUND

A. Administration

1. The Federal President

Art. 60. (1) The Federal President shall be elected by the entire people of the Federal State according to the principles of direct and secret

election. Everybody who is entitled to vote in the election of the *Nationalrat* is entitled to vote in the election of the Federal President. For the election of the Federal President voting shall be compulsory. A Federal Law shall provide detailed regulations for the electoral procedure and for the compulsory voting. That law shall especially determine the reasons which excuse abstention from the election.

(2) The person who has obtained more than half of all valid votes shall be elected. If no such majority results, a second ballot shall be held. In this second ballot valid votes may be given only to one of the two candidates who have obtained the largest numbers of votes in the first ballot; however, in the second ballot each of the two groups of voters which have presented those two candidates may nominate another person in place of the candidate originally presented by this group.

(3) Only a person who is qualified to vote in the elections to the *Nationalrat* and who has passed the thirty-fifth year of age before the first of January of the year of the election may be elected Federal President. Members of ruling or former ruling families are not eligible.

(4) The result of the election for the Federal President shall be officially promulgated by the Federal Chancellor.

(5) The Federal President shall hold his office six years. Re-election for the immediately following term of office is permissible only once.

(6) Before the expiration of his term of office, the Federal President may be removed from his office by referendum. The referendum shall be held upon demand of the *Bundesversammlung*. The *Bundesversamlung* shall be convened by the Federal Chancellor for this purpose if the *Nationalrat* has adopted a resolution to this effect. The resolution of the *Nationalrat* requires the presence of at least half of the members and a majority of two-thirds of the votes cast. By such a resolution the Federal President is suspended from the further exercise of his functions. If the removal of the Federal President is rejected by the referendum this shall be regarded as a new election of the Federal President; it entails the dissolution of the *Nationalrat* (Article 29, Paragraph 1). In this case, too, the total term of office of the Federal President shall not exceed twelve years.

Art. 61. (1) During his term of office the Federal President shall not be a member of any general representative body nor exercise any other profession.

(2) The title "Federal President" shall not be used by anybody else—not even with an addition or in connection with another designation. This title is protected by law.

Art. 62. (1) On assuming office the Federal President shall take the following oath before the *Bundesversammlung*. "I swear that I will faithfully observe the constitution and all laws of the Republic and will fulfil my duty to the best of my knowledge and conscience".

(2) A religious confirmation may be added.

Art. 63. (1) An official prosecution of the Federal President shall be permissible only with the consent of the *Bundesversammlung*.

(2) The request for the prosecution of the Federal President shall be presented by the competent authority to the *Nationalrat* which decides

whether the request shall be submitted to the *Bundesversammlung*. If the *Nationalrat* decides in the affirmative, the Federal Chancellor shall convene the *Bundesversammlung* immediately.

Art. 64. (1) When the Federal President is unable to perform his duties or in case of a permanent vacancy of his office, the functions of the Federal President devolve for the time being upon the Federal Chancellor. If the disability will presumably last more than twenty days a federal law shall regulate who shall deputize for the Federal President.

(2) In case of a permanent vacancy in the Federal Presidency, the Federal Government shall immediately arrange for an election of a new Federal President and after the new Federal President has been elected the Federal Chancellor shall immediately convene the *Bundesversammlung* for administering the oath of the Federal President.

Art. 65. (1) The Federal President represents the Republic in international relations; he receives and accredits diplomatic envoys; he accords recognition to foreign consuls; he appoints the consular representatives of the Republic abroad and concludes treaties.

(2) Moreover, in addition to the powers conferred upon him by other provisions of this Constitution, he shall be empowered:

(a) To appoint all federal employees, including military officers and other federal functionaries, and to confer to them titles designating their office.

(b) To create and confer professional titles.

(c) In individual cases; to pardon persons convicted by final judgments of the courts, to mitigate or alter sentences pronounced by the courts, to remit the legal consequences of a conviction and to strike convictions off the criminal record by pardon, to quash criminal proceedings in case of penal offences to be prosecuted ex officio.

(d) To legitimatize illegimate children on the petition of the parents.

(3) Special laws shall provide to what extent the Federal President shall further be empowered to confer honorary rights, to grant extraordinary allowances; special allowances and pensions, to confer rights of appointment or confirmation, and the right to exercise other powers in personnel matters.

Art. 66. (1) The Federal President may transfer to the competent members of the Federal Government his right to appoint certain classes of federal employees.

(2) The Federal President may empower the Federal Government or the competent members therof to conclude certain categories of treaties not covered by the provisions of Article 50 .

Art. 67. (1) Unless otherwise provided by the Constitution, all official acts of the Federal President shall be performed upon the proposal of the Federal Government or of the Federal Minister empowered by it.

The law shall provide to what extent the Federal Government or the Federal Ministers themselves shall in this respect be bound by proposals emanating from other agencies.

(2) Unless provided otherwise under the constitution all official acts of the Federal President require for their validity the countersignature of the Federal Chancellor or of the competent Federal Ministers.

Art. 68. (1) In accordance with Article 142, the Federal President shall be responsible to the *Bundesversammlung* for the exercise of his office.

(2) Upon resolution of the *Nationalrat* or of the *Bundesrat* the Federal Chancellor shall convene the *Bundesversammlung* for the purpose of enforcing this responsibility.

(3) A resolution of impeachment within the meaning of Article 142 shall require the presence of more than one-half of the members of each of the two representative bodies and a majority of two-thirds of the votes cast.

2. The Federal Government

Art. 69. (1) The highest administrative functions of the *Bund*, in so far as they are not conferred upon the Federal President, shall be entrusted to the Federal Chancellor, the Vice-Chancellor, and the other Federal Ministers. Collectively they form the Federal Government under the chairmanship of the Federal Chancellor.

(2) The Vice-Chancellor shall be empowered to deputize for the Federal Chancellor in respect to all his functions. If both the Federal Chancellor and the Vice-Chancellor are prevented from exercising the duties of their offices at the same time, the Federal President shall appoint a member of the Federal Government to act as deputy for the Federal Chancellor.

Art. 70. (1) The Federal Chancellor and, upon his proposal, the other members of the Federal Government, shall be appointed by the Federal President. No proposal shall be required for the dismissal of the Federal Chancellor, or of the entire Federal Government. The dismissal of individual members of the Federal Government shall take place upon proposal of the Federal Chancellor. The appointment of the Federal Chancellor and of the entire Federal Government shall be countersigned by the newly appointed Federal Chancellor; no countersignature shall be required for the dismissal.

(2) Only persons eligible to the *Nationalrat* may be appointed Federal Chancellor, Vice-Chancellor or Federal Ministers; the members of the Federal Government shall not necessarily be members of the *Nationalrat*.

(3) If a new Federal Government is appointed by the Federal President at a time when the *Nationalrat* is not in session, the Federal President shall convene the *Nationalrat* for an extraordinary session (Article 28, paragraph 2) within one week to enable the new Federal Government to present itself before the *Nationalrat*.

Art. 71. If the Federal Government has gone out of office, the Federal President shall, until a new Federal Government has been formed, entrust the carrying on of the Administration to members of the outgoing Government or to high officials of the federal services and shall entrust one of them with the chairmanship of the provisional Federal Government. This provision shall be applied *mutatis mutandis* if individual members of the Federal Government have gone out of office.

Art. 72. (1) Before assuming office, the members of the Government shall be sworn in by the Federal President. A religious confirmation may be added.

(2) The official commission of the Federal Chancellor, of the Vice-

Chancellor and of the other Federal Ministers shall be issued by the Federal President on the day on which they are sworn in and shall be countersigned by the newly appointed Federal Chancellor.

(3) These provisions shall also apply *mutatis mutandis* to the cases mentioned in Article 71.

Art. 73. In case of temporary disability of a Federal Minister to discharge his duties the Federal President shall authorize a Federal Minister or a high official of a federal service to deputize for this Minister. This deputy shall be under the same responsibility as a Federal Minister (Article 76).

Art. 74. (1) If the *Nationalrat* by express resolution withdraws its confidence from the Federal Government, or from individual members thereof the Federal Government or the Federal Minister concerned shall be removed from office.

(2) The presence of one-half of the members of the *Nationalrat* shall be required for a resolution of the *Nationalrat* by which confidence is withdrawn. On demand, however, of one-fifth of the members present, the vote shall be postponed to the next working day but one. A further postponement of the vote shall take place only by resolution of the *Nationalrat*.

(3) Without prejudice to the power otherwise vested in the Federal President under Art. 70, paragraph 1, the Federal Government or its individual members shall be removed from office by the Federal President in the cases provided by law or upon their request.

Art. 75. The members of the Federal Government, as well as the representatives delegated by them shall be authorized to participate in all deliberations of the *Nationalrat*, of the *Bundesrat* and of the *Bundesversammlung*, as well as of the committees of these representative bodies; they may, however, participate only on special invitation in such deliberations of the Main Committee of the *Nationalrat* as according to the provisions of the federal law concerning the rules of the procedure of the *Nationalrat*, are in principle non-public. At their request they shall always be heard. The *Nationalrat*, the *Bundesrat* and the *Bundesversammlung*, as well as their committees, may demand the presence of the members of the Federal Government.

Art. 76. (1) The members of the Federal Government (Article 69 and 71) are responsible to the *Nationalrat* in accordance with Article 142.

(2) A resolution of impeachment in accordance with Article 142 shall require the presence of more than one-half of the members.

Art. 77. (1) The Federal Ministries and the offices subordinated to them shall conduct the business of the Federal administration.

(2) The number of the Federal Ministries, their competence and their organization shall be determined by Federal law.

(3) The Federal Chancellor shall conduct the business of the Federal Chancellery and a Federal Minister shall conduct the business of each of the Federal Ministries. The Federal President may entrust the material direction of specified matters which fall within the competence of the Federal Chancellery to special Federal Ministers notwithstanding that

these matters continue to belong to the competence of the Federal Chancellery. In respect of these matters such Federal Ministers shall have the status of a competent Federal Minister.

(4) The Federal Chancellor and any other Federal Minister may in exceptional cases be entrusted with the conduct of the business of a second Federal Ministry.

Art. 78. (1) In special cases Federal Ministers may be appointed without at the same time being entrusted with the conduct of the business of a Federal Ministry.

(2) Secretaries of State, who are appointed and relieved of office in the same manner as the Federal Ministers may be assigned to the Federal Ministers to assist them in the conduct of the business of the Ministry and to represent them in Parliament.

(3) The Secretary of State shall be subordinated to the Federal Minister and shall be bound by his instructions.

3. Federal Army

Art. 79. (1) The protection of the frontiers of the Republic is the duty of the Federal Army.

(2) In so far as the lawful civil authorities require its cooperation, the Federal Army shall protect the constitutional institutions, as well as maintain order and safety within the country in general and shall give assistance in case of disasters due to natural forces and in case of accidents of unusual gravity.

(3) What authorities and officials are authorized to require directly the assistance of the Federal Army for the purposes mentioned in paragraph 2 are determined by the law on national defense.

(4) An independent military action for purposes mentioned in paragraph 2 may be taken only if the competent authorities are prevented by *force majeure* from initiating the military action and if further delay would cause irreparable damage to the public welfare, or if such action is taken in order to repel an assault or to overcome active resistance directed against a component of the Federal Army.

Art. 80 (1) The Federal President is the Commander-in-Chief of the Federal Army.

(2) In so far as the law on national defense does not reserve the employment of the Army to the Federal President the competent Federal Minister shall be entitled to employ the Army within the limits of the authorisation conferred upon him by the Federal Government.

(3) The ordinary power of command over the Federal Army is exercised by the competent Federal Minister (Art. 76, paragraph 1).

Art. 81. Federal Law shall determine to what extent the *Länder* shall participate in recruiting, provisioning, and quartering the Army and in providing its other requirements.

B. Judicial Power

Art. 82. (1) All judicial power emanates from the *Bund*.

(2) Judgments and decrees shall be pronounced and made out in the name of the Republic.

Art. 83. (1) The organisation and jurisdiction of the courts shall be determined by Federal law.

(2) No person may be withheld from the judge assigned to him by law.

(3) Extraordinary courts shall be permissible only in the cases provided by the laws on the procedure in criminal matters.

Art. 84. Military jurisdiction is abolished except in time of war.

Art. 85. Capital punishment in ordinary procedure is abolished.

Art. 86. (1) Except as otherwise provided by this law, the judges shall be appointed upon nomination of the Federal Government by the Federal President, or by the competent Federal Minister, upon authorization of the Federal President. The Federal Government or the Federal Minister shall request the panels provided for by the law on the organisation of the courts to submit proposals for appointment.

(2) The proposal for appointment, to be submitted to the competent Federal Minister and to be forwarded by him to the Federal Government, shall comprise, if there be a sufficient number of applicants, at least three names, and, if more than one position is to be filled, at least twice as many names as there are judges to be appointed.

Art. 87. (1) Judges shall be independent in the exercise of their judicial functions.

(2) A judge shall be regarded as exercising his judicial functions when conducting any judicial business entrusted to him by law and by assignment with the exception of such matters of judicial administration as shall not be discharged, in accordance with prescriptions of the law by panels or commissions.

(3) Business shall be assigned in advance among the judges of courts for a term designated by the law on the organization of the court. Any matter thus assigned to a judge may be removed from his jurisdiction by administrative decree only in case he is unable to discharge his functions.

Art. 88. (1) An age limit shall be established by the law on the organization of the courts upon the attainment of which judges shall be permanently retired.

(2) In all other cases, judges may be removed from office, or be transferred against their will to another position or be retired, only by a formal judicial decision and only in the cases and according to the forms prescribed by law. These provisions, however, shall not apply to transfers or retirements which become necessary through changes in the law on the organization of the courts. In such cases the law shall prescribe within what period of time judges may be transferred or retired without the formalities otherwise prescribed.

(3) Temporary removal of judges from office may take place only by decree of the president of the court or of the superior judicial authority. Simultaneously the matter shall be referred to the competent court.

Art. 89. (1) The courts shall have no power to examine the validity of duly promulgated laws.

(2) If a court has doubts to apply an ordinance on the ground of its being in conflict with a law, the court shall suspend the proceedings and file an application to the Constitutional Court for the cancellation of this ordinance.

(3) In case the ordinance to be applied by the court has already ceased to be in force, the court shall apply for the decision that the ordinance had been in conflict with a law.

(4) In case the ordinance to be applied by the court has been cancelled on account of its illegality by a decision of the Constitutional Court, the court is bound in this matter by the judicial opinion of the Constitutional Court, without filing the application mentioned in paragraph 3.

Art. 90. (1) Hearings of proceedings in civil and criminal cases before the trial court shall be oral and public. Exception may be prescribed by law.

(2) Criminal proceedings shall be by indictment.

Art. 91. (1) The people shall participate in the administration of justice.

(2) In case of crimes punishable by severe penalties—which crimes shall be specified by law—and in case of all political crimes and offences, the jury shall render the verdict as to the guilt of the accused person.

(3) In criminal procedure for other penal acts, lay judges (*Schöffen*) shall participate in the administration of justice, if the penalty to be imposed exceeds a limit to be determined by law.

Art. 92. (1) The Supreme Court shall be the court of final appeal in civil and criminal cases.

(2) Members of the Federal Government, of a *Land* Government or of a general representative body may not be members of the Supreme Court. For members of a general representative body who were elected for a certain term, the incompatibility continues even in case of premature resignation until the term has expired for which they have been elected. A person who has exercised one of the functions just mentioned during the last four years may not be appointed President or Vice-President of the Supreme Court.

Art. 93. Amnesties on account of acts which are punishable by courts are granted by Federal law.

Art. 94. Judicial and administrative powers shall be separated in all stages of judicial and administrative proceedings.

Chapter IV

THE LEGISLATIVE POWER AND THE EXECUTIVE POWER OF THE LÄNDER

A. General Provisions

Art. 95. (1) The legislative power of the *Länder* shall be exercised by the *Landtage* (Diets). Their members shall be elected in accordance with the principle of proportional representation by the equal, direct, secret and personal suffrage of all federal citizens of both sexes, who are qualified to vote under the *Landtag* election laws and who have their domicile in the *Land* concerned. The provision of Article 26, paragraph 1, last sentence, shall be applied *mutatis mutandis*; the provisions concerning the

reasons which excuse abstention from the election shall not go beyond those of the *Nationalrat* election law.

(2) The right to vote or to be elected by the *Landtag* election laws shall not be restricted to a greater extent than by the *Nationalrat* election law.

(3) The voters shall exercise their suffrage in electoral districts, which shall consist of contiguous territory. The number of representatives shall be apportioned among the electoral districts on the basis of the number of their citizens. A division of the electorate into other electoral bodies shall not be permissible.

(4) The number of members of the *Landtage* shall be determined by *Land* legislation according to the number of citizens in a way as not to exceed:

In *Länder* with a number of citizens up to	
250,000	26
in *Länder* with a number of citizens up to	
500,000	36
in *Länder* with a number of citizens up to	
1,000,000	48
in *Länder* with a number of citizens up to	
1,500,000	56.

(5) Should public employees, including the members of the Federal Army, seek election to a *Landtag*, or have been elected members of a *Landtag*, the time off necessary for seeking election or for exercising the function of a member of the *Landtag* shall be granted to them. Detailed regulations shall be provided by the public service regulations.

Art. 96. (1) Members of the *Landtage* shall enjoy the same immunity as the members of the *Nationalrat*. The provisions of Article 57 shall be applied *mutatis mutandis*.

(2) The provisions of Articles 32 and 33 shall apply also to the meetings of the *Landtage* and of their committees.

Art. 97. (1) A *Land* law shall require for its validity a resolution of the *Landtag*, authentication and countersignature in accordance with the provisions of the *Land* Constitution and promulgation by the *Landeshauptmann* (Land Governor) in the *Land* Law Gazette (*Landesgesetzblatt*).

(2) In so far as a *Land* law provides for the participation of functionaries of the *Bund* in its execution, the consent of the Federal Government shall be obtained for this participation. It may be assumed that the Federal Government has given its consent, if within eight weeks of the day of receipt of the enacted law by the competent Federal Ministry, the Federal Government has not informed the *Landeshauptmann*, that the participation of federal functionaries is denied. Prior to the expiration of this period of time, the enacted law may be promulgated only if the Federal Government has expressly consented thereto.

Art. 98. (1) All laws enacted by the *Landtage* shall be communicated to the competent Federal Ministry by the *Landeshauptmann* immediately after their enactment by the *Landtag* and before their promulgation.

(2) Within eight weeks of the day of receipt of the law enacted by a *Landtag* by the competent Federal Ministry, the Federal Government may raise a motivated objection thereto, on the ground that the enacted law endangers federal interests. In such a case the enacted law may be

promulgated only if the *Landtag*, in the presence of at least one half of its members, re-enacts the law.

(3) Before the expiration of the time allowed for raising an objection, promulgation shall be permissible only if the Federal Government expressly consents thereto.

(4) The provisions of the Constitutional Finance Law shall be applied to resolutions of the *Landtage* concerning laws on matters of taxation.

Art. 99. (1) The *Land* constitution to be enacted by a *Land* Constitutional Law may be amended by a *Land* Constitutional Law in so far as the Federal Constitution is not affected thereby.

(2) A *Land* Constitutional Law may be enacted only in the presence of one-half of the members of the *Landtag* and by a majority of two-thirds of the votes cast.

Art. 100. (1) Every *Landtag* may be dissolved by the Federal President on the proposal of the Federal Government and with the consent of the *Bundesrat*. The consenting vote of the *Bundesrat* requires the presence of one-half of the members and a majority of two-thirds of the votes cast. The representatives of the *Land* whose *Landtag* is to be dissolved shall not participate in the vote.

(2) In case of dissolution, new elections shall be arranged according to the provisions of the *Land* Constitution, within three weeks. The newly elected *Landtag* shall be convened within four weeks after the election.

Art. 101. (1) The executive power of each *Land* shall be exercised by a *Land* Government (*Landesregierung*) to be elected by the *Landtag*.

(2) The members of the *Land* Government shall not necessarily be members of the *Landtag*. However, only persons eligible to the *Landtag* may be elected members of the *Land* Government.

(3) A *Land* Government shall consist of the *Landeshauptmann*, the requisite number of deputies and other members.

(4) On assuming office the *Landeshauptmann* shall be sworn in by the Federal President to support the Federal Constitution. The other members of the *Land* Government shall be sworn in by the *Landeshauptmann* in like manner. A religious confirmation may be added.

Art. 102. (1) Within the *Länder* the executive power of the *Bund* shall be exercised—in so far as no Federal authorities exist (direct Federal administration)—by the *Landeshauptmann* and the *Land* authorities subordinated to him (indirect Federal administration). In so far as Federal authorities, and especially Federal police authorities, are entrusted with the execution of matters which belong to the indirect federal administration, these authorities are subordinated to the *Landeshauptmann* and are bound by his instructions (Article 20, paragraph 1). The federal laws to be enacted in accordance with Article 10 shall determine whether and to what extent such federal authorities shall be entrusted with acts of execution. In those cases in which Federal police authorities are to perform acts of execution in matters belonging to the independent competence of the *Land* the *Landeshauptmann* has the power to issue instructions to them.

(2) The following matters may be administered directly by Federal authorities within their constitutional competence.

Marking out of boundaries, trade in goods and livestock with foreign countries, customs, regulation and supervision of entrance into and departure from the federal territory, federal finances, monopolies, weights and measures, standards and hall-marking, technical experiments, administration of justice, passports, registration of residence, matters pertaining to weapons, ammunition and explosives, use of firearms, patent matters, protection of designs, trademarks and other designations of commodities, engineers and consulting engineers, traffic, federal highways, river and navigation police, post, telegraph, and telephone, mining, regulation and maintenance of the Danube, regulation of torrents, construction and maintenance of waterways, surveying, labor law, protection of workers and other employees, social insurance, protection of monuments, organization and operation of the Federal Police and the Federal Gendarmerie; finally, under extraordinary circumstances, on such places where on the day when this constitutional law comes into force, the jurisdictional district of a Federal Police authority does not coincide with the territory of a *Land*: maintenance of public peace, order and safety exclusive of the local safety police, the press, association and assembly matters, alien police, military affairs, welfare measures for veterans and their surviving dependents.

(3) The *Bund* may assign to the *Landeshauptmann* the executive power of the *Bund*, also in the matters enumerated in paragraph 2.

(4) The establishment of Federal authorities as organs of the direct federal administration in matters other than those enumerated in paragraph 2, is permissible only with the consent of the *Länder* affected thereby.

(5) Within the jurisdictional district of a federal police authority to which a federal police force is attached, no other territorial corporation may establish or maintain guards of its own. The dissolution of guards whose establishment or maintenance is contrary to this provision falls within the competence of the *Bund*.

(6) The establishment of Federal police authorities, the fixing of their jurisdictional districts and, as far as administrative matters are concerned for which the federal laws to be enacted in accordance with Article 10 provide execution by Federal police authorities, the fixing of their material competence, as well as the enacting of the special service regulations for their functionaries shall be decreed by Ordinance of the Federal Government. In so far as such an authority is to be entrusted with the performance of duties in matters which belong to the independent competence of the *Gemeinden* or otherwise to the independent executive competence of the *Land*, such ordinance may be issued only if the performance of the duties has been transferred to the Federal police authorities by a law of the *Land* concerned.

(7) If, due to danger to the public peace and order, an emergency arises in individual Gemeinden which requires special measures, the competent Federal Minister may, for the period of such danger, entrust special federal functionaries with the execution of these measures.

Art. 102a. (1) Supreme direction and supervision of the administration in matters of education and instruction falls within the competence of the *Bund*. The *Landesschulräte* (*Land* school boards), the *Stadtschulrat* (City

school board) of Vienna, and the school authorities subordinated to these authorities are subordinated to the competent Federal Minister.

(2) The chairmen of the *Landesschulräte*, of the *Stadtschulrat* of Vienna. and of the *Bezirksschulräte* (district school boards) and their deputies shall obey the instructions (Article 20, paragraph 1) of the superior school authorities. Such instructions may be issued only in so far as they do not interfere with the decision on a matter which by law is reserved to the collegiate decision of the subordinate school authority, unless the instruction concerns the exercise of the powers conferred by law to the chairman vis-a-vis the decisions of the board.

(3) Impeachment proceedings may be brought before the Constitutional Court by a resolution of the Federal Government against the Chairman of the *Land* school authorities (*Stadtschulrat* of Vienna) and their deputies in matters which by law are to be settled under their responsibility. The provisions of Article 142, paragraph 2, item (d), shall be applied *mutatis mutandis* to these impeachment proceedings.

(4) If the Chairman of a school authority in pursuance of instructions of a superior school authority suspends the execution of a collegiate decision of this school authority, the latter may, by a collegiate decision appeal from the decree containing the instruction according to rules of appeal to superior authorities, and finally to the Administrative Court.

(5) The competent Federal Minister may personally, or through officials of the Federal Ministry directed by him, inspect from time to time also such secondary and elementary schools as are not under the direct administration of the Federal Ministry, with respect to their condition and accomplishments. The competent Land school authority (*Stadtschulrat of Vienna*) shall participate in this official act through one of its officials. The observations made by the official of the Federal Ministry shall be communicated to the competent *Land* school authorities (to the Stadtschulrat of Vienna).

Art. 103. (1) In matters of the indirect federal administration, the *Landeshauptmann* is bound by the instructions of the Federal Government as well as of the several Federal Ministers (Article 20). He is obliged to use towards the carrying out of these instructions also such powers as are available to him in his capacity as functionary of the independent competence of the *Land*.

(2) In establishing its rules of procedure the *Land* Government may decree that certain categories of matters of the indirect federal administration on account of their close relationship with matters within the independent competence of the Land shall be carried out in the name of the *Landeshauptmann* by members of the *Land* Government. In these matters, these members of the *Land* Government are bound by the instructions of the *Landeshauptmann* in the same way (Art. 20) that the latter is bound by the instructions of the Federal Government or of the several Federal Ministers.

(3) Instructions issued by the Federal Government or by individual Federal Ministers according to paragraph 1 are to be addressed to the *Landeshauptmann* also in the case of paragraph 2. The latter, if he does

not himself conduct the indirect federal administration in this matter, is obliged under his responsibility (Article 142, paragraph 2, item d) to immediately refer such instructions unchanged and in writing to the competent member of the *Land* Government; he has to supervise the execution of the instruction. If the instruction is not complied with, although the *Landeshauptmann* has taken the necessary steps, the member concerned of the *Land* Government is also responsible to the Federal Government according to Article 142.

(4) In matters of the indirect federal administration, the competent Federal Minister has the power to issue the final decision unless otherwise expressly provided for by Federal law.

Art. 104. (1) The provisions of Article 102 shall not apply to agencies created to administer such business of the Bund as is mentioned in Article 17.

(2) The Federal Ministers who are entrusted with the administration of federal property may, however, assign the handling of such business to the *Landeshauptmann* and to the authorities in the *Land* subordinated to the latter. Such assignment may be revoked wholly or partly at any time. A Federal law shall determine to what extent in special exceptional cases the *Bund* shall reimburse the costs which arise through such services.

Art. 105. (1) The *Land* is represented by the *Landeshauptmann*. In matter of indirect federal administration, he is responsible to the Federal Government according to Article 142. The *Land* Government shall appoint one of its members as deputy for the *Landeshauptmann* (Deputy *Landeshauptmann*). This appointment shall be communicated to the Federal Chancellor. In case the member of the *Land* Government appointed to act as deputy for the *Landeshauptmann* actually has to act in lieu of the *Landeshauptmann* he shall be likewise responsible to the Federal Government in matters of the indirect Federal administration according to Article 142. This responsibility of the *Landeshauptmann* or of the member of the *Land* Government acting as his deputy may be enforced notwithstanding any immunity. In case of Article 103, paragraph 3, also, the responsibility of a member of the *Land* Government may be enforced notwithstanding any immunity.

(2) The members of the *Land* Government shall be responsible to the *Landtag* in accordance with Article 42.

(3) A resolution of impeachment in accordance with Article 142 shall require the presence of one half of the members.

Art. 106. An administrative official with legal training shall be appointed as *Landesamtsdirektor* to direct the administrative services of the Office of the *Land* Government. He shall also be the assistant of the *Landshauptmann* in matters of indirect Federal administration.

Art. 107. The *Länder* may enter into compacts among themselves only in respect to matters within their independent competence. Such compacts shall be communicated to the Federal Government without delay.

B. The Federal Capital Vienna

Art. 108. (1) With respect to the capacity of the Federal capital,

Vienna, as a *Land*, the *Gemeinderat* shall also have the function of the *Landtag*; the *Stadtsenat*, also the function of the *Land* Government; the *Bürgermeister*, also the function of the *Landeshauptmann*; the *Magistrat*, also the function of the Office of the *Land* Government; the *Magistratsdirektor*, also the function of the *Landesamtsdirektor*.

(2) The number of the members of the *Gemeinderat* shall not exceed one hundred.

Art. 109. In matters of the indirect Federal administration in the *Land* Vienna, the administrations of the district and of the *Land* are conducted as one administration by the *Bürgermeister* as *Landeshauptmann* and by the *Magistrat* subordinated to him. Appeal may be made from any decision of the *Bürgermeister* as *Landeshauptmann* to the competent Federal Minister, except in cases in which an appeal against the decision of the district authority is excluded. Restrictions of the right of appeal otherwise generally provided by Federal law (Article 103, paragraph 4) shall not apply. These provisions shall not apply to matters of the indirect federal administration insofar as Federal authorities are entrusted with their execution (Article 102, paragraph 1, second and third sentence).

Art. 110. The administrative penal board, which according to Article 11, paragraph 5, is to be established within the framework of the *Magistrat* of the Federal capital Vienna acting as office of the *Land* Government, in order to pass final decisions in administrative penal matters arising in the independent competence of the *Land* shall at the same time pass final decisions in administrative penal matters which arise in the sphere of the indirect Federal administration: in these cases the right of pardon provided by law is exercised by the *Bürgermeister* as *Landeshauptmann* upon proposals of the administrative penal board.

Art. 111. The final decision in building and tax matters shall be placed in the hands of special boards. The composition and appointment of these boards shall be regulated by *Land* law.

(Arts. 112, 113, 114, were abolished by the Amendment to the Federal Constitution of July 30, 1925, Federal Law Gazette (Bundesgesetzblatt) Nr. 268).

C. The Gemeinden (Municipalities)

Art. 115. General public administration in the *Länder* shall, in accordance with the following provisions, be organized on the basis of self-government.

Art. 116. (1) Administrative districts and units of self-government into which the *Länder* are divided shall be the *Ortsgemeinden* (local municipalities) and the *Gebietsgemeinden* (district municipalities).

(2) The *Ortsgemeinden* shall be subordinated to the *Gebietsgemeinden* and these to the *Länder*.

Art. 117. (1) *Ortsgemeinden* of more than 20,000 inhabitants shall at their request be declared *Gebietsgemeinden*. In such *Ortsgemeinden* district administration shall coincide with municipal administration.

(2) Towns heretofore governed under their own chart shall become *Gebietsgemeinden*.

Art. 118. The *Ortsgemeinde* and *Gebietsgemeinde* shall also be independent economic units. They shall have the right to own, and to acquire property of all kind and to dispose thereof within the limits of Federal and *Land* law, to engage in economic enterprises, to manage their own finances and to levy their own taxes.

Art. 119. (1) The agencies of the *Ortsgemeinden* shall be the local municipal council and the local municipal administration office (*Ortsgemeindeamt*); the agencies of the *Gebietsgemeinde* shall be the district municipal council and the district municipal administration office (*Gebietsgemeindeamt*).

(2) Elections to all municipal councils shall take place in accordance with the principles of proportional representation and by the equal, direct, secret and personal suffrage of all Federal citizens who have their domicile within the territorial jurisdiction of the municipal council to be elected. The election regulations shall be issued by *Land* legislation. The right to vote or to be elected shall not be restricted by these election regulations to a greater extent than by the *Landtag* election law. *Land* laws may, however, provide that persons who have lived in the *Gemeinde* less than one year shall have no right to vote or to be elected to the local municipal council if their residence in the *Gemeinde* is obviously transient only. The provisions concerning compulsory voting in the election to the *Landtag* (Article 95, paragraph 1, last sentence) shall apply *mutatis mutandis* to the elections of all municipal councils. The election regulations may provide that the voters shall exercise their suffrages in electoral districts which shall consist of contiguous territory. A division of the electorate into other electoral bodies shall not be permissible. For elections of the district municipal council the judicial district shall be the electoral district. The number of representatives shall be apportioned among the electoral districts on the basis of the number of their citizens.

(3) Only persons who have their domicile in the *Gebietsgemeinde* and who are eligible for election to the *Landtag* may be elected members of the district municipal council.

(4) The municipal councils may, in accordance with the principles of proportional representation, elect from among their members, for the different branches of the administration, special administrative committees which may, insofar as definite professional or interest groups are concerned, still be enlarged by the admission of representatives of such professional or interest groups.

(5) The directors of the district municipal administration offices shall be administrative officials with legal training.

Art. 120. (1) Additional principles for the organization of the general public administration in the *Länder* in accordance with Articles 115–119 shall be provided by Federal constitutional law. Enabling laws shall be enacted by the *Länder*.

(2) Federal and *Land* laws, respectively, shall within their competence as defined by the Constitution, determine what matters of administration, as to subject matter and administrative organization, shall be administered by representative assemblies, administrative committees, and administrative offices, respectively.

(3) The *Ortsgemeinde*, however, shall be guaranteed some competence as to original jurisdiction in respect to the following matters:

1) Care for the safety of persons and property (local safety police)
2) First aid
3) Maintenance of streets, roads, public squares, and bridges of the *Gemeinde*
4) Local street police
5) Protection and policing of the fields
6) Market and food police
7) Sanitary police
8) Building and fire police.

Chapter V

Control of Public Accounts and Financial Administration

Art. 121. (1) The Court of Audits shall audit the financial administration of the *Bund*, of the *Länder*, of groupings of *Gemeinden*, of the *Gemeinden*, and of other bearers of rights determined by law.

(2) The Court of Audits shall draw up the final Federal budget account and submit it to the *Nationalrat*.

(3) All documents concerning financial debts of the *Bund*, as far as they authenticate a liability of the *Bund*, shall be countersigned by the President of the Court of Audits and in case he should be prevented, by his deputy. The countersignature vouches only for the lawfulness of the contraction of the debt and for its lawful entry in the ledger of the State Debt.

Art. 122. (1) The Court of Audits shall be directly subordinated to the *Nationalrat*. The Court shall act in matters of the Federal Financial Administration as agency of the *Nationalrat*, in matters of the financial administration of the *Länder*, groupings of *Gemeinden*, and *Gemeinden* as agency of the *Landtag* concerned.

(2) The Court of Audits shall be independent from the Federal Government and from the Governments of the *Länder* and shall be subjected only to the provisions of the law.

(3) The Court of Audits shall consist of a President, a Vice-President and the otherwise requisite officials and auxiliary employees.

(4) The President of the Court of Audits shall be elected by the *Nationalrat* on nomination by the Main Committee. Before assuming office he shall be sworn in by the Federal President.

(5) The President of the Court of Audits shall not belong to any general representative body and shall, during the last four years, not have been a member of the Federal Government or of a *Land* Government.

Art. 123. (1) As regards responsibility the President of the Court of Audits shall have the same position as members of the Federal Government or as members of the *Land* Government concerned, according as to whether the Court acts as agency of the *Nationalrat* or of a *Landtag*.

(2) He may be recalled by resolution of the *Nationalrat*.

Art. 124. (1) In case the President of the Court of Audits should be unable to exercise his function the Vice-President shall act as his deputy and, if the latter too is unable to exercise his functions, by the highest-ranking official of the Court of Audits. This shall also apply if the office of the President is vacant.

(2) In case a deputy acts for the President the provisions of Article 123, Paragraph 1 shall apply to the deputy.

Art. 125. (1) The Vice-President and the other officials of the Court of Audits shall be appointed by the Federal President upon nomination and under counter-signature of the President of the Court of Audits; the same applies to the conferring of titles designating their office. The Federal President may, however, authorize the President of the Court of Audits to appoint officials of specified categories.

(2) The auxiliary employees shall be appointed by the President of the Court of Audits.

Art. 126. No member of the Court of Audits shall take part in the management and administration of enterprises, which are subjected to the control by the Court of Audits. Neither shall a member of the Court of Audits participate in the management and administration of other profit seeking enterprises.

Art. 126a. If divergencies of opinion concerning the interpretation of the legal provisions on the competence of the Court of Audits arise between the Court of Audits and the Federal Government or a Federal Minister or a *Land* Government, the Constitutional Court shall decide in non-public-audience upon appeal by the Federal (*Land*) Government or by the Court of Audits. The procedure shall be regulated by Ordinance.

Art. 126b. (1) The Court of Audits shall audit the entire public administration of the *Bund*, further the financial administration of endowments, funds and institutions which are administered by agencies of the *Bund* or by persons (groups of persons) who are appointed thereto by agencies of the *Bund*.

(2) The financial administration of enterprises which are carried on by the *Bund* without any partners or in which the *Bund* has a financial interest shall also be subjected to the control of the Court of Audits. If the Court of Audits audits the financial administration of such enterprises, it may also audit the administration of enterprises in which the former enterprise has a financial interest. The administration of Federal property under trusteeship, the assuming of a guaranty of profit or against loss in favour of an enterprise, the grant of a loan from Federal funds for carrying on an enterprise or the grant of a subsidy from Federal funds for the same purpose shall be held equal to such a financial participation of the *Bund*.

(3) The Court of Audits is entitled to audit the financial administration of corporations under public law in so far as Federal funds are concerned.

(4) Upon substantiated request of the Federal Government or of a Federal Minister, the Court of Audits shall carry out special auditing measures coming under its competence and shall report the result to the requesting authority.

(5) The audit by the Court of Audits shall extend to the numerical correctness of the accounts, their compliance with the existing regulations and to thrift, economy and expediency.

Art.126c. The Court of Audits is entitled to audit the financial administration of the social insurance institutions.

Art. 126d. (1) The Court of Audits shall submit to the *Nationalrat*

every year a report on its activity at the latest before the first meeting of the autumn session. Moreover the Court of Audits may at any time report to the *Nationalrat* its observations about individual facts and, if necessary, submit proposals. The Court of Audits shall inform the Federal Chancellor of each report at the same time as it submits this report to the *Nationalrat*. The Annual Report on the activity of the Court of Audits shall be published after having been submitted to the *Nationalrat*.

(2) The *Nationalrat* shall set up a Permanent Committee for the discussion of the reports of the Court of Audits. This committee shall be set up according to the principle of proportional representation. The committee shall complete the discussion of each report within six weeks whereupon it shall report to the *Nationalrat*.

Art. 127. (1) The Court of Audits shall audit the financial administration coming under the independent competence of the *Länder* as well as the financial administration of endowments, funds, and institutions which are administered by agencies of a *Land* Government or by persons (groups of persons) who are appointed thereto by agencies of a *Land* Government. The audit shall extend to the numerical correctness of the accounts, their compliance with the existing regulations and to thrift, economy and expediency of the financial administration; it shall, however, not include the control of the resolutions concerning financial administration adopted by the representative bodies competent under the Constitution.

(2) The *Land* Governments shall transmit every year the budget estimates and the final budget accounts to the Court of Audits.

(3) Enterprises carried on by a *Land* without any partners or which are under the exclusive financial control of one *Land* shall be subjected to the audit like the rest of the financial administration of the *Land*. This shall also apply to those enterprises, wherein but for participation of the *Land* only territorial corporations under public law have a financial interest. Other enterprises in which the *Land* has a financial interest shall be audited by the Court of Audits only upon substantiated request of the *Land* Government. As regards the notion of such financial participation Art. 126b paragraph (2) shall apply *mutatis mutandis*.

(4) The Court of Audits is entitled to audit the financial administration of corporations under public law as far as *Land* funds are concerned.

(5) The Court of Audits shall inform the *Land* Government of the result of its audit for submission to the *Landtag* and for possible comments. Such comments shall be made within three weeks. The *Land* Government shall inform the Court of Audits within three months of the measures taken as the result of the audit.

(6) The Court of Audits shall also inform the Federal Government of the report made to the Landtag together with the comments of the Land Government, if any.

(7) Upon substantiated request of a *Land* Government the Court of Audits shall carry out special auditing measures coming under its competence and shall report the result to the requesting authority.

(8) The provisions of this Article shall apply also to the audit of the financial administration of the City of Vienna, the *Gemeinderat* taking the

place of the *Landtag* and the *Stadtsenat* taking the place of the *Land* Government.

Art. 127a. (1) The financial administration of the *Gemeinden* with at least 20,000 inhabitants as well as the financial administration of endowments, funds, and institutions which are administered by agencies of a *Gemeinde* or by persons (groups of persons) appointed thereto by agencies of a *Gemeinde* shall also be subjected to the control of the Court of Audits. The audit shall extend to the numerical correctness of the account, their compliance with the existing regulations, further to thrift, economy and expediency of the financial administration.

(2) The *Bürgermeister* shall transmit every year the budget estimates and the final budget accounts to the Court of Audits and at the same time to the *Land* Government.

(3) Enterprises carried on by a *Gemeinde* without any partners or which are under the exclusive financial control of such a *Gemeinde* shall be subjected to the audit of the Court of Audits like the rest of the financial administration of the *Gemeinde*. This shall also apply to those enterprises wherein, but for the participation of a *Gemeinde* with at least 20,000 inhabitants only territorial corporations under public law have a financial interest, in so far as such enterprises are not already subject to auditing by the Court of Audits by virtue of Art. 127 paragraph (3) second sentence. Other enterprises in which the *Gemeinde* has a financial interest shall be audited by the Court of Audits only upon substantiated request of the *Land* Government. As regards the notion of such financial participation, Art. 126b, paragraph (2), shall apply *mutatis mutandis*.

(4) The Court of Audits is entitled to audit the financial administration of corporations under public law as far as funds of a Gemeinde with at least 20,000 inhabitants are concerned.

(5) The Court of Audits shall inform the *Bürgermeister* of the result of its audit for submission to the *Gemeinderat* and for possible comments. Such comments shall be made within three weeks. Upon expiration of this term the Court of Audits shall transmit the result of the audit together with the comments, if any, to the *Land* Government which shall inform the *Landtag* accordingly. The *Bürgermeister* shall inform the Court of Audits within three months of the measures taken as the result of the audit.

(6) The Court of Audits shall also inform the Federal Government of the result of its audit.

(7) Upon substantiated request of the competent *Land* Government the Court of Audits shall also audit in individual cases the financial administration of *Gemeinden* with less than 20,000 inhabitants and inform the *Land* Government of the result of this audit. Paragraphs (1) and (3) of this Article shall apply.

(8) The provisions concerning the audit of the financial administration of the *Gemeinden* with at least 20,000 inhabitants shall apply *mutatis mutandis* to the audit of the financial administration of the groupings of *Gemeinden*.

Art. 128. Detailed provisions concerning the organization and activity of the Court of Audits shall be made by Federal law.

CHAPTER VI

CONSTITUTIONAL AND ADMINISTRATIVE GUARANTEES

A. The Administrative Court

Art. 129. The Administrative Court in Vienna shall safeguard the legality of all acts of the entire public administration.

Art. 130. (1) The Administrative Court shall render judgment upon complaints, by which it is asserted that decrees of administrative authorities are illegal or that administrative authorities have failed in their duty to pass a decision.

(2) An act cannot be illegal as far as legislation refrains from laying down binding rules for the policy to be adopted by the administrative authority, but leaves it to the discretion of the authority itself to establish such policy in so far as the authority has used this discretion in conformity with the law.

Art. 131. (1) After the complainant has exhausted all administrative remedies, a complaint asserting illegality of a decree of an administrative authority may be filed.

a) by the person asserting that his rights have been violated by the decree

b) in matters of Articles 11 and 12 also by the competent Federal Minister

(2) Under what conditions complaints asserting the illegality of decrees of administrative authorities may be brought also in other cases than the cases mentioned in paragraph 1, shall be regulated by Federal or *Land* laws governing the several fields of administration.

Art. 132. Complaints asserting that an authority failed in its duty to pass a decision, may be brought by the party who, in the administrative proceedings, was entitled to claim such a decision.

Art. 133. The following matters are excluded from the jurisdiction of the Administrative Court:

1. matters which belong to the jurisdiction of the Constitutional Court,
2. disciplinary matters concerning the employees of the *Bund*, of the *Länder*, of the districts and *Gemeinden*
3. patent matters,
4. matters in regard to which the final decision rests with a collegiate authority if, according to the Federal or *Land* law, which determines the organization of such an authority, at least one of its members is a judge and if in the execution of their office the other members are not bound by instructions, if further, the decrees of the authority cannot be cancelled or modified by an administrative authority and if notwithstanding the fact that these conditions have been such, an appeal to the Administrative Court has not specifically been declared admissible.

Art. 134. (1) The Administrative Court consists of a President and a Vice President and the requisite number of other members (President of Chambers of the Court and Councillors).

(2) The President, the Vice-President and the other members of the Administrative Court are appointed by the Federal President upon nomi-

nation by the Federal Government. The Federal Government shall make its nomination with the exception of the nominations concerning the post of the President or the Vice President, on the basis of proposals containing the names of three candidates made by the assembly of all the members of the Administrative Court.

(3) The members of the Administrative Court shall be law school graduates and shall already have served for at least ten years in a position for which a law degree is required. At least one-third of the members shall have the qualifications for a judge, and at least one-fourth shall be taken from positions in the several *Länder*, if possible from the administrative service of the *Länder*.

(4) Members of the Federal Government, of *Land* Governments or of a general representative body shall not be members of the Administrative Court. For members of a general representative body who were elected for a certain term the incompatibility continues even in case of premature resignation until the term has expired for which they have been elected.

(5) A person who has exercised one of the functions mentioned in paragraph (4) during the last four years may not be appointed President or Vice President of the Administrative Court.

(6) By their appointment all members of the Administrative Court become professional judges. The provisions of Article 87, paragraphs (1) and (2,) and Article 88, paragraph (2) shall apply to them. On December 31st of the year in which they complete their 65th year of age the members of the Administrative Court are permanently retired by force of law.

Art. 135. The Administrative Court shall render judgment in chambers.

Art. 136. Detailed regulations concerning the organization, jurisdiction and procedure of the Administrative Court shall be contained in a special federal law.

B. The Constitutional Court

Art. 137. The Constitutional Court shall render judgment upon pecuniary claims against the *Bund*, the *Länder*, districts, *Gemeinden* and groupings of *Gemeinden*, which can neither be brought before the ordinary courts nor be settled by decree of an administrative authority.

Art. 138. (1) Furthermore the Constitutional Court shall render judgment upon conflicts of competence:

(a) between the courts and administrative authorities;
(b) between the Administrative Court and all other courts, especially also between the Administrative Court and the Constitutional Court itself, as well as between the ordinary courts and other courts;
(c) between the *Länder* themselves as well as between a *Land* and the *Bund*.

(2) On application of the Federal Government or of a *Land* Government the Constitutional Court shall ascertain whether an act of legislation or execution falls, according to Articles 10–15, within the competence of the *Bund* or of the *Länder*.

Art. 139. (1) The Constitutional Court shall render judgment upon the illegality of ordinances of a Federal or of a *Land* authority on the appli-

cation of a court; but if such an ordinance shall constitute the basis of a judgment of the Constitutional Court this Court may render such judgment *ex officio*. It shall render judgment upon the illegality of ordinances of a *Land* Authority also on application of the Federal Government. It shall render judgment upon the illegality of ordinances of a federal authority also on application of a *Land* Government.

(2) The judgment of the Constitutional Court by which an ordinance is annulled as being illegal, shall oblige the competent authority to promulgate the annulment immediately. The annulment shall become effective on the day of promulgation unless the Constitutional Court determines a period of time at the expiration of which the annulment shall become effective. This period of time shall not exceed six months.

(3) If the ordinance to be applied by the court has already ceased to be in force and if consequently the application has been made according to Article 89, paragraph (3), the judgment of the Constitutional Court shall be limited to the decision of the question as to whether the ordinance was illegal.

Art. 140. (1) The Constitutional Court shall render judgment: Upon the unconstitutionality of a Federal or *Land* law on application of the Supreme Court or of the Administrative Court if such a law shall constitute the basis of a judgment of the applying court; furthermore if such a law constitutes the basis of a judgment of the Constitutional Court itself the latter may render such judgment *ex officio*;

upon the unconstitutionality of *Land* laws also on the application of the Federal Government;

upon the unconstitutionality of federal laws also on the application of a *Land* Government.

(2) The application mentioned in paragraph 1 may be made at any time; the authority that makes the application shall communicate it immediately to the *Land* Government concerned or to the Federal Government.

(3) The judgment of the Constitutional Court by which a law or a certain part thereof is annulled as being unconstitutional, shall oblige the Federal Chancellor or the *Landeshauptmann* concerned to promulgate the annulment immediately. The annulment shall become effective on the date of the promulgation, unless the Constitutional Court determines a period of time at the expiration of which the annulment shall become effective. This period of time shall not exceed one year.

(4) If through a decision of the Constitutional Court, a law or a part thereof is annulled as being unconstitutional, the legal provisions which were repealed by the law which the Constitutional Court has found unconstitutional, re-enter into force on the day the annulment becomes effective unless the judgment provides otherwise. In the promulgation of the annulment of the law it shall also be stated whether and which legal provisions shall re-enter into force.

(5) The constitutional finance law determines the extent to which resolutions of a *Landtag* concerning *Land* surtaxes to Federal taxes may be contested before the Constitutional Court and the legal effects connected with any judgment of the Constitutional Court by which such resolution of the *Landtag* or of a *Land* law concerning *Land* or *Gemeinde* taxes has been annulled.

(6) The provision of Article 89, paragraph (1), shall not apply to the judicial review of legislation by the Constitutional Court.

Art. 141. (1) The Constitutional Court shall render judgment concerning contested elections of the Federal President and concerning contested elections to the *Nationalrat*, to the *Bundesrat* and to the *Landtage* and on application of one of these legislatures it shall render judgment on the loss of the seat of a member of the legislature concerned. It shall render judgment concerning contested elections to all other general representative bodies, moreover, on application of one of these bodies, on the loss of the seat of a member of the body concerned, finally, on contested final decisions of administrative authorities unseating a member of such bodies. The body concerned shall be a party to the proceedings before the administrative authorities.

(2) A Federal law shall determine under what conditions the Constitutional Court shall decide upon contested results of a popular initiative or referendum. By Federal law it may also be provided, how long the promulgation of a Federal law, which has been subjected to a referendum, shall be delayed in view of the possibility of contesting the results.

Art. 142. (1) The Constitutional Court shall render judgment in impeachment proceedings to determine the constitutional responsibility of the highest Federal and *Land* offices for wilful violations of law in the exercise of their offices.

(2) Impeachment proceedings may be brought:

(a) against the Federal President on account of violations of the Federal Constitution: by resolution of the *Bundesversammlung*.

(b) against the members of the Federal Government and those officers assimilated to them in regard to responsibility, on account of violation of a law; by resolution of the *Nationalrat*;

(c) against the members of a *Land* Government and those officers assimilated to them, according to this law or to the *Land* constitution, in regard to responsibility, on account of violation of a law; by resolution of the *Landtag* concerned

(d) against a *Landeshauptmann*, his deputy (Article 105, paragraph 1) or a member of the *Land* Government (Article 103, paragraphs 2 and 3) on account of a violation of a law as well as on account of non-compliance with the ordinances and other orders (instructions) of the *Bund* in matters of indirect Federal administration, if a member of the *Land* Government is concerned, also on account of non-compliance with directions of the *Landeshauptmann* in these matters: by resolution of the Federal Government.

(3) If the impeachment proceedings are brought by the Federal Government according to paragraph (2), item (d), only against the *Landeshauptmann* or his deputy, and if it becomes evident that another member of the *Land* Government entrusted with matters of indirect federal administration according to Article 103, paragraph (2), is guilty of a wrong in the sense of paragraph (2), item (d), the Federal Government may at any time until the judgment of the Constitutional Court has been rendered, extend the impeachment also to this member of the *Land* Government.

(4) If the Constitutional Court finds against the person impeached, it shall declare the loss of office and under particularly aggravating circum-

stances also the temporary loss of political rights. In the event of minor infringements in the cases mentioned in paragraph (2), item (d), the Constitutional Court may limit its finding to the statement that the law has been violated.

(5) In the cases of items (a), (b) and (c) of the 2nd paragraph of this Article, the Federal President may avail himself of the right conferred upon him by Article 65, paragraph (2), item (c), only upon application of the representative body which has adopted the resolution of impeachment; in case of item (d) only on application of the Federal Government; in all cases, however, only with the consent of the accused.

Art. 143. The impeachment against those mentioned in Article 142 may also be brought for acts liable to criminal prosecution if these acts are related to the official activities of the person to be impeached. In this case, the Constitutional Court shall have exclusive jurisdiction; the criminal investigations which may be pending before an ordinary criminal court shall then devolve to the Constitutional Court. The latter may apply in such cases, beside Article 142, paragraph (4), also the criminal law provisions.

Art. 144. (1) The Constitutional Court shall render judgment upon complaints against decrees (decisions or orders) of the administrative authorities in so far as the complainant asserts that one of his rights guaranteed by the Constitution has been violated by the decree. The complaint can be filed only after all administrative remedies have been exhausted, unless a federal law does provide anything to the contrary.

(2) If the Constitutional Court finds that a right guaranteed by the Constitution has not been violated by the contested decree of the administrative authority and if it is not a case which according to Article 133 is excluded from the jurisdiction of the Administrative Court, the Constitutional Court shall reject the complaint and at the same time, at the request of the complainant, refer the complaint to the Administrative Court for decision whether another right of the complainant has been violated by the decree.

Art. 145. The Constitutional Court shall render judgment upon violations of international law in accordance with the provisions of a special federal law.

Art. 146. (1) The judgment of the Constitutional Court upon claims according to Article 137 is enforced by the ordinary courts.

(2) The enforcement of the other judgments of the Constitutional Court rests with the Federal President. It shall be carried out according to his instructions by such Federal or *Land* agencies as he may choose to select including the Federal Army. The Constitutional Court shall apply to the Federal President for the enforcement of such judgments. The above mentioned instructions by the Federal President require, if they concern the enforcement of judgments against the *Bund* or federal officers, no counter-signature according to Article 67.

Art. 147. (1) The Constitutional Court consists of a President, a Vice-President, twelve other members and six substitute members.

(2) The President, the Vice-President, six other members and three

substitute members are appointed by the Federal President upon nomination by the Federal Government. These members shall be selected from among judges, administrative officials and professors at the law and political sciences faculties of the universities. The other six members and three substitute members are appointed by the Federal President upon proposals made in respect to three members and two substitute members by the *Nationalrat* and in respect to three members and one substitute member by the *Bundesrat*. Each proposal shall contain the names of three candidates for each post. Three members and two substitute members shall have their permanent residence outside of the federal capital of Vienna. Administrative officials who are appointed members of the Constitutional Court shall be placed on the inactive list in so far and as long as they are not retired.

(3) The President, the Vice-President, the other members and the substitute members shall be law school graduates and shall have already served for at least ten years in a position for which a law degree is required.

(4) The following persons shall not be members of the Constitutional Court; members of the Federal Government or of a *Land* Government, members of the *Nationalrat*, of the *Bundesrat* or of any general representative body. For members of these representative bodies who were elected for a certain term the incompatibility continues even in case of a premature resignation until the term has expired for which they have been elected. Finally, employees or other functionaries of a political party cannot be members of the Constitutional Court.

(5) A person who has exercised one of the functions mentioned in paragraph 4 during the last four years may not be appointed President or Vice-President of the Constitutional Court.

(6) Article 87, paragraphs 1 and 2, and Art. 88, paragraph 2, shall apply to the members of the Constitutional Court. Detailed provisions will be made in the federal law to be issued according to Article 148. The office of a member of the Constitutional Court shall end on December 31st of the year in which the judge completes his 70th year of age.

(7) If a member or a substitute member without satisfactory excuse, does not attend three consecutive meetings of the Constitutional Court to which he was invited, the Court shall issue a formal declaration concerning this fact after hearing the judge concerned. This declaration entails the loss of membership or substitute membership.

Art. 148. The detailed organization and the procedure of the Constitutional Court shall be regulated by federal law.

Chapter VII

Final Provisions

Art. 149. (1) In addition to this law the following laws shall, within the meaning of Article 44, paragraph 1, be regarded as constitutional laws with due consideration for the modifications necessitated by this law:

Basic Law of the State, of December 21st, 1867, R.G.Bl. No. 142,

concerning the general rights of citizens, for the kingdoms and territories represented in the *Reichsrat.* (Imperial Diet).

Law of October 27th, 1862, R.G.Bl. No. 87, for the protection of personal liberty.

Law of October 27th, 1862, R.G.Bl. 88, for the protection of the inviolability of the home.

Resolution of the Provisional National Assembly of October 30th, 1918, St.G.Bl. No. 3.

Law of April 3rd, 1919, St.G.Bl. No. 209, concerning the banishment and the confiscation of the property of the dynasty of Hapsburg-Lorraine. Law of April 3rd, 1919, St.G.Bl. No. 211, concerning the abolition of the nobility, of the secular orders of knights and ladies, and of certain titles and dignities.

Law of May 8th, 1919, St.G.Bl. No. 257, concerning the Coat of Arms and the Seal of State of the Republic German-Austria with the modifications resulting from Art. 2, 5, and 6 of the Law of October 21st, 1919, St.G.Bl. No. 484.

Section V of part III, of the Treaty of St. Germain, of September 10th, 1919, St.G.Bl. 1920, No. 303.

Constitutional Law of November 30th, 1945, BGBl. 1946, Nr. 6, concerning the application of the Law of October 27th, 1862, R.G.Bl. Nr. 87 in the proceedings before the People's Court.

(2) Article 20 of the Basic Law of State of December 21st, 1867, R.G.Bl. No. 142, as well as the Law of May 5th, 1869, R.G.Bl. No. 66, enacted on the basis of the aforementioned Article shall cease to be in force.

Art. 150. The transition to the Federal Constitution introduced by this law shall be regulated by a special constitutional law, which shall become effective at the same time as this law.

Art. 151. (derogated).

Art. 152. The execution of this law is entrusted to the Government.

FEDERAL CONSTITUTIONAL LAW CONCERNING THE NEUTRALITY OF AUSTRIA

October 26, 1955

The *Nationalrat* has voted:

Art. 1. (1) For the purpose of the lasting maintainance of her independence externally, and for the purpose of the inviolability of her territory, Austria declares of her own free will her perpetual neutrality. Austria will maintain and defend this with all means at her disposal.

(2) For the securing of this purpose in all future times Austria will not join any military alliances and will not permit the establishment of any foreign military bases on her territory.

Art. 2. The Federal Government is charged with the execution of this Federal Constitutional Law.

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BELGIUM

SUMMARY

International Status

Belgium is a member of the United Nations. It signed the Charter at San Francisco on June 26, 1945. It was a signatory to the Declaration of the United Nations of January 1, 1942.

After the Germans were driven out of Belgium in 1944, a government was formed under Hubert Pierlot and a cabinet, part of which had been in exile during the German occupation. On September 22, 1944, Prince Charles, brother of King Leopold, took over as regent. The Regency ended on July 20, 1950. King Leopold delegated his powers to Prince Baudoin on August 11, 1950 and abdicated on July 16, 1951.

Belgium is a member of other international organizations.[1] It joined the League of Nations as an original member in 1920. It was a party to the Statute of the Permanent Court of International Justice.[2] It is a member of the International Court of Justice by virtue of its membership in the United Nations.[3] It is subject to its compulsory jurisdiction under Article 36 of its Statute.[4]

The Protocol of London of June 21, 1814 united Belgium and Holland. That union continued until October 1830. A provisional separate government for Belgium was constituted at Brussels on September 25, 1830, which asked the people to elect a National Congress. That election took place on November 3, 1830 and the Congress confirmed Belgium's independence on November 18, 1830. The present Constitution was promulgated on February 7, 1831. On July 21, 1831 Prince Leopold of Saxe-Coburg Gotha took oath to maintain the Constitution and became Leopold I.

The principle of Belgium independence was recognized on December 2, 1830 by the Conference of London. The country's neutrality was guaranteed by the Treaty of London of April 19, 1839, signed by Austria, France, Great Britain, Prussia, the Netherlands and Russia. Germany invaded Belgium on August 4, 1914 and again on May 10, 1940.

An Economic Union was formed with Luxemburg by a convention of July 25, 1921 and reestablished on May 1, 1945 (after its dissolution in 1940). A customs Union between Belgium and Luxemburg on the one hand and the Netherlands came into force in January, 1948 in accordance with agreements signed on September 5, 1944 and March 14, 1948.

The Belgian Congo, originally called the Congo Free State, traces its origin to the International Association of the Congo founded and largely financed by King Leopold II of Belgium. The districts of Ruanda and Urundi, formerly German colonies in East Africa, were allotted to Belgium as mandates of the League of Nations. Those districts were administered with the Belgian Congo under a vice governor at Astrida and have been placed by Belgium under the trusteeship of the United Nations.

Form of National Government

Under the Constitution of 1831,[5] Belgium is divided into nine provinces to wit, Antwerp, Brabant, West Flanders, East Flanders, Hainaut, Liège, Limbourg, Luxembourg, and Namur. It is governed by a King and ministers, a bicameral legislative body, and courts. Local government

[1] See Table I.

[2] It accepted the optional clause regarding compulsory jurisdiction of the Court on September 25, 1925, for a period of fifteen years on certain conditions.

[3] See Art. 93 of the Charter of the United Nations.

[4] Declaration of acceptance deposited July 13, 1948, see Yearbook of the Court, 1951–52 pp. 35–43, 187.

[5] Amended September 8, 1893, November 15, 1920 and February 7, August 25 and October 15, 1921.

in the provinces is carried on by provincial and communal authorities. The titular head of each of the provinces is a Governor appointed by the King.

Source of Sovereign Power

Under the Constitution of 1831, the "people" are designated as the source from which sovereign power emanates.[1]

Rights of the People

Rights granted to citizens include equality before the law,[2] individual liberty,[3] privacy of the domicile,[4] due process of law,[5] freedom from confiscation of property,[6] religious freedom,[7] freedom of the press,[8] peaceful assembly,[9] the right to petition public authorities,[10] privacy of correspondence,[11] freedom in the use of language,[12] the right to bring action against public officials,[13] and the right to trial by jury in all criminal cases and for all political offenses and offenses of the press.[14] Foreigners are granted protection of their personal property, "except as otherwise established by law." [15]

Legislative Department

Legislative power, by the Constitution, is vested "collectively" in "the King, the House of Representatives and the Senate." [16]

The "authoritative interpretation of the laws" belongs "only to the legislative power." [17]

Parliament consists of a Senate of 167 members (1947) elected for terms of four years, 101 by direct vote, 44 by provincial councils, and 22 by the Senate itself; a House of Representatives with 202 members (1947) elected for terms of four years.

The House of Representatives is elected directly by male citizens who have reached the age of twenty-one years and may be extended to women by law.[18] Voting is obligatory.[19] One representative is allowed for each 40,000 inhabitants.[20] Ministers of the King may be required to appear before the legislative houses.[21]

Senators are chosen in proportion to the population of each province, one for each 200,000 people, and an additional one for 125,000 or more

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[1] Const., Art. 25. [2] Id., Art. 6. [3] Id., Art. 7.
[4] Id., Art. 10. [5] Id., Art. 11. [6] Id., Arts. 11, 12.
[7] Id., Art. 14. [8] Id., Art. 18. [9] Id., Art. 19.
[10] Id., Art. 21. [11] Id., Art. 22. [12] Id., Art. 23.
[13] Id., Art. 24. [14] Id., Art. 98. [15] Id., Art. 128.
[16] Id., Art. 26. [17] Id., Art. 28.
[18] Id., Art. 47. Female voters include political prisoners of the first and second world wars and widows of soldiers killed in those wars.
[19] Id., Art. 48. [20] Id., Art. 49. [21] Id., Art. 88.

persons in excess of a multiple of 200,000.[1] They must possess qualifications specified in the Constitution.[2] Each provincial council names at least three senators.[3] A number of senators equal to one-half of the number of members of the House of Representatives is elected directly by the people.[4] A certain number of senators are elected directly by the Senate itself.[5]

The Senate is entirely renewed every four years.[6]

Executive Department

The King is an hereditary monarch with provision that in default of male descendants, the King may name his successor with the consent of the houses.[7] He exercises both executive powers and certain legislative powers.[8] Decrees of the King require the countersignature of a minister.[9]

Ministers are chosen and may be dismissed by the King.[10] They have no votes in the parliament unless they are members of it, but have access to either house and are entitled to be heard upon request and may be required to appear.[11]

Judicial Department

Judicial power is vested by the Constitution in a Court of Cassation which does "not consider questions of fact except in the trial of ministers"[12] and which decides all "conflicts of jurisdiction"[13] of other courts. The Constitution prohibits the establishment of any "commissions or extraordinary tribunals."[14] Authoritative interpretation of the laws, however, belongs to the legislative power.[15] A special "court of accounts" is provided for, for the settlement of accounts of all persons accountable to the public treasury.[16]

The higher judicial officers are appointed by the King from lists supplied by the courts and the provincial councils or Senate.[17]

Area, Population, Language

Belgium has an area of 11,775 square miles, and a population (1951 estimate) of 8,703,119. The languages spoken are French and Flemish.

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[1] Const., Art. 53 (2). [2] Id., Art. 56, 56A. [3] Id., Art. 53 (2).
[4] Id., Art. 54. [5] Id., Art. 53 (3). [6] Id., Art. 55.
[7] Id., Art. 61.
[8] Id., Art. 26. While the King has power to make regulations and decrees for the execution of the laws, this in practice has become a legislative activity.
[9] Id., Art. 64.
[10] Id., Art. 65. In practice ministers keep their posts as long as they enjoy the confidence and support of a majority of the two Houses.
[11] Id., Art. 88. [12] Id., Art. 95. [13] Id., Art. 106.
[14] Id., Art. 94. [15] Id., Art. 28. [16] Id., Art. 116.
[17] Id., Art. 99.

CONSTITUTION OF BELGIUM

February 7, 1831 [1]
(With Amendments)

TITLE I

THE TERRITORY AND ITS DIVISIONS

Art. 1.[2] Belgium is divided into provinces.

These provinces are: Antwerp, Brabant, West Flanders, East Flanders, Hainaut, Liége, Limbourg, Luxembourg, Namur.

If there should be occasion for it, the territory may be divided by law into a greater number of provinces.

The colonies, possessions beyond the sea, or portectorates which Belgium may acquire shall be governed by special laws. The Belgian forces required for their defense shall be recruited only by voluntary enlistment.

Art. 2. Subdivisions of the provinces shall not be made except by law.

Art. 3. The boundaries of the state, of the provinces, and of the communes shall not be changed or rectified except by law.

TITLE II

BELGIAN CITIZENS AND THEIR RIGHTS

Art. 4. Belgian nationality is acquired, retained, and lost according to regulations established by the civil law.

The present Constitution and the other laws relating to political rights determine what other conditions are necessary for the exercise of these rights.

Art. 5. Naturalization is granted by the legislative power.

Full naturalization alone admits foreigners to equality with Belgians in the exercise of political rights.

Art. 6. There shall be no distinction of classes [3] in the state.

All Belgians are equal before the law; they alone are admissible to civil and military offices, with such exceptions as may be established by law for particular cases.

Art. 7. Individual liberty is guaranteed.

No one may be prosecuted except in cases provided for by law and in the form therein prescribed.

Except when one is taken in the commission of an offense, no one may be arrested without a warrant issued by a magistrate, notice of which

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[1] French text in Dareste, *Les Constitutions Modernes*, Vol. 1, p. 349.

[2] As amended September 7, 1893. The boundaries of the Kingdom of Belgium were fixed by the treaty of April 19, 1839. The provision regarding colonies was introduced in 1893 to give the government power to administer the Congo Free State when it should become a Belgian possession.

[3] The French text, "Il n'y a dans l'Etat aucune distinction d'ordres," applies to the old divisions of the State into three orders: nobility, clergy, and tiers état.

must be given at the time of arrest, or at the latest within twenty-four hours thereafter.

Art. 8. No person shall be removed against his will from the jurisdiction of the judge to whom the law assigns him.

Art. 9. No penalty shall be established or enforced except by virtue of a law.

Art. 10. The private domicile is inviolable; no search of premises shall take place except in the cases provided for by law and according to the form therein prescribed.

Art. 11. No one may be deprived of his property except for a public purpose and according to the forms established by law, and in consideration of a just compensation previously determined.

Art. 12. Punishment by confiscation of property shall not be established.

Art. 13. Total deprivation of civil rights (*mort civile*) is abolished and shall not be reestablished.

Art. 14. Religious liberty and the freedom of public worship, as well as free expression of opinion in all matters, are guaranteed with the reservation of power to suppress offenses committed in the use of these liberties.

Art. 15. No one shall be compelled to join in any manner whatever in the forms and ceremonies of any religious worship, nor to observe its days of rest.

Art. 16. The state shall not interfere either in the appointment or in the installation of the ministers of any religious denomination whatever, nor shall it forbid them to correspond with their superiors or to publish their proceedings, subject, in the latter case, to the ordinary responsibility of the press and of publication.

Civil marriage shall always precede the religious ceremony, except in cases to be established by law if found necessary.

Art. 17. Private instruction shall not be restricted; all measures interfering with it are forbidden; the repression of offenses shall be regulated by law.

Public instruction given at the expense of the state shall likewise be regulated by law.

Art. 18. The press is free; no censorship shall ever be established; no security shall be exacted of writers, publishers, or printers.[1]

In case the writer is known and is a resident of Belgium, the publisher, printer, or distributor shall not be prosecuted.

Art. 19. Belgians have the right, without previous authorization, to assemble peaceably and without arms, conforming themselves to the laws which regulate the exercise of this right.

This provision does not apply to assemblies in the open air, which remain entirely under the police laws.

Art. 20. Belgians have the right of association; this right shall not be restricted by any preventive measure.

Art. 21. Anyone has the right to address petitions to the public authorities, signed by one or more persons.

[1] See also Articles 96 and 98, which relate to trials of offenses of the press.

Legally organized bodies alone have the right to petition under a collective name.

Art. 22. The privacy of correspondence is inviolable. The law shall determine who are the agents responsible for the violation of the secrecy of letters entrusted to the post.

Art. 23. The use of the language spoken in Belgium is optional. This matter may be regulated only by law and only for acts of public authority and for judicial proceedings.[1]

Art. 24. No previous authorization is necessary to bring action against public officials for the acts of their administration, except as provided for ministers.[2]

TITLE III

CONCERNING POWER

Art. 25. All powers emanate from the people.

They shall be exercised in the manner established by the Constitution.

Art. 26. The legislative power shall be exercised collectively by the King, the House of Representatives, and the Senate.[3]

Art. 27. Each of the three branches of the legislative power shall have the right of initiative.

(Nevertheless, all laws relating to the revenues or expenditures of the state or to the army contingent must be voted first by the House of Representatives).[4]

Art. 28. The authoritative interpretation of the laws shall belong only to the legislative power.

Art. 29. The executive power is vested in the King, subject to the regulations of the Constitution.

Art. 30. The judicial power shall be exercised by the courts and the tribunals.

Decrees and judgments shall be executed in the name of the King.

Art. 31. Exclusively communal or provincial affairs shall be regulated by the communal or provincial councils, according to the principles established by the Constitution.

CHAPTER I

THE HOUSES

Art. 32. The members of the two houses shall represent the nation, and not the province alone, nor the subdivision of the province which elected them.

Art. 33. The sessions of the houses shall be public.

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[1] Laws and royal decrees are published in French in the *Moniteur*; the French text is the only official text. Flemish may be used in some official documents (see Dareste, *op. cit.*, p. 77, note 1).

[2] See below, Articles 63, 90, and 134.

[3] This article was proposed for revision in 1921, but was left unchanged.

[4] Stricken out in 1921.

Nevertheless, each house may resolve itself into a secret committee upon the demand of its president or of ten members.

It shall then decide by vote of an absolute majority whether the session shall be resumed in public upon the same subject.

Art. 34. Each house shall judge of the qualifications of its own members, and shall decide all contests which arise upon that subject.

Art. 35. No person shall at the same time be a member of both houses.

Art. 36. Any member of either of the two houses, who shall be appointed by the government to any other salaried office except that of minister, and who accepts the same, shall vacate his seat immediately and may resume his duties only by virtue of a new election.[1]

Art. 37. At each session, each of the houses shall elect its president, its vice-president, and shall form its bureau.

Art. 38. An absolute majority of the votes shall be necessary to pass any resolution except as otherwise established by the rules of the houses in regard to elections and nominations.[2]

In case of an equal division of votes, the proposition under consideration is rejected.

Neither of the two houses shall pass a resolution unless a majority of its members is present.

Art. 39. The votes shall be *viva voce* or by rising and sitting; the vote on a law as a whole shall always be by roll call and *viva voce*. The election and nomination of candidates shall be by secret ballot.[3]

Art. 40. Each house has the right to investigate the conduct of public affairs.[4]

Art. 41. A proposed law shall not be passed by either of the houses unless it has been voted upon article by article.

Art. 42. The houses have the right to amend and to divide the articles and amendments proposed.

Art. 43. To present petitions in person to the houses is forbidden.

Each house has the right to send to the ministers the petitions which are addressed to it. The ministers are obliged to give explanations upon the contents of such petitions whenever the house demands.

Art. 44. No member of either house shall be arrested or prosecuted on account of opinions expressed or votes cast by him in the performance of his duties.

Art. 45. No member of either house shall during the continuance of the session be prosecuted or imprisoned in repressive matters, except by the authority of the house of which he is a member, unless he be apprehended in the commission of an offense.

No member of either house shall be imprisoned for debt during the session, except by the same authority.

The detention or the prosecution of a member of either house shall be

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[1] As amended September 7, 1893. By the original article ministers were also required to seek re-election.

[2] For questions requiring a two-thirds vote, see Articles 61, 62, and 131.

[3] Proposed for revision in 1921 but left unchanged.

[4] Law of May 3, 1880, to regulate the form of parliamentary investigation.

suspended during the session and for the entire term, if the house so demands.

Art. 46. Each house shall determine by its own rules the manner in which it is to exercise its powers.[1]

Section I

The House of Representatives

Art. 47.[2] The members of the House of Representatives shall be elected directly by citizens who have reached the age of twenty-one years, have resided for at least six months in the same commune, and are not otherwise excluded by law.

Each elector has a right to only one vote.

Under the same conditions, the right of suffrage may be extended to women by law. This law must receive at least a two-thirds majority vote.

Transitional provision. Women who, fulfilling the conditions prescribed by this Article, belong to one of the categories enumerated in Article 2 of the law of May 9, 1919, shall be admitted to the right of suffrage concurrently with the citizens covered by Article 47 of the Constitution.[3]

Art. 48.[4] The constitution of the electoral colleges shall be regulated by law for each province.

Elections shall be held according to the system of proportional representation determined by law.

Voting is obligatory and secret. It shall take place in the commune, when not otherwise determined by law.

Art. 49.[5] The number of representatives shall be determined by law, according to the population; this number shall not exceed the proportion of one representative for 40,000 inhabitants. The qualifications of an elector and the process of election shall also be determined by law.

Art. 50.[6] To be eligible it is necessary:

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[1] See F. Moreau et J. Delpech, *Les règlements des assemblées législatives*, Vol. 1, pp. 617 and 637 (Paris: 1906).

[2] The 1921 revision of Article 47 struck from the Constitution the provisions for plural voting.

[3] Article 2 of the electoral law of May 9, 1919, reads as follows:

"The following shall likewise be permitted to vote at the next renewal of the legislative house, upon the same conditions in respect to nationality, age, and residence:

"(1) Unmarried widows of soldiers who died in the course of the war before January 1, 1919, and, in default of their voting, the widowed mothers of such deceased soldiers, as well as the widowed mothers of deceased soldiers who were unmarried.

"(2) The unmarried widows of Belgian citizens who were shot or killed by the enemy in the course of the war, and, in default of their voting, the widowed mothers of such slain citizens, as well as the widowed mothers of slain citizens who were unmarried.

"(3) Women who were condemned to prison or internment on account of their patriotic motives."

[4] Article 48 was amended in 1893. The obligation of voting was sanctioned by Article 223 of the electoral code. In the legislative elections of 1900, the proportion of absentees averaged 6 per cent. The provision as to secrecy is new (1921) and proportional representation (provided for by the law of December 29, 1899) is guaranteed in the Constitution.

[5] Proposed for revision in 1921, but left unchanged.

[6] See *Revue du droit public* edition of the Constitution of 1921, and Dareste, *Les Constitutions Modernes*, Vol. 1, p. 81.

(1) To be a Belgian citizen by birth, or to have received full naturalization.
(2) To enjoy civil and political rights.
(3) To have reached the age of twenty-five years.
(4) To be a resident of Belgium.

No other condition of eligibility shall be required.

Art. 51.[1] The members of the House of Representatives shall be elected for a term of four years.

The house shall be renewed every four years.

Art. 52. Each member of the House of Representatives shall receive an annual compensation of 12,000 francs.[2]

He shall have, in addition, the right of free transportation on all state or concessionary railways.

The means of transport, apart from those specified above, which representatives may use gratuitously, shall be determined by law.

An annual indemnity chargeable to the appropriation designed to cover the expenses of the House of Representatives may be allowed the president of that assembly.

The house shall determine the amount that may be withheld from the indemnity for contribution to the retirement or pension funds that it may deem proper to establish.

Transitional provision. The provision of Article 52, clause 1, shall be applicable to the session of 1919–1920.[3]

Section II

The Senate

Art. 53.[4] The Senate shall be composed:

(1) Of members elected in proportion to the population of each province conformably to Article 47. The provisions of Article 48 are applicable to the election of these senators.
(2) Of members elected by the provincial councils, in the proportion of one senator for 200,000 inhabitants. Any excess of at least 125,000 inhabitants shall entitle the province to one additional senator. Nevertheless, each provincial council shall name at least three senators.
(3) Of members elected by the Senate with the concurrence of half the number of senators elected by the provincial councils. If this number is odd it shall be increased by one unit.

These members are chosen by the senators elected by the application of clauses 1 and 2 of this Article.

The election of senators elected by the application of clauses 2 and 3 shall take place according to the system of proportional representation determined by law.

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[1] The provision before 1921 was that one-half of the House of Representatives should be elected every two years and that in case of dissolution the house should be entirely renewed.

[2] Increased in 1921 from 4,000 francs.

[3] The last four clauses of Article 52 were added in 1921.

[4] The method of electing the Senate, as provided by the revision of 1921, is almost entirely new. Suffrage qualifications are changed; there is a new apportionment of members elected by provincial councils, and a new, third group, of senators is to be co-opted. The election of senators by the provincial councils was an innovation of 1893.

Transitional provision. Women granted the right to vote for the House of Representatives, concurrently with the citizens referred to in Article 47 of the Constitution, shall be permitted likewise to participate in the election of members of the Senate referred to in Article 53, clause 1.

Art. 54.[1] The number of senators to be elected directly by voters shall be equal to one-half the number of members of the House of Representatives.

Art. 55.[2] Senators shall be elected for a term of four years.

The Senate shall be entirely renewed every four years.

Art. 56.[3] In order to be elected senator, it shall be necessary:

(1) To be a Belgian citizen by birth, or to have received full naturalization.
(2) To enjoy civil and political rights.
(3) To be a resident of Belgium.
(4) To be at least forty years of age.

Art. 56A.[4] To be eligible to be elected senator by the application of clause 1 of Article 53, it is necessary, moreover, to belong to one of the following categories:

(1) Ministers, former ministers, and ministers of state.
(2) Members and former members of the House of Representatives and of the Senate.
(3) Those possessing a diploma for completion of studies granted by one of the institutions of higher learning, the list of which shall be determined by law.
(4) Former superior officers of the army and navy.
(5) Titular members and former members of the commerce courts who have been invested with at least two commissions.
(6) Those who have, for at least ten years, exercised the functions of a minister of one of the religions whose members enjoy emoluments from the state.
(7) Titular members and former members of one of the royal academies, and professors and former professors of one of the institutions of higher learning, the list of which shall be determined by law.
(8) Former provincial governors; members and former members of permanent deputations; former commissioners of an arrondissement.
(9) Members and former members of provincial councils who have been invested with at least two commissions.

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[1] As amended in 1893. Proposed for revision in 1921 but left unchanged.

[2] Under the 1893 provisions senators were elected for eight years, one half being elected every four years. In case of dissolution the whole Senate was renewed.

[3] In the 1893 revision this Article included a fifth paragraph imposing the property qualification which is now clause 13 of Article 56A. The increased number of categories made unnecessary the following provision that appeared in the 1893 constitution: "In the provinces where the number of those eligible does not reach the proportion of one for every 5,000 inhabitants, the list shall be completed by the addition of as many of the highest taxpayers of the province as may be necessary to make this proportion. The citizens on this supplementary list are eligible only in the province where they reside."

[4] Arts. 56A, 56B, and 56C, which are articles added by the revisions of 1893 and 1921, are, in the French, designated, "56 bis," "56 ter," and "56 quater."

Article 56A in the old Constitution read as follows: "The senators elected by the provincial councils shall be exempt from all property qualification; they shall not be members of the assembly which elects them, nor have been members of it during the year of the election nor during the two preceding years." In a modified form this is now Article 56B.

(10) Burgomasters and former burgomasters, aldermen and former aldermen of communes, of capitals of arrondissements, and of places having more than 4,000 inhabitants.

(11) Former governors-general and vice-governors-general of the Belgian Congo, members and former members of the colonial council.

(12) Former directors-general, directors, and inspectors-general of the different departments.

(13) Proprietors and usufructuaries of real estate situated in Belgium the assessed income of which amounts to at least 12,000 francs; taxpayers paying annually into the treasury of the state at least 3,000 francs in direct taxes.

(14) Those who, in the capacity of delegated administrator, director, or with an analogous title, have been placed for five years at the head of the daily management of a Belgian commercial joint-stock society, whose capital is paid up to the amount of at least a million francs.

(15) Chiefs of industrial enterprises employing, on a permanent basis, at least one hundred workmen and of agricultural enterprises including at least one hundred acres.

(16) Those who, in the capacity of managing director or with an analogous title, have been placed for three years at the head of the daily management of a Belgian cooperative society numbering for the last five years at least five hundred members.

(17) Those who, in the capacity of effective members, have exercised for five years the functions of president or secretary of a mutual society or a mutual federation, numbering for the last five years at least one thousand members.

(18) Those who, in the capacity of effective members, have exercised for five years the functions of president or secretary of a professional, industrial, or agricultural association, including for the last five years at least five hundred members.

(19) Those who for five years have exercised the functions of president of a chamber of commerce or of industry, numbering for the last five years at least three hundred members.

(20) Members of industrial and labor councils, provincial agricultural commissions, and councils of experts who have been invested with at least two commissions.

(21) Elected members of one of the consultative councils established in connection with ministerial departments.

New categories of eligibles may be created by a law, which must receive at least a two-thirds majority vote.

Transitional provision. The term of five years in the categories numbered 14, 17, 18, and 19 and that of three years in category numbered 16 are reduced to two years for the first application of these provisions.

Art. 56B. Senators elected by provincial councils may not belong to the assembly which elects them, nor may they have been members of it during the year of election or the two preceding years.

Art. 56C. In case of a dissolution of the Senate, the King may dissolve the provincial councils.

The act of dissolution shall include the convocation of the provincial electors within forty days and of the provincial councils within two months.

Art. 57. Senators shall not receive a salary.

They have the right, nevertheless, to be indemnified for their expenses; this indemnity is fixed at 4,000 francs a year.[1]

They have the right, moreover, of free transportation on all state and concessionary railways.

[1] Prior to 1921 no grant for expenses was allowed.

The means of transport, apart from those specified above, which they may use gratuitously, shall be determined by law.

Art. 58.[1] The sons of the King, or if there be none, the Belgian princes of the branch of the royal family designated to succeed to the throne, shall be by right senators at the age of eighteen years. They shall have no deliberative vote until the age of twenty-five.

Art. 59.[2] Every meeting of the Senate which may be held at any other time than during the session of the House of Representatives shall be null and void.

CHAPTER II

THE KING AND THE MINISTERS

Section I

The King

Art. 60.[3] The constitutional powers of the King are hereditary in the direct descendants, natural and legitimate, of His Majesty Leopold George Christian Frederick of Saxe-Coburg from male to male, in the order of primogeniture, and to the perpetual exclusion of females and of their descendants.

The prince who shall marry without the consent of the King, or of those who in his absence exercise his authority as provided by the Constitution, shall forfeit his rights to the crown.

Nevertheless, with the consent of the two houses, he may be relieved of this forfeiture by the King or by those who, in his absence, exercise his authority according to the Constitution.

Art. 61.[4] In default of male descendants of His Majesty Leopold George Christian Frederick of Saxe-Coburg, the King may name his successor, with the consent of the houses expressed in the manner prescribed by the following article.

If no nomination has been made after the manner described below, the throne will be vacant.

Art. 62. The King shall not at the same time be the head of another state, without the consent of the two houses. [5]

Neither of the houses shall deliberate upon this matter unless two-thirds, at least ,of the members who compose it are present, and the resolution must be adopted by at least two-thirds of the votes cast.

Art. 63. The person of the King is inviolable; his ministers are responsible.

Art. 64. No decree of the King shall take effect unless it is countersigned by a minister, who, by that act alone, renders himself responsible for it.

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[1] As amended September 7, 1893.

[2] Proposed for revision in 1921 but left unchanged.

[3] Paragraphs 2 and 3 were added September 7, 1893.

[4] As amended September 7, 1893. Only the form of this article was changed.

[5] King Leopold II was authorized by the House of Representatives (April 28, 8[85) and the Senate (April 30, 1885) to be the sovereign of the Congo Free State.

Art. 65. The King appoints and dismisses his ministers.

Art. 66. He confers the grades in the army.[1]

He appoints the officers of the general administration and for foreign relations, except as otherwise established by law.

He appoints other governmental officials only by virtue of an express provision of law.

Art. 67. He shall issue all regulations and decrees necessary for the execution of the laws, without power to suspend the laws themselves, or to dispense with their execution.

Art. 68. The King commands the forces both by land and sea, declares war, makes treaties of peace, of alliance, and of commerce. He shall give information to the two houses of these acts as soon as the interests and safety of the state permit, adding thereto suitable comments.

Treaties of commerce, and treaties which may burden the state, or bind Belgians individually, shall take effect only after having received the approval of the two houses.

No cession, exchange, or addition of territory shall take place except by virtue of a law. In no case shall the secret articles of a treaty be destructive of those openly expressed.

Art. 69. The King approves and promulgates the laws.[2]

Art. 70. The houses shall assemble each year, the second Tuesday in November, unless they shall have been previously summoned by the King.

The houses shall remain in session at least forty days each year.

The King pronounces the closing of the session.

The King shall have the right to convene the houses in extraordinary session.

Art. 71. The King shall have the right to dissolve the houses either simultaneously or separately. The act of dissolution shall order a new election within forty days, and summon the houses within two months.

Art. 72. The King may adjourn the houses. In no case shall the adjournment exceed the term of one month, nor shall it be renewed in the same session, without the consent of the houses.

Art. 73. He shall have the right to remit or reduce the penalties pronounced by the judges of courts, except such as are fixed by law in the case of ministers.

Art. 74. He shall have the right to coin money, in accordance with the law.

Art. 75. He shall have the right to confer titles of nobility, but without the power of attaching to them any privilege.

Art. 76. He may confer military orders in accordance with the provisions of the law.

Art. 77. The civil list shall be fixed by law for the duration of each reign.

Art. 78. The King shall have no other powers than those which the

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[1] See below, Article 124.

[2] Law of April 18, 1898. Proposed for revision in 1921 but left unchanged.

Constitution and the special laws, enacted under the Constitution, formally confer upon him.

Art. 79. At the death of the King the houses shall assemble without a summons, at the latest on the tenth day after his decease. If the houses shall have been previously dissolved, and if in the act of dissolution the reassembling had been fixed for a day later than the tenth day, the former members shall resume their duties until the assembling of those who should replace them.

If only one house shall have been dissolved, the same rule shall be followed with regard to that house.

From the date of the death of the King and until the taking of the oath by his successor to the throne, or by the regent, the constitutional powers of the King shall be exercised, in the name of the Belgian people, by the ministers united in council and upon their responsibility.

Art. 80. The King is of age when he shall have completed the age of eighteen years.

He shall not take possession of the throne until he shall have solemnly taken, before the united houses, the following oath:

"I swear to observe the Constitution and the laws of the Belgian people, to maintain the national independence and the integrity of the territory."

Art. 81. If, at the death of the King, his successor is a minor, the two houses shall unite in one assembly, for the purpose of providing for the regency and guardianship.

Art. 82. If the King becomes incapacitated to reign, the ministers, after having ascertained this incapacity, shall immediately convene the houses. The houses shall provide for the regency and guardianship.

Art. 83. The regency shall be conferred upon one person.

The regent shall enter upon his duties only after having taken the oath prescribed by Article 80.

Art. 84. No change in the Constitution shall be made during a regency.

Art. 85. In case there is a vacancy of the throne, the houses deliberating together shall arrange provisionally for the regency, until the first meeting of the houses after they have been wholly renewed. That meeting shall take place at the latest within two months. The new houses deliberating together shall provide definitely for the vacancy.

Section II

The Ministers

Art. 86. No person shall be a minister unless he is a Belgian by birth, or has received full naturalization.

Art. 87. No member of the royal family shall be a minister.

Art. 88. Ministers shall have no deliberative vote in either house unless they are members of it.

They shall have admission to either house, and are entitled to be heard when they so request.

The houses shall have the right to demand the presence of ministers.

Art. 89. In no case shall the verbal or written order of the King relieve a minister of responsibility.

Art. 90. The House of Representatives shall have the right to accuse ministers and to arraign them before the Court of Cassation, which, sitting in full bench, alone shall have the right to judge them, except in such matters as shall be established by law respecting a civil suit by an aggrieved party and respecting crimes and misdemeanors committeed by ministers when not in the performance of their official duties.

The law shall determine the responsibility of ministers, the penalties to be imposed upon them, and the method of proceeding against them, whether upon accusation made by the House of Representatives or upon prosecution by the aggrieved parties.[1]

Art. 91. The King shall not have power to grant pardon to a minister sentenced by the Court of Cassation except upon request of one of the two houses.

Chapter III

THE JUDICIAL POWER

Art. 92. Actions which involve questions of civil rights belong exclusively to the jurisdiction of the tribunals.

Art. 93. Actions which involve questions of political rights belong to the jurisdiction of the courts, except as otherwise determined by law.

Art. 94. No tribunal nor contentious jurisdiction shall be established except by virtue of a law.[2] No commissions or extraordinary tribunals under any title whatever shall be established.

Art. 95.[3] There shall be a Court of Cassation for the whole of Belgium.

This court shall not consider questions of fact except in the trial of ministers.

Art. 96. The sessions of the courts shall be public, unless this publicity is declared by a judgment of the court to be dangerous to public order or morals.

In cases of political offenses and offenses of the press, closed doors shall be enforced only by a unanimous vote of the court.

Art. 97. Every judgment shall be pronounced in open court, and the reasons therefor stated.

Art. 98. The right of trial by jury shall be established in all criminal cases and for all political offenses and offenses of the press.

Art. 99. The justices of the peace and the judges of courts shall be appointed directly by the King.

The members of the courts of appeal and the presidents and vice-presidents of the courts of original jurisdiction shall be appointed by the King from two double lists, presented the one by these courts and the other by the provincial councils.

The members of the Court of Cassation shall be appointed by the King from two double lists presented one by the Senate and one by the Courts of Cassation.

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[1] See below, Article 134.

[2] Law of June 18, 1869, on the organization of the judiciary, amended.

[3] Clause 1 proposed April 1, 1879, for revision in 1921 but left unchanged.

In both cases the candidates named upon one list may be named also upon the other.

All the names shall be published at least fifteen days before the appointment.

The courts shall choose their presidents and vice-presidents from among their own number.

Art. 100. Judges shall be appointed for life.

No judge shall be deprived of his office or suspended until after trial and judgment.

The removal of a judge from one place to another shall take place only by means of a new appointment and with his consent.

Art. 101. The King appoints and removes the state officials serving in the courts and tribunals.

Art. 102. The salaries of the members of the judiciary shall be fixed by law.

Art. 103. No judge shall accept from the government any salaried office, unless he perform the duties thereof gratuitously, and not then if it is contrary to the law of incompatibility.[1]

Art. 104. There shall be three courts of appeal in Belgium. Their jurisdiction and the places where they shall be held shall be determined by law.

Art. 105.[2] Special laws shall govern the organization of military tribunals, their powers, the rights and obligations of the members of these tribunals, and the duration of their functions.

There shall be commercial courts in places which shall be designated by law. Their organization, powers, the method of appointment of their members, and the duration of their term of office shall also be determined by law.

Art. 106. The Court of Cassation shall decide conflicts of jurisdiction, according to the method prescribed by law.

Art. 107. The courts and tribunals shall enforce executive decrees and ordinances, whether general, provincial, or local, only so far as they shall conform to the laws.

Chapter IV

Provincial and Communal Institutions

Art. 108. Provincial and communal institutions shall be regulated by law.

The law shall establish the application of the following principles:

(1) Direct election, except in the cases which may be established by law with regard to the chiefs of the communal administration and government commissioners acting in the provincial councils.

(2) The relegation to provincial and communal councils of all provincial and communal affairs, without prejudice to the approval of their acts, in the cases and according to the procedure determined by law.

Several provinces or several communes may act in concert or associate

[1] Laws of May 26, 1848, and June 18, 1869.

[2] Proposed for revision in 1921 but left unchanged.

together under the conditions and according to the manner to be determined by law, in order to regulate and manage in common subjects of provincial or communal interest. Nevertheless, several provincial councils or several communal councils may not be permitted to deliberate in common.[1]

(3) The publicity of the sittings of the provincial and communal councils within the limits established by law.

(4) The publicity of budgets and of accounts.

(5) The intervention of the King or of the legislative power to prevent provincial and communal councils from exceeding their powers and from acting against the general welfare.

Art. 109. The keeping of the civil register is exclusively the duty of the communal authorities.

TITLE IV

FINANCES

Art. 110. No tax for the benefit of the state shall be imposed except by law.

No provincial charge or tax shall be imposed without the consent of the provincial council.

No communal charge or tax shall be imposed without the consent of the communal council.

The law shall determine the exceptions which experience shall show to be necessary in regard to provincial and communal taxes.

Art. 111. Taxes for the benefit of the state shall be voted annually.

The laws which impose such taxes shall remain in force for one year only unless they are re-enacted.

Art. 112. No privilege shall be established with regard to taxes.

No exemption or abatement of taxes shall be established except by law.

Art. 113. Beyond the cases expressly excepted by law, no payment shall be exacted of any citizen other than taxes levied for the benefit of the state, of the province, or of the commune. No change shall be made in the existing system of *polders* [2] and *wateringen* [3] which remain subject to ordinary legislation.

Art. 114. No pension or gratuity shall be paid out of the public treasury without the authority of law.

Art. 115. Each year the houses shall enact the law of accounts and vote the budget.

All the receipts and expenditures of the state shall be contained in the budget and in the accounts.

Art. 116. The members of the court of accounts shall be appointed by the House of Representatives and for a term fixed by law.

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[1] This paragraph, authorizing joint administration, was inserted by the 1921 revision.

[2] *Polders* are lands reclaimed from the sea by dikes. The owners of these lands are grouped into associations for the maintenance of the dikes and are required by law to bear the expense of such maintenance.

[3] *Wateringen* are associations formed for the purpose of irrigating and draining lands reclaimed from the sea. They have power to raise funds by taxing the lands affected by such improvements.

This court shall be entrusted with the examination and settlement of the accounts of the general administration and of all persons accountable to the public treasury. It shall see that no item of the expenditures of the budget is overdrawn and that no transfer takes place. It shall audit the accounts of the different administrative organs of the state, and shall gather for this purpose all information and all necessary vouchers. The general accounts of the state shall be submitted to the House with the comments of the court of accounts.

This court shall be organized by a law.[1]

Art. 117. The salaries and pensions of the ministers of religion shall be paid by the state; the sums necessary to meet this expenditure shall be entered annually in the budget.[2]

TITLE V

THE PUBLIC FORCE

Art. 118. The method of recruiting the army shall be determined by law. The laws shall also regulate the promotion, the rights, and the duties of soldiers.[3]

Art. 119. The army contingent shall be voted annually. The law which fixes it shall remain in force for one year only, unless re-enacted.

Art. 120. The organization and the attributions of the armed police shall be regulated by a law.

Art. 121. No foreign troops shall be admitted into the service of the state, to occupy or to cross its territory except by virtue of a law.

Art. 122. There shall be a citizen militia, the organization of which shall be regulated by law.

(The offices of all grades, at least as high as that of captain, shall be chosen by the militia, with such exceptions as may be judged necessary for accountants.)[4]

(Art. 123. The militia shall not be brought into active service except by virtue of a law).[5]

Art. 124. Soldiers shall not be deprived of their grades, honors, or pensions except in the manner prescribed by law.

TITLE VI

GENERAL PROVISIONS

Art. 125. The Belgian nation adopts for its colors, red, yellow, and

[1] Law of October 29, 1840.

[2] This clause is interpreted to apply only to the denominations recognized by law in Belgium in 1830; these are the Catholic, Protestant Evangelical, Anglican, and Jewish; almost the whole of the Belgian population is Catholic. No minister is entitled to a salary (1) if he must receive license from a person practicing a profession without legal authorization (2) if, being a foreigner, he performs the ministerial functions without the permission of the government.

[3] See Laws of April 5, 1868, June 3, 1870, August 16, 1873, and March 21, 1902.

[4] This paragraph was stricken out by the 1921 revision.

[5] Article 123 was stricken out by the 1921 revision; but the succeeding articles were not renumbered.

black, and for the coat of arms of the Kingdom, the Belgian lion, with the motto, "Union Gives Strength".

Art. 126. The city of Brussels is the capital of Belgium and the seat of government.

Art. 127. No oath shall be imposed except by virtue of law. The form of the oath shall also be determined by law.

Art. 128. Every foreigner within the territory of Belgium shall enjoy protection of his person and property, except as otherwise established by law.

Art. 129. No law, ordinance, or regulation of the general, provincial, or communal government shall be obligatory until after having been published in the manner prescribed by law.

Art. 130. The Constitution shall not be suspended, either in whole or in part.

TITLE VII

THE REVISION OF THE CONSTITUTION

Art. 131.[1] The legislative power has the right to declare that a revision of such constitutional provisions as it shall designate is in order.

After this declaration, the two houses are *ipso facto* dissolved.

Two new houses shall then be summoned, in conformity with Article 71.

These houses, with the approval of the King, shall then act upon the points submitted for revision.

In this case the houses shall not deliberate unless at least two-thirds of the members of each are present, and no amendment shall be adopted unless it is supported by at least two-thirds of the votes.

TITLE VIII

TRANSITIONAL PROVISIONS

Art. 132. For the first choice of a head of the state the first provision of Article 80 may be neglected.

Art. 133. Foreigners established in Belgium before January 1, 1814, and who continue to reside therein, shall be considered Belgians by birth. upon condition that they declare their intention to take advantage of this provison.

Such declaration shall be made within six months after this Constitution goes into effect, if the foreigners are of age, and if they are minors, within the year after attaining their majority.

This declaration shall be made before the provincial authority of the province where they reside.

It shall be made in person or by an agent having a special and authentic authorization.

Art. 134. Until further provision by law, the House of Representatives shall have discretionary power to accuse a minister, and the Court of Cassation to try him, find the offense, and fix the penalty.

[1] Proposed for revision in 1921, but left unchanged.

Nevertheless the penalty shall not extend farther than removal from office, without prejudice to the cases expressly provided for by the penal laws.

Art. 135. The personnel of the courts shall be maintained as it now exists, until further provision has been made by law.

Such a law shall be enacted during the first legislative session.

Art. 136. A law, passed during the first legislative session, shall provide for the manner of the first nomination of members of the Court of Cassation [1].

Art. 137. The fundamental law of August 24, 1815, and the provincial and local statutes are abolished. However, the provincial and local authorities shall retain their powers until a law shall make other provision.

Art. 138. As soon as this Constitution goes into effect, all laws, decrees, orders, regulations, and other instruments contrary thereto are abrogated.

SUPPLEMENTARY PROVISIONS

Art. 139. The National Congress declares that it is necessary to provide for the following objects, by separate laws and as soon as possible:

1. The press.[2]
2. The organization of the jury.[3]
3. The finances.[4]
4. Provincial and communal organization.[5]
5. The responsibility of ministers [6] and of other officers.
6. The judicial organization.[7]
7. The revision of the pension list.
8. Measures proper to prevent the abuse of cumulative officeholding.
9. The revision of the laws of bankruptcy and of suspension.
10. The organization of the army, the rights of advancement and of retirement, and the military penal code.[8]
11. The revision of the codes.

The executive power is charged with the execution of the present decree.

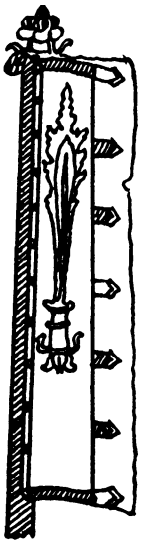
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[1] Article 99 provides for subsequent appointments.
[2] Decree of July 20, 1831, amended by the penal code in many of its provisions.
[3] See above, Article 94.
[4] Law of May 15, 1846.
[5] See above, Article 108.
[6] See above, Article 134.
[7] See above ,Article 94.
[8] Military Penal Code of May 27, 1870. See above, Article 118.

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BHUTAN

SUMMARY

Bhutan is a kingdom contiguous to India in the Himalaya Mountains. It is governed by a maharaja. Its independence was recognized by treaty between representatives of the British Empire and of Bhutan in 1865. A treaty with India, signed August 7, 1949 superseded the old treaties.

By the treaty of 1949 Bhutan agreed to be guided in its external relations by India. It receives from India an annual subsidy of 500,000 rupees (about $ 150,000).

No constitution, if such exists, has been available. The 1949 treaty with India is reproduced.

Area, Population Language

Bhutan has an area of about 18,000 square miles and an estimated population of 300,000. The language is a Tibetan dialect.

TREATY
between
INDIA AND BHUTAN[1]
August 7, 1949

The Government of India on the one part, and His Highness the Druk Gyalpo's Government on the other part, equally animated by the desire to regulate in a friendly manner and upon a solid and durable basis the state of affairs caused by the termination of the British Government's authority in India, and to promote and foster the relations of friendship and neighbourliness so necessary for the well-being of their peoples, have resolved to conclude the following treaty, and have, for this purpose named their representatives, that is to say Sri Harishwar Dayal representing the Government of India who has full powers to agree to the said treaty on behalf of the Government of India, and Deb Zimpon Sonam Tobgye Dorji, Yang-Lop Sonam, Chho-Zim Thondup, Rin-Zim Tandin and Ha Drung Jigmie Palden Dorji, representing the Government of His Highness the Druk Gyalpo, Maharaja of Bhutan, who have full powers to agree to the same on behalf of the Government of Bhutan.

Art. 1. There shall be perpetual peace and friendship between the Government of India and the Government of Bhutan.

Art. 2. The Government of India undertakes to exercise no interference in the internal administration of Bhutan. On its part the Government of Bhutan agrees to be guided by the advice of the Government of India in regard to its external relations.

Art. 3. In place of the compensation granted to the Government of Bhutan under Article 4 of the Treaty of Sinchula and enhanced by the treaty of the eighth day of January 1910 and the temporary subsidy of Rupees one lakh per annum granted in 1942, the Government of India agrees to make an annual payment of Rupees five lakhs to the Government of Bhutan. And it is further hereby agreed that the said annual payment shall be made on the tenth day of January every year, the first payment being made on the tenth day of January 1950. This payment shall continue so long as this treaty remains in force and its terms are duly observed.

Art. 4. Further to mark the friendship existing and continuing between the said Governments, the Government of India shall, within one year from the date of signature of this treaty, return to the Government of Bhutan about thirty-two square miles of territory in the area known as Dewangiri. The Government of India shall appoint a competent officer

[1] Printed at Presidents Press, New Delhi and kindly supplied by the Ministry of External Affairs in New Delhi.

or officers to mark out the area so returned to the Government of Bhutan.

Art. 5. There shall, as heretofore, be free trade and commerce between the territories of the Government of India and of the Government of Bhutan; and the Government of India agrees to grant the Government of Bhutan every facility for the carriage, by land and water, of its produce throughout the territory of the Government of India, including the right to use such forest roads as may be specified by mutual agreement from time to time.

Art. 6. The Government of India agrees that the Government of Bhutan shall be free to import with the assistance and approval of the Government of India, from or through India into Bhutan, whatever arms, ammunition, machinery, warlike material or stores may be required or desired for the strength and welfare of Bhutan, and that this arrangement shall hold good for all time as long as the Government of India is satisfied that the intentions of the Government of Bhutan are friendly and that there is no danger to India from such importations. The Government of Bhutan, on the other hand, agrees that there shall be no export of such arms, ammunition, etc., across the frontier of Bhutan either by the Government of Bhutan or by private individuals.

Art. 7. The Government of India and the Government of Bhutan agree that Bhutanese subjects residing in Indian territories shall have equal justice with Indian subjects, and that Indian subjects residing in Bhutan shall have equal justice with the subjects of the Government of Bhutan.

Art. 8. (1) The Government of India shall, on demand being duly made in writing by the Government of Bhutan, take proceedings in accordance with the provisons of the Indian Extradition Act, 1903 (of which a copy shall be furnished to the Government of Bhutan), for the surrender of all Bhutanese subjects accused of any of the crimes specified in the first schedule of the said Act who may take refuge in Indian territory.

(2) The Government of Bhutan shall, on requisition being duly made by the Government of India, or by any officer authorised by the Government of India in this behalf, surrender any Indian subjects, or subjects of a foreign power, whose extradition may be required in pursuance of an agreement or arrangements made by the Government of India with the said power, accused of any of the crimes, specified in the first schedule of Act XV of 1903, who may take refuge in the territory under the jurisdiction of the Government of Bhutan, and also any Bhutanese subjects who, after committing any of the crimes referred to in Indian territory, shall flee into Bhutan, on such evidence of their guilt being produced as shall satisfy the local court of the district in which the offence may have been committed.

Art. 9. Any differences and disputes arising in the application or interpretation of this treaty shall in the first instance be settled by negotiation. If within three months of the start of negotiations no settlement is arrived at, then the matter shall be referred to the Arbitration of three arbitrators, who shall be nationals of either India or Bhutan, chosen in the following manner: —

(1) One person nominated by the Government of India;
(2) One person nominated by the Government of Bhutan;
(3) A Judge of the Federal Court, or of a High Court in India, to be chosen by the Government of Bhutan, who shall be Chairman.

The judgment of this Tribunal shall be final and executed without delay by either party.

Art. 10. This treaty shall continue in force in perpetuity unless terminated or modified by mutual consent.

Done in duplicate at Darjeeling this eighth day of August, one thousand nine hundred and forty-nine, corresponding with the Bhutanese date the fifteenth day of the sixth month of the Earth-Bull year.

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BOLIVIA

SUMMARY

International Status

Bolivia is a member of the United Nations. It signed the Charter on June 27, 1945. It was a member of the League of Nations and was a party to the Statute of the Permanent Court of International Justice of 1921. It is a party to the Statute of the International Court of Justice of 1945 by virtue of its membership in the United Nations.[1] It is subject to the obligatory jurisdiction of that Court.[2] It was not a party to the Paris Treaty of 1928 for the renunciation of war.

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[1] See Art. 93 of the Charter of the United Nations.

[2] Declaration of acceptance signed July 5, 1948, see Yearbook of the Court, 1951–52, pp. 35–43, 187.

It is a member of the Organization of the American States, the Posta Union, and numerous other international organizations.[1]

Originally a Spanish colony, Bolivia declared its independence in 1825. Its first constitution was proclaimed on November 19, 1826. Since 1826 there have been 13 successive constitutions.

Form of National Government

A constitutional assembly composed of senators and deputies who had been elected in March, 1938, adopted a constitution in that year. By decree of April 24, 1939, the then President Busch suspended that Constitution, dissolved Congress, and set up a political and financial dictatorship. His proclamation, however, declared that the Constitution of 1938 would remain in effect in so far as it did not conflict with decree laws enacted by him. Many of his decree laws were contrary to the Constitution.

Late in 1939, President Quintanilla issued a decree law purporting to put the 1938 Constitution completely into effect, but at the same time the decree laws which had been enacted while the Constitution had been partially suspended, were also declared to be valid. Following that pronouncement, there were differences of opinion as to the exact constitutional status of the Bolivian decrees until the adoption of the 1945 Constitution.

A new constitution was adopted by Bolivia on November 23, 1945, and, with amendments adopted in 1947, is now in effect. Under the 1945 Constitution, the country is declared to be a "unitary republic" which adopts "the democratic representative form" of government.[2]

There are departments whose government is entrusted to prefects, sub-prefects, and mayors.[3]

Source of Sovereign Power

The 1945 Constitution declares that "sovereignty resides in the people" and that its exercise is "delegated to the legislative, executive, and judicial powers." [4] The people govern only "through their representatives and the authorities created by law," and "all armed forces or groups of persons who may attribute to themselves the rights of the people commit the crime of sedition."[5]

The rights of the people guaranteed in the Constitution emanate "from the sovereignty of the people and from the republican form of government." [6]

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[1] See Table I.
[2] Const. of 1945, Art. 1.
[3] Id., Art. 106. See also Arts. 148–153.
[4] Id., Art. 2.
[5] Id., Art. 4.
[6] Id., Art. 33.

Rights of the People

There are guarantees in the 1945 Constitution against slavery,[1] of the right to enter, travel in, and leave the national territory,[2] and to engage in lawful business[3] and to enter into associations and to assemble peacefully.[4] Freedom of the press [5] and of education [6] are guaranteed. There are extensive provisions against improper arrest and detention,[7] and protecting accused persons from being required to testify against themselves,[8] and against confiscation of property.[9] The Constitution also declares that private papers and correspondence [10] and houses [11] are inviolable.

Foreigners are placed, "as far as property is concerned," [12] in the same position as Bolivians, but they may not acquire property within fifty kilometers of the frontiers.[13]

Ex post facto laws [14] and banishment for political purposes [15] are prohibited.

There are constitutional provisions, however, contemplating "cases of grave disorder" and authorizing the Chief Executive with the approval of the Council of Ministers to declare a "state of siege" for a period of ninety days [16] during which time the constitutional rights of persons charged upon good grounds with conspiring against the tranquillity of the government [17] may be suspended.

The economic régime of the country "must satisfy essentially the principles of social justice, tending to insure to all the inhabitants a life worthy of the human being." [18] Legislation for the promotion of cooperatives, the protection of the health and life of workers, low cost housing, and technical education is required, [19] and the right to strike "as a defensive measure for workers" is recognized by the Constitution.[20] "The law shall determine the system by which employees and workers shall participate in the profits of enterprises." [21]

All Bolivian men are subject to military service.[22]

Legislative Department

Bolivia has a bicameral legislative body composed of a Chamber of Deputies and a Senate.[23] The Congress is granted specific powers under nineteen categories.[24]

Members of the Chamber of Deputies are elected directly by the people

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[1] Const. of 1945, Art. 5. [2] Id., Art. 6(a). [3] Id., Art. 6(b).
[4] Id., Art. 6(d). [5] Id., Art. 6(c).
[6] Id. Art. (f) (g) See also Arts. 154–164
[7] Id., Arts. 7–12.
[8] Id., Art. 14. [9] Id., Arts. 15, 17. [10] Id., Art. 15.
[11] Id., Art. 16. [12] Id., Art. 18. [13] Id., Art. 19.
[14] Id., Art. 31. [15] Id., Art. 35(4). [16] Id., Art. 34.
[17] Id., Art. 35(3). [18] Id., Art. 107. [19] Id., Arts. 123–130.
[20] Id., Art. 126. [21] Id., Art. 127. [22] Id., Art. 168.
[23] Id., Art. 47. [24]) Id., Art. 59.

for four year terms.[1] There are three senators for each department [2] who are elected for six year terms.[3]

Executive Department

Executive power is vested in the President of the Republic and ministers of state.[4] The President is elected by direct vote for a term of four years,[5] and may not be reelected except after a lapse of four years.[6]

Ministers are appointed and may be removed by the President.[7]

Judicial Department

There is a Supreme Court, and there are district courts and other courts established by law.[8] Judges are "independent and are subject only to the law." [9]

The Supreme Court may pronounce upon "the constitutionality or unconstitutionality of any law, decree, or resolution of any kind." [10]

Members of the Supreme Court serve for ten years, those of district courts six years.[11]

Area, Population, Language

Bolivia has an area of 416,040 square miles. Its population according to the 1950 census is 3,019,031. Spanish is the principal language of the country, though 50 per cent of the population are Indians speaking their own dialects only, and 25 per cent are of mixed blood.

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[1] Const. of 1945, Art. 65. [2] Id., Art. 69. [3] Id., Art. 71.
[4] Id., Art. 83. [5] Id., Arts. 84, 85.
[6] Id., Art. 85, effective after end of term of present incumbent, who will serve until August 6, 1951.
[7] Id., Art. 97. [8] Id., Art. 135. [9] Id., Art. 136.
[10] Id., Art. 153(5). [11] Id., Art. 145.

POLITICAL CONSTITUTION of the BOLIVIAN STATE

of November 23, 1945 [1] (as amended)

Section I

The Nation

Art. 1. Bolivia, a free, independent and sovereign nation, constituted as a unitary republic, adopts for its government the democratic representative form.

Art. 2. Sovereignty resides in the people; it is inalienable and imprescriptible; its exercise is delegated to the legislative, executive, and judicial powers. The independence and co-ordination of these powers is the basis of the government.

Art. 3. The state recognizes and upholds the Roman Catholic apostolic religion and guarantees the public exercise of any other worship.

Art. 4. The people neither deliberate nor govern except through their representatives or the authorities created by law.

All armed forces or groups of persons who attribute to themselves the rights of the people commit the crime of sedition.

Section II

Rights and Guarantees

Art. 5. Slavery does not exist in Bolivia. No type whatsoever of servitude is recognized and nobody shall be compelled to render personal services without due compensation and without his full consent.

Personal services may only be demanded when so established by law.

Art. 6. Every person has the following fundamental rights, in accordance with the laws which regulate their exercise:

(a) To enter, remain in, travel through, and leave the national territory;
(b) To engage in labor, commerce, or industry under conditions which do no harm to the collective welfare;
(c) To publish his ideas and opinions freely by any means of diffusion whatever;
(d) To enter into associations and to assemble for various activities, provided they are not contrary to the security of the State;
(e) To make petitions individually or collectively;
(f) To receive instruction;
(g) To teach under the supervision of the State.

[1] Translation from Spanish text published in *Revista de Estudios Jurídicos, Políticos y Sociales*, Sucre, July, 1946, with amendments of 1947 as reported to Department of State by American Embassy at La Paz.

Art. 7. No one shall be arrested, detained, or imprisoned, except in the cases and according to the forms established by law. For the execution of an order of arrest, or subpoena, it is required that this should be issued by competent authority and that it be served in writing.

Art. 8. Any person who deems himself unjustly arrested, indicted, or imprisoned, may appeal personally or through any one in his behalf, with or without power of attorney, to the superior court of the district, or to the district judge, at his option, to demand that all legal requisites be observed. The judicial authority shall immediately summon the individual to his presence and his summons shall be obeyed, without reservation or excuse, by those in charge of the prisons or places of arrest. Once acquainted with the facts, the judicial authority shall set the person free and see that any legal errors are corrected, or shall place the person at the disposal of the proper judges within a period of twenty-four hours. Recourse may be had to the Supreme Court of Justice against any decision given, but this recourse shall not suspend the execution of the sentence.

Public officials or private persons who resist judicial decisions, even in cases specified in this article, will be at any time deemed to be offenders against the constitutional guarantees, and the fact that they obeyed a superior authority shall not be accepted as an excuse.

Art. 9. Offenders caught *in flagrante delicto* may be arrested by any person, even without a warrant, provided it is for the sole purpose of taking them before the proper authority, who must examine them within twenty-four hours after the arrest at the latest.

Art. 10. Wardens of prisons shall not admit anyone as arrested, imprisoned, or detained without entering on the register a copy of the respective warrant. They can, nevertheless, retain within the prison limits those who have been arrested with the object of being brought before the proper judge within twenty-four hours.

Art. 11. Attacks against personal security render the immediate authors thereof responsible, and the fact that the offense was committed by order of a superior authority shall not be accepted as an excuse.

Art. 12. Public officials who, without a state of siege having been declared, shall take measures for the molestation, confinement, or exile of citizens, and have these measures carried out, as well as those who close printing establishments or any other means of free expression of thought, shall be subject to payment of a civil indemnity for damages, whenever it is proven, in due course of law, that said measures or steps were taken without due justification and in violation of the constitutional laws which guarantee the citizens' rights.

The manner of collecting the satisfaction for damages shall be determined by a special law.

Art. 13. No one shall be tried by special commissions, or by judges other than those designated prior to the time of the offense.

Art. 14. No one shall be compelled to testify against himself in a criminal court, nor shall those related to him by blood up to the fourth degree inclusive, or by affinity up to the second degree, be bound to depose

against him. In no case shall torture or any other kind of mortification be employed.

Art. 15. Confiscation of property shall never be applied as punishment for political offenses.

Private papers and correspondence are inviolable and shall not be seized except in cases determined by law and by written order of competent authority setting forth the reasons therefor. Intercepted letters and private papers seized in violation of this provision shall have no legal effect.

Art. 16. Every house is an inviolable asylum; at night it shall not be entered without the consent of the person who inhabits it, and in the daytime, entrance thereto is only allowed on written order of a lawful authority setting forth the reasons therefor, except *in flagrante delicto.*

Art. 17. Private property is guaranteed, provided that the use made thereof shall not be prejudicial to the public interest. Expropriation is effected for reasons of public utility or when property does not serve a social purpose; it must be authorized in accordance with the law and upon previous and just indemnity.

Art. 18. Foreign subjects or enterprises shall be, as far as property is concerned, in the same position as Bolivians, and in no case will they be entitled to invoke exceptional position or to have recourse to diplomatic representations, except in cases where justice is denied.

Art. 19. Within fifty kilometers of the frontiers, foreigners may not acquire or own, under any title, soil or sub-soil, directly, individually or corporatively, under penalty of losing the property acquired to the State, except in case of national need as declared by special law.

Art. 20. No tax is obligatory unless it has been established in accordance with the provisions of this Constitution. Those prejudiced may bring proceedings before the Supreme Court of Justice against any illegal taxation. Municipal taxes are obligatory when levied in accordance with the principles established in this Constitution.

Art. 21. Taxes and other public charges are equally obligatory on all. Their creation, distribution, and suppression shall be of a general character and must be determined on the basis of equal sacrifice for the taxpayers, proportionately or progressively, according to the circumstances.

Art. 22. The property of the Church and of religious or welfare organizations shall enjoy the same guarantees as are granted to property of private individuals and shall be subject to the obligations and limitations established by law.

Art. 23. All persons shall enjoy civil rights, the exercise of which shall be regulated by civil law.

Art. 24. The legislative power alone has authority to alter or modify the codes or enact rules or provisions concerning judicial procedure.

Art. 25. The penalties of infamy and civil death do not exist. The penalty of death will be imposed only in cases of assassination, parricide, and treason to the country. Treason means complicity with the enemy in time of foreign war.

Art. 26. Roads built by private citizens shall be open to public use.

A special law shall regulate the exercise of this right, as well as the State's and the private citizens' collaboration in their maintenance.

Art. 27. The acts of those who usurp functions not belonging to them are null and void, as are also the acts of those who exercise jurisdiction or power not emanating from law.

Art. 28. The principles, guarantees, and rights recognized in this Constitution shall not be changed by laws intended to regulate their exercise, and regulation is not a prerequisite to their observance.

Art. 29. No one shall be compelled to do what the Constitution or the laws do not order, or to deprive himself of things not forbidden under them.

Art. 30. Those guilty of violation of constitutional rights and guarantees shall be subject to ordinary jurisdiction.

Art. 31. The law provides only for the future and has no retroactive effect.

Art. 32. Any public official, either civil, military, or ecclesistical, shall be compelled before assuming his duties to declare, expressly and specifically, the amount of his property or income, which shall be checked in manner prescribed by law.

Art. 33. The declarations, rights, and guarantees stated in the Constitution, shall not be taken as negations of other rights or guarantees not proclaimed therein, which emanate from the sovereignty of the people and from the republican form of government.

Section III

Preservation of Public Order

Art. 34. In cases of grave danger caused by internal commotion or foreign war, the chief of the executive power, with the approval of the council of ministers, may declare a state of siege in such portion of the territory as may be necessary.

Should Congress meet either in ordinary or extraordinary session, while the Republic, or a portion thereof, is in a state of siege, continuation of the same shall be authorized by legislative action. The same procedure shall apply should the state of siege be decreed by the executive power while the chambers are in session.

Should the executive fail to lift the siege within ninety days, upon the termination of this period, it shall in fact expire, except in case of a declaration of international war or of the existence of a civil war. Any persons having been subject to restriction shall be set free, unless they have been placed under the jurisdiction of the proper courts. The excutive may not extend the state of siege beyond ninety days, neither may he declare another state of siege within the same year without the consent of Congress. To this effect, he shall call Congress to extraordinary sessions should the case occur during a recess of the chambers.

Art. 35. The declaration of a state of siege produces the following effects:

(1) The executive shall have power to increase the standing army and to call to active service the reserves which he may deem necessary.

(2) He shall have the power to collect in advance national taxes and revenues which may be indispensable, and to raise and demand in the form of a loan a sufficient amount of resources, whenever the expenses cannot be met with the ordinary revenues. In the case of forced loans, the executive shall fix the quotas and shall distribute them among the taxpayers in accordance with their financial capacity.

(3) The guarantees and rights granted by this Constitution shall not be *de facto* suspended in general through the declaration of a state of siege; but they may be suspended in regard to indivduals charged upon good grounds with conspiring against the tranquillity of the Republic in the manner set forth in the following paragraphs.

(4) The legitimate authority may issue summons or orders of arrest against the accused, but they shall be placed at the disposal of the competent court to whom it shall transfer the documents covering the cause of arrest within a maximum period of forty-eight hours.

Should the maintenance of public order necessitate the transportation of the suspected persons to some other place, their confinement to a capital of department or province that is not unfavorable may be ordered.

Banishment for political causes is forbidden, but in no case shall a passport to go abroad be denied to any person confined, sought, or arrested for said causes, who may request it, and the authorities shall grant him all the necessary guarantees.

Persons entrusted with the execution of these orders who violate these guarantees may be charged, after the expiration of the state of siege, with attempt to violate the constitutional guarantees, and the fact that they obeyed superior orders shall not excuse them.

(5) He [the executive] may likewise impose a censorship of the mails in general and establish the use of transit passports for persons entering or leaving the territory under state of siege. In case of international war, he shall establish a censorship of the mails and of all means of publicity.

Art. 36. The government shall report to Congress, at the next session, on the reasons why the state of siege was declared and the use made by it of the powers vested in it by this section, setting forth the result of judicial proceedings instituted during the same and suggesting measures necessary to meet the debts incurred, whether by direct loans or the collection of taxes in advance.

Art. 37. Congress shall devote its first meetings to the examination of the report referred to in the preceding article and either approve it or fix the responsibility incurred by the executive power.

The chambers may, to that effect, conduct any investigations they may deem necessary, and request of the executive an explanation and justification of all his actions relating to the state of siege, even if they did not appear on the statement rendered.

Art. 38. Neither Congress nor any association or public gathering shall have authority to grant to the executive extraordinary faculties, or the whole public power, or give to it supremacy by which the life, honor, and property of the Bolivian people should be at the mercy of the government or of any person whatsoever.

The personal inviolability and the immunities established by this constitution for the national representatives are not suspended during a state of siege.

Section IV

Nationality and Citizenship

Art. 39.[1] The following are Bolivians:

1. Those born in the territory of the Republic, with the exception of children of foreigners who are in Bolivia in the service of their governments and children of foreigners in transit, who may choose between Bolivian nationality and that of their parents upon reaching 18 years.

2. Those born in foreign countries of a Bolivian father or mother by the sole act of coming to live in national territory or of registering in the consulates.

3. Those foreigners who having resided two years in the Republic declare before the respective municipal council of the department their will to acquire Bolivian nationality, renouncing their previous nationality.

The period of residence will be reduced to one year in the consideration of foreigners who find themselves in the following cases:

(a) Who either are married to Bolivians or have Bolivian children.
(b) Who are real estate owners or introduce some industry or invention useful for the general public.
(c) Who are impresarios of railroads and transports.
(d) Who are teachers.
(e) Who are immigrants contracted by the Government.

4. Those foreigners who being of legal age do military service may obtain their naturalization without other requirement.

5. Those foreigners who for their services may obtain naturalization from the Chamber of Senators.

Art. 40. (Deleted).[1]

Art. 41.[1] A Bolivian woman married to a foreigner does not lose her nationality. A foreign woman married to a Bolivian acquires her husband's nationality, provided she resides in the country and states her agreement, and she does not lose it in case of widowhood or divorce.

Art. 42.[1] Nationality is lost upon acquiring foreign nationality; it may be regained by living in Bolivia.

Art. 43. Citizenship consists of: (1) the right to participate, either as an elector or an elected candidate, in the constitution or exercise of the public powers; (2) the right to be eligible for all public functions, with no other requisite than that of fitness, saving the exceptions established by law.

Art. 44. To be a citizen it is required: (1) to be a Bolivian; (2) to be twenty-one years of age; (3) to be able to read and write; and (4) to be inscribed in the civic register.

Art. 45.[1] The rights of citizenship are suspended:

1. By taking up arms or doing service in an enemy army in the time of war.

2. By declared bankruptcy which is fraudulent, or by conviction and corporal penalty sentence.

3. By accepting a foreign government post without the permission of the Senate, except university and cultural posts in general.

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[1] Amendment reported by American Embassy at La Paz December 11, 1947.

Art. 46. For the establishment of municipalities Bolivian women are recognized as having the right of election and eligibility, under the same conditions as men, in addition to the right of citizenship referred to in the second part of Article 43 of this Constitution.

Section V

The Legislative Power

Art. 47. The legislative power is vested in the National Congress, composed of two chambers, one of deputies and one of senators.

Congress shall meet in ordinary session every year in the capital of the Republic on the sixth day of August, without the necessity of a previous call; the sessions shall last ninety working days, which may be extended to one hundred twenty, either by the will of Congress or upon request of the executive power. If at any time the executive deems it expedient for the ordinary Congress not to meet in the capital of the Republic, a call may be issued designating another place for the meeting.

Art. 48. Congress may assemble in extra session, when so resolved by absolute majority of both houses, or by call of the executive. In both cases Congress shall devote itself exclusively to the business designated in the call.

Art. 49. The chambers shall meet simultaneously, in the same city, with the attendance at least of an absolute majority of their respective members, and one house shall not open or close its sessions on a different day from the other.

Art. 50. Any deputy or senator may be made President or Vice-President of the Republic, minister of state or diplomatic agent, but he shall be suspended from the exercise of his legislative functions as long as he holds such positions. Besides these, he shall not exercise any other positions depending upon the executive or judicial powers.

Art. 51. Civil employees, soldiers in active service and clergymen with assignments shall not be elected national representatives, exception being made of university professors.

Art. 52. Deputies and senators are inviolable at all times for the opinions expressed by them in the discharge of their duties.

Art. 53. No deputy or senator shall be accused, prosecuted, or arrested in any matter from the day of his election until the end of his term of office, without the consent of the house to which he belongs. In civil matters he may not be sued during a period beginning sixty days before the meeting of Congress and ending at the time at which he reaches his place of residence.

The Vice-President of the Republic, in his capacity of president of the National Congress and of the Senate, enjoys the same immunities and prerogatives granted to senators and deputies.

Art. 54. No senator or deputy shall purchase or lease public property in his name or in the name of a third person, nor shall he take over contracts for public works or for sale of supplies, or obtain concessions or any other kind of personal advantages. Nor may he, during his term of office, be an employee of an independent body or attorney for a corpora-

tion or enterprise which has business with the State. Violation of this provision shall mean the loss of his popular mandate upon a resolution of the respective chamber in accordance with Article 60, paragraph 4, of this Constitution.

Art. 55. During their constitutional term of office, senators and deputies may make representations to the executive power to secure compliance with the legal resolutions and also set forth the needs and means of improvement of their respective electoral districts.

Art. 56. When the same citizen is elected deputy and senator at the same time, he shall choose the office which he prefers. Sould he be elected senator or deputy for two districts or deparmtents, he shall be free to accept either.

Art. 57. Senators and deputies may be re-elected and they may resign their positions at will.

Art. 58. The sessions of Congress and of both houses shall be public, and they may only be secret when two-thirds of the members thereof so resolve.

Art. 59.[1] The following are the functions of the legislative power:

(1) To enact laws, repeal, amend, or interpret them;

(2) To levy taxes of any kind or nature, abolish the existing ones, determine their national, departmental or municipal character, and fix the fiscal charges. Taxes shall be established for indefinite time unless the respective laws fix a definite time for their continuance in force;

(3) To fix the expenditures of the public administration for each fiscal year, after presentation of the draft of budget by the executive power;

(4) To fix, likewise, in each legislative session, the military forces to be maintained in time of peace;

(5) To authorize the executive to contract loans and to provide the funds necessary to service them; to recognize the debts contracted and to provide the means of paying them;

(6) To create new departments or provinces and designate their limits; to create major ports and establish custom houses;

(7) To fix the weight, fineness, value, type, and denomination of the national coins; to authorize the issue and circulation of bank notes and regulate the system of weights and measures;

(8) To grant subsidies or guarantees of interest for the construction of railroads, canals, roads, and any other means of communication;

(9) To allow the transit of foreign troops through the territory of the Republic, establishing the time which they will be allowed to remain therein;

(10) To authorize national troops to leave the territory of the Republic, fixing the time for their return;

(11) To create and abolish public offices, fix their emoluments, and determine or modify their functions;

(12) To decree amnesties for political offenses; to grant pardons after hearing the opinion of the Supreme Court;

(13) To approve or reject international treaties and conventions of all kinds;

(14) To authorize the alienation of national, departmental, municipal, or university property, and of any which may pertain to the public domain;

(15) To authorize the purchase by the executive of immovable property and to approve the purchases effected;

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[1] As amended August 28, 1947.

(16) To exercise the right of diplomatic influence over acts not yet consummated, or international engagements of the executive power;
(17) To approve or disapprove annually the disbursement accounts of funds allotted for the expenses of the public administration, which the government must submit at the first session of each legislative period;
(18) To appoint the justices of the Supreme Court of Justice;
(19) To authorize the universities to contract loans.

Section VI

The Congress

Art. 60.[1] The following are the functions of each chamber:

(1) To verify the credentials of its respectives members. The invalidation of the credentials of senators and deputies may be sought only before the Supreme Court, whose decision shall be not subject to revision by the chambers. If, in verifying credentials not referred to the Court, a chamber finds reasons for nullification, it shall, by resolution by two-thirds vote, subject the case to the cognizance and decision of the said tribunal.
(2) To organize its board of managers;
(3) To prescribe regulations and to correct infractions thereof;
(4) To suspend temporarily or definitively any of its members for grave misdoings in the exercise of their functions, provided two-thirds of the voting members concur;
(5) To order payment of its budgets and to attend to everything related to its internal government and policing.

Art. 61.[1] The chambers shall meet in joint session for the following purposes:

(1) To open and close sessions;
(2) To examine the certificates of election for President and Vice-President of the Republic, or to make the election itself, if they have not received the absolute plurality of votes, in accordance with the provisions of this Constitution;
(3) To administer the oath of office to the officials named in the preceding paragraph;
(4) To accept, or refuse to accept, their resignations.
(5) To exercise the functions referred to in subdivisions 13 and 17 of Article 59;
(6) To reconsider the bills vetoed by the executive;
(7) To declare war on petition of the executive;
(8) To determine the strength of the armed forces;
(9) To consider bills approved by the originating house but not approved by the reviewing chamber;
(10) To decide, by a majority of two-thirds of its total members, the conflicts of jurisdiction in the chambers, the executive, or the Supreme Court of Justice, and by absolute majority of votes those between these powers or between the district courts and the cassation court;
(11) To exercise the rights attributed to it in Articles 34, 36, and 37 of this Constitution;
(12) To take cognizance, according to the law, of charges against the President and Vice-President of the Republic, ministers of state, diplomatic agents and the comptroller general of the Republic, for offenses committed in the exercise of their functions.

Art. 62. In no case shall Congress delegate to one or any of its

[1] As amended August 28, 1947.

members, or to any other power, the functions given to it by this Constitution.

Art. 63. The chambers may pass a vote of censure on the acts of the executive, addressing it against the ministers of state, either separately or jointly, as the case may be, with the object of obtaining a modification of the political procedure motivating the vote of censure.

For the exercise of this right, the decision of the chamber in which it has originated by a vote of an absolute majority of the members present is sufficient.

Art. 64. Each one of the chambers, on written motion of any of its commissions or members, has the right to request the presence in the chamber of the ministers of state, to receive any information it may deem necessary, whether for legislative purposes or for purposes of inspection or censure.

Section VII

Chamber of Deputies

Art. 65. The deputies shall be elected directly by the people, by simple plurality of votes. They shall serve for four years, but half of their number shall be renewed every two years. In the first period, those retiring shall be designated by lot. The law shall regulate these elections and shall fix the number of deputies.

Art. 66. To be a deputy it is necessary:

(1) To be a Bolivian by birth;
(2) To have fulfilled the military duties;
(3) To be inscribed in the civic register;
(4) To be twenty-five years of age;
(5) Not to have been condemned to corporal punishment by the courts nor to have judgments or writs of execution pending against him.

Art. 67.[1] The exercise of the 3rd, 4th and 5th functions under Article 59 shall be initiated in the Chamber of Deputies upon the proposal of one or more of its members or of the executive power.

Art. 68.[1] It belongs to the Chamber of Deputies to elect the judges of the Supreme Court of Justice by an absolute majority of votes, from lists of three candidates proposed by the Senate, and to impeach the justices of the Supreme Court before the Senate for offenses committed in the exercise of their functions.

Section VIII

The Chamber of Senators

Art. 69. The Senate of the Republic shall be composed of three senators for each department.

Art. 70. To be senator it is necessary: to be thirty-five years of age and to fulfill the conditions required of a deputy.

Art. 71. Senators shall exercise their functions for six years. The

[1] As amended August 28, 1947.

Senate shall be renewed by thirds, one-third having to be retired by lot in each of the first two periods of two years.

Art. 72. The following are the functions of this chamber:

(1) To hear the accusations made by the Chamber of Deputies against the members of the Supreme Court, in accordance with the law of responsibilities.

The Senate shall try without appeal the justices of the Supreme Court and shall pass sentence and exact the corresponding responsibility, under the accusation from the Chamber of Deputies, emanating from the complaint of injured parties or from accusation by any private citizen.

In the cases mentioned in the two foregoing paragraphs, a majority of two-thirds of the votes of the members present shall be required.

A special law shall regulate the course of the proceedings and the formalities to be observed at these trials;

(2) To restore Bolivian nationality or citizenship, as the case may be, to those who have lost it;

(3) To allow Bolivians to accept employment, titles, or emoluments from foreign governments;

(4) To review the municipal statutes;

(5) To grant public honors to those who may deserve them for prominent services to the nation;

(6) To propose candidates for the election of justices of the Supreme Court to the Chamber of Deputies, in groups of three;

(7) To propose, in groups of three, candidates for the election of comptroller general and attorney general of the Republic to the President of the Republic;

(8) To propose the names of three ecclesiastics for archbishop and bishops, so that they may be submitted by the executive power for the canonical establishment;

(9) To grant, by two-thirds of the votes, financial rewards;

(10) To elect, by absolute majority of votes, the judges of the district courts, from lists of three proposed by the Supreme Court.

Section IX

Laws and Resolutions of the Legislative Power

Art. 73.[1] Laws, except in cases specified in the third, fourth, and eleventh paragraphs of Article 59, may originate in the Senate or in the Chamber of Deputies, on the proposal of one or more of their members or through a message from the executive, on condition, in the latter case, that the bill is supported during the discussion by the minister of the corresponding department.

The Supreme Court may, by means of a message directed to the legislative power, present bills for the amendment of the Codes.

Art. 74.[1] A bill passed in the chamber of origin shall be forwarded immediately to the other chamber for disccusion. If the other chamber approves it, it shall be sent to the executive power for promulgaton.

Art. 75. Bills rejected in the chamber of origin shall not be reintroduced in either chamber until the next session.

Art. 76. If the reviewing chamber confines its action to amending or modifying the bill, the latter shall be considered accepted if the chamber of origin concurs by absolute majority in the amendments or modifica-

[1] As amended August 28, 1947.

tions. But if the amendments are not accepted, or if they are corrected or changed, the two chambers shall meet in joint session upon the call of the president of either chamber within twenty days, to deliberate on the bill. If the latter passes, it shall be sent to the executive for its promulgation as a law of the Republic; but if it fails to pass, it shall not be reintroduced except at a subsequent session.

Art. 77.[1] If the reviewing chamber fails to act on the bill within twenty days, the chamber of origin shall demand action upon it within a new period of ten days, at the end of which it shall be considered in joint session.

Art. 78.[1] Any bill sanctioned by the legislative power may be objected to by the President of the Republic within ten days from the date on which he received it.

Any bill not objected to within the ten days shall be promulgated as a law. Should Congress adjourn before the expiration of said period, the President of the Republic shall publish the message containing his objections, in order that it may be taken up at the next session of the legislature.

Art. 79.[1] The objections of the executive shall be addressed to the chamber of origin. If the latter and the revising chamber, assembled in joint session, find them well-founded and amend the bill accordingly, it shall be returned to the executive for its promulgation.

If the objections are found by both chambers, by a majority of two-thirds of the members present, to be groundless, the President of the Republic shall promulgate it as law within a further period of ten days.

Art. 79A.[2] Laws not vetoed and not promulgated by the President of the Republic within ten days from his receipt of them shall be promulgated by the president of the Congress.

Art. 80. Legislative and chamber resolutions do not require promulgation by the executive.

Art. 81. Promulgation of the laws shall be made by the President of the Republic in this form:

> "Whereas the National Congress has sanctioned the following law: .... Therefore, I hereby promulgate it so that it may be kept and obeyed as a law of the Republic."

Congressional resolutions shall be promulgated in this form:

> "The National Congress of the Republic, resolves: .... Therefore, it shall be observed in accordance with the Constitution."

Art. 82. The law is obligatory from the day of its promulgation, unless provision to the contrary is made in the law itself.

Section X

The Executive Power

Art. 83. The executive power is exercised by the President of the Republic, together with the ministers of state.

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[1] As amended August 28, 1947.

[2] Added, without a number, August 28, 1947.

Art. 84. The President of the Republic shall be elected by direct vote. At the same time and in the same manner, the Vice-President shall be elected.

Art. 85. The constitutional term of office of the President and of the Vice-President of the Republic is four years, which cannot be prorogued. Neither of them may be re-elected, and the Vice-President cannot be elected President of the Republic, until four years after the expiration of their terms of office.

Art. 86. To be elected President or Vice-President of the Republic the qualifications required for a senator are necessary.

Art. 87. The following cannot be elected either as President or Vice-President of the Republic:

(1) The ministers of state who fail to vacate their offices six months prior to the election date.

(2) The members of the armed forces in active service and those of the regular clergy.

(3) Blood relations and those in the second degree of affinity of the persons who exercise the Presidency and Vice-Presidency of the Republic during the year previous to the presidential election.

(4) Contractors of public works and services; the administrators and directors, agents and representatives of enterprises subsidized by the State or of societies and establishments in which the national treasury has a financial participation; the administrators and collectors of public funds in the process of settling their accounts.

Art. 88. If none of the candidates for President or Vice-President of the Republic should obtain an absolute plurality of votes, Congress will select from among those who have obtained the largest number of votes for either position three candidates, and from them it will make the election.

If after the first ballot no one secures an absolute majority of the votes of the representatives present, a second ballot shall take place, but only the two candidates who received the highest number of votes shall be balloted for. If the votes are equally divided, the vote shall be repeated until one of the candidates obtains an absolute majority of votes.

The election, the counting of votes, and the proclamation shall be made in public and permanent session.

Art. 89. The proclamation of the election of the President and Vice-President shall be made to the nation by means of a law.

Art. 90. Upon taking possession of their offices, the President and Vice-President of the Republic shall take solemn oath of fealty to the Republic and the Constitution before Congress.

Art. 91. Should the President of the Republic be unable to fulfill his duties or remain temporarily absent, either before or after the proclamation, he shall be replaced in the interim by the Vice-President and, if the latter is not available, by the president of the Senate or by the president of the Chamber of Deputies, if the latter cannot act.

The Vice-President shall occupy the Presidency of the Republic, should this remain vacant, either before or after the proclamation of the election of the President, and shall act as President until the end of the constitutional period. If there is no Vice-President, the president-elect of the Senate will act in his stead, or, if the latter cannot act, the president of the

Chamber of Deputies shall act as President. In the latter case, and provided that not over three years of the presidential term have elapsed, a new election for President and Vice-President will be held, but only to complete said period.

Art. 92. As long as the Vice-President is not acting as President of the Republic, he shall be the president of the Senate; but the Senate may nevertheless elect a president *pro tem.*, who shall serve in his absence.

Art. 93. The President of the Republic shall not leave the national territory without the consent of Congress.

Art. 94.[1] The President shall have the following powers and duties:

(1) To comply and cause others to comply with the provisions of the laws, and issue to that effect the orders and decrees which may be necessary, without entering into any restrictive definition of rights or alteration of the rights defined by law, and without contravening any of their provisions, keeping in mind the restrictions contained in this Constitution;

(2) To negotiate and conclude treaties with foreign nations and to exchange them when approved by Congress;

(3) To conduct the foreign relations; to appoint diplomatic and consular agents; to receive foreign officials in general. The appointment of ambassadors and ministers plenipotentiary shall be subject to the approval of the Senate; but these officials are of the exclusive confidence of the President of the Republic and shall retain their posts so long as they continue to enjoy that confidence;

(4) To concur in the enactment of the laws by means of special messages;

(5) To call Congress to convene in extraordinary sessions;

(6) To supervise the collection and management of the national revenue and order its disbursement through the ministers of the respective departments, in accordance with the law and with strict subordination to the budget;

(7) To submit to Congress at the first regular session the national and departmental budgets for the following fiscal year and to propose during its effectiveness the modifications he considers necessary. The account of public expenditures under the former budget shall be presented annually;

(8) To watch over the resolutions passed by the municipalities, especially in regard to revenue and taxation, and denounce before the Senate those which are contrary to the Constitution and laws, whenever the offending municipality refuses to yield to the remonstrances of the executive;

(9) To submit annually to Congress, in its first ordinary session, a written message on the state of the business of the administration during the year, the said message to accompany the reports of the ministers;

(10) To give to the chambers, through the respective ministers, any reports they may request, but he may withhold those referring to diplomatic matters which he deems it may be unwise to make public;

(11) To grant commutation of the sentence of death in conformity with the law;

(12) To enfore the decisions of the courts;

(13) To grant amnesties for political offenses without prejudice to those that may be granted by the legislative power;

(14) To grant pensions, retirements, and gratuities in accordance with the laws;

(15) To exercise the rights of national patronage over churches and ecclesiastical institutions, benefices, property, and persons;

(16) To nominate archbishops and bishops, selecting them from the lists of three candidates submitted by the Senate for each place, and to appoint

[1] As amended August 28, 1947.

canons, prebendaries, and other church dignitaries from among those suggested by the ecclesiastical chapters;

(17) To grant or refuse, with the concurrence of the Senate, the exequatur to the decrees of the councils, to the briefs, bulls, and rescripts of the Supreme Pontiff. A law shall be required when the ecclesiastical provisions above referred to contain general and permanent provisions;

(18) To appoint the attorney general and the comptroller general of the Republic from lists of three candidates proposed by the national Senate, and the presidents of the economic and social bodies in which the State participates, from lists of three candidates proposed by the Chamber of Deputies;

(19) To appoint employees of the administration, whose designation is not reserved by law to another power, and to issue their credentials;

(20) To appoint ad interim, in cases of resignation or death, officers. who should be elected or nominated by some other power, whenever this power is in recess;

(21) To attend the opening and closing of the sessions of Congress;

(22) To preserve and defend the internal order and external safety of the Republic according to the Constitution;

(23) To appoint the commander-in-chief of the army;

(24) To propose to the Senate, in case of vacancies, promotions of generals and colonels, with a report of their services and promotions;

(25) To confer on the field of battle, during an international war, the ranks of colonel and general;

(26) To grant, according to law, exclusive temporary privileges to inventors, improvers, or importers of processes or methods useful in the arts and sciences, and to indemnify them in case the secret of the invention, improvement or importation is published;

(27) To create and organize minor ports of entry.

Art. 95. The rank of captain-general of the army is inherent in the position of President of the Republic.

Art. 96. The President of the Republic shall visit, at least once during the term of his office, the various centers of the nation in order to study their needs, and shall give full account of his observations to the legislative power.

Section XI

The Ministers of State

Art. 97. The business of the public administration shall be transacted by the ministers of state, whose number the law designates. For their appointment or removal, a decree of the President of the Republic shall be sufficient.

Art. 98. To be a minister of state, the same qualifications are required as to be a member of the Chamber of Deputies.

Art. 99. The ministers of state are responsible for the acts of the administration in their respective branches jointly with the President of the Republic.

They shall be jointly liable for the acts agreed to at the council of the cabinet.

Art. 100. All decrees and orders of the President of the Republic must be signed by the minister of the respective department and shall not be obeyed without this requisite.

Art. 101. The ministers of state may be present at the debates in either house, but they shall withdraw before the vote is taken.

Art. 102. As soon as Congress opens its sessions, the ministers of state shall submit to it their respective reports on the condition of business in their departments, in the form set forth in Article 94, clause (9).

Art. 103. The account of the disbursement of the revenues, which the minister of the treasury must render to Congress, will carry the approval of the various ministers so far as their respective departments are concerned.

All the ministers shall participate in the preparation of the general budget in so far as their respective departments are concerned.

Art. 104. A verbal or written order from the President of the Republic shall not exempt from responsibility the ministers of state.

Art. 105. They may be prosecuted for the offenses they may commit in the discharge of their duties in accordance with the law of responsibilities.

Section XII

Internal Régime

Art. 106. The government of each department, in political and administrative matters, shall be entrusted to prefects, subprefects and mayors, whose duties as well as requirements for election shall be determined by law.

Section XIII

Economic and Financial Régime

Art. 107. The economic régime must satisfy essentially the principles of social justice, tending to insure to all inhabitants a life worthy of the human being.

Art. 108. Within the original domain of the state, in addition to the property to which the law now gives that character, are all products of the mineral kingdom, all uncultivated lands with their natural resources, all lakes, rivers, and medicinal waters, as well as all physical forces susceptible of economic utility. The laws shall establish the conditions of said domain as well as those governing the adjudication of rights to private parties.

Art. 109. The State may regulate by law the exercise of commerce and industry, whenever the public security or necessity may so require. It may likewise assume, in these circumstances, the high direction of the national economy. This intervention may be exercised in the form of control, stimulation, or by direct steps.

Art. 110. The State may, subject to legislative approval in Congress, establish a fiscal monopoly of specified exportations, provided that the necessities of the country so require. It shall likewise control the amounts available in foreign currency.

The exportation of petroleum and its derivatives, of public or private ownership, shall be made only by the State or by an entity representing it.

Also the importation of raw materials for the national industry may be made by the State or by an entity representing it.

Art. 111. All enterprises established for developments, profit or trade

within the country shall be deemed to be national enterprises and shall be subject to the sovereignty, the laws and the authorities of the Republic.

Art. 112. The State revenues are classified as national, departmental, and municipal revenues and shall be independently administered by their respective treasuries. No money shall be withdrawn from said treasuries except in accordance with the respective budgets. An organic law shall classify the national, departmental, and municipal revenues. Departmental, municipal, or university revenues, collected by offices dependent on the national treasury, shall in no manner be centralized in said treasury.

Art. 113.[1] The executive shall present to Congress, at its first regular session, the national and departmental budget bills. Upon the presentation of the report of the respective commission or without such report, at the end of 20 days from the first regular session, the budget bills shall be considered immediately by the Chamber of Deputies in permanent session. The Senate shall proceed in the same way, the 20 days for its consideration of the budget bills being counted from the date of their delivery to its secretariat.

Art. 114.[1] If the national and departmental budgets are not approved within ninety days after the commencement of the legislative work, the budget of the current fiscal year shall continue in force the next fiscal year. If Congress does not approve the budget for two consecutive years, the last budget presented by the executive and not approved shall be in force during the next fiscal year.

Art. 115. All bills which may entail expenses for the State shall indicate, at the same time, the manner of meeting said expenses and the disposition thereof.

Art. 116. The public debt shall be guaranteed. All engagements of the State, made in accordance with the law, shall be inviolable.

Art. 117. The floating debt incurred by the executive within a fiscal year shall definitely be liquidated during the following financial period.

Art. 118. The general income and expense account of each financial period shall be submitted to Congress, at its first session, by the minister of the treasury.

Art. 119. Autonomous and semi-autonomous State organizations shall also submit yearly to Congress an account of their income and expenses, accompanied by a report from the comptroller general of the Republic.

Art. 120. Departments and municipalities may not establish protective or prohibitory systems which may affect the interests of other districts within the Republic, neither may they issue regulations favoring the inhabitants of the department or excluding any other Bolivians.

Art. 121. There shall be an office of bookkeeping and fiscal control which shall be called office of the comptroller general of the Republic. The law shall define the rights and duties of the comptroller general and of the officials of his bureau. The comptroller general shall be directly responsible to the President of the Republic and shall be appointed by the latter from among three candidates proposed by the Senate; he will

[1] As amended August 28, 1947.

have the remuneration of a minister of state and enjoy the same irremovability as the justices of the Supreme Court of Justice.

Art. 121 A.[1] In considering the budget bills, the chambers may accept, reduce, or reject the services, salaries, increases and posts proposed but may not create new items. This provision shall not apply to the services attached to the legislative power.

Art. 121 B.[1] The President of the Republic, with the approval of the Council of Ministers, may order payments not authorized by the budget law, solely to meet undeferrable necessities resulting from public calamities, internal disturbance or exhaustion of resources allocated to the maintenance of services the discontinuance of which would gravely endanger the Republic. Expenditures for these purposes shall not exceed one per cent of the total disbursements authorized for the national budget.

The Ministers of State and officials who recognize and give effect to orders for expenditures in violation of the provisions of this article shall be jointly responsible for restitution thereof and guilty of the crime of misapplication of public funds.

Section XIV

Social Régime

Art. 122. Labor and capital, as contributing factors to production, enjoy the protection of the State.

Art. 123. The law shall regulate the compulsory insurance on sickness, accident, unemployment, disability, old age, maternity, and death; dispossessions and indemnities to employees and workers; the work of women and minors; the maximum working day; the minimum wage; the day of rest on Sundays and holidays; yearly vacations and puerperal vacations with salary; medical and health assistance; and any other social benefits for the protection of the workers.

Art. 124. The State shall promote, by means of adequate legislation, the organization of all kinds of co-operatives.

Art. 125. The State shall issue regulations for the protection of the health and life of the laborers, employees, and workers of the fields; it shall take care that they have healthy quarters and shall promote the building of low-cost housing; it shall, likewise, supervise the technical education of manual laborers.

The authorities shall, likewise, supervise the public health and safety conditions under which labors by trades and professions are to be performed, as well as in the case of work in the fields and mines.

Art. 126. Freedom of professional and syndical organization is guaranteed, and the right of collective bargaining for labor is recognized. The union code and the right to strike, as a defensive measure for workers, in accordance with the law, are also recognized; laborers may not be discharged, prosecuted nor imprisoned for their union activities.

Art. 127. The law shall determine the system by which employees and workers shall participate in the profits of enterprises.

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[1] Added, without a number, August 28, 1947.

Art. 128. The State, by means of special courts or organizations, shall solve the conflicts between employers and employees or workers.

Art. 129. The rights and benefits granted by law in favor of workers and employees cannot be waived. Any agreements to the contrary, or those that may tend to evade the law, shall be null and void.

Art. 130. Social assistance is a function of the State. The law shall establish the conditions of this assistance. Health assistance is compulsory and obligatory.

Section XV

The Family

Art. 131. Matrimony, the family, and maternity are under the protection of the law. The legal equality of husband and wife is established.

De facto marriage is recognized in concubinal unions, only after the passage of two years of living together, established by all the means of proof or by the birth of a child, provided the parties have legal capacity to contract marriage. The law of the Civil Register shall complete such *de facto* unions.

Art. 132. The law does not recognize inequalities among children; they all have the same rights. The investigation of paternity according to law is permitted.

Art. 133. The law shall determine the family possessions which are unattachable and inalienable, as also the family subsidy in relation to the number of children.

Art. 134. The State has as its primary duty the protection of the physical, mental, and spiritual health of the children. The State upholds the right of the child to a home, to education, and to full assistance when he finds himself in a state of abandonment, sickness, or misfortune. The State shall entrust the performance of the provisions of this article to adequate technical organizations.

Section XVI

The Judicial Power

Art. 135. The judicial power shall be exercised by the Supreme Court, the district courts, and the other tribunals and courts established by law.

The administration of justice in the tribunals and courts shall be gratuitous.

Art. 136. Judges are independent and are only subject to the laws.

Art. 137. No extraordinary courts may be established.

Art. 138. Publicity in trials is an essential condition in the administration of justice, except when public morals may be offended thereby.

Art. 139. The courts shall not, on their own responsibility, allow justices or judges, not appointed in conformity with this Constitution or secondary laws, to enter into the discharge of their duties.

Art. 140.[1] The following are the functions of the ordinary courts:

(1) To take cognizance of and decide all litigation among private parties

[1] As amended August 28, 1947.

and between them and the State, when the latter acts as a person under private law;

(2) To decide the appeals for annulment, brought under Article 27 of the Constitution, against any act or resolution of any non-judicial public authority. These appeals shall be tried and decided by the courts and judges invested by law with the right to judge in initial proceedings the official who may have exceeded his powers;

(3) To decide on the validity or invalidity of elections in the cases specified by the Constitution and the laws.

Art. 141. The Supreme Court consists of ten justices and is divided into two parts.

Art. 142. To be a justice of the Supreme Court or attorney general, a person shall be required to have practiced law creditably for ten years and to fulfill the conditions required of a senator.

Art. 143.[1] In addition to its powers and duties, according to law, the Supreme Court shall have the following jurisdiction:

(1) To represent and direct the judicial power;

(2) To propose lists of three to the Senate for election of the judges of the district courts according to law. The respective appointments shall be issued by the Chief Justice;

(3) To issue the budgets of the department, giving instructions to the national treasury as to payments to be made thereunder;

(4) To take cognizance of appeals for annulment and decide, at the same time, the main argument;

(5) To take cognizance, without appeal, of cases of pure law, wherein the decision rests upon the constitutionality or unconstitutionality of any law, decree, or resolution of any kind;

(6) To take cognizance of any charges made against diplomatic and consular agents, surveying commissioners, national delegates, the comptroller general, university deans, judges of superior courts, district attorneys, prefects and other functionaries designated by law, for offenses committed in the exercise of their functions;

(7) To take cognizance of the claims arising out of contracts, negotiations, and concessions made by the executive power and of the litigation against the government which the decisions may bring about;

(8) To take cognizance of all matters subject to litigation relating to the national patronage vested in the government;

(9) To settle conflicts of jurisdiction between municipalities, or between municipal councils and political authorities, or between municipal councils and political authorities with the municipalities or the provinces;

(10) To take cognizance, without appeal, of the decisions against the resolutions of the legislative power, or of one of its chambers, when such resolutions may affect one or more definite rights, whether civil or political, and irrespective of who the persons involved may be;

(11) To take cognizance of and decide any conflicts between the departments, whether they involve jurisdictional rights or any other rights in controversy;

(12) To hear and decide, originally and finally, on the validity or invalidity of the elections of senators and deputies, as well as on the incompetency of those elected.

Art. 144. In addition to the duties and powers established by law, the district courts shall have jurisdiction to try the municipal mayors and members of the councils for offenses committed in the exercise of

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[1] As amended August 28, 1947.

their functions, whether individually or collectively, and to take cognizance of the annulment of their election.

The subprefects are subject to the same jurisdiction.

Art. 145.[1] The members of the Supreme Court shall serve ten years, those of the district courts six, and the district judges and investigating judges four, re-election being permissible in all cases.

During these periods, which are personal, no magistrate or judge may be removed except by final judicial decisions, nor shall they be suspended. No one shall be transferred without his express consent.

In case the Senate is in recess, interim appointments to the superior courts may be made by the Supreme Court.

Art. 145 A.[2] The justices of the Supreme Court of Justice shall be elected by the Chamber of Deputies on the proposal of lists of three by the Senate. The judges of the district courts shall be elected by the Senate on the proposal of lists of three by the Supreme Court.

Art. 146. The Public Ministry acts in the name of the nation, for the committees appointed by the legislative chambers, through the attorney general and other functionaries designated by law for this purpose.

Art. 147. The attorney general shall be appointed by the President of the Republic upon nomination by the Senate. His term of office shall be ten years, with option to re-election, and he shall not be removed unless by virtue of a decision of the Supreme Court.

Section XVII

The Municipal Régime

Art. 148.[1] The municipal regime shall be autonomous. In the capitals of the departments there shall be a municipal council and a mayor. In the provinces, sections and ports there shall be municipal boards. The mayors shall be salaried.

In the cantons there shall be municipal agents.

The member of the municipal councils and boards shall be elected by popular vote by the system of incomplete lists and for terms of two years. The mayors shall be elected by the respective municipal councils or boards for terms of two years.

Art. 149.[1] The powers and duties of the municipal councils and boards are:

(1) To issue ordinances for the good service of the communities;
(2) To approve annually the municipal budget upon the proposal of the mayor;
(3) To establish and revoke municipal taxes after approval by the Senate;
(4) To propose to the mayors lists of three candidates for appointment as municipal employees;
(5) To take cognizance, on appeal, of orders of the mayor;
(6) To consider the annual report of the mayor;
(7) To accept legacies and donations.

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[1] As amended August 28, 1947.
[2] Added, without a number, August 28, 1947.

Art. 150.[1] The municipal councils shall exercise supervision over the departmental boards, the mayors of departmental capitals over the provincial mayors, and the latter over the cantonal agents.

Art. 151. To be a mayor or a member of the deliberative council it is necessary to be a citizen in the exercise of his rights and a resident of the locality.

Art. 152.[1] The mayors have the following rights and duties:

(1) To maintain and supervise the public services for good neighborhood, street cleaning, comfort, embellishment, urbanization, and amusements;
(2) To supervise public morals;
(3) To fix and control selling prices of essential commodities and the price of public amusements;
(4) To watch over the services of social assistance and welfare and to co-operate in the maintenance of hospitals;
(5) To promote popular culture;
(6) To collect and expend the municipal income in accordance with the budget;
(7) To cooperate in the supply of the food requirements of the communities;
(8) To negotiate loans for public works of proven necessity, after having secured the approval of the municipal council and the authorization of the Senate;
(9) To check speculation;
(10) To employ the police for the enforcement of his orders.

Art. 153. Regulations as to municipal licenses and taxes shall not be in force until approved by the Senate.

Section XVIII

Educational Régime

Art. 154. Education is the highest function of the State. Public instruction shall be organized according to the system of co-educational schools. Attendance at school is obligatory from the ages of seven to fourteen. Instruction in both State grammar schools and high schools is gratuitous.

Art. 155. The State shall give financial assistance to any capable students who, because of lack of means, do not have access to higher degrees of learning, so that ability and vocation shall prevail over the social and financial position of the individual.

Art. 156. Private schools shall be subject to the same authorities and the same official plans, programs, and regulations. They shall enjoy freedom of religious instruction.

Art. 157. Schools supported by welfare institutions shall have the cooperation of the State.

Art. 158. Instruction in grammar, high, normal and special schools shall be regulated by the State through the minister of the department and in accordance with the educational statute.

Teaching positions shall be protected from removal under the conditions specified by law.

[1] As amended August 28, 1947.

Art. 159. Public universities shall be autonomous and shall have equal standing. Autonomy shall consist of freedom to administer their resources, to appoint their deans, the faculty, and the administrative staff, to establish their by-laws and curricula, to approve their annual budgets, to accept legacies and donations, to enter into agreements and assume obligations aiming at the achievement of their purposes, and to support and improve their schools and faculties. They may negotiate loans guaranteed by their property and resources, after having secured the approval of the legislature.

Art. 160. Public universities are the only ones authorized to issue academic diplomas. Degrees shall be granted by the government in the name of the State.

Art. 161. Public universities shall be subsidized by the national treasury from national funds, independently of their own resources or any departmental or municipial grants established or to be established.

Art. 162. Education in all its degrees shall be subject to the State's guardianship, to be exercised through the ministry of education.

Art. 163. The artistic, archaeological, and historical wealth, as well as that coming from the Church, is the cultural treasure of the nation; it shall be under the protection of the State and cannot be exported. The State shall protect the buildings and sites that may be declared to have artistic or historic value.

Art. 164. The State shall promote the cultural education of the people.

Section XIX

The Rural Population

Art. 165. The State recognizes and guarantees the legal existence of the native communities.

Art. 166. Native and farm legislation shall be authorized, having in mind the characteristics of the various regions of the country.

Art. 167. The State shall promote the education of the country folk, by means of native school centers which shall integrate the economic, social, and pedagogical outlook.

Section XX

The Armed Forces

Art. 168. The permanent armed forces shall consist of the regular army, the strength of which shall be determined at each legislative session. It is essentially obedient, it does not deliberate, and is subject in all respects to the military laws and regulations.

Every Bolivian man shall be subject to military service in accordance with the law.

Art. 169. The army fundamentally is in charge of the preservation of internal order and of the external security of the country. It shall cooperate in the building of public roads, in communication and colonization undertakings.

Art. 170. The army shall be subordinated to the President of the

Republic and shall receive its orders from him through the minister of defense in administrative matters and through the commander-in-chief in technical matters.

In case of war, the commander-in-chief of the army shall direct the operations.

The President of the Republic has the right to appoint and change the commander-in-chief.

Art. 171. No foreigner shall be allowed to enter the army without the approval of Congress.

To fill the positions of commander-in-chief of the army and chief of the general staff, it is absolutely necessary to be a Bolivian by birth.

Art. 172. All promotions shall be granted in accordance with the corresponding law.

Art. 173. The supreme council of national defense, the organization, rights, and duties of which shall be determined by law, shall consist of the President of the Republic, the ministers of state, the commander-in-chief and the chief of the general staff.

Section XXI

Amendments of the Constitution

Art. 174. This Constitution may be amended in part, but the necessity for the amendment and the determination thereof in a precise manner shall be previously made by means of an ordinary law, passed by two-thirds of the votes of the members present in each chamber.

This law may be originated in constitutional form in either chamber.

The law providing for the amendment shall be sent to the executive for its promulgation.

Art. 175. The constitutional amendment shall be taken up by the chamber in which it originated at the first meeting of the session of Congress in which the members of the Chamber of Deputies have been renewed. And if the amendment is declared necessary by two-thirds of the members present, it shall be referred to the other chamber, where it shall also require a two-thirds vote.

All other stages through which the measure has to pass shall be the same established by the Constitution when fixing the relations between the two chambers.

Art. 176. The chambers shall deliberate and vote upon the amendment, causing it to be in conformity with the constitutional provisions determined by the law under which it is ordered.

The amendment, once enacted, shall be forwarded to the executive for its promulgation, the President of the Republic having no power to object to it.

Art. 177. When the amendment refers to the constituional term of office of the President of the Republic, it shall only be enforced in the following presidential period.

Art. 178. The chambers shall have the power to dispel any doubt which may occur in regard to the construction to be placed on one or more articles of the Constitution, if said doubts are declared by two-thirds of the votes

to be well-founded. All the formalities established for an ordinary law shall be observed.

Interpretative laws cannot be objected to by the President of the Republic.

Art. 179. The authorities and tribunals shall give preference to this Constitution over all laws, and to the laws over all decrees or resolutions.

Art. 180. Laws and decrees contrary to this Constitution are hereby repealed.

Transitory Article.[1] The amendment of Article 85 shall take effect after the present presidential and vice-presidential period, which, according to Article 5 of the decree-law of October 15, 1946 and Article 1 of the law of March 8, 1947, shall continue until August 6, 1951.

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[1] Added August 28, 1947.



BRAZIL

SUMMARY

International Status

Brazil is a member of the United Nations. It signed the Charter of that organization at San Francisco on June 26, 1945, and ratified it on September 21, 1945. It signed the Declaration of the United Nations of January 1, 1942.

It is a member of other international organizations.[1] It was a member of the League of Nations and was a party to the Statute of the Permanent Court of International Justice of 1921.[2] It was a party to the 1928 Paris Treaty for the renunciation of war.

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[1] See Table I.

[2] It accepted the optional clause regarding compulsory jurisdiction (Article 36) on November 1, 1921 for five years and on condition of reciprocity and to be effective as

Brazil was formerly a Portuguese colony and was the seat of the Portuguese government after it fled from Napoleon's army in 1807. It was proclaimed a kingdom in 1815, and Dom Pedro, the son of King John VI, was crowned Constitutional Emperor in 1822 when Brazil was freed from Portugal.

The peaceful revolution of November 15, 1889, converted the kingdom into a republic.

Form of the National Government

The new Constitution, proclaimed September 24, 1946, declares that the United States of Brazil maintain, under the representative system, the Federation and the Republic.[1]

The federal government has power to maintain relations with foreign states and to make treaties and conventions with them; [2] to declare war and make peace; [3] to legislate exclusively. upon specified subjects, including civil, commercial, penal, procedural, electoral, aeronautical, and labor law, foreign and interstate commerce, monetary systems, and naturalization, entry, extradition, and expulsion of foreigners; [4] to decree taxes, which must be uniform throughout the national territory, upon specified objects and activities, including importation of merchandise of foreign origin, consumption of merchandise, income and profits of whatever nature, and transfer of funds abroad; [5] and to intervene in the states under prescribed conditions. [6]

The federal power to legislate on such matters as insurance and social security, defense and protection of health, national education, military police, interstate traffic, subsoil wealth, waters, forests, electric energy, emigration and immigration does not exclude supplementary or complementary legislation by the states on the same matters.[7] The power of the states to decree taxes is applicable to territorial property other than urban property, to transfers of property, to exportation of merchandise abroad (up to a maximum of five per cent ad valorem), and to various acts regulated by state law.[8]

The federal power to intervene in the states may be exercised under a decree of the President for the purpose of maintaining the national integrity, repelling foreign invasion or invasion of one state by another, suppressing civil war, guaranteeing the free exercise of any of the state powers,

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soon as two of the powers permanently represented in the Council should accept it. That condition was fulfilled on February 5, 1930. It is subject to the compulsory jurisdiction of the International Court of Justice in accordance with its declaration of acceptance signed February 12, 1948. See Yearbook of Court, 1951–52 pp. 35–43, 187.

[1] Const., Art. 1. [2] Id., Art. 5, par. I. [3] Id., Art. 5, par. II.
[4] Id., Art. 5, par. XV. [5] Id., Arts. 15, 17. [6] Id., Art. 7.
[7] Id., Art. 6. [8] Id., Art. 19.

or insuring the execution of judicial orders or decisions.[1] The passage of a federal law is a prerequisite to intervention in the states for any of the other purposes specified in the Constitution, namely, to reorganize the finances of a state or to assure the observance of representative republican form, independence and harmony of powers, temporality of the elective functions, prohibition of re-election of governors and mayors, municipal autonomy, rendering of administrative accounts, and guaranties of judicial power.[2]

Source of Sovereign Power

The 1946 Constitution states that "all power emanates from the people."[3]

Rights of the People and the States

Brazilians and foreigners residing in the country are assured "the inviolability of the rights respecting life, liberty, individual security and property." It is specifically declared that all are equal before the law; that the manifestation of thought is free; that the secrecy of correspondence and liberty of conscience and creed are inviolable; that all may meet, without arms, without any intervention on the part of the police except to assure public order; that the home is the inviolable refuge of the individual; that the right of property is guaranteed except for the case of expropriation for public necessity or utility, or social interest, with prior and just indemnification in money; and that "habeas corpus shall be granted whenever any one shall suffer or be threatened with suffering violence or restraint in his freedom of movement, by illegality or abuse of power.[4]

The Constitution provides for subsidies for large families.[5] It makes primary education obligatory [6] and declares that "work is a social obligation." [7] Labor and social security legislation, designed to improve the conditions of workers, are to be governed by the following and other principles: a minimum salary calculated to cover the normal necessities of the worker and his family; equal pay for equal work; profit-sharing; the eight-hour day; weekly rest and annual leave, with pay; prohibition of child labor; maternity benefits; security of employment; medical and sanitary aid; old age and unemployment insurance.[8] The right to strike is recognized, and its exercise is made subject to regulation by law.[9]

The union, the states, the municipalities and the federal district are forbidden to create distinctions among Brazilians or preferences among states or municipalities; to tax one another's property, revenues, and services; to establish or subsidize religious sects or embarrass their activi-

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[1] Const., Arts. 7, 9.
[2] Id., Arts. 7, 8.
[3] Id., Art. 1.
[4] Id., Art. 141.
[5] Id., Art. 164.
[6] Id., Art. 168.
[7] Id., Art. 145.
[8] Id., Art. 157.
[9] Id., Art. 158.

ties; and to refuse to honor public documents.[1] The states and the municipalities are forbidden to contract foreign loans without the consent of the federal Senate.[2] All the powers not implicitly or explicitly forbidden to the States by the Constitution are reserved to the states.[3] It is expressly provided that "the states may merge with one another, subdivide, or partition in order to annex themselves to others or to form new states, by vote of the respective legislative assemblies, plebiscite of the populations directly concerned, and approval of the National Congress." [4]

Legislative Department

The legislative branch is bi-cameral, consisting of the Chamber of Deputies and the federal Senate.[5] The Chamber of Deputies is "composed of representatives of the people, elected according to the system of proportional representation by the states, by the federal district, and by the territories." [6] The number of deputies is to be fixed by law "in a proportion not to exceed one for each one hundred and fifty thousand inhabitants, up to twenty deputies, and beyond this limit one for each two hundred and fifty thousand inhabitants." [7] The federal Senate is composed of three representatives from each of the states and three for the federal district, elected according to the majority principle. [8]

Executive Department

The Constitution provides for a president of the Republic elected for a term of five years.[9] The President and Vice-President are elected simultaneously throughout the country one hundred and twenty days before the end of the presidential term.[10] The president may not succeed himself.[11]

Judicial Department

The judicial branch of the government consists of a federal supreme court; a federal court of appeals; and military, electoral, and labor justices and tribunals.[12]

The federal Supreme Court is composed of eleven members [13] appointed by the President after approval by the federal Senate.[14] It has original jurisdiction of cases respecting the President and other high officials, suits between the union and the states or between the states and between foreign nations and the union or the states, and as to conflicts of jurisdiction of various judicial tribunals.[15]

Area, Population, Language

Brazil's area is 3,286,170 square miles. Its population (1950 census) is 52,645,479. Its language is Portuguese.

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[1] Const., Art. 31. [2] Id., Art. 33. [3] Id., Art. 18. [4] Id., Art. 2. [5] Id., Art. 37.
[6] Id., Art. 56. [7] Id., Art. 58. [8] Id., Art. 60. [9] Id., Art. 82. [10] Id., Art. 81.
[11] Id., Art. 139. [12] Id., Art. 94. [13] Id., Art. 98. [14] Id., Art. 99. [15] Id., Art. 101.

CONSTITUTION
of the
UNITED STATES OF BRAZIL

September 24, 1946 [1]

WE, the representatives of the Brazilian people, met in Constituent Assembly to organize a democratic régime, under the protection of God, decree and promulgate the following Constitution of the United States of Brazil.

TITLE ONE

THE FEDERAL ORGANIZATION

CHAPTER I

PRELIMINARY PROVISIONS

Art. 1. The United States of Brazil maintain, under the representative system, the Federation and the Republic.

All power emanates from the people and shall be exercised in its name.

§ 1. The Union includes, in addition to the states, the federal district and the territories.

§ 2. The federal district is the capital of the Union.

Art. 2. The states may merge with one another, subdivide, or partition in order to annex themselves to others or to form new states, by vote of the respective legislative assemblies, plebiscite of the populations directly concerned, and approval of the National Congress.

Art. 3. The territories may, by special law, be constituted as states, subdivided into new territories, or restored as parts of the states from which they were separated.

Art. 4. Brazil shall resort to war only in case of non-applicability or failure of resort to arbitration or pacific means of solution of the conflict, regulated by any international security organization in which it may participate; and in no case shall it embark on a war of conquest, directly or indirectly, alone or in alliance with another state.

Art. 5. The Union shall have power:

I. To maintain relations with foreign states and to make treaties and conventions with them;

II. To declare war and make peace;

III. To decree, extend, and suspend the state of siege;

IV. To organize the armed forces, the security of the frontiers, and the external defense;

[1] As amended Dec. 26, 1950. Translation published by American Brazilian Association, Inc., 10 Rockefeller Plaza, New York; revised by Dr. Dantas de Brito.

V. To permit foreign forces to pass through national territory or, for reasons of war, to remain therein temporarily;

VI. To authorize the production and control the commerce of war material;

VII. To supervise, throughout the national territory, the services of maritime, air, and frontier police;

VIII. To coin and issue money and establish banks of issue;

IX. To control the operations of establishment of credit, capitalization, and insurance;

X. To establish the national plan of transport;

XI. To maintain the postal service and the national air mail;

XII. To develop, directly or through authorization or concession, the services of telegraphs, radio communication, radio broadcasting, interstate and international telephones, air navigation, and railways connecting seaports and national frontiers or crossing the boundaries of a state;

XIII. To organize permanent defense against the effects of drought, rural endemic diseases, and floods;

XIV. To grant amnesty;

XV. To legislate upon:

(a) Civil, commercial, penal, procedural, electoral, aeronautical, and labor law;

(b) General norms of law with respect to finance; insurance, and social security; defense and protection of health; and penitentiary system;

(c) Production and consumption;

(d) Policies and bases of national education;

(e) Public registries and commercial boards;

(f) Organization, instruction, justice, and guaranties of the military police and general conditions of their utilization by the federal government in cases of mobilization or of war;

(g) Expropriation;

(h) Civil and military requisitions in time of war;

(i) System of ports and of coastwise navigation;

(j) Interstate traffic;

(k) Foreign and interstate commerce; institutions of credit, exchange, and transfer of values abroad;

(l) Subsoil wealth, mining, metallurgy, waters, electric energy, forests, hunting, and fishing;

(m) Monetary and standard measures systems, title and guarantee of metals;

(n) Naturalization, entry, extradition, and expulsion of foreigners;

(o) Emigration and immigration;

(p) Conditions of capacity for the exercise of the technical, scientific, and liberal professions;

(q) Use of the national symbols;

(r) Incorporation of aborigines into the national community.

Art. 6. The federal power to legislate upon the matters of Article 5, Number XV, letters b, c, d, f, h, j, l, o, and r does not exclude supplementary or complementary state legislation.

Art. 7. The federal government shall not intervene in the states except;

I. To maintain the national integrity;

II. To repel foreign invasion or that of one state in another;

III. To suppress civil war;

IV. To guarantee the free exercise of any of the state powers;

V. To insure the execution of judicial orders or decisions;

VI. To reorganize the finances of any state which, without reasons of force majeure, may suspend for more than two consecutive years services on its funded external debt;

VII. To assure the observance of the following principles:
(a) Representative republican form;
(b) Independence and harmony of powers;
(c) Temporality of the elective functions, the duration of these latter being limited to that of the corresponding federal functions;
(d) Prohibition of re-election of governors and mayors for the period immediately following;
(e) Municipal autonomy;
(f) Rendering of administrative accounts;
(g) Guaranties of judicial power.

Art. 8. Intervention shall be decreed by federal law in the cases of Numbers VI and VII of the preceding Article.

Sole Paragraph—In the case of Number VII, the act alleged to be unconstitutional shall be submitted by the attorney general of the Republic to examination by the Federal Supreme Court, and, if the latter so declares the act, the intervention shall be decreed.

Art. 9. The President of the Republic shall have power to decree intervention in the cases of Numbers I to V of Article 7.

§ 1. Issuance of the decree shall be dependent upon:

I. In the case of Number V, the requisition of the Federal Supreme Court; or if the order or decision should be of electoral justice, the requisition of the electoral supreme court.

II. In the case of Number IV, the request of the legislative power or of the executive, obstructed or impeded, or the requisition of the Federal Supreme Court if the obstruction should be exercised against the judicial power.

§ 2. In the second case provided for by Article 7, Number II, the intervention shall be decreed only in the invading state.

Art. 10. In cases other than requisition of the Federal Supreme Court or the electoral supreme court, the President of the Republic shall decree the intervention and shall submit it, without prejudice to its immediate execution, to the approval of the National Congress, which, if not in session, shall be convened extraordinarily for this purpose.

Art. 11. The law or decree of intervention shall fix: its scope, its duration, and the conditions under which it is to be executed.

Art. 12. The President of the Republic shall have power to make the intervention effective and, if necessary, to appoint the interventor.

Art. 13. In the cases enumerated in Article 7, Number VII, and with observance of the provisions of Article 8, Sole Paragraph, the National Congress shall limit itself to suspending the execution of the act alleged to be unconstitutional, if this measure be sufficient for the re-establishment of normality in the state.

Art. 14. Upon cessation of the motives which may have determined the intervention, the state authorities removed in consequence thereof shall return to the exercise of their offices.

Art. 15. The Union shall have power to decree taxes upon:

I. Importation of merchandise of foreign origin;

II. Consumption of merchandise;

III. Production, commerce, distribution, and consumption, as well as importation and exportation, of liquid or gaseous lubricants and fuels of whatever origin or nature, this régime being extended in so far as it may be applicable to the minerals of the country and to electric energy;

IV. Income and profits of whatever nature;
V. Transfer of funds abroad;
VI. The business of its own economy, acts and instruments regulated by federal law.

§ 1. Articles classified by law as the minimum indispensable to housing, clothing, nourishment, and medical treatment of persons of limited economic capacity are exempt from consumption tax.

§ 2. The taxation dealt with in Item III shall have the form of a single tax, which shall fall upon each kind of product. Of the resulting revenue, sixty per cent, as minimum, shall be delivered to the states, to the federal district, and to the municipalities in proportion to their area, population, consumption, and production, according to the terms and for the purposes set forth in federal law.

§ 3. The Union may tax the income from obligations of the state or municipal public debt and the profits of agents of states and municipalities, but it cannot do so to an extent greater than fixed for its own obligations and for the profits of its own agents.

§ 4. The Union shall deliver to the municipalities, except those of the capitals, ten per cent of the total it may collect of the tax dealt with in Number IV, with distribution being made in equal parts and at least half of the amount applied in benefits of a rural nature.

§ 5. The juridical acts to which the Union, the states, or the municipalities may be parties, or the instruments to which these acts may be reduced, or again, those included in the tax qualifications established by Articles 19 and 29, do not come under the provisions of Item VI.

§ 6. In the imminence or in case of foreign war, it is lawful for the Union to decree extraordinary taxes, which shall not be distributed in the manner of Article 21, and shall be eliminated gradually, within five years, counted from the date of the signing of peace.

Art. 16. The Union shall, moreover, have power to decree the taxes provided for in Article 19 which are to be collected by the territories.

Art. 17. The Union is forbidden to decree taxes which are not uniform throughout the national territory or which may result in distinction or preference for one port or another, to the detriment of another of any other state.

Art. 18. Every state shall govern itself by the Constitution and by the laws it may adopt, with observance of the principles established in this Constitution.

§ 1. To the states are reserved all powers which are not implicitly or explicitly forbidden to them by this Constitution.

§ 2. The states shall provide for the needs of their government and the administration thereof; but in case of public calamity, it is incumbent on the Union to lend them aid.

§ 3. By agreement with the Union, the states may charge federal officials with the execution of state laws and services or of acts and decisions of their authorities; and, reciprocally, the Union may, in matters of its jurisdiction, entrust analogous duties to state officials, providing the necessary expenses.

Art. 19. The States shall have power to decree taxes upon:

I. Territorial property, except urban;
II. Transfer of property *causa mortis*;
III. Transfer of real property *inter vivos* and its incorporation into the capital of companies;
IV. Sales and consignments effected by traders and producers, including industrialists, with exemption, however, of the first operation of the small producer, as defined by state law;
V. Exportation of merchandise of their production abroad, up to the maximum of five per cent ad valorem, any additional [taxes] being prohibited;
VI. Acts regulated by state law, those of their judicial service, and the business of their economy.

§ 1. The tax on territorial holdings shall not be incident upon farms having an area not exceeding twenty hectares when cultivated by the proprietor, alone or with his family, and who does not own any other property.

§ 2. The taxes upon the transfer of tangible property (II and III) belong to the state in whose territory these may be situated.

§ 3. The tax upon transfer *causa mortis* of intangible property, including securities and credits, belongs to the state in whose territory the values of the inheritance may be liquidated or transferred to the heirs, even though the succession may have opened abroad.

§ 4. The states may not tax securities of the public debt issued by other juridical persons of national public law to an extent greater than that established for their own obligations.

§ 5. The tax on sales and consignments shall be uniform, without distinction as to origin or destination.

§ 6. In exceptional cases, the Federal Senate may authorize the increase for a fixed time of the tax upon exportation up to a maximum of ten per cent ad valorem.

Art. 20. When the state collection of taxes, except that of the export tax, shall exceed in any municipality other than that of the capital, the total of local revenues of whatever nature, the states shall return [to such municipality] annually thirty per cent of the excess collected.

Art. 21. The Union and the states may decree other taxes in addition to those attributed to them by this Constitution, but a federal tax shall exclude an identical state tax. The states shall make collection of such taxes, and, as this is effected, shall deliver twenty per cent of the proceeds to the Union and forty per cent to the municipalities where the collection has been effected.

Art. 22. The financial administration, especially the execution of the budget, shall be supervised in the Union by the National Congress, with the aid of the tribunal of accounts, and in the states and municipalities according to the manner established in the state constitutions.

Sole Paragraph—In the preparation of the budget, the provisions of Articles 73 to 75 shall be observed.

Art. 23. The states shall not intervene in the municipalities, except in order to regularize their finances, when:

(a) There shall occur lack of punctuality in the service of a loan guaranteed by the state;
(b) They fail to pay, for two consecutive years, their funded debt.

Art. 24. The state is permitted to create an organ for technical assistance to municipalities.

Art. 25. The administrative and judicial organization of the federal district and of the territories shall be governed by federal law with observance of the provisions of Article 124.

Art. 26. The federal district shall be administered by a mayor appointed by the President of the Republic, and a chamber elected by the people, with legislative functions

§ 1. The appointment shall be made after the Federal Senate has given its consent to the name proposed by the President of the Republic.

§ 2. The mayor shall be dismissible at will.

§ 3. The salararies of the Judges of Appeals (Desembargadores do Tribunal de Justiça) shall be fixed at not less than seventy per cent of the salaries paid to the Justices of the Supreme Court (Ministros do Supremo Tribunal Federal); and the salaries of the other life-tenure judges will have a difference not exceeding thirty per cent between the first and the second instances, and the judges of higher instance will receive not less than two thirds of the salary of the Judges of Appeals.[1]

§ 4. The same taxes attributed by this Constitution to the states and to the municipalities shall belong to the federal district.

Art. 27. The Union, the states, the federal district, and the municipalities are forbidden to establish limitations upon traffic of whatever nature by means of interstate or intermunicipal taxes, except for the collection of tolls or of taxes destined exclusively for the repayment of expenses incurred for the construction and for the maintenance and improvement of roads.

Art. 28. The autonomy of municipalities shall be assured:

I. By the election of mayors and municipal councilors;
II. By self-administration in all matters concerning their own interest and, especially:
(a) The determination and collection of taxes within their jurisdiction and the application of their revenues;
(b) The organization of their local public services.

§ 1. The mayors of the capitals and those of the municipalities whereever there should be natural hydro-mineral resorts, when improved by the state or by the Union may be appointed by the governors of the states or of the territories.

§ 2. The mayors of such municipalities as federal law, at the indication of the national security council, may declare as military bases or ports of exceptional importance for the external defense of the country, shall be appointed by the governors of the states or of the territories.

Art. 29. In addition to the revenue which is attributed to them by virtue of paragraphs 2 and 4 of Article 15 and of the taxes which in whole or in part may be transferred to them by the state, the following taxes shall belong exclusively to the municipalities:

I. Urban land and buildings;
II. License;

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[1] Amendment of December 26, 1950.

III. Industries and professions;
IV. Public diversions;
V. Acts of their economy or matters belonging to their particular sphere.

Art. 30. The Union, the states, the federal district and the municipalities shall have power to collect:

I. Tax on improvements when there shall be an increase in value of real property, as a consequence of public works;
II. Taxes;
III. Any other revenues which may arise out of the exercise of their attributes and of the utilization of their properties and services.

Sole Paragraph. The tax on improvements cannot be demanded in amount greater than the expense realized or the increase in value which may accrue to the real property benefit by the work.

Art. 31. The Union, the states, the municipalities, and the federal district are forbidden:

I. To create distinctions between Brazilians or preferences favoring any states or municipalities as against any others;
II. To establish or subsidize religious sects or embarrass their activities;
III. To have relations of alliance or dependence with any sect or church, without prejudice to reciprocal collaboration in furtherance of the collective interest;
IV. To refuse to honor public documents;
V. To levy tax upon:
(a) Property, revenues, and services of one another, without prejudice, however, to the taxation of public services granted under concession with observance of the provisions of the sole paragraph of this article;
(b) Temples of any sect, property and services of political parties, educational and social welfare institutions, provided that their income is applied entirely within the country for the proper purposes;
(c) Paper destined exclusively for the printing of newspapers, periodicals, and books.

Sole Paragraph. Public services granted under concession do not enjoy tax exemption, except when so determined by the competent power, or when the Union may institute such exemption in a special law, with respect to its own services, having in view the common interest.

Art. 32. The states, the federal district, and the municipalities may not establish any tax differential between properties of any nature by reason of their origin.

Art. 33. The states and the municipalities are prohibited to contract external loans without previous authorization of the Federal Senate.

Art. 34. Included in the property of the Union are:

I. Lakes and water courses in territory of its domain or which border on more than one state, serve as boundaries with other countries, or extend to foreign territory; as well as river and lake islands in the boundary zones with other countries.
II. The portion of ceded land which may be indispensable for the defense of frontiers, fortifications, military construction, and railways.

Art. 35. Among the properties of the state domain are included lakes and rivers in territory of the same [state] domain and those which have their source and mouth within the frontiers of the state.

Art. 36. The powers of the Union are the legislative, the executive, and the judicial, independent and harmonious among themselves.

§ 1. The citizen invested with the function of one of these shall not exercise the function of another, except as provided in this Constitution.

§ 2. It is forbidden for any of the powers to delegate their attributes.

Chapter II

The Legislative Power

Section I

Preliminary Provisions

Art. 37. The legislative power is exercised by the National Congress, which is composed of the Chamber of Deputies and the Federal Senate.

Art. 38. The election for deputies and senators shall be held simultaneously throughout the country.

Sole Paragraph. The conditions of eligibility for the National Congress are:

I. To be a Brazilian as defined in Article 129, Numbers I and II;
II. To be in full enjoyment of political rights;
III. For the Chamber of Deputies, to be more than twenty-one years old, and for the Federal Senate, to be more than thirty-five years old.

Art. 39. The National Congress shall meet in the capital of the Republic, on the fifteenth of March each year, and shall function until the fifteenth of December.

Sole Paragraph. The National Congress may be convoked extraordinarily only by the President of the Republic or by initiative of one-third of one of the chambers.

Art. 40. Each chamber shall have power to provide, by internal regulation, for its own organization and police, and the creation and filling of offices.

Sole Paragraph. In the selection of committees, proportional representation of the national parties forming part of the respective chamber shall be assured as far as possible.

Art. 41. The Chamber of Deputies and the Federal Senate, under the direction of the executive committee of the latter, shall meet in joint session in order to:

I. Inaugurate the legislative session;
II. Elaborate common regulations;
III. Receive the oath of the President and of the Vice President of the Republic;
IV. Deliberate upon the veto.

Art. 42. In each chamber, except for constitutional provision to the contrary, resolutions shall be taken by majority of votes, with a majority of their members present.

Art. 43. The vote shall be secret in the elections and in the cases established by Articles 45, paragraph 2; 63, Number I; 66, Number VIII; 70, paragraph 3; 211 and 213.

Art. 44. The deputies and senators are inviolable in the exercise of their mandate for their opinions, words, and votes.

Art. 45. From the time of issuing their diplomas until the inauguration of the subsequent legislature, the members of the National Congress may not be arrested, except *in flagrante delicto* in an unbailable crime, nor may they be prosecuted criminally without previous permission of their chamber.

§ 1. In the case of *in flagrante delicto* of an unbailable crime, notice of arrest shall be sent within forty-eight hours to the respective chamber in order that it may decide upon the imprisonment and authorize the trial.

§ 2. The chamber concerned shall always deliberate by vote of the majority of its members.

Art. 46. Deputies and senators, whether civilian or military, may not be incorporated into the armed forces except in time of war and by permission of their chamber, being thereafter subject to military legislation.

Art. 47. Deputies and senators shall receive, annually, an equal remuneration and shall have equal allowances for expenses.

§ 1. The remuneration shall be divided into two parts: one fixed, which shall be paid in the course of the year, and the other variable, corresponding to their attendance.

§ 2. The allowance for expenses and remuneration shall be fixed at the end of each legislature.

Art. 48. Deputies or senators may not:

I. From and after issuance of the diploma:

(a) Make a contract with a juridical person of public law, autarchic entities, or societies of mixed economy, except when the contract adheres to uniform standards;

(b) Accept or exercise remunerated commission or employment from a juridical person of public law, autarchic entities, societies of mixed economy, or private firms holding concessions for public service.

II. From and after taking office:

(a) Be the owner or director of an enterprise which may benefit by a contract with a juridical person of public law, or exercise remunerated employment thereby;

(b) Occupy public office from which they may be dismissed at will;

(c) Exercise another legislative mandate, whether federal, state or municipal;

(d) Bring suit against a juridical person of public law.

§ 1. Infractions of the provisions of this Article, as well as absence without permission from the sessions for more than six consecutive months, shall result in loss of the mandate, declared by the chamber to which the deputy or senator may belong, upon the initiative of any of its members or documented representation by a political party or by the attorney general of the Republic.

§ 2. The deputy or senator whose action may be held to be incompatible with the decorum of the chamber to which he belongs, by a vote of two-thirds of its members, shall likewise lose his mandate.

Art. 49. It is permissible for deputies or senators, with previous permission of the chamber to which they belong, to carry out diplomatic

missions of transitory character, or to participate in congresses, conferences, and cultural missions abroad.

Art. 50. During the period of his mandate, a public officer shall be separated from the functions of his office, with time of service being counted in his favor merely for promotion by seniority and retirement.

Art. 51. A deputy or senator invested with the function of minister of state, federal intervenor, or state secretary shall not lose his mandate.

Art. 52. In the case of the preceding Article and in the case of leave, if permitted by the internal regulations, or [in case of] vacancy in the office of deputy or senator, the respective alternate shall be called.

Sole Paragraph. If there should be no alternate to fill the vacancy, the president of the chamber concerned shall communicate the fact to the superior electoral tribunal to arrange for the election, unless there should remain less than nine months to the end of the term. The deputy or senator elected to the vacancy shall exercise the mandate for the remaining time.

Art. 53. The Chamber of Deputies and the Federal Senate shall create committees of inquiry upon a given matter, whenever one-third of their members shall so request.

Sole Paragraph. In the organization of these committees, the criterion established in the Sole Paragraph of Article 40 shall be observed.

Art. 54. The ministers of state are obliged to appear before the Chamber of Deputies or Federal Senate, or any of their committees, when either chamber shall call them personally to give information respecting matters previously determined.

Sole Paragraph. Failure to appear, without justification, shall constitute a crime of responsibility.

Art. 55. The Chamber of Deputies and the Federal Senate, as well as their committees, shall designate day and hour to hear any minister of state who may desire to furnish them with explanations, or request of them legislative measures.

Section II

The Chamber of Deputies

Art. 56. The Chamber of Deputies is composed of representatives of the people, elected according to the system of proportional representation by the states, by the federal district, and by the territories.

Art. 57. Each legislature shall last four years.

Art. 58. The number of deputies shall be fixed by law in a proportion not to exceed one for each one hundred and fifty thousand inhabitants, up to twenty deputies, and beyond this limit one for each two hundred and fifty thousand inhabitants.

§ 1. Each territory shall have one deputy and seven deputies shall be the minimum number for each state and for the federal district.

§ 2. The representation already fixed may not be reduced.

Art. 59. The Chamber of Deputies shall have exclusive power:

I. To declare founded or unfounded, by vote of an absolute majority of its members, accusations against the President of the Republic, under the

terms of Article 88, and against the ministers of state in crimes connected with those of the President of the Republic;

II. To take the initiative in demanding accounts from the President of the Republic by designation of a special committee, when they are not presented to the National Congress within sixty days after the opening of the legislative session.

Section III

The Federal Senate

Art. 60. The Federal Senate is composed of representatives of the states and of the federal district, elected according to the majority principle.

§ 1. Each state, as well as the federal district, shall elect three senators.

§ 2. The senatorial mandate shall be for eight years.

§ 3. The representation of each state and of the federal district shall be renewed every four years, alternately, one-third and two-thirds at a time.

§ 4. The senator's alternate elected with him shall replace or succeed him under the terms of Article 52.

Art. 61. The Vice President of the Republic shall exercise the functions of president of the Federal Senate where he shall only have the deciding vote.

Art. 62. The Federal Senate shall have exclusive power:

I. To judge the President of the Republic in respect of crimes of responsibility and the ministers of state in respect of crimes of the same nature that may be connected with the former;

II. To prosecute and judge the ministers of the Federal Supreme Court and the attorney general of the Republic, in respect of crimes of responsibility.

§ 1. When functioning as a tribunal of justice, the Federal Senate shall be presided over by the president of the Federal Supreme Court.

§ 2. The Federal Senate shall only pronounce condemnatory sentence by the vote of two-thirds of its members.

§ 3. The Federal Senate may not impose any penalties other than loss of office and prohibition against the exercise of another without prejudice to the action of ordinary justice.

Art. 63. The Federal Senate shall likewise have exclusive power:

I. To approve, by secret vote, the appointment of magistrates in the cases established by the Constitution, and likewise the appointment of the attorney-general of the Republic, of the ministers of the tribunal of accounts, of the mayor of the federal district, of the members of the national economic council, and of the chiefs of diplomatic mission of permanent character.

II. To authorize foreign loans of states, of the federal district, and of the municipalities.

Art. 64. It shall be incumbent upon the Federal Senate to suspend the execution, wholly or in part, of any law or decree declared unconstitutional by final decision of the Federal Supreme Court.

Section IV

Attributes of the Legislative Power

Art. 65. The National Congress shall have power, with the approval of the President of the Republic:

I. To vote the budget;

II. To vote the taxes belonging to the Union and to regulate the collection and distribution of its revenues;

III. To make provisions concerning the federal public debt and the means of its payment;

IV. To create and abolish federal public posts, and fix the salaries attached thereto, in all cases by special law;

V. To vote the law of establishment of armed forces for peacetime;

VI. To authorize opening of credits, credit operations, and issues of legal tender currency;

VII. To transfer temporarily the seat of the federal government;

VIII. To resolve questions concerning boundaries of the national territory;

IX. To legislate regarding property of the federal domain, and all matters of the competence of the Union, the provisions of the following article being respected.

Art. 66. The National Congress shall have exclusive power:

I. To give final decision respecting treaties and conventions celebrated with foreign states by the President of the Republic;

II. To authorize the President of the Republic to declare war and make peace;

III. To authorize the President of the Republic to permit foreign forces to pass through the national territory or, by reason of war, to remain therein temporarily;

IV. To approve or suspend federal intervention when decreed by the President of the Republic;

V. To grant amnesty;

VI. To approve the resolutions of state legislative assemblies regarding merger, sub-division or partitioning of the states;

VII. To authorize the President and the Vice President of the Republic to absent themselves from the country;

VIII. To judge the accounts of the President of the Republic;

IX. To fix the allowance of expenses and the subsidy of the members of the National Congress, as well as those of the President and Vice President of the Republic;

X. To temporarily move its seat.

Section V

Laws

Art. 67. The initiative of laws, excepting the cases of exclusive power, shall belong to the President of the Republic and to any member or committee of the Chamber of Deputies or of the Federal Senate.

§ 1. The initiative of the law establishing the armed forces and of all laws regarding financial matters appertains to the Chamber of Deputies and to the President of the Republic.

§ 2. Excepting the powers of the Chamber of Deputies and of the Federal Senate, as well as of the federal courts, in matters concerning their respective administrative services, the President of the Republic shall have exclusive power of initiative of laws which create positions in existing services, increase salaries, or modify in the course of each legislature the law of establishment of the armed forces.

§ 3. Discussion of bills initiated by the President of the Republic shall begin in the Chamber of Deputies.

Art. 68. A bill adopted in one of the chambers shall be reviewed by the

other, which, approving it, shall send if for approval or promulgation as prescribed by Articles 70 and 71.

Sole Paragraph. The revision shall be discussed and voted upon in a single session.

Art. 69. If a bill of one chamber is amended in the other, it shall return to the first for pronouncement regarding the modification and approval or disapproval.

Sole Paragraph. The bill shall be sent for approval in the terms in which it was finally voted.

Art. 70. In the case of Article 65, the chamber where the voting of a bill is concluded shall send it to the President of the Republic who, acquiescing, shall approve it.

§ 1. If the President of the Republic shall judge the bill, in whole or in part, unconstitutional or contrary to the national interests, he may veto the same, totally or partially, within ten business days, counted from that on which he receives it, and he shall, within the same period, inform the president of the Senate of the reasons for the veto. If approval is refused after the legislative session is over, the President of the Republic shall publish the veto.

§ 2. After the lapse of ten days, the silence of the President of the Republic shall be equivalent to approval.

§ 3. When the veto is communicated to the president of the Senate, he shall convoke the two chambers to inform them in joint session, and if the vetoed bill obtain the vote of two-thirds of the representatives present, it shall be considered approved. In this case, the bill shall be sent to the President of the Republic for promulgation.

§ 4. If the law should not be promulgated within forty-eight hours by the President of the Republic, in the cases of paragraphs 2 and 3, the president of the Senate shall promulgate it; but if the latter should not do so within the same period of time, the vice president of the Senate shall promulgate it.

Art. 71. In the cases of Article 66, the elaboration of the law shall be considered closed with the final voting, and it shall be promulgated by the president of the Senate.

Art. 72. Bills which are rejected or not approved may be renewed only in the same legislative session, by proposal of an aboslute majority of the members of either of the chambers.

Section VI

The Budget

Art. 73. The budget shall be one and it shall be obligatory to include in it all the receipts and the allotments of funds, and to discriminate in the expenses all the allotments necessary for the payment of all the public services.

§ 1. The budget law shall not contain any provision foreign to the estimate of the receipts and the fixing of the expenses for services previously created. This prohibition shall not include:

I. Authorization for opening of supplementary credits and credit operations in anticipation of receipts;

II. Application of balances and manner of covering deficits.

§ 2. Budgeting of expenses shall be divided into two parts: one of them fixed, which may not be altered except by virtue of previous law; the other variable, which shall be subject to strict specialization.

Art. 74. If the budget shall not have been sent for approval by November 30, the one which was in effect shall be extended for the following fiscal year.

Art. 75. The transfer of budget items, the granting of unlimited credits, and the opening of special credits without legislative authorization are prohibited.

Sole Paragraph. The opening of extraordinary credits shall be admitted only for urgent or unforeseen necessity, in case of war, internal commotion, or public calamity.

Art. 76. The tribunal of accounts shall have its seat in the capital of the Republic and jurisdiction throughout the national territory.

§ 1. The ministers of the tribunal of accounts shall be appointed by the President of the Republic after approval of the selection by the Federal Senate and shall have the same rights, guaranties, prerogatives, and remuneration as the judges of the federal courts of appeals.

§ 2. The tribunal of accounts shall exercise, in matters concerning it, the same attributes as the judicial tribunals set forth in Article 97, and shall likewise have its own staff.

Art. 77. The tribunal of accounts shall have power:

I. To follow and control directly, or through agencies created by law, the execution of the budget;

II. To judge the accounts of those responsible for public funds and other property, as well as the accounts of the administrators of autarchic entities;

III. To judge the legality of contracts, retirements, removals and pensions.

§ 1. Contracts which in any wise shall affect receipts or expenditures shall be considered complete only after they have been registered by the tribunal. Refusal of registry shall suspend the execution of the contract until the National Congress shall issue pronouncement.

§ 2. Any act of public administration which may result in an obligation of payment by the national treasury or for its account, shall be subject to registry in the tribunal of accounts, either before or afterwards, as the law may determine.

§ 3. In any case, the refusal of registry for lack of credit balance or for charge to an improper credit, shall have prohibitive character. When the refusal shall have other basis, the expenditure may be made after an order by the President of the Republic, registry with reservation by the tribunal of accounts, and appeal ex-officio to the National Congress.

§ 4. The tribunal of accounts shall give its prior opinion, within a period of sixty days, upon the accounts which the President of the Republic is to render annually to the National Congress. If these are not sent within the period of the law, it shall communicate the fact to the

National Congress for the purposes of law, presenting to it in either case a detailed report of the financial and fiscal year terminated.

CHAPTER III

THE EXECUTIVE POWER

Section I

The President and the Vice President of the Republic

Art. 78. The executive power is exercised by the President of the Republic.

Art. 79. The President shall be replaced, in case of impediment, and succeeded, in case of vacancy in office, by the Vice President of the Republic.

§ 1. In case of impediment or vacancy in office of the President and of the Vice President of the Republic, the president of the Chamber of Deputies, the vice president of the Federal Senate and the president of the Federal Surpeme Court shall be successively called to the exercise of the presidency.

§ 2. In case of vacancy in office of the President and Vice President of the Republic, an election shall be held sixty days after the occurrence of the last vacancy. If the vacancies should occur in the second half of the presidential period, the election for both offices shall be held thirty days after the last vacancy by the National Congress in the form established by law. In either case those elected shall complete the period of their predecessors.

Art. 80. The conditions of eligibility for President and Vice President of the Republic are:

I. To be a Brazilian (Article 129, I and II);
II. To be in the exercise of political rights;
III. To be over thirty-five years of age.

Art. 81. The President and Vice President of the Republic shall be elected simultaneously throughout the country, one hundred and twenty days before the expiration of the presidential period.

Art. 82. The President and Vice President of the Republic shall hold office for five years.

Art. 83. The President and the Vice President of the Republic shall take office at a session of the National Congress or, if the Congress is not in session, before the Federal Supreme Court.

Sole Paragraph. The President of the Republic, upon taking office, shall take the following pledge: "I promise to maintain, defend and comply with the Constitution of the Republic, observe its laws, promote the general welfare of Brazil, maintain its union, its integrity, and its independence".

Art. 84. If the President or the Vice President of the Republic have not taken office thirty days after the date fixed for their doing so, except because of illness, the office shall be declared vacant by the supreme electoral tribunal.

Art. 85. The President and the Vice President of the Republic cannot

leave the country without permission of the National Congress, under penalty of the loss of their office.

Art. 86. During the last legislative year previous to the election of the President and the Vice President of the Republic, their remuneration shall be fixed by the National Congress.

Section II

The Attributes of the President of the Republic

Art. 87. The President of the Republic shall have exclusive power:

I. To approve, promulgate, and have the laws published and to issue decrees and regulations for their faithful execution;

II. To veto bills in accordance with Article 70, § 1;

III. To appoint and dismiss the ministers of state;

IV. To appoint and dismiss the mayor of the federal district (Article 26, § § 1 & 2) and the members of the national council of economy (Article 205, § 1);

V. To fill federal public offices according to law and with the exceptions established by this Constitution;

VI. To maintain relations with foreign states;

VII. To conclude international treaties and conventions subject to ratification of the National Congress;

VIII. To declare war, upon authorization by the National Congress, but without this authorization in the case of foreign aggression, when such occurs in the interval between legislative sessions;

IX. To make peace, with authorization and subject to ratification of the National Congress;

X. Upon authorization by the National Congress, but without this authorization in the interval between legislative sessions, to permit foreign forces to pass through the territory of the country or, by reason of war, to remain therein temporarily;

XI. To exercise supreme command of the armed forces, administering them through the medium of the competent organs;

XII. To decree total or partial mobilization of the armed forces;

XIII. To decree the state of siege under the terms of this Constitution;

XIV. To decree and execute federal intervention under the terms of Articles 7 to 14;

XV. To authorize Brazilians to accept pensions, employment, or commissions from foreign governments;

XVI. To send to the Chamber of Deputies, within the first two months of the legislative session, the budget proposal;

XVII. To render annually to the National Congress, within sixty days after the opening of the legislative session, the accounts relative to the preceding fiscal year;

XVIII. To send a message to the National Congress upon the occasion of the opening of the legislative session, giving it an account of the state of the Nation and requesting of it the action which he may judge necessary;

XIX. To grant pardon and commute sentences, with hearing before the organs instituted by law.

Section III

The Responsibility of the President of the Republic

Art. 88. The President of the Republic, after the Chamber of Deputies have declared valid the accusation by the vote of the absolute majority of its members, shall be submitted to judgment before the Federal Supreme

Court for common crimes or before the Federal Senate for those of responsibility.

Sole Paragraph. When the accusation has been declared founded, the President of the Republic shall be suspended from his functions.

Art. 89. Acts of the President of the Republic are crimes of responsibility when they are attempts against the federal Constitution and especially against:

I. The existence of the Union;
II. The free exercise of the legislative power, or of the judicial power, as well as of the constitutional powers of the states;
III. The exercise of political, individual and social rights;
IV. The internal security of the country;
V. The probity of the administration;
VI. The budget law;
VII. The safe keeping and legal employment of public funds;
VIII. The fulfillment of judicial decisions.

Sole Paragraph. These crimes shall be defined in a special law, which shall establish the forms of the respective prosecution and judgment.

Section IV

The Ministers of State

Art. 90. The President of the Republic is assisted by the ministers of state.

Sole Paragraph. Essential conditions for investiture in the office of minister of state are:

I. To be a Brazilian (Article 129, I and II);
II. To be in the exercise of political rights;
III. To be over twenty-five years of age.

Art. 91. In addition to the attributes which the law may fix, the ministers of state shall have power:

I. To countersign the acts signed by the President of the Republic;
II. To issue instructions for the good execution of the laws, decrees, and regulations;
III. To present to the President of the Republic a report of the services of each year carried out in the ministry;
IV. To appear before the Chamber of Deputies and before the Federal Senate in the cases and for the purposes specified in this Constitution.

Art. 92. The ministers of state, in common crimes and those of responsibility, shall be prosecuted and judged by the Federal Supreme Court; and in crimes connected with those of the President of the Republic, by the organs competent for the prosecution and judgment of the latter.

Art. 93. In addition to that provided in Article 54, Sole Paragraph, the acts defined in law according to the provisions of Article 89, when practiced or ordered by the ministers of state, are crimes of responsibility.

Sole Paragraph. The Ministers of State are responsible for the acts which they may sign, even though jointly with the President of the Republic, or which they may perform by his order.

CHAPTER IV

THE JUDICIAL POWER

Section I

Preliminary Provisions

Art. 94. The Judicial Power is exercised by the following organs:

I. Federal Supreme Court;
II. Federal court of appeals;
III. Military judges and tribunals;
IV. Electoral judges and tribunals;
V. Labor judges and tribunals.

Art. 95. Except for the restrictions expressed in this Constitution, judges shall enjoy the following guaranties:

I. Life tenure, being unable to lose office except by judicial sentence;
II. Irremovability, except when there should occur some motive of public interest, recognized by the vote of two-thirds of the effective members of the competent higher court;
III. Irreducibility of remuneration which, however, shall remain subject to general taxes.

§ 1. Retirement shall be compulsory at seventy years of age or for proven ill health, and optional after thirty years of public service counted in the form of law;

§ 2. Retirement, in any case, shall be decreed with full remuneration.

§ 3. Life tenure shall not extend compulsorily to those judges whose functions are limited to the preparation of cases and the substitution of effective judges, except after ten years of continuous exercise of the office.

Art. 96. Judges are prohibited:

I. To exercise, even though inactive, any other public function except the secondary and higher teaching, and the cases provided for in this Constitution, under penalty of loss of judicial office;
II. To receive percentages, under any pretext, in the cases subject to their handling and judgment;
III. To exercise political party activity.

Art. 97. The courts shall have power:

I. To elect their presidents and other organs of direction;
II. To draw up their internal regulations and organize the auxiliary services, filling their offices in the form of law; and likewise to propose to the competent legislative power the creation or extinction of offices and the fixing of the respective emoluments;
III. To grant leave and vacations in the terms of the law to their members and to the judges and employees who may be immediately subordinate to them.

Section II

The Federal Supreme Court

Art. 98. The Federal Supreme Court, with seat in the capital of the Republic and jurisdiction throughout the national territory, shall be composed of eleven justices. This number, upon the proposal of the Federal Supreme Court itself, may be increased by law.

Art. 99. The justices of the Federal Supreme Court shall be appointed by the President of the Republic, after the selection has been approved by the Federal Senate, from among Brazilians (Article 129, I and II) of notable juridical wisdom and spotless reputation, who shall not be less than thirty-five years of age.

Art. 100. The justices of the Federal Supreme Court, in crimes of responsibility, shall be prosecuted and judged by the Federal Senate.

Art. 101. The Federal Supreme Court shall have power:

I. To prosecute and judge in first instance:

(a) The President of the Republic in common crimes;

(b) Its own justices and the attorney general of the Republic in common crimes;

(c) The ministers of state, the judges of the federal superior courts, the judges of the tribunals of justice of the states, of the federal district, and of the territories, the ministers of the tribunal of accounts and the chiefs of diplomatic mission of permanent character, both in common crimes and in those of responsibility, except, with respect to the ministers of state, that provided in the latter part of Article 92;

(d) Litigation between foreign states and the Union, the states, the federal district, or the municipalities;

(e) Cases and conflicts between the Union and the states or between these latter;

(f) Conflicts of jurisdiction between judges or diverse federal tribunals of justice, between any federal judges or tribunals and those of the states, and between judges or tribunals of different states, including those of the federal district and those of the territories;

(g) Extradition of criminals, requested by foreign states and the homologation of foreign sentences;

(h) Habeas corpus, when the party exercising or suffering restraint is a court, an official, or authority whose acts may be directly subject to the jurisdiction of the Federal Supreme Court; in matters of crime subject to this same jurisdiction in sole instance; when there may be peril of violence being committed before another judge or court can take cognizance of the request;

(i) Writs of security against acts of the President of the Republic, of the administration of the Chamber or of the Senate and of the president of the Federal Supreme Court itself;

(j) The execution of sentences in cases of its original jurisdiction, it having the right to delegate the acts of procedure to an inferior judge or to another court;

(k) Rescissory actions of its decisions.

II. To judge on ordinary appeal:

(a) Writs of security and habeas corpus decided in final instance by local or federal courts when the decision is one of denial;

(b) Cases decided by local judges based on contract or treaty between a foreign state and the Union, as well as those in which a foreign state and a person domiciled in the country may be parties;

(c) Political crimes.

III. To judge on special appeal cases decided in sole or final instance by other courts or judges:

(a) When the decision is contrary to a provision of this Constitution or the text of a federal treaty or law;

(b) When question is raised as to the validity of federal law under the Constitution, and the decision appealed denies application of the law impugned;

(c) When the validity of a law or act of a local government is impugned under this Constitution or under a federal law and the decision appealed holds the law or act valid.

(d) When in the decision appealed the interpretation of the federal law invoked is different from that which has been given to it by any of the other judicial tribunals or the Federal Supreme Court itself.

IV. To review in the interest of those condemned, its criminal decisions in closed proceedings.

Art. 102. With voluntary appeal to the Federal Supreme Court, its president shall have power to grant exequatur to letters rogatory from foreign tribunals.

Section III

The Federal Court of Appeals

Art. 103. The Federal Court of Appeals, with seat in the federal capital, shall be composed of nine judges, appointed by the President of the Republic, after their selection has been approved by the Federal Senate, two-thirds among magistrates and one-third among lawyers and members of the public ministry with the requirements of Article 99.

Sole Paragraph. The court may divide itself into chambers or sections.

Art. 104. The Federal Court of Appeals shall have power:

I. To prosecute and judge in first instance:

(a) Rescissory actions of its decisions;

(b) Writs of security when the restraining authority is a minister of state, the court itself, or its president.

II. To judge on the level of appeal:

(a) Cases decided in first instance, when the Union is involved as plaintiff or defendant, witness or opponent, except in matters of bankruptcy; or in matters of crimes committed against the property, services, or interests of the Union, safeguarding the jurisdiction of the electoral and military justice;

(b) The decisions of local judges when denying habeas corpus, and decisions issued in writs of security when the restraining authority indicated is federal.

III. To review, in the interest of those convicted, its criminal decisions in closed proceedings.

Art. 105. The law may create, in different regions of the country, other federal courts of appeals, through proposal of the court itself and with the approval of the Federal Supreme Court, fixing their seat and territorial jurisdiction and with the observance of the provisions of Articles 103 and 104.

Section IV

Military Judges and Tribunals

Art. 106. The military superior court and the inferior tribunals and judges which the law may establish are organs of military justice.

Sole Paragraph. The law shall make provision regarding the number and the manner of selection of the military judges and magistrates of the military superior court, who shall receive remuneration equal to that of the judges of the Federal Court of Appeals, and it shall determine the form of access of its members.

Art. 107. The irremovability assured to members of the military jus-

Art. 83. (1) The organisation and jurisdiction of the courts shall be determined by Federal law.

(2) No person may be withheld from the judge assigned to him by law.

(3) Extraordinary courts shall be permissible only in the cases provided by the laws on the procedure in criminal matters.

Art. 84. Military jurisdiction is abolished except in time of war.

Art. 85. Capital punishment in ordinary procedure is abolished.

Art. 86. (1) Except as otherwise provided by this law, the judges shall be appointed upon nomination of the Federal Government by the Federal President, or by the competent Federal Minister, upon authorization of the Federal President. The Federal Government or the Federal Minister shall request the panels provided for by the law on the organisation of the courts to submit proposals for appointment.

(2) The proposal for appointment, to be submitted to the competent Federal Minister and to be forwarded by him to the Federal Government, shall comprise, if there be a sufficient number of applicants, at least three names, and, if more than one position is to be filled, at least twice as many names as there are judges to be appointed.

Art. 87. (1) Judges shall be independent in the exercise of their judicial functions.

(2) A judge shall be regarded as exercising his judicial functions when conducting any judicial business entrusted to him by law and by assignment with the exception of such matters of judicial administration as shall not be discharged, in accordance with prescriptions of the law by panels or commissions.

(3) Business shall be assigned in advance among the judges of courts for a term designated by the law on the organization of the court. Any matter thus assigned to a judge may be removed from his jurisdiction by administrative decree only in case he is unable to discharge his functions.

Art. 88. (1) An age limit shall be established by the law on the organization of the courts upon the attainment of which judges shall be permanently retired.

(2) In all other cases, judges may be removed from office, or be transferred against their will to another position or be retired, only by a formal judicial decision and only in the cases and according to the forms prescribed by law. These provisions, however, shall not apply to transfers or retirements which become necessary through changes in the law on the organization of the courts. In such cases the law shall prescribe within what period of time judges may be transferred or retired without the formalities otherwise prescribed.

(3) Temporary removal of judges from office may take place only by decree of the president of the court or of the superior judicial authority. Simultaneously the matter shall be referred to the competent court.

Art. 89. (1) The courts shall have no power to examine the validity of duly promulgated laws.

(2) If a court has doubts to apply an ordinance on the ground of its being in conflict with a law, the court shall suspend the proceedings and file an application to the Constitutional Court for the cancellation of this ordinance.

(3) In case the ordinance to be applied by the court has already ceased to be in force, the court shall apply for the decision that the ordinance had been in conflict with a law.

(4) In case the ordinance to be applied by the court has been cancelled on account of its illegality by a decision of the Constitutional Court, the court is bound in this matter by the judicial opinion of the Constitutional Court, without filing the application mentioned in paragraph 3.

Art. 90. (1) Hearings of proceedings in civil and criminal cases before the trial court shall be oral and public. Exception may be prescribed by law.

(2) Criminal proceedings shall be by indictment.

Art. 91. (1) The people shall participate in the administration of justice.

(2) In case of crimes punishable by severe penalties—which crimes shall be specified by law—and in case of all political crimes and offences, the jury shall render the verdict as to the guilt of the accused person.

(3) In criminal procedure for other penal acts, lay judges (*Schöffen*) shall participate in the administration of justice, if the penalty to be imposed exceeds a limit to be determined by law.

Art. 92. (1) The Supreme Court shall be the court of final appeal in civil and criminal cases.

(2) Members of the Federal Government, of a *Land* Government or of a general representative body may not be members of the Supreme Court. For members of a general representative body who were elected for a certain term, the incompatibility continues even in case of premature resignation until the term has expired for which they have been elected. A person who has exercised one of the functions just mentioned during the last four years may not be appointed President or Vice-President of the Supreme Court.

Art. 93. Amnesties on account of acts which are punishable by courts are granted by Federal law.

Art. 94. Judicial and administrative powers shall be separated in all stages of judicial and administrative proceedings.

Chapter IV

The Legislative Power and the Executive Power of the Länder

A. General Provisions

Art. 95. (1) The legislative power of the *Länder* shall be exercised by the *Landtage* (Diets). Their members shall be elected in accordance with the principle of proportional representation by the equal, direct, secret and personal suffrage of all federal citizens of both sexes, who are qualified to vote under the *Landtag* election laws and who have their domicile in the *Land* concerned. The provision of Article 26, paragraph 1, last sentence, shall be applied *mutatis mutandis*; the provisions concerning the

Section VI

Labor Judges and Tribunals

Art. 122. The organs of labor justice are:

I. Superior labor tribunal;
II. Regional labor tribunals;
III. Boards or judges of conciliation and judgment.

§ 1. The superior labor tribunal has its seat in the federal capital.

§ 2. The law shall fix the number of the regional labor tribunals and their seats.

§ 3. The law shall establish the boards of conciliation and judgment and may attribute their functions to the judges of law in districts where boards are not established.

§ 4. Other organs of labor justice may be created by law.

§ 5. The constitution, investiture, jurisdiction, powers, guaranties, and conditions of the exercise of organs of labor justice shall be regulated by law, preserving the equality of representation of employees and employers.

Art. 123. The labor justice shall have power to conciliate and judge individual and collective disputes between employees and employers, as well as other controversies arising out of labor relations ruled by special legislation.

§ 1. Disputes relative to labor accidents are within the jurisdiction of ordinary courts.

§ 2. The law shall specify the cases in which decisions in collective disputes might establish norms and conditions of work.

TITLE TWO

STATE JUSTICE

Art. 124. The states shall organize their justice with observance of Articles 95 to 97 and also the following principles:

I. The judiciary divisions and organization shall be inalterable during five years from the date of the law establishing them, except for well-grounded proposals put forward by the tribunal of justice;

II. Courts of jurisdiction inferior to the tribunals of justice may be created;

III. Entry into life-tenure magistracy shall be dependent upon competitive examinations, organized by the tribunal of justice with collaboration of the sectional council of the order of attorneys of Brazil, and indication of the candidates shall be made whenever possible in a triplicate list;

IV. The promotion of judges shall be made from one classification to another by length of service and by merit, alternately, and, in the second case, shall be dependent upon a triplicate list organized by the tribunal of justice. An equal proportion shall be observed in accession to this tribunal, except as provided in Item V of this article. For this purpose, in cases of merit, the triplicate list shall be composed of names selected from among judges of any classification. In cases of length of service, which shall be ascertained in the last classification, the tribunal shall decide first whether the judge with longest service is to be indicated; and if this one is refused by three-quarters of the judges, the voting shall be repeated with respect to the next in line, and so on successively, until the selection

is fixed. Only after two years of effective service in the respective classification may the judge be promoted;

V. In the composition of any tribunal, a fifth of the places shall be filled by attorneys and members of the public ministry ,of renowned merit and spotless reputation, with at least ten years of forensic practice. For each vacancy, the tribunal shall vote upon a triplicate list, in secret session and with secret ballot. If a member of the public ministry is selected, the following vacancy shall be filled by an attorney;

VI. The remuneration of the judges shall be fixed at an amount not inferior to that received, in any form, by the state secretaries; and that of the other life-tenure judges, with a difference not to exceed thirty percent between one classification and another, and attributing to those of highest classification not less than two-thirds of the remuneration of the judges;

VII. In case of transfer of the seat of the tribunal, the judge is authorized to move to the new seat or to a district of equal classification or to request placement on an available list with full remuneration;

VIII. Only by proposal of the tribunal of justice may the number of its members or of the members of any other tribunal be altered;

IX. The tribunal of justice shall have exclusive power to prosecute and judge inferior judges in ordinary crimes and in those of responsibility;

X. A temporary justice of the peace may be instituted, with the judicial attributes of substitution, except for judgment of final or appellate cases, and with powers for the licensing and celebration of marriages, and other acts which the law may determine;

XI. Magistrates may be created with investiture in office limited to a certain time and powers to judge cases of small value. These judges may substitute for life-tenure judges;

XII. State military justice, organized with observance of the general precepts of federal law (Article 5, Number XV, f), shall have as organs of first instance the councils of justice and as organ of second instance a special court or the tribunal of justice.

TITLE THREE

THE PUBLIC MINISTRY

Art. 125. The law shall organize the public ministry of the Union in conjunction with the ordinary, military, electoral, and labor courts.

Art. 126. The federal public ministry has as its head the attorney general of the Republic. The attorney general, appointed by the President of the Republic, after approval of the selection by the Federal Senate from among citizens with the requisites indicated in Article 99, is dismissible at will.

Sole Paragraph. The Union shall be represented in court by the attorneys of the Republic, but the law may entrust this representation, in the districts of the interior, to the local public ministry.

Art. 127. The members of the public ministry of the Union, of the federal district, and of the territories, shall enter into the initial positions of the career by competition. After two years of service, they may not be dismissed except by judicial sentence or administrative process allowing them the most ample defense; nor shall they be removed, except upon representation put forward by the head of the public ministry, based upon the convenience of the service.

Art. 128. In the states, the public ministry shall also be established on

a career basis, with observance of the precepts of the preceding article, as well as that of promotion from one classification to another.

TITLE FOUR

DECLARATION OF RIGHTS

CHAPTER I

NATIONALITY AND CITIZENSHIP

Art. 129. The following are Brazilians:

I. Persons born in Brazil, even though of foreign parents, if the latter are not resident in the service of the government of their country;

II. The children of a Brazilian father or mother born in a foreign country, if the parents are in the service of Brazil, or, if they should not be, if they come to reside in the country. In this case, after the attainment of majority they should, in order to conserve Brazilian nationality, choose it within four years;

III. Those who acquired Brazilian nationality under the terms of Article 69, Numbers IV and V, of the Constitution of February 24, 1891;

IV. Foreigners naturalized in the form which the law may establish, it being required of the Portugese merely that they reside in the country one uninterrupted year and be of good moral standing and physical health.

Art. 130. A Brazilian shall lose his nationality:

I. Who, by voluntary naturalization, shall acquire another nationality;

II. Who, without permission of the President of the Republic, shall accept a commission, employment, or pension from a foreign government;

III. Who, by judicial sentence, in process established by law, shall have his naturalization cancelled by reason of exercising activity injurious to the national interest.

Art. 131. Electors shall be Brazilians more than eighteen years of age who register as prescribed by law.

Art. 132. The following may not register as electors:

I. The illiterate;

II. Those who do not know how to express themselves in the national tongue;

III. Those who may be deprived temporarily or permanently of political rights.

Sole Paragraph. Enlisted soldiers also may not register as electors, except officer candidates, sub-officers, sub-lieutenants, sergeants, and students of military schools of higher education.

Art. 133. Registration and voting are obligatory for Brazilians of both sexes, subject to the exceptions established by law.

Art. 134. Suffrage is universal and direct; the vote is secret; and the proportional representation of the national political parties is assured in the form which the law may establish.

Art. 135. Political rights shall be suspended or lost only in the following cases:

§ 1. They shall be suspended:

I. For absolute civil incapacity;

II. For criminal conviction, for as long as its effects shall last;

§ 2. They shall be lost:

I. In the cases established in Article 130,

II. For the refusal provided for in Article 141, § 8;

III. For the acceptance of foreign title of nobility or decoration which may imply restriction of right or duty before the State.

Art. 136. The loss of political rights carries with it, simultaneously, the loss of public office or function.

Art. 137. The law shall establish the conditions of reacquisition of political rights and of nationality.

Art. 138. Those who may not be registered and those mentioned in the Sole Paragraph of Article 132 may not be elected.

Art. 139. The following also may not be elected:

I. As President and Vice President of the Republic:

(a) A President who may have held the office for any space of time in the period immediately preceding, and likewise the Vice President who may have succeeded him or who, during the six months preceding the election, may have substituted for him;

(b) Until six months after definite separation from their functions the governors, the federal interventors appointed in accordance with Article 12, the ministers of state and the mayor of the federal district;

(c) Until three months after definitive cessation of their functions, the ministers of the Federal Supreme Court, and the attorney general of the Republic, the chiefs of staff, the judges, the attorney general and the regional attorneys of the electoral justice, the secretaries of state and the chiefs of police;

II. As Governor:

(a) In each state, a Governor who may have held the office for any period of time in the period immediately preceding, or person who may have succeeded him, or who may have substituted for him within the six months preceding the election; and a federal interventor appointed in the form of Article 12, who may have exercised the functions for any space of time in the governmental period immediately preceding;

(b) Until one year after definitive separation from his functions, the President, the Vice President of the Republic, and any substitutes who may have assumed the presidency;

(c) In each state, until three months after definitive cessation of their functions, the state secretaries, the chiefs of the military district the commandants of police, the federal and state magistrates and the chief of the public ministry;

(d) Until three months after definitive cessation of their functions, those who may be ineligible for President of the Republic, except those mentioned in items (a) and (b) of this number;

III. As Mayor, anyone who may have held the office in the period immediately preceding, as well as anyone who may have succeeded him or who, within the six months preceding the election, may have substituted for him; and, likewise, for the same period, the police authorities with jurisdiction in the municipality;

IV. For the Chamber of Deputies and the Federal Senate, the authorities mentioned in Numbers I and II, under the same conditions established therein, if in office during the three months preceding the election;

V. For the legislative assemblies, the governors, state secretaries, and the chief of police, until two months after definitive cessation of their functions.

Sole Paragraph. The precepts of this article apply to the office-holders, both regular and provisional, in the offices mentioned.

Art. 140. Likewise ineligible, under the same conditions set forth in the preceding article, are the spouse and relatives or kin, to the second degree:

I. Of the President and the Vice President of the Republic or of the substitute who may assume the presidency:
(a) For President and Vice President;
(b) For governor;
(c) For deputy or senator, except in case of having already exercised the mandate or of having been elected simultaneously with the President and Vice President of the Republic;

II. Of the governor or federal interventor, appointed in accordance with Article 12 in each state:
(a) For governor;
(b) For deputy or senator except in case of having already exercised the mandate or of having been elected simultaneously with the governor;

III. Of the mayor for the same office.

Chapter II

Individual Rights and Guarantees

Art. 141. The Constitution assures Brazilians and foreigners residing in the country the inviolability of the rights respecting life, liberty, individual security, and property in the following terms:

§ 1. All are equal before the law.

§ 2. No one may be obliged to do or refrain from doing anything except by virtue of law.

§ 3. The law shall not prejudice any vested right, any juridical act accomplished, or any adjudicated matter.

§ 4. The law shall not exclude any injury to individual rights from consideration by the judicial power.

§ 5. The manifestation of thought is free and shall not be dependent upon censorship, except as regards public spectacles and amusements, and each person shall be responsible, in the cases and in the form which the law may establish, for any abuses he may commit. Anonymity is not permitted. The right of reply is assured. The publication of books and periodicals shall not be dependent upon license from the public power. However, propaganda for war, or violent processes to overthrow the political and social order or prejudices of races or of class shall not be tolerated.

§ 6. The secrecy of correspondence is inviolable.

§ 7. The liberty of conscience and creed is inviolable, and the free exercise of religious sects is assured, as long as they shall not be contrary to public order or good morals. Religious associations shall acquire juridical personality in the form of the civil law.

§ 8. No one shall be deprived of any of his rights by reason of religious, philosophic, or political conviction, unless he shall invoke it in order to exempt himself from any obligation, duty, or service required by the law of Brazilians in general, or shall refuse those which the same law may es-

tablish as substitutes for those duties in order to meet a conscientious excuse.

§ 9. Without constraint of the ones favored, religious ministration shall be tendered by a Brazilian (Article 129, Numbers I and II) to the armed forces, and likewise, when solicited by interested parties or their legal representatives, in establishments of collective internment.

§ 10. Cemeteries shall have secular character and shall be administered by the municipal authority. All religious confessions shall be permitted to practice their rites therein. Religious associations may maintain private cemeteries, in accord with the law.

§ 11. All may meet, without arms, without any intervention on the part of the police except to assure public order. With this object in view, the police may designate the place for the meeting, with the understanding that proceeding in this manner, they [the police] do not frustrate the meeting or render it impossible.

§ 12. Freedom of association for legitimate purposes is assured. No association may be compulsorily dissolved except by virtue of judicial sentence.

§ 13. The organization, registration, or functioning of any political party or association whose program or action may be contrary to the democratic régime based upon plurality of parties and guaranty of the fundamental rights of men, is prohibited.

§ 14. The practice of any profession shall be free, with observance of such conditions of capacity as the law may establish.

§ 15. The home is the inviolable refuge of the individual. No one may enter therein at night, without the consent of the dweller, except to go to the assistance of the victims of a crime or a diasaster, or during the day, except in the cases and in the manner established by law.

§ 16. The right of property is guaranteed except for the case of expropriation for public necessity or utility, or social interest, with prior and just indemnification in money. In case of imminent peril, such as war or domestic commotion, the competent authorities may use private property, if the public good so requires, with the assurance of the right to indemnification at a later date.

§ 17. Industrial inventions belong to their authors, to whom the law shall guarantee temporary privilege, or, if diffusion should be in the collective interest, it shall grant a just reward.

§ 18. Ownership of industrial and commercial marks is assured, as well as exclusiveness in the use of a trade name.

§ 19. To the authors of literary, artistic, or scientific works shall belong the exclusive right to reproduce them. The heirs of authors shall enjoy this right for such time as the law may determine.

§ 20. No one shall be imprisoned except in the act of committing a crime or, by written order issued by a competent authority, in the cases specified by law.

§ 21. No one shall be taken to prison or detained therein if he furnishes the bond permitted by law.

§ 22. The imprisonment or detention of any person shall be immediately

communicated to the competent judge, who, if it should not be legal, shall release the victim and, in the cases provided for by law, shall hold the restraining authority responsible.

§ 23. Habeas corpus shall be granted whenever anyone shall suffer, or be threatened with suffering, violence or restraint in his freedom of movement, by illegality or abuse of power. In disciplinary transgressions, habeas corpus shall not apply.

§ 24. To protect clear and certain rights not covered by habeas corpus, a writ of security shall be granted, whatever may be authority responsible for the illegality or abuse of power.

§ 25. The accused are assured of full defense with all the means and resources essential thereto, commencing with the note of guilt, which, signed by the competent authority, with the names of the accuser and of the witnesses, shall be delivered to the prisoner within twenty-four hours. The criminal instruction shall be contradictory [contestable].

§ 26. There shall be no privileged court or exceptional judges and tribunals.

§ 27. No one shall be prosecuted or sentenced except by the competent authority and as provided by a prior law.

§ 28. The institution of the jury is maintained, with such organization as the law may give to it, provided that the number of its members shall be always odd and the secrecy of its voting shall be guaranteed, as shall be the fullness of the defense of the accused and the sovereignty of the verdicts. The judgment of crimes of craft against life shall obligatorily be of its jurisdiction.

§ 29. Penal law shall determine the individualization of the punishment and shall only be retroactive when it shall so benefit the accused.

§ 30. No penalty shall extend beyond the person of the delinquent.

§ 31. There shall be no penalty of death, of banishment, of confiscation, or of perpetual character. Exception is made, with respect to the death penalty, of the provisions of military law in time of war with a foreign country. The law shall provide for the sequestration and loss of property, in the case of illicit enrichment, through influence or through abuse of public office or function, or of employment in an autarchic entity.

§ 32. There shall be no civil imprisonment for debt, fines or costs, except in the case of an unfaithful custodian and of failure to fulfill one's obligation of maintenance, as provided by law.

§ 33. Extradition of a foreign subject shall not be granted for political crimes or crimes of opinion, or of a Brazilian in any case.

§ 34. No tax shall be demanded or increased except as the law shall establish, no tax shall be collected without previous budgetary authorization in each fiscal year, exception made, however, of the customs tariff and of taxes levied by reason of war.

§ 35. The public power shall grant judicial assistance to the needy in such manner as the law may establish.

§ 36. The law shall assure:

I. The rapid despatch of documents in transit through the public departments;

II. The communication to the interested parties of the decisions given and the information to which the latter refer;

III. The issuance of certificates solicited for the defense of individual rights;

IV. The issuance of certificates solicited for the elucidation of administrative affairs, with restriction of the cases in which the public interest imposes secrecy.

§ 37. The right is assured to any person whomsoever to make representation against abuses by authorities and to take steps to hold them responsible, by petition addressed to the public powers.

§ 38. Any citizen shall be a legitimate party to plead the annulment or declaration of nullity of acts injurious to the patrimony of the Union, of the states, or of the municipalities, and likewise of autarchic entities and those of mixed economy.

Art. 142. In time of peace any person may enter the national territory with his goods and remain therein or depart therefrom, so long as the precepts of the law are respected.

Art. 143. The federal government may expel from the national territory any foreigner injurious to the public order, unless his spouse be a Brazilian and have a Brazilian child (Article 129, Numbers I and II), dependent upon the paternal economy.

Art. 144. The specification of the rights and guarantees expressed in this Constitution does not exclude other rights and guarantees resulting from the régime and from the principles which it adopts.

TITLE FIVE

THE ECONOMIC AND SOCIAL ORDER

Art. 145. The economic order shall be organized according to principles of social justice, reconciling the liberty of initiative with the increasing value of human labor.

Sole Paragraph. Everyone is assured work that enables a dignified existence. Work is a social obligation.

Art. 146. The Union may intervene in the economic sphere and monopolize certain industries or activities, by means of special law. The intervention shall be based upon the public interest, and shall be limited by the fundamental rights assured in this Constitution.

Art. 147. The use of property shall be conditioned upon social welfare. The law may, with observance of the provisions of Article 141, § 16, promote the fair distribution of property, with equal opportunities for all.

Art. 148. The law shall restrain any and every form of abuse of economic power, including the unions or groups of concerns, either individual or social, regardless of their nature, with the aim of dominating the national markets, eliminating competition and arbitrarily increasing profits.

Art. 149. The law shall regulate the system of banks of deposit, insurance companies, capitalization companies and the like.

Art. 150. The law shall create specialized credit exstablishments to assist agriculture and stock raising.

Art. 151. The law shall make provisions for the regulating of concerns holding concessions for federal, state or municipal public services.

Sole Paragraph. The control and revision of tariffs relating to services carried on under concession shall be determined so that the profits of the concessionaires, not to exceed a fair remuneration of their capital, may permit them to meet the need for improvement and the expansion of these services. The law shall apply to the concessions granted in the previous régime of tariffs stipulated for the entire duration of the contract.

Art. 152. Mines and other subsoil wealth, as well as waterfalls, constitute property distinct from that of the soil for the purpose of industrial development or use.

Art. 153. The utilization of mineral resources, and those of hydraulic energy, depends upon federal authorization or concession, as provided by law.

§ 1. Authorizations or concessions shall be granted exclusively to Brazilians, or to concerns organized in the country, the landowner being assured preference for the development. The preferential rights of the landowner in the case of mines and deposits shall be regulated in accordance with their nature.

§ 2. The utilization of hydraulic power of reduced capacity shall not depend upon authorization or concession.

§ 3. Once the conditions demanded by law are satisfied, among these being the possession of the required technical and administrative services, the states shall exercise in their territories the powers contained in this article.

§ 4. In the cases indicated by law and having in view the general interest, the Union shall assist the states in the studies pertaining to thermo-mineral waters of medicinal application, and in the equipment of resorts destined for their use.

Art. 154. Usury, in any form, shall be punished by law.

Art. 155. Coastwise navigation for the transport of merchandise is the exclusive prerogative of national ships, except in cases of public necessity.

Sole Paragraph. The owners, charterers and commanders of national ships, as well as at least two-thirds of the members of their crews, shall be Brazilians. (Article 129, Numbers I & II).

Art. 156. The law shall facilitate the settlement of men in the fields, establishing plans for the colonization and use of public lands. For this purpose, preference shall be given to nationals and, from among these, the inhabitants of improverished zones and the unemployed.

§ 1. In the concession of ceded lands, the states shall assure squatters [posseiros], who habitually dwell thereon, the preference for the purchase of the land, up to twenty-five hectares.

§ 2. Without the previous authorization of the Federal Senate, no sale or concession of public lands exceeding an area of ten thousand hectares may be effected.

§ 3. Anyone, who, not being either a rural or an urban landowner, occupies for ten uninterrupted years, without opposition and without recognition of other ownership, a piece of land not exceeding the area of twenty-five

hectares, and makes it productive by his work ,and dwells thereon, shall acquire ownership of the land, by declaratory sentence duly transcribed.

Art. 157. Labor and social security legislation shall be governed by the following precepts as well as others aiming to improve the conditions of workers:

I. A minimum salary calculated to cover, according to the conditions of each region, the normal necessities of the worker and his family;

II. Prohibition of salary differences for the same worker because of age, sex, nationality, or civil status;

III. Higher pay for night work than for day work;

IV. Obligatory and direct participation of the worker in the profits of concerns on the terms and in the way provided by law;

V. Daily work not exceeding eight hours, except in the cases and conditions provided by law;

VI. Weekly rest with pay, preferably on Sundays, and within the limits of the technical requirements of the concerns, on the civil and religious holidays in accordance with local tradition;

VII. Annual leave, with pay;

VIII. Hygiene and safety in all work;

IX. Prohibition of work for minors under fourteen; of work in unhealthful industries, for women and for minors under eighteen; and of night work for minors under eighteen; with observance, in every instance, of the conditions established by law and the exceptions admitted by the competent judge;

X. The right of a woman to rest before and after giving birth, without prejudice to her employment and salary;

XI. Fixation of the percentage of Brazilian employees, who are to be maintained compulsorily in the public services granted under concession and in establishments in certain lines of commerce and industry;

XII. Security of employment in concerns or in rural development, as well as indemnification to the dismissed worker, in the cases and on the conditions which the law may establish;

XIII. Recognition of the collective labor agreements;

XIV. Medical and sanitary aid, including hospitalization and preventive treatment for the worker, and to expectant mothers;

XV. Assistance to the unemployed;

XVI. Social security, by means of contribution from the Union, from the employer, and from the employee for the benefit of motherhood, and against the consequences of old age, invalidity, illness, or death;

XVII. Obligation of the employer to establish insurance against labor accidents.

Sole Paragraph. There shall be no distinction as to rights, guaranties, and benefits, between manual or technical labor and intellectual labor or between those who, respectively, exercise such callings.

Art. 158. The right to strike is recognized, the exercise of which shall be regulated by law.

Art. 159. Professional or syndical association is permitted; the form of constitution, the legal representation in the collective labor contracts, and the exercise of functions delegated by the public power being regulated by law.

Art. 160. The ownership of journalistic concerns, either political or simply for news, as well as radio broadcasting, is forbidden to corporations having bearer shares, and to foreigners. Neither the latter, nor juridical persons, except the national political parties, may be shareholders of the corporations owning such concerns. The principal responsibility of them,

as well as their intellectual and administrative orientation, shall be the exclusive prerogative of Brazilians. (Art. 129, Nos. I & II)

Art. 161. The law shall regulate the exercise of the liberal professions, as well as the revalidation of diplomas issued by foreign educational institutions.

Art. 162. The selection, entry, distribution, and settlement of immigrants shall be subject to the requirements of the national interest, as provided by law.

Sole Paragraph. It shall devolve upon a federal administrative entity to orient those services, and co-ordinate them with those of naturalization and colonization, nationals being utilized in the latter as far as possible.

TITLE SIX

THE FAMILY, EDUCATION, AND CULTURE

CHAPTER I

THE FAMILY

Art. 163. The family is constituted by marriage that cannot be dissolved and shall have right to the special protection of the State.

§ 1. Marriage shall be civil, and its celebration gratis. Religious marriage shall be equivalent to civil marriage, if performed with observance of the impediments established by the law, and in conformity with its provisions, and request to this effect be made by the celebrant or any party at interest, provided that the act is registered in the public registry.

§ 2. Religious marriage celebrated without the formalities of this article shall have civil effects, if at the request of the betrothed, it be transcribed in the public registry after ratification before the competent authorities.

Art. 164. Assistance to mothers, infants, and adolescents is obligatory throughout the national territory. The law shall provide assistance to families with numerous offspring.

Art. 165. The order of succession to the estate of a foreigner, if located in Brazil, shall be regulated by the Brazilian law and for the benefit of the spouse or of the Brazilian children, in cases where the national law of the *de cujus* may not favor them to a greater extent.

CHAPTER II

EDUCATION AND CULTURE

Art. 166. Education is the right of everyone, and shall be administered at home and in the school. It shall be inspired by the principles of liberty and the ideals of human solidarity.

Art. 167. Teaching, in its different branches, shall be administered by the public powers and is open to private initiative, provided the laws which regulate it are duly respected.

Art. 168. Teaching legislation shall adopt the following principles:

I. Primary schooling is obligatory and shall be given only in the national language;

II. The official primary schooling is free to all; the official schooling subsequent to the primary schooling shall be free for whoever proves lack or insufficiency of means;

III. The industrial, commercial, and agricultural establishments employing more than one hundred persons are obligated to maintain free primary teaching for their employees and their employees' children;

IV. Industrial, and commercial concerns are obligated to administer, in co-operation, teaching to minors in their employ in such form as the law may establish, having regard to the rights of the teachers;

V. Religious instruction shall be a part of the teaching schedule of official schools, matriculation therein shall be optional, and shall be administered in accordance, with the religious confession of the pupil, manifested by him, if he is capable or by his legal representative or person responsible for him;

VI. For the filling of teaching positions, in official high schools, or in the free or official colleges or universities, a competition based on degrees and examinations shall be demanded. Professors admitted by competition of degrees and examinations shall be assured tenure for life;

VII. The liberty of professorship is guaranteed.

Art. 169. Annually, the Union shall apply not less than ten per cent, and the states, the federal district, and the municipalities not less than twenty per cent of their revenue derived from taxes to the maintenance and development of teaching.

Art. 170. The Union shall organize the federal teaching system, as well as that of each territory.

Sole Paragraph. The federal teaching system shall have a supplementary character, extending throughout the country within the strict limits of the local deficiency.

Art. 171. Each state, as well as the federal district, shall organize its own teaching system.

Sole Paragraph. For the development of these teaching systems, the Union shall co-operate with pecuniary aid, which, with respect to the primary teaching, shall be derived out of the respective national fund.

Art. 172. Each teaching system shall obligatorily have services of educational assistance to assure the needy pupils conditions of scholastic efficiency.

Art. 173. The sciences, letters, and arts are free.

Art. 174. Support of culture is a duty of the State.

Sole Paragraph. The law shall promote the creation of research institutes, particularly in connection with establishments of higher education.

Art. 175. The works, monuments, and documents of historical and artistic value, as well as the natural monuments, landscapes, and places endowed with peculiar beauty, are under the protection of the public power.

TITLE SEVEN

THE ARMED FORCES

Art. 176. The armed forces, constituted essentially by the army, navy and air force, are permanent national institutions, organized on a basis of hierarchy and discipline, under the supreme authority of the President of the Republic, and within the limit of the law.

Art. 177. It is the mission of the armed forces to defend the country and guarantee the constitutional powers, as well as law and order.

Art. 178. The political direction of war and the selection of the commanders-in-chief of the forces in operation shall be incumbent on the President of the Republic.

Art. 179. The problems pertaining to the defense of the country shall be studied by the council of national security and by the special organs of the armed forces, charged with their preparation for mobilization and military operations.

§ 1. The council of national security shall be under the direction of the President of the Republic and therein shall take part, as effective members, such ministers of state and chiefs of staff as the law may determine. In cases of impediment, the President of the Republic shall appoint his substitute.

§ 2. The law shall regulate the powers and the functions of the council of national security.

Art. 180. In the zones indispensable to the defense of the country, the following shall not be permitted, without consent of the council of national security:

I. Any act whatsoever, relating to the concession of lands, the opening of means of communication and the installation of transmitting apparatus;

II. Construction of bridges and international roads;

III. Establishment or development of any industries affecting the national security.

§ 1. The law shall specify the zones indispensable to the national defense, shall regulate their utilization, and shall insure the predominance of Brazilian capital and labor in the industries situated therein.

§ 2. The authorizations referred to in Numbers I, II and III may, at any time, be modified or cancelled by the council of national security.

Art. 181. All Brazilians are obligated to military service or other duties necessary to the defense of the country under the terms and penalties of the law.

§ 1. Women are exempted from military service but are subject to such duties as the law may establish.

§ 2. The military obligation of clergymen shall be fulfilled in the services of the armed forces or by means of spiritual assistance to them.

§ 3. No Brazilian, after reaching the minimum military service age established by law, may hold public office or employment in any autarchic entity, society of mixed economy, or undertaking holding a concession for public service, without producing proof of military enlistment, of being a reservist, or of enjoying exemption from such obligation.

§ 4. To favor the fulfillment of military obligations, training courses and other organs for the formation of reservists are permitted.

Art. 182. Commissions, with the advantages and privileges therein inherent, are fully guaranteed not only to active officers and those of the reserve but also to the retired officers.

§ 1. Military rank, posts, and uniforms are the exlusive right of the active, the reserve, or the retired soldier.

§ 2. An officer of the armed forces shall lose his post and commission only by final condemnatory sentence, whose penalty restrictive of individual liberty exceeds two years; or, in the cases provided by law, if he is delcared unworthly or incompatibe with the rank of an officer, in accordance with decision of a military court of permanent character in peacetime, or a special court during war, whether external or civil.

§ 3. The soldier who, being in active duty of the armed forces, shall accept a permanent public position outside his career, shall be transferred to the reserve with the rights and duties defined by law.

§ 4. Any soldier on active duty who shall accept a temporary public office, whether elective or not, shall be added to the respective roster and shall only count trial service for promotion by seniority, transfer to the reserve, or retirement. After eight years of separation, continuous or not, he shall be transferred, as provided by law, to the reserve without prejudice to the counting of time for retirement.

§ 5. Any soldier receiving remuneration in payment of a permanent or temporary position, shall not be entitled to his regular salary, whether he be in active service, in the reserve or in retirement.

§ 6. The provisions of Articles 192 and 193 are applicable to professional soldiers.

Art. 183. The military police, instituted for the purpose of guaranteeing internal security and the maintenance of order in the states, the territories, and the federal district, are deemed to be reserve auxiliary forces of the army.

Sole Paragraph. When mobilized in the service of the Union, in time of civil war or war abroad, the personnel of the military police shall enjoy the same benefits as that of the army.

TITLE EIGHT

PUBLIC EMPLOYEES

Art. 184. Public offices are open to all Brazilians, with observance of the requirements of the law.

Art. 185. The accumulation of any public posts is prohibited, except that provided for in Article 96, I, as well as the accumulation of two teaching positions, or of a teaching position and a scientific or technical one, provided that there is correlation of subjects and compatibility of schedule.

Art. 186. The first investiture in career offices or in others which the law may provide shall be effected by competition followed by health inspection.

Art. 187. The only appointments for life are those of magistrates, ministers of tribunal of accounts, officers of justice, and university and college professors.

Art. 188. The following shall have stability in their employment:

I. Effective employees appointed by competition, after two years in office;

II. Effective employees, appointed without competition, after five years in office.

Sole Paragraph. The provisions of this Article do not apply to posts of confidence or to those which the law may declare to be of free appointment and dismissal.

Art. 189. Public employees shall lose their positions:

I. If holding a life appointment only by virtue of a judicial sentence;

II. If having stability of employment, not only in the case provided for in the preceding item, but also if their offices are extinguished or if they are dismissed after an administrative process, in which they have been allowed the most ample defense.

Sole Paragraph. Should an office be extinguished, the employee who has stability of employment shall go on an available list with pay, until he is obligatorily made use of in another position whose nature and pay are compatible with that he had occupied.

Art. 190. Should the dismissal of any employee be invalidated by a sentence, he shall be reinstated. Anyone who may have occupied his place shall be summarily removed or restored to his old position, but with no right to indemnification.

Art. 191. Employees shall be retired:

(a) For invalidity;
(b) Compulsorily, at the age of seventy.

§ 1. Any employee with more than thirty-five years of service may be retired at his request.

§ 2. Retirement salaries shall be in full, if the employee has had thirty years of service; and shall be in proportion if the employee has not attained this limit.

§ 3. Retirement salaries shall be in full when the employee becomes invalid on account of an accident sustained in the service, by reason of a professional illness or serious, contagious or incurable illness, specified by law.

§ 4. Having regard to the special nature of the work, the law can reduce the limits referred to in Number II, in the second paragraph of this Article.

Art. 192. The time of federal, state, or municipal public service shall be computed in full, for the purposes of placement on available lists and retirement.

Art. 193. Inactivity income shall be adjusted whenever salaries of active employees are modified by reason of fluctuation of the purchasing power of the currency.

Art. 194. Juridical persons of national public law are civilly responsible for any harm which their employees, as such, may cause to third parties.

Sole Paragraph. These persons shall have right of recourse of action against the employees causing the harm, if the latter are found to have been guilty.

TITLE NINE

GENERAL PROVISIONS

Art. 195. The flag, the hymn, the seal and the arms in use on the date of promulgation of this Constitution are national symbols.

Sole Paragraph. The states and municipalities also may have their symbols.

Art. 196. The diplomatic representation to the Holy See is maintained.

Art. 197. The incompatibilities set forth in Article 48 extend in so far as may be applicable to the President and Vice President of the Republic, to the ministers of state and to the members of the judicial power.

Art. 198. For the execution of the defense plans against the effects of the so-called drought of the Northeast, the Union shall spend, annually, upon works and services of social and economic assistance an amount never inferior to three per cent of all tax revenue.

§ 1. One-third of this amount shall be deposited in a special fund destined for the help of the populations affected by the calamity; this reserve, or part of it, may be invested at moderate interest in accordance with the provisions of law, in loans to farmers and industrialists established in the area embraced by the drought.

§ 2. The states within the drought area shall invest three per cent of their tax revenue in the construction of dams, on a co-operative basis, and in other services necessary to the assistance of their populations.

Art. 199. In the execution of the plan to increase the economic worth of the Amazon Valley, the Union shall invest, during at least twenty consecutive years, an amount not less than three per cent of its tax revenue.

Sole Paragraph. The states and territories within that region, as well as their respective municipalities, shall reserve, annually, for the same purpose, three per cent of their tax revenue. The resources referred to in this paragraph shall be applied through the medium of the federal government.

Art. 200. Only by vote of an absolute majority of their members may the courts declare the unconstitutionality of a law or act of the public power.

Art. 201. Law suits in which the Union is the plaintiff shall be judged in the capital of the state or territory in which the other party is domiciled. Actions against the Union may be judged in the capital of the state or territory in which the plaintiff has his domicile; in the capital of the state in which the deed or fact which gave origin to the claim occurred or in which the object be situated; or again, in the federal district.

§ 1. Cases brought before other judges, if the Union shall figure therein as witness or opponent, shall come under the jurisdiction of one of the judges of the capital.

§ 2. The law may permit the action to be brought in another court, committing the judicial representation of the Union to the state public ministry.

Art. 202. Taxes shall be of a personal nature whenever possible, and shall be graduated according to the economic capacity of the taxpayer.

Art. 203. No tax shall fall directly upon author's royalties or on the remuneration of teachers and journalists.

Art. 204. Payments due by the federal, state or municipal treasuries by virtue of judicial sentence shall be made in the order of presentation of

the claims and be charged against the respective credits, it being forbidden to designate cases or persons in the budget allocations and extra-budgetary credits opened for this purpose.

Sole Paragraph. The budget allocations and credits opened shall be consigned to the judicial power, the amounts being paid to the competent department. It is the responsibility of the president of the Federal Court of Appeals or, according to the case, president of the tribunal of justice, to issued orders of payment according to the possibilities of the deposit and to authorize upon requisition of any creditor deferred in his right of precedence, and after hearing the chief of the public ministry, the sequestration of the amount necessary to satisfy the debit.

Art. 205. The national council of economy is hereby created, and its organization shall be regulated by law.

§ 1. Its members shall be appointed by the President of the Republic, after approval of the selection by the Federal Senate, from among citizens of notable competence in economic affairs.

§ 2. It is incumbent on the council to study the economic life of the country and to suggest to the competent authority the measures that it may deem necessary.

Art. 206. The National Congress may decree a state of siege in the following instances:

I. Serious domestic commotion, or facts evidencing its imminence;
II. External war.

Art. 207. The law decreeing a state of siege in the case of external war or in the case of serious domestic commotion with the character of civil war shall also establish the norms its execution should follow, and shall indicate the constitutional guaranties that will continue in effect. It shall also specify the cases where crimes against the security of the nation or its political or social institutions are to become subject to military jurisdiction and legislation, even when committed by civilians, but outside of the zones of operation only when related to them and having a bearing on their development.

Sole Paragraph. When the law has been published, the President of the Republic shall designate in a decree the persons in charge of its execution, and the zones of operation that, in accordance with the aforesaid decree, shall be submitted to military juridisction and legislation.

Art. 208. In the interval between legislative sessions, it shall be the exclusive prerogative of the President of the Republic to decree or extend the state of siege, with observance of the provisions of the preceding article.

Sole Paragraph. After the state of siege has been decreed, the president of the Senate shall immediately convoke the National Congress to meet within fifteen days to approve or disapprove the law.

Art. 209. During the state of siege decreed in accordance with Number I, Article 206, only the following measures may be taken against individuals:

I. Obligation to remain in a determined locality;
II. Detention in buildings not destined for common criminals;
III. Banishment to any locality, populated and healthful, of the national territory.

Sole Paragraph. The President of the Republic may moreover determine:

I. Censorship of correspondence or publicity, including that of radio broadcasting, cinema, and theater;
II. The suspension of the right to hold meetings, including that exercised by associations within their own premises;
III. The search and apprehension in private houses;
IV. Suspension from office or employment of any public official or employee of any autarchy, or entity of mixed economy, or concern holding concession for public services;
V. Intervention in the public service concerns.

Art. 210. A state of siege in the case of Number I, Article 206, may not be decreed for more than thirty days, nor may it be extended, in each instance, for more than this period. In the case of Number II, it may be decreed for as long as the external war shall last.

Art. 211. When a state of siege is decreed by the President of the Republic, in accordance with Article 208, the latter, as soon as the National Congress is assembled, shall, in a special message, relate the motives which determined such action and shall justify the measures that may have been adopted. The National Congress, in secret session, shall then deliberate upon the decree issued in order to revoke it or maintain it, taking note, also, of the government's action according to the information furnished and, when necessary, authorizing the extension of the measure.

Art. 212. The decree of state of siege shall always specify the regions it is to cover.

Art. 213. The immunities of the members of the National Congress shall continue during the state of siege; nevertheless, the immunities of certain deputies or senators whose liberty becomes manifestly incompatible with the national defense or with the security of political or social institutions, may be suspended by vote of two-thirds of the members of the chamber or of the Senate.

Sole Paragraph. In the interval between legislative sessions, the authorization shall be given by the president of the Chamber of Deputies or by the vice-president of the Federal Senate, according as members of one or other chamber are involved, but ad referendum by the respective chamber, which should immediately be convoked to meet within fifteen days.

Art. 214. When the state of siege has expired, its effects shall also cease.

Sole Paragraph. As soon as the state of siege shall end, the measures applied during the period of its effectiveness shall be reported by the President of the Republic in a message to the National Congress, with specification and justification of the measures adopted.

Art. 215. Failure to oberserve the provisions of Articles 206 to 214 shall make the restraint illegal, and shall allow the parties restrained to appeal to the judicial power.

Art. 216. The possession of lands by aborigines who may be permanently dwelling there shall be respected, provided that they do not sell them.

Art. 217. The Constitution may be amended.

§ 1. An amendment shall be considered proposed, if presented by at least one-fourth of the members of the Chamber of Deputies or of the Federal Senate, or by more than one-half of the legislative assemblies of the states, in the course of two years, each of these manifesting itself by majority of its members.

§ 2. An amendment shall be considered accepted if it be approved in two discussions by an absolute majority of the Chamber of Deputies and of the Federal Senate, in two ordinary, consecutive legislative sessions.

§ 3. If the amendment shall obtain in one of the chambers, in two discussions, the vote of two-thirds of its members, it shall immediately be submitted to the other; and if approved in this chamber by the same process, and by equal majority, it shall be considered accepted.

§ 4. The amendment shall be promulgated by the executive committees of the Chamber of Deputies and of the Federal Senate. After publication, over the signatures of the members of both committees, it shall be appended, with its respective sequence number, to the text of the Constitution.

§ 5. The Constitution shall not be modified while a state of siege is in force.

§ 6. Bills tending to abolish the Federation and the Republic shall not be admitted to consideration.

Art. 218. This Constitution, and the act of the constitutional transitory provisions, after they have been signed by the deputies and senators present, shall be promulgated simultaneously by the administration of the Constitutent Assembly, and shall become effective on the date of their publication.

In the Meeting Hall of the Constitutional Assembly, September 18, 1946.

TRANSITORY PROVISIONS

Art. 1. After promulgation of this act, the Constituent Assembly shall, on the following day, elect the Vice-President of the Republic for the first constitutional period.

§ 1. Such election, for which none shall be ineligible, shall be made by secret scrutiny and shall, on the first ballot, be by absolute majority of votes, or by relative majority the second time.

§ 2. The Vice-President elect shall take office before the Assembly on the same date, or else before the Federal Senate.

§ 3. The mandate of the Vice-President shall terminate simultaneously with that of the first presidential period.

Art. 2. The mandate of the President of the Republic in office (Article 82 of the Constitution) shall count as from the date of his taking office.

§ 1. The mandates of the present deputies and those of the federal senators who were elected in order to complete the number prescribed by paragraph 1 of Article 60 of the Constitution, shall coincide with that of the President of the Republic.

§ 2. The mandates of the other senators shall terminate on thirty-first January 1955.

§ 3. The mandates of the governors and of the deputies to the legislative assemblies, as well as those of the municipal councilors in the federal district, elected in accordance with Article 11 of this act, shall expire on the same date as that of the President of the Republic.

Art. 3. The Constituent Assembly, after fixing the remuneration of the President and Vice-President of the Republic, for the first constitutional period, as per Article 86 of the Constitution, shall consider its mission completed and shall be separated into the Chamber and the Senate, which shall initiate the exercise of their respective legislative powers.

Art. 4. The capital of the Union shall be moved to the central plateau of the country.

§ 1. Within sixty days from the promulgation of the present act, the President of the Republic shall appoint a committee of technicians of recognized skill to proceed with the study of the prospective site for the new capital.

§ 2. The study referred to in the preceding paragraph shall be sent up to the National Congress which shall deliberate thereon and frame a special law, and shall establish the time limit in which to begin the delimitation of the area to be incorporated into the domain of the Union.

§ 3. Upon the completion of the work of demarcation, the National Congress shall decide upon the date of removal of the capital.

§ 4. The transfer having been made, the present federal district shall constitute the State of Guanabara.

Art. 5. Federal intervention in the case of Item VI of Article 7 of the Constitution, with reference to the states in arrears with the payment of their funded debt, cannot be effected earlier than two years from the date of promulgation of this act.

Art. 6. Within three years from the promulgation of this act, the states shall undertake, by mutual agreement, the demarcation of their boundaries, being permitted, for this purpose, to make alterations and compensations of areas in accordance with the natural features of the terrain, administrative conveniences, and the convenience of the frontier populations.

§ 1. If the states interested so request, the government of the Union shall entrust the work of demarcation to the geographical service of the army.

§ 2. If such states do not comply with the requirements of this article, the Federal Senate shall deliberate with respect thereto, without prejudice to the competence established by Article 101, Number I, letter (e) of the Constitution.

Art. 7. The cattle ranches belonging to the domain of the Union, situated in the territory of the state of Piaui, and remaining from confiscation of the Jesuits during the colonial period, shall become the property of that state.

Art. 8. The present Territories of Iguaçu and Ponta Pora are hereby declared extinct, their respective areas returning to the states from which they were dismembered.

Sole Paragraph. The judges and, when enjoying stability in office, the members of the public ministry in the territories now extinct, shall continue on the available list, with pay, until able to be utilized in federal or state posts, the nature of which, as well as the corresponding remuneration, may be compatible with those which they were occupying at the date of the promulgation of this act.

Art. 9. The Territory of Acre shall be raised to the category of a state, with the name of State of Acre, as soon as its revenues become equal to those of the state which presently brings in the lowest return.

Art. 10. The provisions of Article 56 of the Constitution do not apply to the Territory of Fernando de Noronha.

Art. 11. On the first Sunday after one hundred and twenty days, counted from the promulgation of this act, there shall take place, in each state, the election of the governor and of the deputies to the legislative assemblies, which, at the beginning, shall have a constituent function.

§ 1. In the first election, the number of deputies to the state assemblies shall be as follows: Amazonas, thirty; Pará, thirty-seven; Maranhão, thirty-six; Piauí, thirty-two; Caera, forty-five; Rio Grande do Norte, thirty-two; Paraíba, thirty-seven; Pernambuco, fifty-five; Alagoas, thirty-five; Sergipe, thirty-two; Bahia, sixty; Espírito Santo, thirty-two; Rio de Janeiro, fifty-four; São Paulo, seventy-five; Paraná, thirty-seven; Santa Catarina, thirty-seven; Rio Grande do Sul, fifty-five; Minas Gerais, seventy-two; Goiás, thirty-two and Mato Grosso, thirty.

§ 2. Elections shall be held on the same date:

I. In the states and in the federal district:

(a) For the third senatorial seat and the alternates as prescribed by Article 60, paragraphs 1, 3 and 4 of the Constitution;

(b) For the party alternates of the senators elected on second December 1945, if ,in respect of these, no vacancy has taken place;

II. For the federal deputies, to complete the requisite number in those states where the number of representatives to the Chamber of Deputies may not correspond to that established in the Constitution, taking as a basis the last official estimate of the institute of geography and statistics;

III. For one federal deputy in the territories, Acre and Fernando de Noronha being excepted;

IV. For fifty municipal councillors in the federal district;

V. For the completion of existing vacancies, or any which may occur, up to thirty days before the poll, in the respective electoral zones, and for the alternates themselves in the case of senators.

§ 3. In the elections referred to in this article, the political parties, in each state, may enter two candidates more than the number of deputies to be elected to the federal chamber. The successful alternates in the election shall substitute those who were elected in the terms of paragraph 2, in the cases mentioned in the Constitution and in the law, as also those, of the same political party, whose list of alternates may have become exhausted.

§ 4. The entry of the same candidate for more than one state shall not be permitted.

§ 5. The supreme electoral tribunal shall take steps to ensure compliance with this article and its preceding paragraphs. In the exercise of this prerogative, the same tribunal shall fix, in accordance with official

statistical information, the number of new seats in the federal representation, taking into account the criterion established in Article 58, sections 1 and 2, of the Constitution.

§ 6. The mandate of least duration shall be that of the third senator. If more than one senator be elected by the same state or by the federal district, the mandate of longest duration shall be that of the one receiving the most votes.

§ 7. In the elections referred to in this article, the only disqualifications shall be:

I. For governor:

(a) The ministers of state who may have been in office during three months prior to the election;

(b) Those who, up to eighteen months before the election, may have exercised the office of President of the Republic or, in the respective state, even if only in an acting capacity, that of governor or interventor; and also the state secretaries, commanders of military zones, chiefs and commanders of police, magistrates, and the head of the public ministry, who may have been engaged in these functions at any time during the two months immediately preceding the election;

II. For federal senators and deputies and their respective alternates, those who, up to six months prior to the election, may have exercised the office of governor or interventor in the respective state, and the other authorities referred to in Number I who may have been occupying these posts at any time during the two months immediately preceding the election;

III. For deputies to the state assemblies, the authorities referred to in Number I letters (a) and (b) (second part) who may have been occupying these posts at any time during the two months immediately preceding the election;

IV. For councillors to the municipal chamber of the federal district, the mayor, and the authorities referred to in Number I, letters (a) and (b) (second part), who may have been occupying these posts at any time during the two months immediately preceding the election.

§ 8. After receiving their diplomas, the deputies to the state assemblies shall meet, within ten days, presided over by the president of the regional electoral tribunal, by convocation of the latter, who shall set in motion the election of the executive committee.

§ 9. Any state which, up to four months after the installation of its assembly, may not have decreed its constitution, shall, by deliberation of the National Congress, be submitted to the constitution of whichever other state may be deemed most suitable, until it has been amended by the process determined therein.

Art. 12. Pending the promulgation of the state constitutions and, in the case of the federal district, the decreeing of its organic law, the states and municipalities shall be administered in accordance with the legislation in force at the date of promulgating this act.

Sole Paragraph. Within ten days counted from their official publication, any citizen may appeal to the President of the Republic from the acts of the interventors; and, on the same terms, to the interventor, from the acts of the municipal mayors.

Art. 13. The discrimination of revenues established in Articles 19 to

21 and 29 of the Federal Constitution shall come into force on January first, 1948, in so far as it modifies the previous régime.

§ 1. The states which levy exportation taxes higher than the limit allowed by Article 19, Number V, shall reduce the excess gradually, within a period of four years, except in the case referred to in paragraph 6 of that Article.

§ 2. As from 1948, the following shall be made gradually effective:

I. In the course of two years, the requirements of Article 15, paragraph 4, whereby the Union shall hand over to the municipalities half of the quota in the first year and the entire quota in the second year;

II. In the course of four years, the abolition of any taxes which, under the Constitution, may not be included in the powers of the governments collecting them at present;

III. In the course of ten years, the provisions contained in Article 20 of the Constitution.

§ 3. The federal or state law, in accordance with the case, may establish a shorter period for the fulfilment of the provisions indicated in the previous paragraphs.

Art. 14. For composition of the Federal Court of Appeals, in the part constituted by magistrates, the Federal Supreme Court shall indicate, in order that they may be appointed by the President of the Republic, up to three of the sectional judges and substitutes of the extinct federal justice, if they meet the requirements of Article 99 of the Constitution. The indication shall be made, whenever possible, in a duplicate list for each case.

§ 1. Immediately after the termination of the period mentioned in Article 3, the National Congress shall fix, by law, the remuneration of the judges of the Federal Court of Appeals; and, within thirty days from sanctioning or promulgating the same law, the President of the Republic shall make the respective appointments.

§ 2. When the court has been installed, it shall elaborate its internal régime and shall provide for the organization of its secretariat, registry offices, and other services, and shall propose to the National Congress the creation of the administrative offices, and the fixing of the respective remunerations (Constitution, Article 97, Number II).

§ 3. Pending the functioning of the Federal Court of Appeals, the Federal Supereme Court shall continue to judge all the cases which come within its province, in the terms of the previous legislation.

§ 4. When the law provided for in § 1 has been voted, the Federal Supreme Court shall forward to the Federal Court of Appeals all cases incumbent upon the latter which do not bear the visa of the respective reporter.

§ 5. The embargoes against the sentences pronounced by the Federal Supreme Court shall continue to be prosecuted and judged by that court.

Art. 15. Within ten days counted from the promulgation of this act, the electoral justice shall be organized in the terms of Title I, Chapter IV, Section V of the Constitution.

§ 1. For the composition of the supreme electoral tribunal, the tribunal of justice of the federal district shall elect, by secret ballot, from amongst

its judges, one effective member, as well as two provisional members, who shall continue in office until such time as the Federal Court of Appeals may comply with the requirement of Article 110, Number I, letter (b) of the Constitution.

§ 2. After the electoral tribunals have been installed, they shall proceed in the manner indicated in paragraph 2 of Article 14 of this act.

§ 3. In the filling of offices of the secretariats of the supreme electoral tribunal and of the regional electoral tribunals, the effective office holders of the tribunals extinguished on November 10, 1937, shall be utilized, if they should still be in the active service of the Union, and request it; and to complete the respective rosters, the personnel which at present makes up the secretariats of the same tribunals shall be utilized.

§ 4. Until the secretariats of these tribunals have been definitely organized, the personnel to which the final sentence of paragraph 3 of this Article alludes, shall continue in office.

Art. 16. As from January first, 1947, the magistrates of the federal district and of the states shall begin to receive the emoluments fixed in accordance with what the Constitution establishes.

Art. 17. The present maritime court shall continue with the organization and the prerogatives attributed to it by current legislation, until such time as the federal law may deal with this matter in accordance with the terms of the Constitution.

Art. 18. Brazilians who, in the last war, rendered military service to the allied nations, even without the permission of the Brazilian government, shall not forfeit their nationality, nor shall minors who, in the same manner, may have served other nations.

Sole Paragraph. The present employees of the Union, the states, and the municipalities who formed part of the Brazilian expeditionary forces, are considered to have stability of employment.

Art. 19. Those who may have acquired Brazilian nationality during the validity of previous Constitutions and may have exercised any elective mandate whatsoever are eligible to occupy posts as representative of the people, excepting those of President and Vice-President of the Republic and of state governor.

Art. 20. The precept of the sole paragraph of Article 155 of the Constitution does not apply to naturalized Brazilians who, on the date of this act, were exercising the professions to which the said paragraph refers.

Art. 21. The utilization of waterfalls, already being used for industrial purposes on July 16, 1934,[1] and, by the same token, the exploitation of mines in production, even if temporarily suspended, do not depend upon concession or authorization; but such utilization and exploitation remain subject to the regulations and to the revision of contracts, as prescribed by law.

Art. 22. The provisions of Article 182, paragraph 1 of the Constitution do not prejudice concessions which may have been granted prior to this act and which are maintained or re-established.

Art. 23. The present temporary employees of the Union, of the states,

[1] Date of the penultimate constitution.

and municipalities having at least five years of service, shall automatically be made effective on the date of promulgation of this act; and the present supernumeraries who may be exercising a function of permanent character for more than five years, or [who may be exercising the function] by virtue of a contest or test of ability, shall be placed on the same level as office-holders for purposes of stability, retirement, leave, availability, and vacations.

Sole Paragraph. The provisions of this Article do not apply to:

I. Those who may temporarily exercise life-tenure offices considered as such in the Constitution;

II. Those who may hold office for the filling of which a contest may have been held with registration closed on the date of the promulgation of this act;

III. Those who may have been disqualified in a contest for the post occupied.

Art. 24. The employees who, in accordance with the legislation then in force, accumulated technical and scientific teaching posts and who forfeited their effective employment by virtue of the prohibition to retain more than one post, established in the charter of November tenth, 1937 and Decree-Law No. 24 of November twenty-ninth of the same year, are hereby deemed to be on the available list, with pay, until such time as their services may be utilized again, without, however, any right to salary prior to the date of promulgation of this act.

Sole Pragraph. The retirement benefits are hereby restored to those who lost them by virtue of the decree mentioned, but also, without any right to salary prior to the date of promulgation of this act.

Art. 25. The employees of the secretariats of the legislative chambers are assured the right to receive additional bonuses for the time they are in the public service.

Art. 26. The executive committee of the Constituent Assembly shall issue diplomas of effective appointment to the temporary employees in the secretariats of the Federal Senate, and the Chamber of Deputies occupying vacant offices, who up to September third, 1946, rendered services during the work of drawing up the Constitution.

Sole Paragraph. Those serving in an acting capacity up to the date mentioned and not benefited by the provisions of this Article, shall be utilized to fill the first vacancies which may occur.

Art. 27. During the period of fifteen years, counted from the installation of the Constituent Assembly, the real estate acquired for his residence by a journalist who possesses no other, shall be exempt from the transfer tax, and, as long as it serves the purpose envisioned in this Article, from the respective buildings tax.

Sole Paragraph. For the effects of this Article, a journalist shall be considered as one who proves that he is in the exercise of the profession, in accordance with legislation in force, or has been pensioned therein.

Art. 28. Amnesty is hereby granted to all citizens considered to be deserters or to have failed to present themselves for military service up to the date of promulgation of this act, likewise extending to any workers

who have undergone disciplinary punishment as a consequence of strikes or labor disputes.

Art. 29. The federal government is obligated, within a period of twenty years, counted from the date of promulgation of this Constitution, to prepare and execute a scheme for the total utilization of the economic possibilities of the River São Francisco and its tributaries, in which it shall apply, annually, an amount not less than one percent of its revenue from taxes.

Art. 30. Those who availed themselves of the right to present claims, instituted by the sole paragraph of Article 18 of the Transitory Provisions of the Constitution of July sixteen, 1934,[1] are assured the right to plead before the judicial power for recognition of their rights, except with respect to remuneration in arrears, and all prescriptions shall be forgiven in this manner, providing that the following requirements are fulfilled:

I. To have obtained in the respective cases, a favorable and final opinion of the revisory commission, referred to in Decree No. 254 of August first, 1935;

II. The executive power not having acted in accordance with opinion of the revisory committee, with the object of restoring the rights of the claimants.

Art. 31. The incorporation into the patrimony of the Union of the goods given in guarantee, by those benefited by the financing of the cotton crops, from the 1942 corp to the 1945 and 1946 crops, shall not be liable to judicial consideration.

Art. 32. Within two years, counted from the promulgation of this act, the Union shall complete the Rio-Northeast highway.

Art. 33. The government shall cause to be erected in the capital of the Republic a monument to Rui Barbosa, in consecration of his services to the fatherland, to liberty, and to justice.

Art. 34. The honors of marshal of the Brazilian army are hereby conferred upon General of Division João Batista Mascarenhas de Morais, Commander of the Brazilian expeditionary forces in the last war.

Art. 35. The government shall appoint a committee of professors, writers, and journalists in order that they may give their opinion on the denomination of the national language.

Art. 36. This act shall be promulgated by the executive committee of the Constituent Assembly in the form prescribed by Article 218 of the Constitution.

Rio de Janeiro, eighteenth September 1946.

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[1] The Sole Paragraph of Article 18 of the Transitory Provisions of the Constitution of July 16, 1934, read as follows: "Sole Paragraph. The President of the Republic shall organize at an opportune moment, one or various committees presided over by federal judges with life-appointments who, appraising, without special legal formality, the claims of the interested parties, shall issue a considered opinion as to the convenience of their services being utilized in the posts or public functions, which they held or discharged and from which they may have been removed by the provisional government, or its delegates, or in other corresponding posts, as soon as possible, payment of salaries in arrears or of any indemnifications whatsoever being in every case excluded."

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BULGARIA

SUMMARY

International Status

A treaty of peace between the Allied Powers and Bulgaria [1] was signed on February 10, 1947, restoring substantially the frontier as it existed on January 1, 1941,[2] and limiting Bulgaria's military forces.[3]

Bulgaria is a member of the United Nations.[4] It joined the Axis Powers on March 2, 1941, and declared war on the United States and the United

[1] The parties to the Treaty are the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, Australia, the Byelorussian Soviet Socialist Republic, Czechoslovakia, Greece, India, New Zealand, the Ukrainian Soviet Socialist Republic, the Union of South Africa, Yugoslavia, and Bulgaria.

[2] Treaty of Jan. 20, 1947, Art. 1. [3] Id., Art. 9.

[4] Its application, originally made in 1947, was accepted December 14, 1955.

Kingdom in December, 1941. It remained at peace with the USSR until September 6, 1944, when the USSR declared war and its army entered Bulgaria without resistance.

The monarchy was terminated and a republic was proclaimed as the result of a plebiscite held on September 8, 1946. Since then the government has been under USSR influence.

The principality of Bulgaria was created by a treaty signed by Great Britain, Austria-Hungary, France, Germany, Italy, Russia and Turkey at Berlin on July 13, 1878, as an autonomous and tributary principality under suzerainty of the Sultan of Turkey.[1] Bulgaria declared its independence October 5, 1908.

The Treaty of Neuilly of November 29, 1919, following Bulgaria's unconditional surrender to the Allied Powers on September 29, 1918, ceded to the Allied Powers her Thracian territories, later given over to Greece, and some territory on the western frontier of Yugoslavia.

Bulgaria joined the League of Nations in 1920. It signed the Statute of the Permanent Court of International Justice on April 10, 1921, and deposited its ratification August 12, 1921.[2] It is a party to the Statute of the International Court of Justice.[3] It was a party to the Paris Treaty of 1928 for the renunciation of war. It is a member of the Postal Union, and numerous other international organizations.[4]

Form of National Government

Bulgaria, under the Constitution of 1947, which replaces that of 1879, is "a People's Republic with a representative government." [5]

Source of Sovereign Power

"All power emanates from the people and belongs to the people." [6]

Rights of the People

The text of the Constitution states that "all citizens of the People's Republic of Bulgaria are equal before the law." [7] Citizens are guaranteed the right to work; [8] the right to rest; [9] the right to "pension, aid, and compensation in the case of disease, accident, disablement, unemployment and old age;" [10] "freedom of conscience and religion, and of performing religious rites;" [11] the right to education, elementary education being free and compulsory; [12] the right to protection abroad; [13] the right "to form so-

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[1] Hackworth, Digest of International Law, Vol. 1, p. 74.
[2] It accepted the optional clause respecting obligatory jurisdiction (Article 36) on July 29, 1921, on the sole condition of reciprocity.
[3] By admission to the United Nations. See U. N. Charter, Art. 93.
[4] See Table I. [5] 1947 Const., Art. 1. [6] Id., Art. 2.
[7] Id., Art. 71. [8] Id., Art. 73. [9] Id., Art. 74.
[10] Id., Art. 75. [11] Id., Art. 78. [12] Id., Art. 79. [13] Id., Art. 83.

cieties, associations, and organizations provided they are not contrary to the State and the public order established by the Constitution;" [1] freedom of the press, of speech, of assembly, of meetings and demonstrations; [2] and the right to make requests, complaints, and petitions.[3] There are also guaranties, not restricted to citizens, of freedom and inviolability of the individual; [4] inviolability of the home; [5] and secrecy of correspondence "except in the event of mobilization, state of siege, or when special permission is given by the judicial authorities or the prosecutor." [6]

Legislative Department

The only legislative organ of the Republic is the National Assembly,[7] elected by the people for a term of four years.[8] One deputy is elected for every thirty thousand inhabitants.[8]

The National Assembly is the supreme organ of the State power.[9] It amends the Constitution, decides on the establishment or abolition of ministries, approves the national economic plan, approves the national budget, decides questions of war and peace, decides on the holding of referenda, and grants amnesties.[10] It also elects a presidium, consisting of a president, two vice-presidents, a secretary, and fifteen members,[11] which, subject to responsibility to the National Assembly,[12] discharges numerous functions, including the interpretation of the laws, the appointment and recall of diplomatic and consular officers, the ratification and denunciation of treaties, and, between sessions of the National Assembly, the declaration of a state of war in the event of armed aggression against the Republic.[13]

Executive Department

The supreme executive and administrative organ of the State is the Government,[14] consisting of the president and vice-president of the council of ministers, the heads of the seventeen ministries, the president of the state planning commission, the president of the commission for state control, and the president of the committee for science, arts, and culture.[15] The Government is responsible to the National Assembly and gives account of its activity to it. [16]

Decisions and directives of the Government which do not conform with the Constitution and the laws may be repealed by the presidium of the National Assembly.[17]

For administrative purposes the territory of the Republic is divided into municipalities and counties.[18] The municipal and county people's

[1] 1947 Const. Art. 87. [2] Id., Art. 88. [3] Id., Art. 89.
[4] Id., Art. 82. [5] Id., Art. 85. [6] Id., Art. 86.
[7] Id., Art. 16. [8] Id., Art. 18. [9] Id., Art. 15.
[10] Id., Art. 17. [11] Id., Art. 33. [12] Id., Art. 34.
[13] Id., Art. 35. [14] Id., Art. 38. [15] Id., Art. 39.
[16] Id., Art. 40. [17] Id., Art. 65. [18] Id., Art. 47.

councils, elected by the local populations for terms of three years, direct the implementation of undertakings of local significance and issue orders in compliance with the laws and general directives of the superior organs of the state power.[1] Unlawful or irregular acts of inferior people's councils may be repealed, and those councils may be dissolved, by the presidium of the National Assembly and the superior people's councils.[2]

Judicial Department

The establishment of courts is left to determination by law.[3] The Constitution provides that supreme judicial control over all courts shall be exercised by a supreme court, the members of which will be elected by the National Assembly for a term of five years.[4] It declares that judges are independent[5] and that special courts forspecific law suits and crimes may be created only by a special law.[6]

Area, Population, Language

The area is 42,808 square miles, including 2,983 square miles restored to Bulgaria by Rumania, September 7, 1940. The population is about 7,000,000. The language is Slavonic.

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[1] 1947 Const. Arts. 48–50. [2] Id., Arts. 66, 70. [3] Id., Art. 60.
[4] Id., Art. 61. [5] Id., Art. 56. [6] Id., Art. 59.

CONSTITUTION
of the
PEOPLE'S REPUBLIC OF BULGARIA[1]

December 4, 1947

Chapter I

The People's Republic of Bulgaria

Art. 1. Bulgaria is a People's Republic with a representative government established and consolidated as a result of the heroic struggle of the Bulgarian people against the monarcho-fascist dictatorship, and of the victorious national uprising of September 9, 1944.

Art. 2. In the People's Republic of Bulgaria all power emanates from the people and belongs to the people.

This power is exercised through freely elected representative organs and through referenda.

All representative organs of the state power are elected by the citizens, by a general, direct, and secret ballot.

Art. 3. All citizens of the People's Republic who are above eighteen years of age, irrespective of sex, national origin, race, religion, education, profession, social status, or material situation, with the exception of those under judicial disability or deprived of their civil and political rights, are eligible to vote and to be elected.

All persons serving in the ranks of the Bulgarian people's army can vote and can be elected on the same basis as all other Bulgarian citizens.

Art. 4. The people's representatives in all representative organs are responsible to their electors. They may be recalled before the expiry of the term for which they have been elected.

The manner in which elections are held and the rules for recalling people's representatives are determined by law.

Art. 5. The people's Republic of Bulgaria is governed in exact accordance with the Constitution and the laws of the country.

Chapter II

Public Economic Organization

Art. 6. The means of production of the People's Republic of Bulgaria belong to the State (national property), to co-operatives, or to private individuals or juridical persons.

Art. 7. All mineral and other underground natural resources, forests,

[1] This translation was kindly provided by the Legation of the People's Republic of Bulgaria at Washington, on January 21, 1948.

waters, including mineral and curative springs, sources of natural power, railway and air communications, posts, telegraphs, telephones and radio broadcasting are state, i.e., national property. A special law shall regulate the utilization of forests by the population.

Art. 8. National economy is the basis of the country's economic development and enjoys special protection.

The State can itself manage or give under concession its own means of production.

Art. 9. The State aids and fosters co-operative enterprise.

Art. 10. Private property and its inheritance, together with private enterprise in economy, are recognized and protected by law.

Private property acquired by labor and thrift and the right to inherit it enjoy special protection.

No one can exercise his right of ownership to the detriment of the public interest.

Private monopolistic agreements and associations such as cartels, trusts, etc. are prohibited.

Private property may be subject to compulsory restrictions or expropriation only for state or public use and against fair indemnity.

The State can nationalize, fully or in part, industrial, trade, transport, or credit enterprises or branches thereof. The indemnity is determined by the law for nationalization.

Art. 11. The land belongs to those who cultivate it.

The law determines how much land private persons may own and the cases in which non-agriculturists may own cultivable land. Private ownership of large landed estates is not permitted.

Co-operative-labor farms are fostered and aided by the State and enjoy its special protection.

The State may organize state farms.

Art. 12. All state, co-operative, and private economic activity is directed by the State by means of a general economic plan with a view to the most rational devlopment of the country's national economy and the promotion of the public welfare.

In preparing and implementing the national economic plan, the State avails itself of the active collaboration of professional, economic, and public organizations and institutes.

Art. 13. Foreign and domestic trade are directed and controlled by the State.

The State may reserve to itself the exclusive right to produce or trade in any goods which are of essential importance to the national economy and the needs of the people.

Art. 14. Labor is recognized as a basic public and economic factor and is the object of the State's care in every aspect.

The State directly aids those who work—workers, peasants, craftsmen, and intellectuals—by means of its general economic and social policy, tax system, cheap credits, and co-operative organization.

With a view to improving the standard of living of the working classes, the State encourages their constructive initiative and enterprise.

Chapter III

Supreme Organs of the State Power

Art. 15. The National Assembly is the supreme organ of the state power.

Within the framework of the Constitution it is the repository of all state power in so far as certain particular functions do not fall within the competence of other and subordinate organs of the state power and of the state administration by virtue of the Constitution.

Art. 16. The National Assembly is the only legislative organ of the People's Republic of Bulgaria.

Art. 17. The National Assembly

(1) Elects the presidium of the National Assembly;
(2) Appoints the government of the People's Republic;
(3) Amends the Constitution;
(4) Decides on the establishment of new ministries and the abolition, fusion, or re-naming of existing ministries;
(5) Decides questions of the cession, exchange, or increase of the territory of the People's Republic;
(6) Approves the state economic plan;
(7) Approves the state budget and the laws for the application of the budget and determines taxes and the method of their collection;
(8) Decides on the nationalization of economic enterprises and the introduction of state monopolies;
(9) Decides questions of war and peace;
(10) Decides on the holding of referenda;
(11) Grants amnesties.

Art. 18. The National Assembly is elected for a term of four years. It consists of deputies elected by the people, one for every thirty thousand inhabitants.

Art. 19. The National Assembly is summoned for ordinary sessions by an order of the National Assembly twice a year—on November 1 and on February 1. If the presidium fails to summon the Assembly on these dates, the latter can meet on its own initiative.

The National Assembly may be summoned for an extraordinary session by a decision of the presidium of the National Assembly or on the demand of at least one third of the deputies.

Art. 20. At its opening sitting, under the chairmanship of the oldest deputy, the National Assembly elects from its number a bureau consisting of a president and three vice-presidents.

The presidents (or in his absence one of the vice-presidents) conducts the proceedings in the National Assembly in accordandce with the rules of procedure adopted by the National Assembly.

The National Assembly also elects the necessary number of secretaries and disciplinary officers in accordance with the rules of procedure.

Art. 21. The deputies take the following oath:

> I swear in the name of the people and of the People's Republic that I will serve them devotedly and selflessly, that I will observe and hold sacred and inviolable the Constitution, that in my activity as a representative of the people I will keep in view only the interests of the Nation and the State and will spare no effort in defence of the freedom and independence of my country. I have sworn.

Art. 22. Immediately after it has been constituted, the National Assembly elects a commission for verifying the elections and within a period of not more than three months submits a report confirming or annulling the election of each deputy individually.

Art. 23. Legislative initiative belongs to the government and to the deputies.

Deputies can introduce bills if they are signed by at least one fifth of the total number of deputies.

Art. 24. After being passed by the National Assembly, each law is signed by the president and secretary of the presidium of the National Assembly and is published in the state gazette.

The law comes into effect three days after its publication, unless a different term is set by the law itself.

Art. 25. The National Assembly has the sole right to decide whether all the requirements of the Constitution have been observed for making a law and whether it is contradictory to the provisions of the Constitution.

Art. 26. The National Assembly can hold a sitting if more than half of the total number of deputies are present. Decisions are then take by a simple majority except in cases for which the Constitution has made special provision.

Art. 27. The National Assembly's sittings are public, unless it decides that important state interests demand that they be held in camera.

Art. 28. The National Assembly can make investigations and inquiries into any question through special commissions.

All organs of the State and private persons are obliged to supply the information and documents required by these commissions.

Art. 29. Deputies cannot be detained or prosecuted except for grave offenses and with the consent of the National Assembly or, if it is not in session, with the consent of its presidium. Such permission is not necessary if a deputy has been apprehended in the commission of a grave criminal offense, in which case it is sufficient to notify the presidium of the National Assembly forthwith.

Deputies are immune from penal proceedings for their opinions expressed in the Assembly or for their votes.

Art. 30. The National Assembly is dissolved on the expiry of its mandate, or earlier, if it so decides.

In the event of war or other exceptional circumstances, the National Assembly can prolong its mandate for their duration.

The dissolved National Assembly can be recalled by its presidium and its mandate prolonged in the event of war or other exceptional circumstances.

Art. 31. A new National Assembly is elected at the latest three months after the dissolution of the previous Assembly.

Art. 32. Deputies receive remuneration determined by the National Assembly.

Art. 33. The National Assembly by a majority of more than half of the total number of deputies elects the presidium of the National Assembly consisting of a president, two vice presidents, a secretary, and fifteen members.

Art. 34. The presidium of the National Assembly is responsible to the Assembly for all its activity.

The National Assembly may at any time change the presidium or its individual members.

Art. 35. The presidium of the National Assembly has the following functions:

(1) Summons the National Assembly;
(2) Fixes the date of elections for the National Assembly;
(3) Publishes the laws passed by the National Assembly;
(4) Interprets the laws, which are binding on all;
(5) Issues edicts;
(6) Exercises the right of pardon and amnesty;
(7) Institutes orders and decorations and awards them;
(8) Represents the People's Republic in its international relations; appoints and recalls diplomatic and consular representatives of the country abroad on the recommendation of the government; and receives foreign representatives accredited to it;
(9) Ratifies and denounces international treaties concluded by the government;
(10) When the National Assembly is not in session the presidium can, on the recommendation of the government, declare a state of war in the event of an armed aggression against the People's Republic, or in the event of an urgent necessity of fulfilling international obligations relating to common defence against aggression; in such a case the presidium immediately summons the National Assembly to pronounce on the measure taken;
(11) Proclaims, on the recommendation of the government, a general or partial mobilization and a state of siege;
(12) When the National Assembly is not in session, the presidium may, on the recommendation of the Prime Minister, relieve of duty and appoint individual members of the government; the presidium is obliged to submit this to the ratification of the National Assembly at its earliest session;
(13) Repeals the decisions and directives of the government which do not conform to the Constitution or the laws of the country;
(14) Fixes the date of a referendum on the decision of the National Assembly;
(15) Appoints or discharges the staff of the high command of the armed forces of the People's Republic on the recommendation of the government
(16) Appoints and discharges the commander-in-chief of the armed forces on the recommendation of the government;
(17) Remits uncollectable debts;
(18) Decides questions with which the National Assembly has entrusted it;
(19) Discharges all functions which have been assigned to it by law.

Art. 36. Decrees issued by the presidium of the National Assembly are signed by the president and the secretary.

Art. 37. After the expiry of the mandate of the National Assembly, or if it is dissolved before the expiry of its term, the presidium which the Assembly has elected continues to exercise its functions until the newly elected National Assembly elects a new presidium.

Chapter IV

Organs of the State Executive

Art. 38. The government (council of ministers) is the supreme executive and administrative organ of the State in the People's Republic of Bulgaria.

Art. 39. The Government consists of:

President of the council of ministers,
Vice-presidents of the council of ministers,
President of the state planning commission,
President of the commission for state control,
Ministers, and
Presidents of the committee for science, arts, and culture.

The President and Vice-presidents of the council of ministers can hold the office of a ministry, of the state planning commission, the commission for state control, or the committee for science, arts, and culture, or they can be ministers without portfolio.

The ministries are:

(1) Ministry of foreign affairs,
(2) Ministry of the interior,
(3) Ministry of national education,
(4) Ministry of finance,
(5) Ministry of justice,
(6) Ministry of national defence,
(7) Ministry of trade and supply,
(8) Ministry of agriculture and forests,
(9) Ministry of construction and roads,
(10) Ministry of communal economy and works,
(11) Ministry of railway, road, and water communications,
(12) Ministry of posts, telegraphs, and telephones,
(13) Ministry of industry and handicrafts,
(14) Ministry of electrification and improvements,
(15) Ministry of mines and mineral wealth,
(16) Ministry of public health,
(17) Ministry of labor and social security.

The National Assembly may by a vote of more than half of the total number of deputies establish new ministries, or abolish, fuse, or re-name the existing ministries.

The presidium of the National Assembly can, on the recommendation of the government, appoint assistant ministers to the various ministries.

Art. 40. The National Assembly elects and relieves of their functions the government or individual members of the government.

The government is responsible to the National Assembly and gives account of its activity to it.

When the National Assembly is not in session, the government is responsible and gives account to the presidium of the National Assembly.

Art. 41. The members of the government take the following oath before the National Assembly:

> I swear in the name of the people and of the People's Republic of Bulgaria that I will serve them devotedly and selflessly; that in my activity as a member of the government I will keep in view only the interests of the Nation and the State, that I will strictly observe the Constitution and the laws of the People's Republic and will spare no effort in defence of the freedom and independence of the People's Republic of Bulgaria. I have sworn.

Art. 42. Members of the government may also be persons who are not deputies.

Art. 43. The government directs the state administration by unifying

and co-ordinating the work of the various ministries, the state planning commission, the commission for state control, and the committee for science, arts, and culture; takes measures for the implementation of the state economic plan and of the state budget; takes steps to ensure public order, to defend the interests of the State and the rights of the citizens; directs the general line of the foreign policy of the People's Republic of Bulgaria and of national defence, and also supervises the observance of the laws and of governmental measures.

The various members of the government direct their respective ministries within the framework and on the basis of the general policy and directives of the council of ministers.

The council of ministers can take under its direct control certain branches of the administration by forming for the purpose commissions, committees, councils, general directorates, directorates, or services directly subordinate to it.

Art. 44. Each deputy has the right to question and interpellate the government or its members.

The latter are obliged to answer questions within the period laid down by the rules of procedure, and interpellations—when put on the agenda.

Art. 45. The members of the government are penally responsible for any violation of the Constitution and the laws and for any criminal offense committed in the discharge of their functions.

They bear civil responsibility for damage caused by them to the State or to private citizens by their unlawful acts.

The responsibilities of the members of the government and the procedure for their prosecution are regulated in detail by a special law.

Art. 46. Officials must take an oath of loyalty to the People's Republic.

They bear disciplinary, penal, and civil responsibility for offenses committed in the discharge of their duties.

Chapter V

Local Organs of the State Power

Art. 47. The territory of the People's Republic is divided into municipalities and counties.

Larger administrative units may be created by special laws.

Art. 48. Organs of the State in the municipalities and counties are the municipal and county people's councils which are elected by the local population for a term of three years.

Art. 49. The municipal and county people's councils direct the implementation of all economic, social, and cultural undertakings of local significance in conformity with the laws of the country. They prepare the economic plan and budget of the municipality and the county within the frame of the state economic plan and the state budget and direct their implementation; they supervise the correct administration of state property and the economic enterprises in their area; they supervise the preservation of public order, the observance of the laws, and the defence of the rights of the citizens; they direct the activity of their subordinate executive and administrative organs.

Art. 50. Within the limits of their competence, local people's councils take decisions and issue orders in compliance with the laws and general directives of the superior organs of the state power.

Art. 51. Executive and administrative organs of the municipal and county people's councils are the municipal and county executives consisting of a president, vice-presidents, secretary, and members.

Municipal executives in smaller inhabited localities may consist only of a president and secretary.

Art. 52. In the execution of their tasks, municipal and county people's councils rely on the initiative and mass participation of the people and of their political, professional and other organizations.

At least once a year, in the manner regulated by law, municipal and county people's councils give an account of their past activity to the electors.

Art. 53. The sessions of the municipal and county people's councils are regular or extraordinary. Municipal people's councils meet for a regular session every month and county people's councils every other month.

The municipal and county executives may summon the councils to an extraordinary session on their own initiative, on the demand of one third of the councilors or on the order of the corresponding superior state organ.

Art. 54. Municipal and county executives are subordinate both to the people's councils which have elected them and to the superior organs of the State administration.

Art. 55. Departments for the various branches of administration may be formed at the municipal and county people's councils; they are to be directed by the executives of the councils. In their work these departments are subordinate both to the executive of the people's council to which they are attached and to the corresponding department at the superior people's council and to the corresponding ministry or government service of the People's Republic.

Chapter VI

Courts and Prosecution

Art. 56. The courts apply the law strictly and equally to all citizens.

Judges are independent; in giving their decisions they act only according to the dictates of the law. They pronounce their decisions and sentences in the name of the people.

Art. 57. Assessors also take part in the administration of justice.

The occasions and procedure for their participation are determined by law.

Art. 58. Judges of all ranks and assessors are elected, except in the cases explicitly laid down by law.

The law determines which judges and assessors are elected by the citizens in accordance with the rules and regulations of the general, equal direct, and secret ballot, and which by the local people's councils, or by the National Assembly, and the term for which they shall be elected.

Art. 59. Special courts for specific law suits and crimes may only be created by a special law.

Art. 60. The constitution of courts, their procedure, the conditions of eligibility of court officials, and the procedure for electing and recalling judges and assessors, as well as the grading of courts, are determined by law.

Art. 61. Supreme judicial control over every kind and grade of court is exercised by the Supreme Court of the People's Republic the members of which are elected by the National Assembly for a term of five years.

Art. 62. Supreme control over the correct observance of the law by different government organs and officials and by the citizens is exercised by the attorney general of the People's Republic.

It is the particular duty of the attorney general of the Republic to attend to the prosecution and punishment of crimes which affect the state, national, and economic interests of the People's Republic, and crimes and actions detrimental to the independence and state sovereignty of the country.

Art. 63. The attorney general of the People's Republic is elected by the National Assembly for a term of five years and is subordinate to it alone.

Art. 64. All other prosecutors at courts of every grade are appointed and discharged by the Attorney General of the People's Republic, and in the exercise of their duty are subordinate only to prosecutors directly over them, while all prosecutors are subordinate to the attorney general.

Chapter VII

Relations between the Organs of the State Power and the Organs of the State Administration

Art. 65. The presidium of the National Assembly has the right to repeal all decisions and directives of the council of ministers which do not conform with the Constitution and the laws of the country.

The council of ministers has the right to repeal all decisions and orders of any of its members which do not conform with the Constitution, the laws, or the decisions and directives of the government.

Art. 66. The presidium of the National Assembly and the superior local people's councils have the right to repeal unlawful or irregular acts of the inferior people's councils.

Art. 67. The government and each of its individual members have the right, within the limits of their competence, to repeal the unlawful or irregular acts of municipal and county executives.

The executives of superior people's councils have the same right with regard to the executives of inferior councils.

Art. 68. Each municipal or county people's council can repeal unlawful and irregular acts of its executives.

Art. 69. The government or its individual members, within the limits of their competence, and similarly the executive of a superior local people's council, may suspend the execution of the unlawful and irregular acts of an inferior local people's council and refer the question of repeal to the presidium of the National Assembly, or to the people's council of the same rank.

Art. 70. A superior people's council as well as the presidium of the

National Assembly may dissolve an inferior people's council in its area and hold elections for a new people's council.

Superior people's councils as well as the presidium of the National Assembly may discharge the executive of an inferior people's council in its area and hold elections for a new executive.

Chapter VIII

Basic Rights and Obligations of Citizens

Art. 71. All citizens of the People's Republic of Bulgaria are equal before the law.

No privileges based on nationality, origin, religion, and material situation are recognized.

Every preaching of racial, national, or religious hatred is punishable by law.

Art. 72. Women have equal rights with men in all spheres of the state private, economic, public, cultural, and political life.

This equality is realized by guaranteeing to women on an equality with men the right to labor, equal pay for equal work, the right to rest, to social insurance, to pension and education.

Mothers enjoy special protection in respect to work. The State takes special care of mothers and their children by establishing maternity homes, crèches, kindergartens, and dispensaries; it guarantees paid leave to mothers before and after childbirth, and free midwifery and medical aid.

Art. 73. Citizens have a right to work.

The State guarantees this right to all citizens by planned economy, by systematically and continually developing the productive forces of the country, and creating public works.

Labor is paid according to the amount and quality of the work done.

Labor is a duty and a point of honor for every able-bodied citizen. It is the duty of every citizen to engage in socially useful labor and to work according to his powers and ability.

Citizens' labor service obligations are determined by a special law.

Art. 74. Citizens have a right to rest.

This right is guaranteed by limited working hours, by holiday with pay once a year, and by the establishment of a large system of rest-homes, clubs, etc.

Art. 75. Citizens have a right to pension, aid and compensation in the case of disease, accident, disablement, unemployment, and old age.

This right is put into practical effect through social insurance and accessible medical aid and guaranteed by the State.

Art. 76. Marriage and the family are under state protection.

Only civil marriage performed by the competent organs is legally valid.

Children born out of wedlock have equal rights with the issue of lawful marriage.

Art. 77. The State takes special care of the social, cultural, labor, physical, and health education of the youth.

Art. 78. Citizens are guaranteed freedom of conscience and religion, and of performing religious rites.

The Church is separate from the State.

A special law regulates the legal status, the questions of material support, and the right to self-government and organization of the various religious communities.

It is prohibited to misuse the Church and religion for political ends or to form political organizations with a religious basis.

Art. 79. Citizens have a right to education. Education is secular, with a democratic and progressive spirit. National minorities have a right to be educated in their vernacular, and to develop their national culture, while the study of Bulgarian is obligatory.

Elementary education is compulsory and free of charge.

Schools are run by the State. The establishment of private schools may be allowed only by a special law, in which case the school in question is under state supervision.

The right to education is guaranteed by schools, educational institutes, and universities as well as by scholarships, student hostels, material and other aid, and special encouragement for gifted students.

Art. 80. The State cares for the development of science and art by establishing research institutions, publishing houses, libraries, theaters, museums, public, reading clubs, art galleries, film studios, cinemas, etc., and by aiding persons who have shown ability in a given sphere.

Art. 81. The State takes care of national health by organizing and directing health services and institutes, propagates health education among the people and pays special attention to the physical culture of the people.

Art. 82. The freedom and inviolability of the individual are guaranteed.

No one may be detained for more than forty-eight hours without a decision of the judicial authorities or the prosecutor.

Punishment can be inflicted only on the basis of the existing laws.

Punishment is personal and corresponds to the crime committed.

Punishment for crimes can only be inflicted by the established courts.

The accused has a right to defence.

Art. 83. All Bulgarian citizens abroad enjoy the protection of the People's Republic of Bulgaria.

Art. 84. In the People's Republic of Bulgaria, foreigners enjoy the right of sanctuary when they are prosecuted for defending democratic principles, for struggling for their national liberation, for the rights of the workers, or for the freedom of scientific and cultural activity.

Art. 85. Homes are inviolable. Without the consent of the householder, no one may enter his home or premises and conduct a search there unless conditions required by law are observed.

Art. 86. The secrecy of correspondence is inviolable except in the event of mobilization, state of siege, or when special permission is given by the judicial authorities or the prosecutor.

Art. 87. Bulgarian citizens have the right to form societies, associations, and organizations provided they are not contrary to the State and the public order established by the present Constitution.

The law forbids and punishes the formation of and participation in

organizations the aim of which is to deprive the Bulgarian people of the rights and liberties gained with the national uprising of September 9, 1944, and guaranteed by the present Constitution, or to encroach on these rights and liberties, or to imperil the national independence and state sovereignty of the country; or organizations which openly or secretly propagate fascist and anti-democratic ideology or facilitate imperialist aggression.

Art. 88. The citizens of the People's Republic are guaranteed freedom of the press, of speech, of assembly, of meetings and demonstrations.

Art. 89. Citizens have the right to make requests, complaints, and petitions.

Every citizen has the right to demand court proceedings against officials for offenses committed in the discharge of their duties.

Citizens have a right to compensation from officials for damage caused them by the latter owing to unlawful or irregular execution of their duties.

Art. 90. The defence of the country is a supreme duty and a point of honor for every citizen.

Treason to the motherland is the gravest crime against the people and is punished with the full severity of the law.

Art. 91. Military service is obligatory for all citizens in accordance with the special laws.

Art. 92. Citizens are bound to observe the Constitution and the laws of the country strictly and conscientiously.

Art. 93. Citizens are bound to preserve national property and by all their actions to further the economic, cultural, and defensive power of the country and the welfare of the people.

Art. 94. The citizens' burden of taxation is distributed in accordance with their paying ability. These obligations and exemption from them are established only by law.

Chapter IX

Coat of Arms, State Seal, Flag, Capital

Art. 95. The coat of arms of the People's Republic of Bulgaria is round; with a lion rampant in the center, ears of corn on either side of it, a five-pointed red star over its head and "9.IX.1944' in gold below.

Art. 96. The state seal bears the state coat of arms.

Art. 97. The flag of the People's Republic of Bulgaria is tricolored—white, red, and green, placed horizontally. The upper left-hand corner of the white stripe bears the coat of arms of the People's Republic.

Art. 98. The capital of the People's Republic of Bulgaria is Sofia.

Chapter X

Amendment of the Constitution

Art. 99. The Constitution may be amended on the proposal of the government, or of at least one quarter of the deputies.

The Constitution amendment bill is put on the agenda of the National Assembly within a week from its introduction in the Assembly.

It may be passed by a majority of two-thirds of the total number of deputies. The law for the amendment of the Constitution comes into effect on the day of its publication in the state gazette.

Chapter XI

Temporary Provisions

Art. 100. After the present Constitution comes into effect, the Grand National Assembly, elected on October 27, 1946, elects a presidium of the Grand National Assembly in accordance with Article 33; the presidium immediately assumes the functions provided for by the Constitution. This terminates the functions of the presidium of the Grand National Assembly, elected in accordance with Article 2 of the rules of procedure of the Grand National Assembly. The deputies elect, in accordance with Article 20 of the present Constitution, a president and vice-president for conducting the proceedings in the Grand National Assembly.

Art. 101. The presidium of the Grand National Assembly appoints provisional municipal and county executives with the prerogatives of people's councils until municipal and county people's councils, provided for by the Constitution, are elected.

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BURMA

SUMMARY

International Status

The Union of Burma was admitted to membership in the United Nations on April 19, 1948. It is a party to the Statute of the International Court of Justice, but is not, as of the time of our going to press, subject to compulsory jurisdiction under Article 36 of its Statute.[1] It is a member of the Postal Union and other international organizations.[2]

The Union was recognized as a sovereign and independent republic in a treaty of October 17, 1947, effective January 4, 1948, with the United

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[1] See Yearbook of the Court 1951–52, pp. 35–43.

[2] See Table I.

Kingdom of Great Britain and Northern Ireland. The treaty and the documents annexed to it relate to defense, finance, and trade. Burma, which was a Governor's Province under the Government of India Act 1919, was separated from India on April 1, 1937. The East India Company had factories near Rangoon as early as 1612.

By its constitution, Burma "renounces war as an instrument of national policy, and accepts the generally recognized principles of international law as its rule of conduct in its relations with foreign States." [1]

Form of National Government

The Constitution, adopted by the people of Burma through a constituent assembly on September 24, 1947, provides that Burma is a sovereign independent republic, to be known as the Union of Burma, comprising all the territories heretofore governed by His Britannic Majesty through the Governor of Burma and also the Karenni States.[2] The right of Secession from the Union is retained by the several component States.[3]

Source of Sovereign Power

"All powers, legislative, executive, and judicial, are derived from the people." [4]

Rights of the People

The Constitution guarantees equality of all citizens before the law; [5] personal liberty, inviolability of domicile, and freedom from confiscation of property; [6] the rights of free expression of opinion, peaceable assembly, association, acquisition of property, and choice of residence and occupation; [7] freedom from forced labor and involuntary servitude except as a punishment for crime; [8] freedom of conscience and religion; [9] and freedom from prosecution under ex post facto laws.[10] The Constitution also binds the State to direct its policy towards securing to each citizen, among other rights, the right to work, the right to maintenance in old age and during sickness or loss of capacity to work, the right to rest and leisure, and the right to education.[11] Special provisions relate to cartels, land tenure and natural resources.[12]

Legislative Department

The legislative power of the Union is vested in the Union Parliament, which consists of the President of the Union, a chamber of deputies and a

[1] Const. Sec. 211.
[2] Id., Secs. 1, 2.
[3] Id., Chap. X.
[4] Id., Sec. 4.
[5] Id., Sec. 13.
[6] Id., Sec. 16.
[7] Id., Sec. 17.
[8] Id., Sec. 19.
[9] Id., Sec. 20.
[10] Id., Sec. 24.
[11] Id., Sec. 33.
[12] Id., Secs. 23, 30, 219.

chamber of nationalities.[1] The Chamber of Nationalities consists of twenty-five representatives elected from the Shan State, twelve from the Kachin State, eight from the Special Division of the Chins, three from the Karenni State, twenty-four from the Karens, and fifty-three from the remaining territories of the Union.[2] The Chamber of Deputies is "composed of members who represent constituencies determined by law" and whose number, fixed by law from time to time on the basis of one member for each 30,000 to 100,000 of the population, "shall be, as nearly as practicable, twice the number of members of the Chamber of Nationalities."[3] The members of the chambers serve for four years unless the chambers are sooner dissolved by the President.[4]

The Parliament has power to make laws for the whole or any part of the Union except in so far as such power is assigned exclusively to the state councils.[5] Lists of the subjects assigned respectively to the Parliament and the councils of the several states are set forth at length in a schedule.[6]

The President is not a member of either chamber of Parliament.[7] His role in legislation is exercised in making rules as to the procedure with respect to joint sessions of, and communications between the two chambers;[8] in appointing a committee of privileges, when occasion arises, to determine whether a bill is or is not a "money bill," with respect to which the Chamber of Deputies has the exclusive right of initiative and final determination;[9] and in convening joint sessions of the two chambers.[10]

Executive Department

The executive authority of the Union is vested in a president,[11] who is elected, for a term of five years, by secret ballot of the chambers of Parliament in joint session.[12] The President appoints a prime minister on the nomination of the Chamber of Deputies; and on the nomination of the Prime Minister, he appoints the other members of the Union government.[13] The government is collectively responsible to the Chamber of Deputies.[14]

The executive authority of the Union extends to the matters with respect to which the Parliament has power to make laws.[15] The government of each of the several states is headed by a member of the Union government appointed by the President from among the members of Parliament representing that state.[16]

Judicial Department

The courts established by the Constitution include a Supreme Court of final appeal and a High Court which has exclusive original jurisdiction in

[1] Const., Sec. 65.
[2] Id., Sec. 87 and Schedule 2.
[3] Id., Sec. 83.
[4] Id., Secs. 85, 88.
[5] Id., Sec. 92.
[6] Id., Schedule 3.
[7] Id., Sec. 47.
[8] Id., Sec. 80.
[9] Id., Secs. 103–108.
[10] Id., Sec. 109.
[11] Id., Sec. 59.
[12] Id., Secs. 46, 48.
[13] Id., Sec. 56.
[14] Id., Sec. 115.
[15] Id., Sec. 122.
[16] Id., Secs. 160, 173, 181, 189.

all matters arising under treaties and in all disputes between units of the Union or between the Union and any of its units, as well as the right to transfer to itself from the lower courts questions which involve the constitutionality of any law.[1] The head of the Supreme Court is called the Chief Justice of the Union and is appointed by the President in consultation with the Prime Minister and with the approval of both chambers of the Parliament in joint session; the other judges of the Supreme Court and all the judges of the High Court are appointed in the same way with the added requirement of consultation with the Chief Justice of the Union.[2] The number of judges is regulated by law.[3]

Area, Population, Language

The area of the Union is 261,610 square miles. The estimated population in 1951 was 18,674,000. The official language is Burmese, but the use of English may be permitted.[4]

[1] Const. Secs. 134–136. [2] Id., Secs. 136, 140. [3] Id., Sec. 149.
[4] Id., Sec. 216.

CONSTITUTION of the UNION OF BURMA[1]

September 24, 1947

We, the people of Burma including the Frontier Areas and the Karenni States, Determined to establish in strength and unity a sovereign independent state, to maintain social order on the basis of the eternal principles of justice, liberty and equality and to guarantee and secure to all citizens justice, social, economic and political; liberty of thought, expression, belief, faith, worship, vocation, association and action; equality of status, of opportunity and before the law, in our constituent assembly this Tenth day of Thadingyut waxing, 1309 B.E. (Twenty-fourth day of September, 1947 A.D.), do hereby adopt, enact and give to ourselves this Constitution.

CHAPTER I

Form of State

1. Burma is a Sovereign Independent Republic to be known as "the Union of Burma."[2]

2. The Union of Burma shall comprise the whole of Burma, including—

(i) All the territories that were heretofore governed by His Britannic Majesty through the Governor of Burma, and
(ii) The Karenni States.

3. The sovereignty of the Union resides in the people.

4. All powers, legislative, executive and judicial, are derived from the people and are exercisable on their behalf by, or on the authority of, the organs of the Union or of its constituent units established by this Constitution.

5. The territories that were heretofore known as the Federated Shan States and the Wa States shall form a constituent unit of the Union of Burma and be hereafter known as "the Shan State."

6. The territories that were heretofore known as the Myitkyina and Bhamo Districts shall form a constituent unit of the Union of Burma and be hereafter known as "the Kachin State."

7. The territories that were heretofore known as the Karenni States, *viz.*, Kantarawaddy, Bawlake and Kyebogyi, shall form a constituent unit of the Union of Burma and be hereafter known as "the Karenni State."

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[1] Copy kindly supplied by the Burmese Embassy at Washington in May, 1948.
[2] The United Nations carries it alphabetically as "Burma".

8. All powers, legislative, executive and judicial, in relation to the remaining territories of the Union of Burma shall, subject to the provisions of section 180, be exercisable only by, or on the authority of, the organs of the Union.

CHAPTER II

Fundamental Rights

DEFINITION OF "STATE"

9. In this Chapter and in Chapters III and IV, the term "State" means the executive or legislative authority of the Union or of the unit concerned according as the context may require.

CITIZENSHIP

10. There shall be but one citizenship throughout the Union; that is to say, there shall be no citizenship of the unit as distinct from the citizenship of the Union.

11. (i) Every person, both of whose parents belong or belonged to any of the indigenous races of Burma;

(ii) every person born in any of the territories included within the Union, at least one of whose grand-parents belong or belonged to any of the indigenous races of Burma;

(iii) every person born in any of the territories included within the Union, of parents both of whom are, or if they had been alive at the commencement of this Constitution would have been, citizens of the Union;

(iv) every person who was born in any of the territories which at the time of his birth was included within His Britannic Majety's dominions and who has resided in any of the territories included within the Union for a period of not lesst than eight years in the ten years immediately preceding the date of the commencement of this Constitution or immediately preceding the 1st January 1942 and who intends to reside permanently therein and who signifies his election of citizenship of the Union in the manner and within the time prescribed by law,

shall be a citizen of the Union.

12. Nothing contained in section 11 shall derogate from the power of the Parliament to make such laws as it thinks fit in respect of citizenship and alienage and any such law may provide for the admission of new classes of citizens or for the termination of the citizenship of any existing classes.

RIGHTS OF EQUALITY

13. All citizens irrespective of birth, religion, sex or race are equal before the law; that is to say, there shall not be any arbitrary descrimination between one citizen or class of citizens and another.

14. There shall be equality of opportunity for all citizens in matters of public employment and in the exercise or carrying on of any occupation, trade, business or profession.

15. Women shall be entitled to the same pay as that received by men in respect of similar work.

RIGHTS OF FREEDOM

16. No citizen shall be deprived of his personal liberty, nor his dwelling entered, nor his property confiscated, save in accordance with law.

17. There shall be liberty for the exercise of the following rights subject to law, public order and morality:—

(i) The right of the citizens to express freely their convictions and opinions.

(ii) The right of the citizens to assemble peaceably and without arms.

(iii) The right of the citizens to form associations and unions. Any association or organization whose object or activity is intended or likely to undermine the Constitution is forbidden.

(iv) The right of every citizen to reside and settle in any part of the Union, to acquire property and to follow any occupation, trade, business or profession.

18. Subject to regulation by the law of the Union trade, commerce and intercourse among the units shall be free:

Provided that any unit may by law impose reasonable restrictions in the interests of public order, morality, health or safety.

19. (i) Traffic in human beings, and

(ii) forced labour in any form and involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall be prohibited.

Explanation.—Nothing in this section shall prevent the State from imposing compulsory service for public purposes without any discrimination on grounds of birth, race, religion or class.

RIGHTS RELATING TO RELIGION

20. All persons are equally entitled to freedom of conscience and the right freely to profess and practise religion subject to public order, morality or health and to the other provisions of this Chapter.

Explanation 1.—The above right shall not include any economic, financial, political or other secular activities that may be associated with religious practice.

Explanation 2.—The freedom guaranteed in this section shall not debar the State from enacting laws for the purpose of social welfare and reform.

21. (1) The State recognizes the special position of Buddhism as the faith professed by the great majority of the citizens of the Union.

(2) The State also recognizes Islam, Christianity, Hinduism and Animism as some of the religions existing in the Union at the date of the coming into operation of this Constitution.

(3) The State shall not impose any disabilities or make any discrimination on the ground of religious faith or belief.

(4) The abuse of religion for political purposes is forbidden; and any act which is intended or is likely to promote feelings of hatred, enmity or discord between racial or religious communities or sects is contrary to this Constitution and may be made punishable by law.

CULTURAL AND EDUCATIONAL RIGHTS

22. No minority, religious, racial or linguistic, shall be discriminated

against in regard to admission into State educational institutions nor shall any religious instruction be compulsorily imposed on it.

ECONOMIC RIGHTS

23. (1) Subject to the provisons of this section, the State guarantees the right of private property and of private initiative in the economic sphere.

(2) No person shall be permitted to use the right of private property to the detriment of the general public.

(3) Private monopolistic organizations, such as cartels, syndicates and trusts formed for the purpose of dictating prices or for monopolizing the market or otherwise calculated to injure the interests of the national economy, are forbidden.

(4) Private property may be limited or expropriated if the public interest so requires but only in accordance with law which shall prescribe in which cases and to what extent the owner shall be compensated.

(5) Subject to the conditions set out in the last preceding sub-section, individual branches of national economy or single enterprises may be nationalized or acquired by the State by law if the public interest so requires.

RIGHTS IN RELATION TO CRIMINAL LAW

24. No person shall be convicted of crime except for violation of a law in force at the time of the commission of the act charged as an offence, nor shall be he subjected to a penalty greater than that applicable at the time of the commission of the offence.

RIGHTS TO CONSTITUTIONAL REMEDIES

25. (1) The right to move the Supreme Court by appropriate pro ceedings for the enforcement of any of the rights conferred by this Chapter is hereby guaranteed.

(2) Without prejudice to the powers that may be vested in this behalf in other Courts, the Supreme Court shall have power to issue directions in the nature of *Habeas Corpus, mandamus, prohibition, quo warranto* and *certiorari* appropriate to the rights guaranteed in this Chapter.

(3) The right to enforce these remedies shall not be suspended unless, in times of war, invasion, rebellion, insurrection or grave emergency, the public safety may so require.

26. Every citizen, whether whithin or beyond the territories of the Union, shall be entitled to claim the protection of the Union in his relations with foreign States.

27. Except in times of invasion, rebellion, insurrection or grave emergency, no citizen shall be denied redress by due process of law for any actionable wrong done to or suffered by him.

28. The Parliament may by law determine to what extent any of the rights guaranteed by this Chapter shall be restricted or abrogated for the members of the Defence Forces or of the Forces charged with the main-

tenance of public order so as to ensure fulfilment of their duties and the maintenance of discipline.

29. The Parliament shall make laws to give effect to those provisions of this Chapter which require such legislation and to prescribe punishments for those acts which are declared to be offences in this Chapter and are not already punishable.

CHAPTER III

Relations of the State to Peasants and Workers

30. (1) The State is the ultimate owner of all lands.

(2) Subject to the provisions of this Constitution, the State shall have the right to regulate, alter or abolish land tenures or resume possession of any land and distribute the same for collective or co-operative farming or to agricultural tenants.

(3) There can be no large land holdings on any basis whatsoever. The maximum size of private land holding shall, as soon as circumstances permit, be determined by law.

31. By economic and other measures the State may assist workers to associate and organize themselves for protection against economic exploitation.

The State shall protect workers by legislation intended to secure to them the right of association, to limit their hours of work, to ensure to them the right to annual holidays and to improve working conditions, and as soon as circumstances permit by promoting schemes for housing and social insurance.

CHAPTER IV

Directive Principles of State Policy

32. The principles set forth in this Chapter are intended for the general guidance of the State. The application of these principles in legislation and administration shall be the care of the State but shall not be enforceable in any court of law.

33. The State shall direct its policy towards securing to each citizen —

(i) The right to work,
(ii) The right to maintenance in old age and during sickness or loss of capacity to work,
(iii) The right to rest and leisure, and
(iv) The right to education.

In particular the State shall make provision for free and compulsory primary education.

34. The State shall pay special attention to the young and promote their education.

35. The State shall promote with special care the educational and economic interests of the weaker and less advanced sections of the people and shall protect them from social injustice and all forms of exploitation.

36. The State shall regard the raising of the standard of living of its

people and the improvement of public health as among its primary duties.

37. (1) The State shall ensure that the strength and health of workers and the tender age of children shall not be abused and that they shall not be forced by economic necessity to take up occupations unsuited to their sex, age and strength.

(2) The State shall specially direct its policy towards protecting the interests of nursing mothers and infants by establishing maternity and infant welfare centres, children's homes and day nurseries and towards securing to mothers in employment the right to leave with pay before and after childbirth.

38. The State shall promote the improvement of public health by organizing and controlling health services, hospitals, dispensaries, sanatoria, nursing and convalescent homes and other health institutions.

39. The State shall take special care of the physical education of the people in general and of the youth in particular in order to increase the health and working capacity of the people and in order to strengthen the defensive capacity of the State.

40. The State shall ensure disabled ex-servicemen a decent living and free occupational training. The children of fallen soldiers and children orphaned by war shall be under the special care of the State.

41. The economic life of the Union shall be planned with the aim of increasing the public wealth, of improving the material conditions of the people and raising their cultural level, of consolidating the independence of the Union and strengthening its defensive capacity.

42. The State shall direct its policy towards giving material assistance to economic organizations not working for private profit. Preference shall be given to co-operative and similar economic organizations.

43. All useful arts and sciences, research and cultural institutes and the study of Pâli and Sanskrit shall enjoy the protection and support of the State.

44. (1) The State shall direct its policy towards operation of all public utility undertakings by itself or local bodies or by peoples' co-operative organizations.

(2) The State shall direct its policy towards exploitation of all natural resources in the Union by itself or local bodies or by peoples' co-operative organizations.

CHAPTER V

The President

45. There shall be a President of the Union hereinafter called "the President" who shall take precedence over all other persons throughout the Union and who shall exercise and perform the powers and functions conferred on the President by this Constitution and by law.

46. The President shall be elected by both Chambers of Parliament in joint session by secret ballot. Subject to the provisions of this Chapter, election to the office of the President shall be regulated by an Act of the Parliament.

47. (1) The President shall not be a member of either Chamber of Parliament.

(2) If a member of either Chamber of Parliament be elected President, he shall be deemed to have vacated his seat in that Chamber.

(3) The President shall not hold any other office or position of emolument.

48. (1) The President shall hold office for five years from the date on which he enters upon his office, unless before the expiration of that period he resigns or dies, or is removed from office, or becomes permanently incapacitated.

(2) No person shall serve as President for more than two terms in all.

49. No person shall be eligible for election to the office of President unless he—

(i) Is a citizen of the Union who was, or both of whose parents were, born in any of the territories included within the Union, and
(ii) Is qualified for election to the Union Parliament.

50. The first President shall enter upon his office as soon as may be after his election, and every subsequent President shall enter upon his office on the day following the expiration of the term of office of his predecessor or as soon as may be thereafter, or in the event of his predecessor's removal from office, resignation, permanent incapacity or death, as soon as may be after his own election.

51. The President shall enter upon his office by making and subscribing publicly in the presence of both Chambers of Parliament assembled and of the judges of the Supreme Court, the following declaration:—

"I ..... do solemnly and sincerely promise and declare that I will maintain the Constitution of the Union and uphold its laws, that I will fulfill my duties faithfully and conscientiously in accordance with the Constitution and the law, that I will diligently avert every injury and danger to the Union and that I will dedicate myself to the service of the Union."

52. The President shall not leave the Union during his term of office save on the advice of the Union Government.

53. The President shall summon the Parliament for the purpose of electing a new President, during the three months preceding the expiration of his term of office.

54. (1) The President may be impeached for—

(i) High treason;
(ii) Violation of the Constitution; or
(iii) Gross misconduct.

(2) The charge shall be preferred by either Chamber of Parliament subject to and in accordance with the provisions of this section.

(3) A proposal to either Chamber of Parliament to prefer a charge against the President under this section shall not be entertained except upon a notice of resolution in writing signed by not less than one-fourth of the total membership of that Chamber.

(4) No such proposal shall be adopted by either Chamber of Parliament save upon a resolution of that Chamber supported by not less than two-thirds of the total membership thereof.

(5) When a charge has been preferred by one Chamber of Parliament, the other Chamber shall investigate the charge or cause the charge to be investigated.

(6) The President shall have the right to appear and to be represented at the investigation of the charge.

(7) If, as the result of the investigation, a resolution be passed, supported by not less than two-thirds of the total membership of the Chamber of Parliament by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President had been sustained and that the offence, the subject of the charge, was such as to render him unfit to continue in office, such resolution shall operate to remove the President from his office.

55. The President shall have an official residence and shall receive such emoluments and allowances as shall be prescribed by law. Emoluments and allowances of the President shall not be varied during his term of office.

56.(1) The President shall, on the nomination of the Chamber of Deputies, appoint a Prime Minister who shall be the head of the Union Government.

(2) The President shall, on the nomination of the Prime Minister, appoint other members of the Union Government.

(3) The President shall, on the advice of the Prime Minister, accept the resignation or terminate the appointment of any member of the Union Government.

57. The Chamber of Deputies shall be summoned, prorogued or dissolved by the President on the advice of the Prime Minister:

Provided that, when the Prime Minister has ceased to retain the support of a majority in the Chamber, the President may refuse to prorogue or dissolve the Chamber on his advice and shall in that event forthwith call upon the Chamber to nominate a new Prime Minister:

Provided further that, if the Chamber fails to nominate a new Prime Minister within fifteen days, it shall be dissolved.

58. (1) Every Bill, passed or deemed to have been passed by both Chambers of Parliament, shall require the signature of the President for its enactment into law.

(2) The President shall promulgate every law enacted by the Parliament.

59. Subject to the provisions of this Constitution, the executive authority of the Union shall be vested in the President; but nothing in this section shall prevent the Parliament from conferring functions upon subordinate authorities, or be deemed to transfer to the President any functions vested in any court, judge, or officer, or any local or other authority by any existing law.

60. The right of pardon shall be vested in the President.

61. (1) The President may communicate with the Parliament by message or address on any matter of national or public importance.

(2) The President may also address a message to the nation at any time on any matter.

62. (1) The President shall not be answerable to either Chamber of Parliament or to any Court for the exercise or performance of the powers and functions of his office or for any act done or purporting to be done by him in the exercise and performance of these powers and functions.

(2) The behaviour of the President may, however, be brought under review in either Chamber of Parliament for the purpose of section 54, or by any Court, tribunal or body, appointed or designated by either Chamber of Parliament for the investigation of its charges under the said section.

(3) The validity of anything purporting to have been done by the President under this Constitution shall not be called in question on the ground that it was done otherwise than in accordance with the provisions contained or referred to in the next succeeding section.

63. (1) The powers and functions conferred on the President by this Constitution shall be exercisable and performable by him only on the advice of the Union Government, save where it is provided by this Constitution that he shall act in his discretion or on the advice or nomination of or on receipt of any communication from any other person or body.

(2) The question whether any, and if so, what advice, nomination or communication was tendered to or received by the President shall not be enquired into in any Court.

64. (1) In the event of the death, resignation, removal from office, absence or incapacity, whether temporary or permanent, of the President, or at any time at which the office of the President may be vacant, the powers and functions conferred on the President by this Constitution shall be exercised and performed by a Commission constituted as hereinafter provided.

(2) The Commission shall consist of the following persons, namely, the Chief Justice of the Union, the Speaker of the Chamber of Nationalities and the Speaker of the Chamber of Deputies.

(3) Such judge of the Supreme Court as has been appointed to perform the duties of the Chief Justice, or if there is no such judge, then the senior available judge of the Supreme Court, shall act as a member of the Commission in place of the Chief Justice on any occasion on which the office of the Chief Justice is vacant or on which the Chief Justice is unable to act.

(4) The Deputy Speaker of the Chamber of Nationalities shall act as a member of the Commission in the place of the Speaker of the Chamber of Nationalities on any occasion on which the office of the Speaker of the Chamber is vacant or on which the said Speaker is unable to act.

(5) The Deputy Speaker of the Chamber of Deputies shall act as a member of the Commission in place of the Speaker of the Chamber on any occasion on which the office of the Speaker of the Chamber of Deputies is vacant or on which the said Speaker is unable to act.

(6) The Commission may act by any two of its members and may act notwithstanding a vacancy in its membership.

(7) The provisions of this Constitution which relate to the exercise and performance by the President of the powers and functions conferred on him by this Constitution shall apply to the exercise and performance of the said powers and functions under this section.

CHAPTER VI

PARLIAMENT

PART I

General

65. The legislative power of the Union shall be vested in the Union Parliament which shall consist of the President, a Chamber of Deputies and a Chamber of Nationalities and which is in this Constitution called "the Parliament" or "the Union Parliament".

66. There shall be a session of the Parliament once at least in every year so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

67. (1) The Chamber of Deputies shall, as soon as may be, choose two members of the Chamber to be respectively the Speaker and the Deputy Speaker thereof, and, so often as the office of the Speaker or Deputy Speaker becomes vacant, the Chamber shall choose another member to be Speaker or Deputy Speaker, as the case may be.

(2) A member holding office as Speaker or Deputy Speaker of the Chamber shall vacate his office if he ceases to be a member of the Chamber, may at any time resign his office by writing under his hand addressed to the President, and may be removed from his office by a resolution of the Chamber passed by a majority of the then members of the Chamber; but no resolution for the purpose of this sub-section shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided that, whenever the Chamber is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Chamber after the dissolution.

(3) While the office of the Speaker is vacant the duties of his office shall be performed by the Deputy Speaker or, if the office of the Deputy Speaker is also vacant, by such member of the Chamber as the President may appoint for the purpose, and during the absence of the Speaker from any sitting of the Chamber the Deputy Speaker or, if he is also abesnt, such person as may be determined by the rules of procedure of the Chamber, or, if no such person is present, such other person as may be determined by the Chamber, shall act as Speaker.

(4) There shall be paid to the Speaker and the Deputy Speaker of the Chamber such salaries as may be respectively determined by an Act of the Parliament.

(5) The foregoing provisions of this section shall apply in relation to the Chamber of Nationalities as they apply in relation to the Chamber of Deputies with the substitution of references to the Chamber of Nationalities for references to the Chamber of Deputies.

68. (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Parliament, there shall be freedom of speech in the Parliament, and no member of the Parliament shall be liable to any proceedings in any Court in respect of anything said or any vote given by him in the Parliament or any Com-

mittee thereof, and no person shall be so liable in respect of publication by or under the authority of a Chamber of the Parliament of any report, paper, votes, or proceedings.

(2) In other respects, the privileges of members of either Chamber of Parliament shall be such as may, from time to time, be defined by an Act of the Parliament and, until so defined, shall be such as were immediately before the commencement of this Constitution enjoyed by members of the Legislature of Burma.

69. (1) All questions at any sitting or joint sitting of the Chambers shall, save as otherwise provided by this Constitution, be determined by a majority of votes of the members present and voting, other than the Speaker or person acting as such, who shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) The number of members necessary to constitute the quorum of either Chamber for the exercise of its powers shall be determined by its rules.

(3) A Chamber of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Parliament shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled to do so sat or voted or otherwise took part in the proceedings.

(4) Without prejudice to the generality of the foregoing provisions, the Chamber of Nationalities shall have power to act notwithstanding the failure of any unit to provide for its representation in the Chamber.

70. All official reports and publications of the Parliament or of either Chamber thereof shall be absolutely privileged.

71. The Parliament may make provision by law for the payment of salaries and allowances to the members of each Chamber in respect of their duties as public representatives and for the grant to them of such travelling and other facilities in connection with their duties as the Parliament may determine.

72. Every member of either Chamber of Parliament shall before taking his seat make and subscribe before the President, or some person authorized by him, an oath or affirmation of allegiance, in the form set forth in the First Schedule to this Constitution.

73. (1) No person may at the same time be a member of both Chambers of Parliament, and, if any person who is already a member of either Chamber becomes a member of the other Chamber, he shall forthwith be deemed to have vacated his first seat.

(2) If a member of either Chamber—

(a) Becomes subject to any of the disqualifications mentioned in subsection (1) of the next succeeding section; or

(b) By writing under his hand addressed to the President resigns his seat,

his seat shall thereupon become vacant.

(3) If for a period of thirty days a member of either Chamber is without permission of the Chamber absent from all meetings thereof, the Chamber may declare his seat vacant:

Provided that in computing the said period of thirty days no account shall be taken of any period during which the Chamber is prorogued, or is adjourned for more than four consecutive days.

74. (1) Any person who—

(i) Is under any acknowledgment of allegiance or adherence to a foreign Power, or is a subject or citizen or entitled to the rights and privileges of a subject or a citizen of a foreign Power; or

(ii) Is an undischarged bankrupt or insolvent; or

(iii) Is of unsound mind and stands so declared by a competent Court; or

(iv) Holds any office of profit in the service of the Union or of any unit other than an office declared by an Act of the Parliament not to disqualify its holder or

(v) Whether before or after the commencement of this Constitution, has been convicted or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty of an offence or corrupt or illegal practice relating to elections which has been declared by an Act of the Legislature of Burma of or the Parliament to be an offence or practice entailing disqualification for membership of the Legislature or of the Parliament, unless such period has elapsed as may be specified in that behalf in the provisions of that Act; or

(vi) Whether before or after the commencement of this Constitution, has been convicted, in any of the territories included within the Union, of any other offence, and has, in either case, been sentenced to transportation or to imprisonment for not less than two years, unless a period of five years or such less period as the President may, in his discretion, allow in any particular case, has elapsed since his release; or

(vii) Having been nominated as a candidate for the Parliament or having acted as an election agent of any person so nominated, has failed to lodge a return of the election expenses within the time and in the manner required by any Order made under this Constitution or by any Act of the Parliament, unless five years have elapsed from the date by which the return ought to have been lodged, or the President, in his discretion, has removed the disqualification;

shall be disqualified for being chosen as and for being a member of either Chamber:

Provided that a disqualification under paragraph (vii) of this sub-section shall not take effect until the expiration of one month from the date by which the return ought to have been lodged, or of such longer period as the President acting in his discretion may, in any particular case, allow.

(2) A person shall not be qualified for being chosen a member of either Chamber while he is serving a sentence of transportation or of imprisonment for a criminal offence:

Provided that, where the sentence does not exceed two years, the President may in his discretion remove such disqualification.

(3) Where a person who, by virtue of a conviction or a conviction and a sentence, becomes disqualified by virtue of paragraph (v) or paragraph (vi) of sub-section (1) of this section is at the date of the disqualification a member of a Chamber, his seat shall, notwithstanding anything in this or the last preceding section, not become vacant by reason of the disqualification until three months have elapsed from the date thereof, or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is

disposed of, but, during any period wherein his membersip is preserved by this sub-section, he shall not sit or vote.

75. If a person sits or votes as a member of either Chamber when he is not qualified or is disqualified for membership thereof, or when he is prohibited from so doing by the provisions of sub-section (3) of section 74 or before he has compiled with requirements of section 72 he shall be liable in respect of each day on which he so sits or votes to a penalty of rupees one thousand to be recovered as a debt due to the Union Government.

76. (1) Every citizen, who has completed the age of twenty-one years and who is not placed under any disability or incapacity by this Constitution or by law, shall be eligible for membership of the Parliament.

(2) Every citizen, who has completed the age of eighteen years and who is not disqualified by law and complies with the provisions of the law regulating elections to the Parliament, shall have the right to vote at any election to the Parliament.

(3) There shall be no property qualification for membership of the Parliament or for the right to vote ar elections to the Parliament.

(4) No law shall be enacted or continued placing any citizen under disability or incapacity for membership of the Parliament on the ground of sex, race or religion or disqualifying any citizen from voting at elections to the Parliament on any such ground:

Provided that notwithstanding anything contained in section 21 (3), members of any religious order may by law be debarred from voting at any such elections or from being a member of either Chamber of Parliament.

(5) Voting shall be by secret ballot.

77. Subject to the provisions of this Constitution, all matters relating to elections for either Chamber of Parliament including the delimitation of constituencies, the filling of casual vacancies, and the decision of doubts and disputes arising out of or in connection with such elections shall be regulated in accordance with law.

78. The Parliament may by law prescrible the conditions under and the manner in which a member of either Chamber of Parliaemnt may be recalled.

79. Every member of the Union Government and the Attorney-General shall have the right to speak in, and otherwise take part in the proceedings of, either Chamber, any joint sitting of the Chambers and any Committee of the Parliament of which he may be named a member, but he shall not by virtue of this section be entitled to vote.

80. (1) Each Chamber of the Parliament may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

(2) The President, after consultation with the Speaker of the Chamber of Nationalities and the Speaker of the Chamber of Deputies, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Chambers.

(3) At a joint sitting of the two Chambers the Speaker of the Chamber of Nationalities, or in his absence the Speaker of the Chamber of Deputies

or such person as may be determined by rules of procedure made under this section, shall preside.

81. No dicussion shall take place in the Parliament with respect to the conduct of any judge of the Supreme Court or of the High Court in the discharge of his duties, except upon a resolution for the removal of the judge as provided in this Constitution.

82. (1) The validity of any proceedings in the Parliament shall not be called in question in any Court on the ground of any irregularity of procedure.

(2) The Speaker of the Chamber of Deputies or the Speaker of the Chamber of Nationalities or any other member of either Chamber of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business or for maintaining order in the Chamber shall not be subject to the jurisdiction of any Court in respect of the exercise by him of those powers.

PART II

Chamber of Deputies

83. (1) The Chamber of Deputies shall be composed of members who represent constituencies determined by law. Provision shall, however, be made to reserve such number of seats as may be proportionate to the population of Karens to be filled by their representatives.

(2) The number of members of this Chamber shall be, as nearly as practicable, twice the number of members of the Chamber of Nationalities. The number of members shall from time to time be fixed by law but the total number of the members of the Chamber of Deputies shall not be fixed at less than one member for each 100,000 of the population, or at more than one member for each 30,000 of the population.

(3) The ratio between the number of members to be elected at any time for a constituency and the population of that constituency, as ascertained at the last preceding census, shall, so far as practicable, be the same for all constituencies throughout the Union, except in the case of the constituencies of the Special Division of the Chins (referred to in Part V of Chapter IX) and the Karenni State, in respect of which the ratio may be higher.

(4) The Parliament shall revise the constitutencies at least once in every ten years, with due regard to changes in the distribution of the population, but any alteration in the constituencies shall not take effect until the termination of the then existing Parliament.

84. (1) The general election for members of the Chamber of Deputies shall take place not later than sixty days after the dissolution of the Chamber.

Polling at every general election shall, as far as practicable, take place on the same day throughout the Union.

(2) The Chamber of Deputies shall meet within sixty days from the polling day.

85. Every Chamber of Deputies shall continue for four years from the first meeting of the Chamber:

Provided that the Chambers of Parliament may by resolution passed by not less than two-thirds of the members present and voting at a joint sitting extend the said period from year to year in the event of a grave emergency declared by Proclamation under section 94:

Provided further that the Chamber of Deputies may be dissolved by the President at any time as provided by section 57.

86. (1) As soon as possible after the presentation to the Chamber of Deputies under Chapter VII of the estimates of receipts and estimates of expenditures of the Union for any financial year, the Chamber shall consider the estimates.

(2) Save in so far as may be provided by specific enactment in each case, the legislation required to give effect to the financial resolutions of each year shall be enacted within that year.

(3) The Chamber of Deputies shall not pass any vote or resolution, and no law shall be enacted, for the appropriation of revenue or other public moneys, unless the purpose of the appropriation shall have been recommended to the Chamber by the Union Government.

PART III

Chamber of Nationalities

87. There shall be one hundred and twenty-five seats in the Chamber of Nationalities as allocated in the Second Schedule to this Constitution.

88. (1) A dissolution of the Chamber of Deputies shall operate also as a dissolution of the Chamber of Nationalities.

(2) The general election for the Chamber of Nationalities shall be completed not later than the fifteenth day from the first meeting of the Chamber of Deputies held after the dissolution.

89. The first meeting of the Chamber of Nationalities after the general election shall take place on a date to be fixed by the President on the advice of the Prime Minister.

PART IV

Powers of the Parliament

90. Subject to the provisions of this Constitution, the sole and exclusive power of making laws in the Union shall be vested in the Parliament:

Provided that an Act of the Parliament may authorize any person or authority therein specified to make rules and regulations consonant with the Act and having the force of law, subject, however, to such rules and regulations being laid before each Chamber of Parliament at its next ensuing session and subject to annulment by a motion carried in both Chambers within a period of three months of their being so laid, without prejudice, however, to the validity of any action previously taken under the rules or regulations.

91. Provision may, however, be made by law on principles of regional autonomy for delegating to representative bodies of such regions as may be defined in the law, specified powers in administrative, cultural and

economic matters. A law embodying such provisions shall determine the rights, powers and duties of such representative bodies and their relations to the Parliament and to the Union Government.

92. (1) The Parliament shall have power to make laws for the whole or any part of the Union except in so far as such power is assigned by the next succeeding sub-section exclusively to the State Councils.

For greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that, notwithstanding anything in the next succeeding sub-section, the exclusive legislative authority of the Parliament shall extend to all matters enumerated in List I of the Third Schedule to this Constitution (hereinafter called "the Union Legislative List").

Any matter coming within any of the classes of subjects enumerated in the said List, shall not be deemed to come within the class of matters of a local or private nature comprised in the list of subjects assigned by the next succeeding sub-section exclusively to the State Councils.

(2) Each State Council shall have power exclusively to make laws for the State or any part thereof with respect to any of the matters enumerated in List II of the said Schedule (hereinafter called "the State Legislative List").

(3) Any State Council may by resolution surrender any of its territories or any of its powers and rights to the Union.

93. The powers exercisable by the Union by reason of the entry in the Union Legislative List relating to the regulation of forests, mines and oil-fields and mineral development, shall be subject to the condition that before the issue of any certificate, license, or other form of authorization, for the exploitation, development or utilization of any forest, mine or oil-field, the issuing authority shall consult the Union Minister for the State concerned.

94. (1) Notwithstanding anything in section 92, the Parliament shall, if the President has declared by Proclamation (in this Constitution referred to as a "Proclamation of Emergency"), that a grave emergency exists whereby the security of the Union is threatened, whether by war or internal disturbance, or that a grave economic emergency affecting the Union has arisen in any part of the Union, have power to make laws for a State or any part thereof with respect to any of the matters enumerated in the State Legislative List.

(2) Nothing in this section shall restrict the power of a State Council to make any law which under this Constitution it has power to make, but if any provision of a State law is repugnant to any provision of a Union law which the Parliament has under this section power to make, the Union law, whether passed before or after the State law, shall prevail, and the State law shall, to the extent of the repugnancy, but so long only as the Union law continues to have effect, be inoperative.

(3) A Proclamation of Emergency—

(a) May be revoked by a subsequent Proclamation, and

(b) Shall cease to operate at the expiration of six months, unless before the expiration of that period it has been approved by resolutions of both Chambers of Parliament:

Provided that, if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Chambers of Parliament, the Proclamation shall, unless revoked, continue in force for a further period of twelve months from the date on which under this sub-section it would otherwise have ceased to operate.

(4) A law made by the Parliament which it would not but for the issue of a Proclamation of Emergency have been competent to make shall cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

95. If it appears to the State Councils of two or more States to be desirable that any of the matters enumerated in the State Legislative List should be regulated in these States by an Act of the Parliament, and if resolutions to that effect are passed by those State Councils, it shall be lawful for the Parliament to pass an Act for regulating that matter accordingly; but any Act so passed may, as respects any State to which it applies, be amended or repealed by an Act of the State Council.

96. (1) All revenues from the sources enumerated in the Fourth Schedule to this Constitution shall form part of the revenues of the State in or by which they are raised or received.

(2) All revenues other than such as are assigned to the States by the last preceding sub-section shall form part of the revenues of the Union:

Provided that the Union may make such grants or contributions out of its revenues in aid of the revenues of the units as it may determine to be necessary upon the recommendations of any Board or other authority appointed for the purpose.

97. (1) The right to raise and maintain military, naval and air forces is vested exclusively in the Parliament.

(2) No military, naval or air forces, or any military or semi-military organization of any kind (not being a police force maintained under the authority of any unit solely for duties connected with the maintenance of public order) other than the forces raised and maintained by the Union with the consent of the Parliament shall be raised or maintained for any purpose whatsoever.

PART V

Legislation

98. Every Bill initiated in and passed by the Chamber of Deputies shall be sent to the Chamber of Nationalities and may, unless it be a Money Bill, be amended in the Chamber of Nationalities and sent back to the Chamber of Deputies for its consideration.

99. Every Bill, other than a Money Bill, may be initiated in the Chamber of Nationalities and if passed by the Chamber, shall be sent to the Chamber of Deputies which may amend the Bill and send it back to the Chamber of Nationalities for its consideration.

100. A Bill passed by one Chamber and accepted by the other Chamber shall be deemed to have been passed by both Chambers of Parliament.

101. A Bill which appropriates revenue or money for the ordinary

annual services of the Government shall deal only with such appropriations.

102. Bills imposing taxation shall deal only with imposition of taxation and any provision therein dealing with any other matter shall be of no effect.

Money Bills

103. Money Bills shall be initiated in the Chamber of Deputies only.

104. Every Money Bill passed by the Chamber of Deputies shall be sent to the Champer of Nationalities for its recommendations.

105. (1) Every Money Bill sent to the Chamber of Nationalities for its recommendations shall, within twenty-one days after it shall have been sent to the Chamber of Nationalities, be returned to the Chamber of Deputies which may accept or reject all or any of the recommendations of the Chamber of Nationalities.

(2) If such Money Bill is not returned by the Chamber of Nationalities to the Chamber of Deputies within twenty-one days or is returned within twenty-one days with recommendations which the Chamber of Deputies does not accept, it shall be deemed to have been passed by both Chambers at the expiration of twenty-one days.

106. (1) A Money Bill means a Bill which contains only provisions dealing with all or any of the following matters, 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 revenues of the Union 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 guaranteeing of any loan or the repayment thereof; matters subordinate and incidental to these matters or any of them.

(2) In this definition the expressions "taxation", "revenues of the Union" and "loan", respectively, do not include any taxation, money or loan raised by local authorities or bodies for local purposes.

107. (1) The Speaker of the Chamber of Deputies shall certify any Bill which in his opinion is a Money Bill to be "a Money Bill" and his certificate shall, subject to the subsequent provisions of this section, be final and conclusive.

(2) The Chamber of Nationalities may, by a resolution passed at a sitting at which not less than two-thirds of the total members are present, request the President to refer the question whether the Bill is or is not "a Money Bill" to a Committee of Privileges.

(3) If the President in his discretion decides to accede to the request, he shall appoint a Committee of Privileges consisting of an equal number of members of the Chamber of Deputies and of the Chamber of Nationalities and a Chairman who shall be a judge of the Supreme Court.

In the case of an equality of votes but not otherwise the Chairman shall be entitled to vote.

(4) The President shall refer the question to the Committee of Privileges so appointed and the Committee shall report its finding thereon to the President within twenty-one days after the day on which the Bill was sent to the Chamber of Nationalities.

(5) The decision of the President, in his discretion, on such report shall be final.

108. If the President, in his discretion, decides not to accede to the request of the Chamber of Nationalities or if the Committee of Privileges fails to report within the time hereinbefore specified, the certificate of the Speaker of the Chamber of Deputies shall stand confirmed.

109. If one Chamber passes any other Bill, and the other Chamber rejects or fails to pass it, or passes it with amendments to which the Chamber where the Bill originated will not agree, the President shall convene a joint sitting of the two Chambers.

The members present at the joint sitting may deliberate and shall vote together upon the Bill as last passed by the Chamber where the Bill originated and upon amendments, if any, which have been made therein by the other Chamber, and if the Bill with the amendments, if any, is passed by a majority of the total number of members of both Chambers present and voting, it shall be deemed to have been passed by both Chambers:

Provided that at a joint sitting—

(a) If the Bill, having been passed by one Chamber is rejected by the other Chamber and returned to the Chamber in which it originated, no amendment shall be proposed to the Bill other than such amendments, if any, as are made necessary by the delay in the passage of the Bill;

(b) If the Bill is, however, passed by the other Chamber with amendments and returned to the Chamber in which it originated, only such amendments as aforesaid and such other amendments as are relevant to the matters with respect to which the Chambers have not agreed, shall be proposed to the Bill;

and the decision of the person presiding as to the amendments which are admissible under this section shall be final.

110. (1) If at any time when both Chambers of Parliament are not in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require. An Ordinance promulgated under this section shall have the same force and effect as an Act of the Parliament assented to by the President.

(2) Every such Ordinance shall be laid before both Chambers of Parliament within forty-five days from the date of promulgation thereof, unless it shall have been withdrawn earlier by the President, and shall cease to operate at the expiration of fifteen days from the re-assembly of the Chamber of Deputies or the Chamber of Nationalities, whichever is later:

Provided that the President may, with the consent of both Chambers of Parliament, extend the Ordinance for such further period as may be deemed necessary.

(3) If the Ordinance shall have been withdrawn within forty-five days from the date of its promulgation, it shall be laid before the Parliament in its next ensuing session.

(4) If and in so far as an Ordinance under this section makes any provision which the Parliament would not under this Constitution be competent to enact, it shall be void.

Signing and Promulgation

111. (1) As soon as any Bill shall have been passed by both Chambers of Parliament, it shall be presented to the President for his signature and promulgation as an Act in accordance with the provisions of this section.

(2) Save as otherwise provided by this Constitution, every Bill so presented to the President shall be signed by him not later than seven days after the date of presentation.

(3) If any Bill is not signed by the President within seven days after the date of presentation, the same shall become an Act in the like manner as if he had signed it on the last of the said seven days.

112. (1) Every Bill signed or deemed to have been signed by the President under this Constitution shall become an Act on and from the date on which the Bill shall have been signed or be deemed to have been signed.

(2) Every such Act shall be promulgated by the President by publication under his direction in the official gazette. Every Act shall come into force on the date of such promulgation unless the contrary intention is expressed.

113. The signed texts of Acts and Ordinances shall be enrolled for record in the office of the Registrar of the Supreme Court and such signed texts shall be conclusive evidence of the provisions of such Acts and Ordinances.

CHAPTER VII

The Union Government

114. The Union Government shall consist of the Prime Minister and other members appointed under section 56.

115. The Government shall be collectively responsible to the Chamber of Deputies.

116. A member of the Government who for any period of six consecutive months is not a member of the Parliament shall at the expiration of that period cease to be a member of the Government.

117. (1) The Prime Minister may resign from office at any time by placing his resignation in the hands of the Presidents.

(2) Any other member of the Government may resign from office by placing his resignation in the hands of the Prime Minister for submission to the President and the resignation shall take effect upon its being accepted by the President under the next succeeding sub-section.

(3) The President shall accept the resignation of a member of the Government, other than the Prime Minister, if so advised by the Prime Minister.

118. The Prime Minister may, at any time, for reasons which to him seem sufficient, request a member of the Government to resign; should the member concerned fail to comply with the request, his appointment shall be terminated by the President if the Prime Minister so advises.

119. The Prime Minister shall resign from office upon his ceasing to retain the support of a majority in the Chamber of Deputies unless on his

advice the President dissolves the Parliament under section 57 and on the re-assembly of the Parliament after the dissolution the Prime Minister secures the support of a majority in the Chamber of Deputies.

120. (1) If the Prime Minister at any time resigns from office, the other members of the Government shall be deemed also to have resigned from office, but the Prime Minister and the other members of the Government shall continue to carry on their duties until their successors shall have been appointed.

(2) The members of the Government in office at the date of dissolution of the Parliament shall continue to hold office until their successors shall have been appointed.

121. (1) All executive action of the Union Government shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(3) The President shall make rules for the transaction of the business of the Union Government, and for the allocation among Ministers of the said business in so far as it is not business with respect to which the President is by or under this Constitution required to act in his discretion.

Without prejudice to the generality of the foregoing provisions the allocation of business may be regionwise as well as subjectwise.

122. Subject to the provisons of this Constitution, the executive authority of the Union extends—

(a) To the matters with respect to which the Parliament has power to make laws; and

(b) To the governance, in accordance with the provisions of any treaty or agreement in this behalf, of any Armed Forces not raised in the Union that may, with the consent of the Government of the Union, be stationed in the Union or placed at the disposal of the Union.

123. (1) War shall not be declared and the Union shall not participate in any war save and except with the assent of the Parliament.

(2) In case of actual or imminent invasion, however the Government, may take whatever steps they may consider necessary for the protection of the Union, and the Parliament if not sitting shall be summoned to meet at the earliest possible date.

124. The Prime Minister shall keep the President generally informed on all matters of domestic and international policy.

125. (1) The Government shall prepare estimates of receipts and estimates of expenditure of the Union for each financial year, and shall present them to the Chamber of Deputies for consideration.

(2) The procedure to be adopted in the Chambers of Parliament with respect to the submission of estimates of expenditure, the appropriation of the revenues of the Union and all matters connected therewith shall, in so far as provision is not made in that behalf by this Constitution, be regulated in accordance with law.

ATTORNEY-GENERAL

126. (1) The President shall appoint a person, being an advocate of the High Court, to be Attorney-General on the nomination of the Prime Minister.

(2) It shall be the duty of the Attorney-General to give advice to the Government upon legal matters and to perform such other duties of a legal character, as may, from time to time, be assigned to him by the President.

127. (1) The Attorney-General may, at any time, resign from office by placing his resignation in the hands of the Prime Minister for submission to the President.

(2) The Prime Minister may, for reasons which to him seem sufficient, request the resignation of the Attorney-General.

(3) In the event of failure to comply with the request, the appointment of the Attorney-General shall be terminated by the President if the Prime Minister so advises.

(4) The Attorney-General shall resign from office upon the resignation of the Prime Minister, but may continue to carry on his duties until the successor to the Prime Minister shall have been appointed.

(5) Subject to the foregoing provisions of this Constitution, the office of the Attorney-General, including the remuneration to be paid to the holder of the office, shall be regulated by law.

AUDITOR-GENERAL

128. There shall be an Auditor-General to control on behalf of the Union all disbursements and to audit all accounts of moneys administered by and under the authority of the Parliament and the State Councils.

129. The Auditor-General shall be appointed by the President in consultation with the Prime Minister and with the approval of both Chambers of Parliament and shall only be removed from office in the like manner and on the like grounds as a judge of the High Court. The Auditor-General shall not be a member of either Chamber of Parliament nor shall he hold any other office or position of emolument. He shall not be eligible for further office in the service of the Union or the States after he has ceased to hold office.

130. Neither the salary of the Auditor-General nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment, unless he voluntarily agrees to any reduction in his salary in the event of general economy and retrenchment in relation to all the services of the Union.

131. The Auditor-General shall submit to the Chamber of Deputies, at such periods as may be determined by law, reports relating to the accounts of the Union and the States.

132. Subject to the foregoing provisions, the terms and conditions of the office of the Auditor-General shall be determined by law.

CHAPTER VIII

UNION JUDICIARY

133. Justice throughout the Union shall be administered in Courts established by this Constitution or by law and by judges appointed in accordance therewith.

134. The Courts shall comprise Courts of first instance and Courts of appeal:—

(a) The Courts of first instance shall include a High Court which shall, subject to law, have original and appellate jurisdiction and power to determine all matters and questions whether of law or of fact.

(b) The head of the High Court shall be called "the Chief Justice of the High Court."

135. (1) The High Court shall have exclusive original jurisdiction—

(a) In all matters arising under any treaty made by the Union;

(b) In all disputes between the Union and a unit or between one unit and another;

(c) In such other matters, if any, as may be defined by law.

(2) If the High Court is satisfied that a case pending in any inferior Court involves or is likely to involve substantially a question of the validity of any law having regard to the provisions of this Constitution, the High Court shall transfer the case to itself for trial.

136. (1) The Court of final appeal shall be called "the Supreme Court".

(2) The head of the Supreme Court shall be called "the Chief Justice of the Union".

(3) Without prejudice to the powers conferred upon the Supreme Court by any other provisions of this Constitution, the Court shall, with such exceptions and subject to such regulations as may be prescribed by law, have appellate jursidiction from all decisions of the High Court, and shall also have appellate jursidiction from such decisions of other Courts as may be prescribed by law.

137. No law shall be enacted excepting from the appellate jurisdiction of the Supreme Court cases which involve questions as to the validity of any law having regard to the provisions of this Constitution.

138. The decisions of the Supreme Court shall in all cases be final.

139. (1) Every person appointed a judge of the Supreme Court and of the High Court under this Constitution shall make and subscribe the following declaration:—

"I ..... do solemnly and sincerely promise and declare that I will duly and faithfully to the best of my knowledge and ability execute the office of the Chief Justice (or judge as the case may be) without fear or favour, affection or ill-will towards any man, and that I will uphold the Constitution and the laws."

(2) This declaration shall be made and subscribed by the Chief Justice of the Union in the presence of the President, and by each of the other judges of the Supreme Court and of the judges of the High Court in the presence of the Chief Justice of the Union or the senior available judge of the Supreme Court.

(3) The declaration shall be made and subscribed by every judge before

entering upon his duties as such judge, and in any case not later than ten days after the date of his appointment or such later date as may be determined by the President.

(4) Any judge who declines or neglects to make such declaration as aforesaid shall be deemed to have declined to accept the appointment.

140. (1) The Chief Justice of the Union shall be appointed by the President by an order under his hand and seal, in consultation with the Prime Minister and with the approval of both Chambers of the Parliament in joint sitting.

(2) All the other judges of the Supreme Court and all the judges of the High Court shall be appointed by the President by an order under his hand and seal, in consultation with the Chief Justice of the Union and the Prime Minister and with the approval of both Chambers of the Parliament in joint sitting.

141. All judges shall be independent in the exercise of their judicial functions and subject only to this Constitution and the laws.

142. (1) A person shall not be qualified for appointment as a judge of the Supreme Court unless he is a citizen of the Union who was or whose parents were born in any of the territories included within the Union, or unless he has been for at least five years a citizen of the Union; and

(a) Has been for at least five a judge of the High Court of Judicature at Rangoon or of the High Court established under this Constitution; or

(b) Is an advocate of the High Court of at least fifteen years' standing:

Provided that a person shall not be qualified for appointment as Chief Justice of the Union unless he—

(i) Is, or when first appointed to judicial office was, an advocate, and

(ii) Is an advocate of at least fifteen years' standing.

(2) A person shall not be qualified for appointment as a judge of the High Court unless he is a citizen of the Union; and

(a) Is an advocate of at least ten years' standing; or

(b) Has for at least five years held judicial office in Burma or in the Union not inferior to that of a district and sessions judge or Chief Judge of the Rangoon City Civil Court:

Provided that a person shall not be qualified for appointment as the Chief Justice of the High Court unless he—

(i) Is, or when first appointed to judicial office was, an advocate, and

(ii) Is an advocate of at least fifteen years' standing.

(3) In computing for the purpose of this section the standing of an advocate, any period during which he has held judicial office after he became an advocate shall be included.

143. (1) A judge of the Supreme Court or the High Court may by resignation under his hand addressed to the President resign his office.

(2) A judge of the Supreme Court or of the High Court shall not be removed from office except for proved misbehaviour or incapacity.

(3) The charge shall be preferred by either Chamber of Parliament subject to and in accordance with the provisions of this section.

(4) A proposal to either Chamber of Parliament to prefer a charge under this section shall not be entertained except upon a notice of resolu-

tion signed by not less than one-fourth of the total membership of that Chamber.

(5) No such proposal shall be adopted by either Chamber of Parliament save upon a resolution of that Chamber, supported by a majority of the members present.

(6) Where the charge relates to a judge of the Supreme Court it shall be investigated by a Special Tribunal consisting of the President or a person appointed by him in his discretion, the Speaker of the Chamber of Nationalities and the Speaker of the Chamber of Deputies.

Where the charge relates to a judge of the High Court it shall be investigated by a Special Tribunal consisting of the Chief Justice of the Union, the Speaker of the Chamber of Nationalities and the Speaker of the Chamber of Deputies.

(7) The judge against whom the charge is preferred shall have the right to appear and to be represented at the investigation of the charge.

(8) The Special Tribunal shall, after investigation, submit its report to the Chamber by which the charge was preferred. The finding of the Special Tribunal declaring that the charge has not been proved, if unanimous, shall be final. But in all other cases, the report of the Special Tribunal shall be considered by both Chambers of Parliament in joint sitting.

If, after consideration, a resolution be passed supported by a majority of the members present and voting at the joint sitting declaring that the charge preferred against the judge has been proved and that the misbehaviour was, or incapacity is, such as to render him unfit to continue in office, the President shall forthwith by an order under his hand and seal remove from office the judge to whom it relates.

144. Neither the salary of a judge of the Supreme Court or of the High Court nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment, unless he voluntarily agrees to any reduction in his salary in the event of general economy and retrenchment in relation to all the services of the Union.

145. If the office of the Chief Justice of the Union or of the Chief Justice of the High Court becomes vacant, or if either of them is, by reason of absence or for any other reason, unable to perform the duties of his office, those duties shall, until some person appointed to the vacant office has entered on the duties thereof, or until the Chief Justice of the Union or of the High Court, as the case may be, has resumed his duties, be performed by such other judge of the Supreme Court or of the High Court as the President may appoint for the purpose.

146. (1) If at any time there should not be a quorum of the judges of the Supreme Court available to hold or continue any session of the Court, owing to a vacancy or vacancies, or to the absence through illness or on leave or in the discharge of other duties assigned by statute or otherwise, or to the disqualification of a judge or judges, the Chief Justice or any acting Chief Justice of the Union, or in their absence, the senior puisne judge, may in writing request the attendance at the sittings of the Court, for such period as may be necessary, of a judge of the High Court, to be

designated in writing by the Chief Justice or any acting Chief Justice or in their absence the senior puisne judge of the Supreme Court.

(2) It shall be the duty of the judge, whose attendance has been so requested or who has been so designated, in priority to the other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance shall be required, and while so attending he shall possess the powers and privileges and shall discharge the duties of a puisne judge of the Supreme Court.

147. If the office of any puisne judge of the High Court becomes vacant, or if any such judge is by reason of absence, or for any other reason, unable to perform the duties of his office, the President may in his discretion appoint a person duly qualified for appointment as a judge to act as a judge of the Court, and the person so appointed shall, unless the President in his discretion thinks fit to revoke his appointment, be deemed to be a judge of the Court, until some person appointed under sub-section (2) of section 140 of this Constitution to the vacant office has entered on the duties thereof, or until the permanent judge has resumed his duties.

148. The Supreme Court and the High Court shall be courts of record and shall sit in the capital city of the Union and at such other place or places as the President may, after consultation with the Chief Justice of the Union from time to time, appoint:

Provided that one or more judges of the High Court shall sit at such place in the Shan State as the President may, after consultation with the Chief Justice of the Union from time to time, appoint.

149. Subject to the foregoing provisions of this Constitution relating to the Courts, the following matters shall be regulated in accordance with law:—

(i) The number of judges of the Supreme Court and of the High Court, the remuneration, age of retirement and pension of such judges; and

(ii) The constitution and organization of such Courts, the distribution of business among the Courts and judges, their jurisdiction and all matters of procedure.

150. Nothing in this Constitution shall operate to invalidate the exercise of limited functions and powers of a judicial nature by any person or body of persons duly authorized by law to exercise such functions or powers notwithstanding that such person or such body of persons is not a judge or a Court appointed or established as such under this Constitution.

151. (1) If at any time it appears to the President that a question of law has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration, and the Court may, after such hearing as it thinks fit, report to the President thereon.

(2) No report shall be made under this section save in accordance with an opinion delivered in open Court with the concurrence of a majority of the judges present at the hearing of the case, but nothing in this sub-section shall be deemed to prevent a judge who does not concur from delivering a dissenting opinion.

152. The law declared by the Supreme Court shall, so far as applicable,

be recognized as binding on, and shall be followed by, all Courts within the territories subject to the jurisdiction of the Union.

153. The Parliament may make provision by an Act for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jursidiction conferred upon it by or under this Constitution.

CHAPTER IX

PART I

THE SHAN STATE

The Shan State Council

154. (1) All the members of the Parliament representing the Shan State shall constitute the Shan state Council.

(2) All the representatives from the Shan State in the Chamber of Nationalities shall be elected by the *Saohpas* of the Shan State from among themselves. The *Saohpas* shall not be eligible for membership of the Chamber of Deputies.

(3) Any member of the State Council who shall have ceased to be a member of the Parliament shall be deemed to have vacated his seat in the Council, but may continue to carry on his duties until his successor shall have been elected.

155. The State Council may recommend to the Parliament the passing of any law relating to any matter in respect of which the Council is not competent to legislate.

156. When a Bill has been passed by the State Council it shall be presented to the President for his signature and promulgation. The President shall sign the Bill within one month from the presentation of the Bill, unless he refers the Bill to the Supreme Court for its decision under the next succeeding section.

157. (1) The President may, in his discretion, refer any Bill presented to him under the last preceding section to the Supreme Court for decision on the question whether such Bill or any specified provision thereof is repugnant to this Constitution.

(2) The Supreme Court, consisting of not less than three judges, shall consider the question referred to it and, after such hearing as it thinks fit, shall pronounce its decision on such question in open Court as soon as may be, and in any case not later than thirty days after the date of such reference. The decision of the majority of the judges shall, for the purposes of this section, be the decision of the Court.

(3) In every case in which the Supreme Court decides that any provision of the Bill, the subject of a reference to the Supreme Court under this section, is repugnant to this Constitution, the President shall return the Bill to the State Council for reconsideration and shall decline to sign it unless the necessary amendments shall have been made thereto.

(4) In every other case, the President shall sign the Bill and promulgate

the Act as soon as may be after the decision of the Supreme Court shall have been pronounced.

(5) When the President has signed a Bill presented to him under the last preceding section whether without or after a reference to the Supreme Court, the validity of any provision of the Bill shall not be called in question on the ground that it was beyond the competence of the State Council.

158. The signed text of every Act shall be enrolled for record in the office of the Registrar of the Supreme Court and a copy of the same shall be enrolled for record in the office of the Minister for the Shan State.

159. The Head of the Shan State may from time to time summon and prorogue the State Council:

Provided that there shall be a session of the State Council once at least in every year so that a period of twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session.

Government of the Shan State

160. A member of the Union Government to be known as the Minister for the Shan State shall be appointed by the President on the nomination of the Prime Minister acting in consultation with the Shan State Council from among the members of the Parliament representing the Shan State. The Minister so appointed shall also be the Head of the Shan State for the purposes of this Constitution.

161. (1) The Head of the State shall be in charge of the administration of the State; that is to say, the executive authority of the State shall be exercised by the Head of the State either directly or through officers subordinate to him.

(2) Without prejudice to the generality of the provisions of the next succeeding section, the said executive authority shall extend to all matters relating to recruitment to the State civil services, to postings and transfers, and to disciplinary matters relating to these services.

162. (1) Subject to the provisions of this Constitution, the executive authority of the State extends to the matters with respect to which the State Council has power to make laws, and in all such matters the decision of the Council shall be binding on the Head of the State.

(2) The Head of the State shall consult the State Council in all other matters relating to the State.

(3) In order to facilitate the communication of the decisions and the views of the State Council to the Head of the State, the Council shall at its first meeting after a general election elect from among its members or otherwise a Cabinet of State Ministers to aid and advise the Head of the State in the exercise of his functions.

163. The Head of the State shall give or cause to be given an account of his work to the State Council in each ordinary session, present or cause to be presented to the Council a report upon all matters relating to the State, and recommend for the consideration of the Council such measures as he thinks fit for promoting the general welfare.

164. (1) The Head of the State shall prepare or cause to be prepared

the estimates of the receipts and of the expenditure of the State for each financial year and shall present them or cause them to be presented to the State Council for consideration.

(2) Subject to any conditions that may be imposed by the Union in respect of any contributions from the Union, the State Council shall have power to approve the budget of the State; and in order to enable the President to satisfy himself that the conditions have been duly observed, such budget shall be incorporated in the Union budget.

165. Subject to the provisions of this Constitution, all matters relating to the Constitution of the State including those relating to the powers and duties of the Head of the State, of the State Council and of the Cabinet of State Ministers, and their relations to each other and to the Union Government shall be determined by law.

PART II

THE KACHIN STATE

The Kachin State Council

166. (1) All the members of the Parliament representing the Kachin State shall constitute the Kachin State Council.

(2) Of the twelve seats in the Chamber of Nationalities six shall be filled by representatives of the Kachins and the other six by those of the non-Kachins of the Kachin State.

(3) Any member of the State Council who shall have ceased to be a member of the Parliament shall be deemed to have vacated his seat in the Council, but may continue to carry on his duties until his successor shall have been elected.

167. (1) A Bill prejudicially affecting any right or privilege which the Kachins or the non-Kachins, as a class or community, enjoyed immediately before the commencement of this Constitution, shall not be deemed to have been passed by the Council unless the majority of the members representing the Kachins or the non-Kachins, as the case may be, present and voting, have voted in its favour.

(2) If any question arises in the State Council whether a Bill is of the character described in the last preceding sub-section, the presiding officer shall take the vote of the members representing the Kachins and those representing the non-Kachins in the Council separately on such question and if a majority of either class of members vote in the affirmative, the Bill shall be deemed to be of the character mentioned.

168. The State Council may recommend to the Parliament the passing of any law relating to any matter in respect of which the Council is not competent to legislate.

169. When a Bill has been passed by the State Council it shall be presented to the President for his signature and promulgation. The President shall sign the Bill within one month from the presentation of the Bill, unless he refers the Bill to the Supreme Court for its decision under the next succeeding section.

170. (1) The President may, in his discretion, refer any Bill presented

to him under the last preceding section to the Supreme Court for decision on the question whether such Bill or any specified provision thereof is repugnant to this Constitution.

(2) The Supreme Court, consisting of not less than three judges, shall consider the question referred to it and, after such hearing as it thinks fit, shall pronounce its decision on such question in open Court as soon as may be, and in any case not later than thirty days after the date of such reference. The decision of the majority of the judges shall, for the purposes of this section, be the decision of the Court.

(3) In every case in which the Supreme Court decides that any provision of the Bill, the subject of a reference to the Supreme Court under this section, is repugnant to this Constitution, the President shall return the Bill to the State Council for reconsideration and shall decline to sign it unless the necessary amendments shall have been made thereto

(4) In every other case, the President shall sign the Bill and promulgate the Act as soon as may be after the decision of the Supreme Court shall have been pronounced.

(5) When the President has signed a Bill presented to him under the last preceding section whether without or after a reference to the Supreme Court, the validity of any provision of the Bill shall not be called in question on the ground that it was beyond the competence of the State Council.

171. The signed text of every Act shall be enrolled for record in the office of the Registrar of the Supreme Court and a copy of the same shall be enrolled for record in the office of the Minister for the Kachin State.

172. The Head of the Kachin State may from time to time summon and prorogue the State Council:

Provided that there shall be a session of the State Council once at least in every year so that a period of twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session.

Government of the Kachin State

173. A member of the Union Government to be known as the Minister for the Kachin State shall be appointed by the President on the nomination of the Prime Minister acting in consultation with the Kachin State Council from among the Kachin members of the Parliament representing the Kachin State. The Minister so appointed shall also be the Head of the Kachin State for the purposes of this Constitution.

174. (1) The Head of the State shall be in charge of the administration of the State; that is to say, the executive authority of the State shall be exercised by the Head of the State either directly or through officers subordinate to him.

(2) Without prejudice to the generality of the provisions of the next succeeding section, the said executive authority shall extend to all matters relating to recruitment to the State civil services, to postings and transfers, and to disciplinary matters relating to these services:

Provided that in respect of areas where the non-Kachins form the majority of the population, the Head of the State shall act only in con-

sultation with the members representing the non-Kachins in the Cabinet in all such matters.

175. (1) Subject to the provisions of this Constitution, the executive authority of the State extends to the matters with respect to which the State Council has power to make laws, and in all such matters the decision of the Council shall be binding on the Head of the State.

(2) The Head of the State shall consult the State Council in all other matters relating to the State.

(3) In order to facilitate the communication of the decisions and the views of the State Council to the Head of the State, the Council shall at its first meeting after a general election elect from among its members or otherwise a Cabinet of State Ministers to aid and advise the Head of the State in the exercise of his functions:

Provided that not less than one-half of the members of the Cabinet shall be non-Kachins.

176. The Head of the State shall give or cause to be given an account of his work to the State Council in each ordinary session, present or cause to be presented to the Council, a report upon all matters relating to the State, and recommend for the consideration of the Council such measures as the thinks fit for promoting the general welfare.

177. (1) The Head of the State shall prepare or cause to be prepared the estimates of the receipts and of the expenditure of the State for each financial year and shall present them or cause them to be presented to the State Council for consideration.

(2) Subject to any conditions that may be imposed by the Union in respect of any contributions from the Union, the State Council shall have power to approve the budget of the State; and in order to enable the President to satisfy himself that the conditions have been duly observed, such budget shall be incorporated in the Union budget.

178. The provisions of Chapter X of this Constitution shall not apply to the Kachin State.

179. Subject to the provisions of this Constitution, all matters relating to the Constitution of the State including those relating to the powers and duties of the Head of the State, of the State Council and of the Cabinet of State Ministers, and their relations to each other and to the Union Government shall be determined by law.

Part III

THE KAREN STATE

180. (1) The following areas, *viz.*, (a) the Karenni State, (*b*) the Salween District, and (c) such adjacent areas occupied by the Karens as may be determined by a Special Commission to be appointed by the President shall, if the majority of the people of these three areas and of the Karens living in Burma outside these areas so desire, form a constituent unit of the Union of Burma to be known as the Karen State, which shall thereupon have the same status as the Shan State.

(2) The procedure for ascertaining the desire of the majority in each of

the cases mentioned in the last preceding sub-section shall be such as may be prescribed by the law of the Union.

Kaw-Thu-Lay

181. Until the Karen State is constituted under the last preceding section, the Salween District, and such adjacent areas occupied by the Karens as may be determined by a Special Commission to be appointed by the President, shall be a Special Region to be known as *Kaw-thu-lay*, subject to the following provisions:—

(1) All the members of the Chamber of Deputies representing Karens shall constitute the Karen Affairs Council. They shall co-opt not more than five members of the Chamber of Nationalities representing Karens.

(2) A Member of the Union Government to be known as "the Minister for Karen Affairs" shall be appointed by the President on the nomination of the Prime Minister, acting in consultation with the Karen Affairs Council, from amongst the members of the Parliament representing Karens.

(3) Subject to the powers of the Union Government—

(i) The general administration of the *Kaw-thu-lay* Special Region and in particular all matters relating to recruitment to the civil services in *Kaw-thu-lay*, to postings and transfers, and to disciplinary matters relating to these services;

(ii) All matters relating to schools and cultural institutions for Karens, and

(iii) All matters affecting the special rights of the Karens under this Constitution

shall be under the superintendence, direction and control of the Minister for Karen Affairs.

(4) The Karen Affairs Council shall aid and advise the Minister in the discharge of his duties.

(5) Any member of the Council who shall have ceased to be a member of the Parliament shall be deemed to have vacated his seat in the Council but he may continue to carry on his duties until his successor shall have been elected.

(6) Subject to the provisions of this Constitution, all matters relating to the powers and duties of the Minister and of the Council and their relations to each other and to the Union Government shall be determined by law.

Part IV

THE KARENNI STATE

182. (1) The territory heretofore known as Mongpai State in the Federated Shan States shall be acceded to the Karenni State if the majority of the people of the territory so desire.

(2) The procedure for ascertaining the desire of the majority shall be such as may be prescribed by law.

183. (1) Until the Parliament otherwise provides—

(i) The *Sawphyas* of Kantarawaddy, Bawlake and Kyebogyi shall represent the Karenni State in the Chamber of Nationalities;

(ii) The *Saohpa* of Mongpai shall also be one of the representatives of the Karenni State in the Chamber of Nationalities on the accession of Mongpai to the Karenni State under the last preceding section;

(iii) The *Sawphyas* and the *Saohpa* shall not be eligible for membership in the Chamber of Deputies.

(2) All the members of the Parliament representing the Karenni State shall constitute the Karenni State Council.

(3) Any member of the State Council who shall have ceased to be a member of the Parliament shall be deemed to have vacated his seat in the Council, but may continue to carry on his duties until his successor shall have been elected.

184. The State Council may recommend to the Parliament the passing of any law relating to any matter in respect of which the Council is not competent to legislate.

185. When a Bill has been passed by the State Council it shall be presented to the President for his signature and promulgation. The President shall sign the Bill within one month from the presentation of the Bill, unless he refers the Bill to the Supreme Court for its decision under the next succeeding section.

186. (1) The President may, in his discretion, refer any Bill presented to him under the last preceding section to the Supreme Court for decision on the question whether such Bill or any specified provision thereof is repugnant to this Constitution.

(2) The Supreme Court, consisting of not less than three judges, shall consider the question referred to it and, after such hearing as it thinks fit, shall pronounce its decision on such question in open Court as soon as may be, and in any case not later than thirty days after the date of such reference. The decision of the majority of the judges shall, for the purposes of this section, be the decision of the Court.

(3) In every case in which the Supreme Court decides that any provision of the Bill, the subject of a reference to the Supreme Court under this section, is repugnant to this Constitution, the President shall return the Bill to the State Council for reconsideration and shall decline to sign it unless the necessary amendments shall have been made thereto.

(4) In every other case, the President shall sign the Bill and promulgate the Act as soon as may be after the decision of the Supreme Court shall have been pronounced.

(5) When the President has signed a Bill presented to him under the last preceding section, whether without or after a reference to the Supreme Court, the validity of any provision of the Bill shall not be called in question on the ground that it was beyond the competence of the State Council.

187. The signed text of every Act shall be enrolled for record in the office of the Registrar of the Supreme Court and a copy of the same shall be enrolled for record in the office of the Minister for the Karenni State.

188. The Head of the Karenni State may from time to time summon and prorogue the State Council:

Provided that there shall be a session of the State Council once at least in every year so that a period of twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session.

Government of the Karenni State

189. A member of the Union Government to be known as the Minister for the Karenni State shall be appointed by the President on the nomina-

tion of the Prime Minister acting in consultation with the Karenni State Council from among the members of the Parliament representing the Karenni State. The Minister so appointed shall also be the Head of the Karenni State for the purposes of this Constitution.

190. (1) The Head of the State shall be in charge of the administration of the State, that is to say, the executive authority of the State shall be exercised by the Head of the State either directly or through officers subordinate to him.

(2) Without prejudice to the generality of the provisions of the next succeeding section, the said executive authority shall extend to all matters relating to recruitment to the State civil services, to postings and transfers, and to disciplinary matters relating to these services.

191. (1) Subject to the provisons of this Constitution, the executive authority of the State extends to the matters with respect to which the State Council has power to make laws, and in all such matters the decision of the Council shall be binding on the Head of the State.

(2) The Head of the State shall consult the State Council in all other matters relating to the State.

(3) In order to facilitate the communication of the decisions and the views of the State Council to the Head of the State, the Council may at its first meeting after a general election elect from among its members or otherwise a State Minister or Ministers to aid and advise the Head of the State in the exercise of his functions.

192. The Head of the State shall give or cause to be given an account of his work to the State Council in each ordinary session, present or cause to be presented to the Council a report upon all matters relating to the State, and recommend for the consideration of the Council such measures as he thinks fit for promoting the general welfare.

193. (1) The Head of the State shall prepare or cause to be prepared the estimates of the receipts and of the expenditure of the State for each financial year and shall present them or cause them to be presented to the State Council for consideration.

(2) Subject to any conditions that may be imposed by the Union in respect of any contributions from the Union, the State Council shall have power to approve the budget of the State; and in order to enable the President to satisfy himself that the conditions have been duly observed, such budget shall be incorporated in the Union budget.

194. Subject to the proyisions of this Constitution, all matters relating to the Constitution of the State including those relating to the powers and duties of the Head of the State, of the State Council and of the State Minister or Ministers and their relations to each other and to the Union Government shall be determined by law.

195. All the provisions in this Part (Part IV of Chapter IX) shall cease to have effect if and when the Karen State is constituted under section 180.

PART V

SPECIAL DIVISIONS OF THE CHINS

196. There shall be a Special Division of the Chins comprising such areas in the Chin Hills District and the Arakan Hill Tracts as may be determined by the President.

197. (1) A Chin Affairs Council shall be constituted consisting of all the members of the Parliament representing the Chins.

(2) A member of the Union Government to be known as "the Minister for Chin Affairs" shall be appointed by the President on the nomination of the Prime Minister, acting in consultation with the Chin Affairs Council, from amongst the members of the Parliament representing the Chins.

(3) Subject to the powers of the Union Government—

(i) The general administration of the Special Division and in particular all matters relating to recruitment to the civil services in the Special Division, to postings and transfers, and to disciplinary matters relating to these services and

(ii) All matters relating to schools and cultural institutions in the Special Division

shall be under the superintendence, direction and control of the Minister for Chin Affairs.

(4) The Chin Affairs Council shall aid and advise the Minister in the discharge of his duties.

(5) Any member of the Council who shall have ceased to be a member of the Parliament shall be deemed to have vacated his seat in the Council but he may continue to carry on his duties until his successor shall have been elected.

198. Subject to the provisions of this Constitution, all matters relating to the powers and duties of the Minister and of the Council and their relations to each other and to the Union Government shall be determined by law.

PART VI

NEW STATES

199. The Parliament may by an Act admit to the Union a new State upon such terms and conditions including the extent of representation of the State in the Parliament as may be specified in the Act.

200. The Parliament may by an Act, with the consent of the Council of every State whose boundaries are affected thereby—

(a) Establish a new unit;
(b) Increase the area of any unit;
(c) Diminish the area of any unit;
(d) Alter the boundaries of any unit;

and may, with the like consent, make such supplemental, incidental and consequential provisions as the Parliament may deem necessary or proper.

CHAPTER X

Right of Secession

201. Save as otherwise expressly provided in this Constitution or in any Act of Parliament made under section 199, every State shall have the right to secede from the Union in accordance with the conditions hereinafter prescribed.

202. The right of secession shall not be exercised within ten years from the date on which this Constitution comes into operation.

203. (1) Any State wishing to exercise the right of secession shall have a resolution to that effect passed by its StateCouncil. No such resolution shall be deemed to have been passed unless not less than two-thirds of the total number of members of the State Council concerned have voted in its favour.

(2) The Head of the State concerned shall notify the President of any such resolution passed by the Council and shall send him a copy of such resolution certified by the Chairman of the Council by which it was passed.

204. The President shall thereupon order a plebiscite to be taken for the purpose of ascertaining the will of the people of the State concerned.

205. The President shall appoint a Plebiscite Commission consisting of an equal number of members representing the Union and the State concerned in order to supervise the plebiscite.

206. Subject to the provisions of this Chapter, all matters relating to the exercise of the right of secession shall be regulated by law.

CHAPTER XI

Amendment of the Constitution

207. Any provision of this Constitution may be amended, whether by way of variation, addition, or repeal, in the manner hereinafter provided.

208. (1) Every proposal for an amendment of this Constitution shall be in the form of a Bill and shall be expressed as a Bill to amend the Constitution.

(2) A Bill containing a proposal or proposals for the amendment of the Constitution shall contain no other proposals.

209. (1) Such Bill may be initiated in either Chamber of Parliament.

(2) After it has been passed by each of the Chambers of Parliament, the Bill shall be considered by both Chambers in joint sitting.

(3) The Bill shall be deemed to have been passed by both Chambers in joint sitting only when not less than two-thirds of the then members of both Chambers have voted in its favour.

(4) A Bill which seeks to amend—

(a) The State Legislative List in the Third Schedule, or

(b) The State Revenue List in the Fourth Schedule, or

(c) An Act of the Parliament making a declaration under paragraph (iv) of sub-section (1) of section 74 removing the disqualification of any persons for membership of the Parliament as representative from any of the States

shall not be deemed to have been passed at the joint sitting of the Chambers unless a majority of the members present and voting, representing the State or each of the States concerned, as the case may be, have voted in its favour.

(5) A Bill which seeks to abridge any special rights conferred by this Constitution on Karens or Chins shall not be deemed to have been passed by the Chambers in joint sitting unless a majority of the members present and voting, representing the Karens or the Chins, as the case may be, have voted in its favour.

210. Upon the Bill being passed in accordance with the foregoing provisions of this Chapter, it shall be presented to the President who shall forthwith sign and promulgate the same.

CHAPTER XII

International Relations

211. The Union of Burma renounces war as an instrument of national policy, and accepts the generally recognized principles of international law as its rule of conduct in its relations with foreign States.

212. The Union of Burma affirms its devotion to the ideal of peace and friendly co-operation amongst nations founded on international justice and morality.

213. (1) Every international agreement to which the Union becomes a party shall be laid before the Parliament.

(2) No international agreement requiring or likely to require legislation in order to give effect thereto shall be ratified except with the approval of the Parliament.

(3) No international agreement involving a charge upon the revenues of the Union shall be ratified unless the terms of the agreement shall have been approved by the Chamber of Deputies.

Explanation.—This section shall not apply to inter-governmental agreements or conventions of a technical or administrative character.

214. No international agreement as such shall be part of the municipal law of the Union, save as may be determined by the Parliament.

CHAPTER XIII

General Provisions

215. The National Flag shall be rectangular in shape and red in colour with a canton of dark blue. In the canton shall be a five-pointed large white star with five smaller similar stars between the points. One of the five points of each star, large or small, shall direct upwards. The dimensions of the Flag shall be nine feet by five feet and the canton shall be four feet by two and a half feet. The size of the large star shall be such that a circle drawn through the five points shall have a diameter of eighteen inches and the smaller stars nine inches. National Flags of other sizes shall conform as nearly as possible to the above proportions.

216. The official language of the Union shall be Burmese, provided that the use of the English language may be permitted.

217. Two copies of the Constitution shall be made, one in the Burmese language and the other in the English language, both copies to be signed by the President of the Constituent Assembly and enrolled for record in the office of the Registrar of the Supreme Court. Such copies shall be conclusive evidence of the provisions of this Constitution.

218. No certificate, license or other form of authorization for the operation of any public utility service shall be granted by the Union or by a State except to—

(i) Organizations controlled by the Union or by a State or by local authorities, or

(ii) Citizens of the Union, or

(iii) Companies or other associations organized under the laws in force in the Union, not less than sixty per cent of whose capital is owned by the Union or by any State or by any local authority or by citizens of the Union;

nor shall such certificate, license or authorization be granted by the Union or by a State to any individual, firm or company for a longer period than twenty-five years and except under the condition that it shall be subject to amendment, alteration or repeal by law when the public interest so requires.

219. All timber and mineral lands, forests, water, fisheries, minerals, coals, petroleum and other mineral oils, all sources of potential energy and other natural resources shall be exploited and developed by the Union; provided that subject to such specific exceptions as may be authorized by an Act of Parliament in the interest of the Union, the Union may grant the right of exploitation, development or utilization of the same to the citizens of the Union or to companies or associations at least sixty per cent. of the capital of which is owned by such citizens:

Provided further that no such right shall be granted by the Union except under the condition that it shall be subject to amendment, alteration or repeal by the Parliament when the public interest so requires.

No certificate, license, or other form of authorization for the exploitation, development or utilization of any of the aforesaid natural resources of the Union shall be granted in future for a period exceeding twenty-five years or be renewable for a further period exceeding twenty-five years.

220. Subject to such specific exceptions as may be authorized by an Act of Parliament in the interest of the Union, the Union shall not grant any agricultural land for the exploitation, development or utilization to any persons other than the citizens of the Union.

221. The Parliament shall, by law, set up a Public Service Commission to assist the Union Government in matters relating to recruitment to the civil services of the Union, and to advise in disciplinary matters affecting the services. The composition, powers and functions of the Commission and the terms of service of its members shall be defined by an Act of the Parliament.

INTERPRETATION

222. (1) In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

"Burma" has the same meaning as in the Government of Burma Act, 1935;

"Existing law" means any law, Ordinance, Order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any legislature, authority or person in any territories included within the Union of Burma being a legislature, authority or person having power to make such law, Ordinance, Order, bye-law, rule or regulation;

"Saohpa" or "*Sawphya*" means, in the event of any dispute, the person recognized as such by the President in accordance with the rules of succession applicable;

"Unit" means—

(a) Any State forming a constitutuent unit of the Union of Burma;

(b) All the territories of the Union of Burma not forming part of any State.

(2) In Chapters VI, VII, X, XI and XIII and in the Third and Fourth Schedules ,the term "State" means, save where a contrary intention appears, the Shan State, the Kachin State, the Karenni State or any new State that may be consituted under Part VI of Chapter IX.

(3) Save where a contrary intention appears, the provisions of the Burma General Clauses Act shall extend to the interpretation and application of this Constitution.

CHAPTER XIV

Transitory Provisions

223. All rights, authority, jurisdiction and prerogative heretofore belonging to His Britannic Majesty which appertain or are incidental to the government of the territories in Burma for the time being vested in him by virtue of the Government of Burma Act, 1935, or otherwise, and all rights, authority, jurisdiction and prerogative exercisable by him by treaty, grant, usage, sufferance or otherwise in, or in relation to, any other territories in Burma, are hereby declared to belong to the Union:

Provided that any prerogative which subsisted in His Britannic Majesty and was exercisable by him in or in respect of British Burma immediately before the commencement of this Constitution shall cease to be exercisable as such by any authority in the Union.

224. All rights and assets which immediately before the commencement of this Constitution were vested in His Britannic Majesty or any other authority for the purposes of the government of Burma and the Karenni States shall, as from the commencement of this Constitution, be vested in the Union Government.

In particular, all forests and all mineral and other wealth underground, the waters including mineral and medicinal waters, the sources of natural power, the rail transport, posts, telecommunications and broadcasting shall be from the commencement of this Constitution the property of the Union.

225. (1) Any proceedings relating to contracts or liabilities which, if this Constitution had not come into operation, might have been brought against the Government of Burma, may be brought against the Union Government.

(2) The Union of Burma may sue and be sued by the name of the Union of Burma.

(3) If at the date of the coming into operation of this Constitution any legal proceedings are pending to which the Government of Burma is a party, the Union Government shall be deemed to be substituted in those proceedings for the Government of Burma.

226. (1) Subject to this Constitution and to the extent to which they are not inconsistent therewith, the existing laws shall continue to be in force until the same or any of them shall have been repealed or amended by a competent legislature or other competent authority.

(2) The President of the Union may, by Order, provide that as from such date as may be specified in the Order any existing law shall, until repealed or amended by the Union Parliament or other competent authority, have effect subject to such adaptations and modifications as appear to him to be necessary or expedient with due regard to the provisions of this Constitution.

227. The Union shall honour all legitimate obligations arising out of any treaties or agreements which immediately before the commencement of this Constitution were in force between the Government of Burma, or His Britannic Majesty or His Majesty's Government in the United Kingdom acting on behalf of the Government of Burma, and the Head or Government of any other State, provided that such other State honours any reciprocal obligations towards the Union.

228. All Courts existing at the date of the coming into operation of this Constitution shall continue to exercise their jurisdiction until new Courts are established by law in accordance with this Constitution. All cases, civil, criminal and revenue, pending in the said Courts, shall be disposed of as if this Constitution had not come into operation.

229. All persons who were in the service of the Government of Burma immediately before the coming into operation of this Constitution shall continue in service until the Union Government provide otherwise.

230. For the purpose of removing any unforeseen difficulties, particularly in relation to the transition from the provisions of the Government of Burma Act, 1935, to the provisions of this Constitution, the President of the Union may by Order direct that this Constitution shall during such period as may be specified in the Order have effect subject to such amendments, whether by way of variation, addition or repeal, as he may deem to be necessary or expedient. No such Order shall be made under this section after the first meeting of the Union Parliament duly constituted under Chapter VI; and no such Order shall be made unless it is approved by a resolution passed by this Constituent Assembly exercising the powers of both Chambers of Parliament under the provisions of the next succeeding section.

231. (1) Until the first meeting of the Union Parliament duly constituted under Chapter VI, this Constituent Assembly shall itself exercise all the powers, discharge all the duties and enjoy all the privileges of both Chambers of Parliament.

(2) Such person as the Constituent Assembly shall have elected in this behalf shall be the Provisional President of the Union until a President has been duly elected under Chapter V and shall exercise all the powers

and discharge all the duties conferred or imposed upon the President by this Constitution.

A period of service as Provisional President shall not count as a term of service for the purposes of sub-section (2) of section 48.

(3) Such persons as shall have been elected in this behalf by the Constituent Assembly shall be the Prime Minister and other members of the Provisional Union Government, until the President duly elected under Chapter V has appointed other persons in accordance with the provisions of section 56.

232. (1) Until the first meeting of the Union Parliament duly constituted under Chapter VI—

(a) All the members of the Constituent Assembly representing the Federated Shan States shall constitute the Provisional Shan State Council;

(b) All the members of the Constituent Assembly representing the Myitkyina and Bhamo Districts shall constitute the Provisional Kachin State Council;

(c) All the members of the Constituent Assembly representing the Karens shall constitute the Provisional Karen Affairs Council;

(d) All the members of the Constituent Assembly representing the Karenni States and such other persons from the Karenni State not exceeding two as may be nominated by the Provisional President shall constitute the Provisional Karenni State Council; and

(e) All the members of the Constituent Assembly representing the Chin Hills District and the Arakan Hill Tracts shall constitute the Provisional Chin Affairs Council.

(2) Each of the aforesaid Provisional Councils shall exercise all the powers and discharge all the duties of the corresponding Council constituted under Chapter IX.

233. The first general elections under this Constitution shall be held within eighteen months from the date of the coming into operation of this Constitution.

234. This Constitution shall come into operation on such date as the Provisional President may announce by proclamation not being later than the eighth day of Kason waxing, 1310 B.E. (fifteenth day of April, 1948 A.D.)

FIRST SCHEDULE

Form of Oath or Affirmation

(*See* Section 72)

.....having been chosen a member of the Chamber of $\frac{\text{Deputies}}{\text{Nationalities}}$ do solemnly swear (affirm) that I will maintain the Constitution of the Union and uphold its laws, and that I will faithfully discharge the duty upon which I am about to enter.

SECOND SCHEDULE

Composition of the Chamber of Nationalities

(*See* Section 87)

Of the 125 seats in the Chamber of Nationalities—

(a) Twenty-five seats shall be filled by representatives from the Shan State;

(b) Twelve seats shall be filled by representatives from the Kachin State;

(c) Eight seats shall be filled by representatives from the Special Division of the Chins;

(d) Three seats shall be filled by representatives from the Karenni State;

(e) Twenty-four seats shall be filled by representatives of Karens;

(f) Fifty-three seats shall be filled by representatives from the remaining territories of the Union of Burma.

THIRD SCHEDULE

List I

Union Legislative List

[*See* Section 92 (1)]

1. Defence: that is to say, the defence of the Union and of every part thereof including generally all preparations for defence as well as all such acts in times of war as may be conducive to its successful prosecution and to effective demobilization after its termination, and in particular—

(1) The raising, training, maintenance and control of Naval, Military and Air Forces and employment thereof for the defence of the Union and the execution of the laws of the Union and the States.

(2) Defence Industries.

(3) Naval, Military and Air Forces Works.

(4) Local self-government in cantonment areas, the constitution and powers within such areas of cantonment authorities, the regulation of house accommodations in such areas and the delimitation of such areas.

(5) Arms, fire-arms, ammunition and explosives.

(6) Atomic energy, and mineral resources essential to its production.

(7) Conduct of War.

2. External Affairs:

(1) Diplomatic, consular and trade representation.

(2) United Nations Organization.

(3) Participation in international conferences, associations and other bodies and implementing of decisions made thereat.

(4) The declaration of war and conclusion of peace.

(5) The entering into and implementing of treaties and agreements with other countries.

(6) Regulation of trade and commerce with foreign countries.

(7) Foreign loans.

(8) Citizens; aliens; acquisition and termination of citizenship.

(9) Extradition.

(10) Passports and *visas*.

(11) Foreign jurisdiction.

(12) Admiralty jurisdiction.

(13) Piracies, offences committed on the high seas and offences committed in the air against the law of nations.

(14) Admission into, and emigration and expulsion from, the Union.

(15) Fishing and fisheries beyond territorial waters.

(16) Import and export across customs frontiers as defined by the Union Government.

3. Communications:

(1) Port and inter-unit quarantine; seamen's and marine hospitals and hospitals connected with port quarantine.

(2) Airways.

(3) Highways and waterways declared by the Union to be Union highways and waterways.

(4) Shipping and navigation as regards mechanically-propelled vessels on inland waterways declared by the Union to be Union waterways; the rule of the road on such waterways; carriage of passengers and goods on such waterways.

(5) Railways.
(6) Maritime shipping and navigation, including shipping and navigation on tidal waters.
(7) Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of port authorities therein.
(8) Aircraft and air navigation; the provision of aerodromes; regulation and organization of air traffic and of aerodromes.
(9) Carriage of passengers and goods by sea or by air.
(10) Lighthouses, including lightships, beacons and other provisions for the safety of shipping and aircraft.
(11) Posts and telegraphs, telephones, wireless, broadcasting and other like forms of communication.

4. Finance:
(1) The borrowing of money on the credit of the Union.
(2) Duties of customs including export duties.
(3) Duties of excise excluding those enumerated in the State Legislative List but including taxes on the production, consumption and sale of electricity.
(4) Taxes on the sale of goods.
(5) Taxes on companies.
(6) Taxes on income.
(7) Taxes on the capital value of the assets of individuals and companies.
(8) Taxes on the capital of companies.
(9) Estate duty and duties in respect of succession to property.
(10) Excess Profits Tax.
(11) Savings Bank.
(12) Stamp duty in respect of bills of exchange, cheques, promissory notes and other documents.
(13) Terminal taxes on goods or passengers carried by railway, sea or air.
(14) Taxes on railway fares and freights.
(15) Fees in respect of any of the matters in this list but not including fees taken in any Court subordinate to the High Court.

5. General:
(1) The Reserve Bank; banking including incorporation of banks, and the issue of paper money.
(2) Currency, coinage and legal tender.
(3) Enquiries, surveys and statistics for the purposes of the Union.
(4) Acquisition of property for the purposes of the Union.
(5) Any Museum, Library or other institutions declared by Union law to be of national importance.
(6) Union agencies and institutes for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies.
(7) Census.
(8) Union Services.
(9) Elections to the Union Parliament subject to the provisions of the Constitution.
(10) Emoluments and allowances of the President of the Union; the salaries and allowances of the Prime Minister and other members of the Union Government; the salaries of the Speaker and the Deputy Speaker of the Chamber of Nationalities; the salaries of the Speaker and the Deputy Speaker of the Chamber of Deputies; the salaries, allowances and privileges of members of the Union Parliament.
(11) Public debt of the Union.
(12) Criminal Law and Procedure.
(13) Civil Law and Procedure including in particular the laws relating to—infants and minors; adoption; transfer of property; trusts and trustees; contracts; arbitration; insolvency; actionable wrongs; lunacy.

(14) Law of Evidence.
(15) Legal, medical and other professions.
(16) Newspapers, books and printing presses.
(17) Poisons and dangerous drugs.
(18) Mechanically propelled vehicles.
(19) Factories.
(20) Welfare of labour; conditions of labour; employers' liability and workmen's compensation; health insurance; old age pensions.
(21) Unemployment insurance.
(22) Trade Unions; industrial and labour disputes.
(23) Electricity.
(24) Insurance.
(25) Company Law.
(26) Cheques, bills of exchange, promissory notes and other like instruments.
(27) Copyright; inventions; patents; trade marks and merchandise marks; trade designs.
(28) Planning.
(29) Regulation of land tenures, including the relation of landlord and tenant and the collection of rents; transfer, alienation and devolution of land.
(30) Ancient and historical monuments; archæological sites and remains.
(31) Standard weights and measures.
(32) Opium, except as to excise duties thereon.
(33) Petroleum and other liquids and substances declared by Union law to be dangerously inflammable.
(34) Development of industries, where development under Union control is declared by Union law to be expedient in the public interests.
(35) Co-operative societies.
(36) Regulation of forests, mines and oil-fields (including labour and safety in mines and oil-fields) and mineral development.
(37) Migration within the Union.
(38) Jurisdiction and powers of all Courts with respect to any of the matters enumerated in this list.
(39) Offences against laws with respect to any of the matters in this list.
(40) Any other matter not enumerated in List II.

List II

State Legislative List

[*See* Section 92 (2)]

1. Constitutional Affairs:
(1) The Constitution of the State, subject to the provisions of this Constitution.
(2) State Public Services and State Public Service Commission.
(3) State pensions, that is to say, pensions payable by the State or out of the State Revenues.
(4) The salaries of the State Ministers, and of the Chairman of the State Council; salaries, allowances and privileges of the members of the State Council.
2. Economic Affairs:
(1) Agriculture; cattle pounds and the prevention of cattle trespass.
(2) Fisheries within the State.
(3) Land; land revenue; land improvement and agricultural loans; colonization; encumbered and attached estates; treasure trove.
(4) Works, lands and buildings vested in or in the possession of the State.
(5) Markets and fairs.

(6) Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage, but excluding inter-unit rivers and watercourses.

(7) Capitation and *Thathameda* taxes.

(8) Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in the Union:—

(i) Alcoholic liquors for human consumption.

(ii) Opium.

(iii) Indian hemp and other narcotics; non-narcotic drugs.

(iv) Medicinal and toilet preparations containing alcohol or any substance included in item (ii) or (iii) above.

(9) Taxes on trades and employments.

(10) Taxes on animals and boats.

(11) Taxes on entertainments, amusements, betting and gambling.

(12) Tolls.

3. Security:

(1) Public order (but not including the use of naval, military or air forces of the Union).

(2) Police including Village Police.

(3) The administration of justice; constitution and organization of all Courts subordinate to the High Court, and fees taken therein; preventive detention for reasons connected with the maintenance of public order; persons subject to such detention.

(4) Jurisdiction and powers of all Courts subordinate to the High Court, with respect to any of the matters enumerated in this list.

(5) Prisons; persons detained therein; arrangements with other units for the use of prisons and other institutions.

(6) Offences against laws with respect to any of the matters enumerated in this list.

4. Communications:

(1) Roads, bridges, ferries and other means of communication other than such as extend beyond the borders of the State.

(2) Municipal tramways; rope-ways.

(3) Inland waterways and traffic thereon.

(4) Local works and undertakings within the State other than railways, subject to the power of the Union Parliament to declare any work a national work and to provide for its construction by arrangement with the State Council or otherwise.

5. Education:

(1) Education excluding, for a period of ten years from the commencement of this Constitution and thereafter until the Union Parliament otherwise provides, University, higher technical and professional education.

(2) All educational institutions controlled or financed by the State.

(3) Libraries, museums and other similar institutions controlled or financed by the State.

(4) Theatres, dramatic performances and cinemas, but not including the sanction of cinematographic films for exhibition.

6. Public Health:

(1) Public Health and sanitation.

(2) The establishment, maintenance and management of hospitals, asylums and dispensaries.

(3) Registration of births, deaths and marriages.

(4) Burials and burial grounds.

7. Local Government:

(1) Municipalities and other local authorities for the purpose of local selfgovernment or village administration.

(2) Charities and charitable institutions.

8. General:
(1) Relief of the poor.
(2) Enquiries and statistics for the purpose of any of the matters enumerated in this list.
(3) Generally all matters which in the opinion of the President of the Union are of a merely local or private nature in the State.

FOURTH SCHEDULE

State Revenue List

[*See* Section 96]

1. Land Revenue:
(i) Land revenue proper.
(ii) Rents and fees of fisheries.
(iii) Royalty on petroleum.
(iv) Royalty on minerals and taxes on mineral rights.
(v) Royalty on rubber.
(vi) Capitation and *Thathameda* taxes.

2. Duties of Excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in the Union:—
(i) Alcoholic liquors for human consumption.
(ii) Opium.
(iii) Indian hemp and other narcotics; non-narcotic drugs.
(iv) Medicinal and toilet preparations containing alcohol or any substance included in item (ii) or (iii) above.

3. Fees taken in Courts subordinate to the High Court.
4. Forests.
5. Registration.
6. Taxes on trades and employments.
7. Taxes on animals and boats.
8. Taxes on entertainments, amusements, betting and gambling.
9. Taxes under the State Motor Vehicles Taxation Acts.
10. Irrigation dues
11. Interest on advances made from the State revenues and on State investments.
12. Contributions from component parts to the State.
13. Contributions from the Union.
14. All fees, fines, sale proceeds and rents of property belonging to the State, recoveries of over-payments and payments for services rendered in connection with any or all matters enumerated above and also in connection with the following:—
(a) Administration of justice.
(b) Jails and convict settlements.
(c) Police.
(d) Education.
(e) Medical.
(f) Public health.
(g) Agriculture.
(h) Veterinary.
(i) Co-operative societies.
(j) Registration of births, deaths and marriages.
(k) Civil works.
(l) Receipts in aid of superannuation of State employees.
(m) Stationery and printing.
(n) Unclaimed deposits.
(o) Treasure trove.
(p) Tolls.
(q) Extraordinary receipts.

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BYELORUSSIAN S.S.R.

SUMMARY[1]

International Status

The Byelorussian Soviet Socialist Republic (White Russia) is a member of the United Nations. It signed the Charter of that organization in San Francisco on June 26, 1945, and deposited its ratification October 24, 1945. The competence of Byelorussia and the Ukraine in international relationships for that purpose was recognized by the United States of America and other members of the United Nations when those two

[1] For an excellent summary of the constitutional organization of the Soviet Republics, see John N. Hazard, "The Federal Organization of the U.S.S.R.," in *The Russian Review* Vol. 3, No. 2 (1944), p. 21.

members of the Soviet Union were given representation at the San Francisco Conference.

On February 1, 1944, the Supreme Soviet of the U.S.S.R. had voted to give its sixteen component republics their own ministries of national defense and foreign affairs with authority to enter into direct relations with foreign states and to exchange diplomatic and consular representatives with them.

The Byelorussian S.S.R. was formed in 1919. By a treaty of February 22, 1922, it transferred to the Russian Soviet Federated Socialist Republic the right to represent it in foreign relations. When the U.S.S.R. was formed on December 30, 1922, the conduct of foreign relations became a federal function. During World War II the entire republic was overrun and occupied by Germany.

The Byelorussian S.S.R. was not a member of the League of Nations nor was it a party to the Paris Treaty of 1928 for the renunciation of war, or the Statute of the old Permanent Court of International Justice. It is a party to the Statute of the International Court of Justice of 1945 by virtue of its membership in the United Nations.[1] It is a party to relatively few of the international organizations.[2]

Form of National Government

The Byelorussian S.S.R. has a written Constitution, adopted February 19, 1937. It is closely modeled on that of the U.S.S.R. and provides for "a socialist state of workers and peasants." [3] It recites that "for the purpose of realization of reciprocal help along economic and political lines, as well as along the line of defense, the Byelorussian Soviet Socialist Republic has voluntarily united on an equal base with the other Soviet Socialist Republics," [4] and that except for the provisions of Article 14 of the Constitution of the U.S.S.R. which it recognizes as supreme, the B.S.S.R. "exercises state authority independently, preserving fully its sovereign rights." [5] The B.S.S.R. reserves the right to withdraw from the U.S.S.R., [6] and declares its right "to enter into direct relations with foreign states, to conclude agreements with them, and to exchange with them both diplomatic and consular representatives." [7] Its territory may not be changed without its consent.[8]

Its Constitution recognizes the principle that "he who does not work, does not eat" and says that in the B.S.S.R. the Socialist principle is realized, "From each according to his ability, to each according to his

[1] Not at time of our going to press, subject to compulsory jurisdiction under Art. 36. See Yearbook of the Court 1951–52 pp. 35–43.
[2] See Table II. [3] Const., Art. 1. [4] Id., Art. 13.
[5] Id., Art. 13. At the time of organization of the B.S.S.R. there were only eight other component states of the U.S.S.R.
[6] Id., Art. 15. [7] Id., Art. 16-a. [8] Id., Art. 16.

work." [1] The Constitution contemplates the receipt of "income from the local economy" by the state and local units of government, and also the assessment of taxes and levies by them.[2] It claims to have eliminated the possibility of economic crises and unemployment.[3]

Source of Sovereign Power

All power in the B.S.S.R. belongs to workers in cities and villages and is vested in the Soviets of Workers' Deputies.[4]

Rights of the People

The basis of economic life, under the Byelorussian Constitution, is "the socialist system of economy" and "the socialist system of ownership of the instruments and means of production." [5] Most property is communal.[6] Ownership of "small private enterprises conducted by individual peasants and artisans and based on personal effort and excluding exploitation of hired help" is permitted; [7] and "the personal property right of citizens to income and savings, home ownership, home-run enterprises, the objects of a home enterprise and articles of personal use and convenience as well as the rights of inheritance of personal property, are guaranteed by law." [8]

The Constitution guarantees to citizens "employment, with payment for work in accordance with its quantity and quality", [9] yearly vacations with pay,[10] old age and sickness benefits and rest homes,[11] free education including university education,[12] equal rights of women,[13] equality of races,[14] freedom of worship,[15] freedom of speech, press and assembly,[16] "personal freedom," [17] inviolability of the home and secrecy of correspondence.[18]

Freedom is granted to join various organizations and unions, "and in particular, the right of active and informed citizens of working class origin and from other working strata to join the All-Union Communist Party (Bolsheviki), which is the vanguard of workers in their struggle for strengthening and developing of the socialist order and which constitutes the managing nucleus of all workers' civilian and state organizations." [19]

Legislative Department

Legislative power is vested in the Supreme Soviet, the members of which are elected for four years by general, equal, direct and secret suffrage.[20]

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[1] Const. Art. 12. [2] Id., Art. 79. [3] Id., Art. 93.
[4] Id., Art. 3. [5] Id., Art. 4. [6] Id., Arts. 5–7.
[7] Id., Art. 9. [8] Id., Art. 10. [9] Id., Art. 93.
[10] Id., Art. 94. [11] Id., Arts. 94, 95. [12] Id., Art. 96.
[13] Id., Art. 97. [14] Id., Art. 98.
[15] Id., Art. 99. The Church is separated from the State and School, and freedom of conscience is recognized in this article.
[16] Id., Art. 100. [17] Id., Art. 102. [18] Id., Art. 103.
[19] Id., Art. 101. [20] Id., Arts. 20, 21, 109.

There is one deputy for each 20,000 of population.[1] Legislation requires a simple majority vote.[2]

Executive Department

Executive power is exercised by the Presidium elected by the Supreme Soviet and responsible to it.[3] There is also the Council of Ministers of the B.S.S.R., which is the "highest executive and administrative body."[4] However, it is responsible and subordinate to the Supreme Soviet or, when the latter is not in session, to the Presidium.[5] It is created by the Supreme Soviet and consists of about twenty-five members.[6]

Judicial Department

Justice is administered by the Supreme Court of the B.S.S.R., the provincial courts, and the people's courts, as well as by special courts of the U.S.S.R.[7] Members of the Supreme Court are appointed by the Supreme Soviet for a term of five years.[8] Interpretation of laws and revocation of decisions and decrees of the Council of Ministers because they do not conform to the laws are functions of the Presidium.[9]

"The prosecuting magistracy bodies carry out their functions independent of any local bodies whatsoever and are subordinate to the public prosecutor of the U.S.S.R. only."[10]

Provincial and Local Government

The B.S.S.R. is made up of twelve provinces: Baranovichi, Bobruisk, Brest, Vitebsk, Gomel, Grodno, Minsk, Mogilyor, Molodechensk, Pinsk, Pollyessk, and Polotzk.[11] The Soviets of Workers' Deputies constitute the state government bodies in provinces, districts, cities, towns, villages, and hamlets.[12] The provincial Soviets have executive committees and subordinate departments of land, education, health, finance, social insurance, communal economy, internal trade, roads, general planning commission and departmental staff.[13]

Area, Population, Language

The Byelorussian S.S.R. has an area of 89,000 square miles and a population of 10,886,000. The language is Byelorussian, but all minorities have the right to use and learn their own. Laws are published in the Byelorussian, Russian, Polish and Jewish languages,[14] and inscriptions on the flag are in those languages.[15] Court procedures are in the Byelorussian language.[16]

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[1] Const. Art. 21.
[2] Id., Art. 24.
[3] Id., Arts. 29, 30.
[4] Id., Art. 39.
[5] Id., Art. 40.
[6] Id., Art. 45.
[7] Id., Art. 80.
[8] Id., Art. 83.
[9] Id., Art. 31 (b, d).
[10] Id., Art. 92.
[11] Id., Art. 14.
[12] Id., Art. 52.
[13] Id., Art. 66.
[14] Id., Art. 25.
[15] Id., Art. 119.
[16] Id., Art. 86.

CONSTITUTION (BASIC LAW) of the BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

February 19, 1937[1]

Section 1

Civilian Statutes

Art. 1. The Byelorussian Soviet Socialist Republic is a socialist state of workers and peasants.

Art. 2. The basic policies of the B.S.S.R. are formed by the Soviets of Workers' Deputies who grew up and were strengthened by the overthrow of the rule of the landed gentry and capitalists, the conquest of the proletarian dictatorship, the freeing of the Byelorussian people from the chauvinist yoke of czarism and the Russian imperialist bourgeoisie, and the destruction of chauvinist Byelorussian counter-revolution.

Art. 3. All power in the B.S.S.R. belongs to workers in cities and villages, and is vested in the Soviets of Workers' Deputies.

Art. 4. The basis of the economic life of the B.S.S.R. is the Socialist system of economy and the Socialist system of ownership of the instruments and means of production. These were established by the liquidation of the capitalist system of economy, the abolition of private ownership of instruments and means of production, and the annihilation of exploitation of man by man.

Art. 5. In the B.S.S.R. Socialist property consists of either state ownership (all-people's ownership) or a co-operative-collective ownership (ownership by state subsidized collective enterprises or by co-operative unions).

Art. 6. The land—its subsoil, waters, forests, mills, factories, coal mines, mines; its rail, water, and air systems of transportation, means of communication; state organized farms (collective farms, tractor stations, etc.), as well as communal enterprises and basic housing funds in the cities and industrial centers—constitute state property, which means all people's property.

Art. 7. The civilian enterprises—collective farms, and co-operative organizations, together with their livestock and inanimate inventories, the products of collective farms and co-operative organizations—constitute the public socialist property of such collective farms and co-operative organizations.

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[1] Translated from the original text by Ernest A. Bodkin.

Besides any profit derived from a collectively owned farm organization, every member of a collective farm has the right to own a small plot of arable land, a home, productive livestock, and small personal farm equipment.

Art. 8. The land occupied by collective farms is secured by them free of charge for an interminable period of time, which means forever.

Art. 9. Although the socialist system of ownership is the principal form of ownership in the B.S.S.R., the law allows ownership of small private enterprises conducted by individual peasants and artisans and based on personal effort and excluding exploitation of hired help.

Art. 10. The personal property right of citizens to income and savings, home ownership, home-run enterprises, the objects of a home enterprise and articles of personal use and convenience as well as the rights of inheritance of personal property, are guaranteed by law.

Art. 11. The economic life in the B.S.S.R. is determined and supervised in accordance with state people's economy plans, which are made in the interest of increasing civilian welfare, unceasing rise of the economic and cultural level of the workers, the well-being of the B.S.S.R., and the improvement of the defenses and safety of the Union of Soviet Socialist Republics.

Art. 12. In the B.S.S.R. work is a duty and a matter of honor of every able-bodied citizen, in accordance with the principle, "He who does not work, does not eat."

In the B.S.S.R. is realized the Socialist principle, "From each according to his ability, to each according to his work."

Section 2

State Statutes

Art. 13. For the purpose of realization of reciprocal help along economic and political lines, as well as along the line of defense, the Byelorussian Soviet Socialist Republic has voluntarily united on equal bases with the other Soviet Socialist Republics, namely: the Russian S.F.S.R.; the Ukrainian S.S.R., the Azerbaijanian S.S.R., the Georgian S.S.R., the Armenian S.S.R.; the Tadjik S.S.R., the Cossack S.S.R., the Khirgiz S.S.R., to form a united nation called the Union of Soviet Socialist Republics.

In accordance with this, the B.S.S.R. rests in the U.S.S.R., through its supreme organs of government and supervision, the rights determined by Article 14 of the Constitution of the U.S.S.R.

Outside of the provisions of Article 14 of the Constitution of the U.S.S.R. the B.S.S.R. exercises state authority independently, preserving fully its sovereign rights.

Art. 14. The Byelorussian Soviet Socialist Republic consists of the following provinces: Baranovichi, Bobruisk, Brest, Vitebsk, Gomel, Grodno, Minsk, Mogilyor, Molodechensk, Pinsk, Pollyessk, and Polotzk.

Art. 15. The Byelorussian Soviet Socialist Republic reserves the right of free withdrawal from the Union of Soviet Socialist Republics.

Art. 16. The territory of the B.S.S.R. cannot be changed without consent of the B.S.S.R.

Art. 16-a. The B.S.S.R. has the right to enter into direct relations with foreign states, to conclude agreements with them, and to exchange with them both diplomatic and consular representatives.

Art. 16-b. The B.S.S.R. has its own republican military forces.

Art. 17. The laws of the B.S.S.R. are obligatory on the territory of the B.S.S.R.

Art. 18. Every citizen of the B.S.S.R. is a citizen of the U.S.S.R.

Citizens of all the other republics of the Union, and residing on the territory of the B.S.S.R., possess equal right with the citizens of the B.S.S.R.

Art. 19. The supreme bodies of government and state supervision are charged with the following functions:

(a) Establishment of the Constitution of the B.S.S.R. and control over its execution;

(b) Submission for approval of the Supreme Soviet of the U.S.S.R. of proposals to create new provinces within the B.S.S.R.;

(c) Establishment of the borders of circuits, districts, village soviets, as well as creation of new circuits, districts, and village soviets;

(d) Legislation of the B.S.S.R.;

(e) Preservation of state order and of rights of citizens;

(f) Approval of the plans for the national economy of the B.S.S.R.;

(g) Supervision over the compilation and execution of the budget of the Republic, as well as of the budgets of its circuits, districts, and cities; establishment, in accordance with the laws of the U.S.S.R., of state and local taxes, collections, and tax-free incomes;

(h) Supervision over insurance and related matters;

(i) Supervision over banking, industrial, farming ,trade enterprises, and the regulatory organizations of the Republic, as well as supervision over local industries;

(j) Control and supervision over management of enterprises of all-union character;

(k) Establishment of methods of land management as well as of management of mines, forests, and waters;

(l) Supervision over housing and communal enterprises, housing construction, and general welfare of cities and other populated places;

(m) Road construction; supervision over local transportation and communication;

(n) Legislation concerning workers;

(o) Supervision over matters of social insurance;

(p) Supervision over matters of primary, secondary, and university education;

(q) Supervision over and establishment of cultural-educational and scientific organizations in the B.S.S.R., as well as supervision over and establishment of cultural-educational and scientific organizations of all-union character;

(r) Supervision over matters of national health laws and the health laws established in the interest of the entire Union;

(s) Supervision over and formation of physical culture and sport organizations;

(t) Organization of law-making bodies of the B.S.S.R.;

(u) Granting B.S.S.R. citizenship rights;

(v) Amnesty and pardon of citizens convicted by law tribunals of the B.S.S.R.;

(w) Establishment of the B.S.S.R. representation in matters of international relations;

(x) Establishment of the method of formation of the B.S.S.R. military forces.

Section 3

Supreme Bodies of State Authority of the Byelorussian Soviet Socialist Republic

Art. 20. The supreme body of the state authority of the B.S.S.R. is the Supreme Soviet of the B.S.S.R.

Art. 21. The members of the Supreme Soviet of the B.S.S.R. are elected for a term of four years by the citizens of the B.S.S.R. at the election centers in accordance with the norm (rate) of one deputy for each twenty thousand of the population.

Art. 22. The Supreme Soviet of the B.S.S.R. manages all the administrative affairs of the B.S.S.R., in accordance with articles 18 and 19 of the Constitution of the B.S.S.R., as long as they do not represent the constitutionally defined province of the administrative bodies of the B.S.S.R. subordinate to the Supreme Soviet of the B.S.S.R., namely: the Presidium of the Supreme Soviet of the B.S.S.R., the Council of Ministers of the B.S.S.R., and the Ministries of the B.S.S.R.

Art. 23. The Supreme Soviet of the B.S.S.R. is the only legislative body of the B.S.S.R.

Art. 24. A proposed legislation becomes a law when approved by a simple majority of the members of the Supreme Soviet of the B.S.S.R.

Art. 25. The laws approved by the Supreme Soviet of the B.S.S.R. are published in the Byelorussian, Russian, Polish, and Jewish languages, bearing the signatures of the Chairman and of the Secretary of the Presidium of the Supreme Soviet of the B.S.S.R.

Art. 26. The Supreme Soviet of the B.S.S.R. elects a Chairman and two Vice-Chairmen of the Supreme Soviet of the B.S.S.R.

Art. 27. The Chairman of the Supreme Soviet of the B.S.S.R. presides over the sessions of the Supreme Soviet of the B.S.S.R. and manages its internal order.

Art. 28. The sessions of the Supreme Soviet of the B.S.S.R. are convoked twice a year by the Presidium of the Supreme Soviet of the B.S.S.R.

Special sessions of the Supreme Soviet of the B.S.S.R. may be convoked either at the request of the Presidium of the Supreme Soviet of the B.S.S.R. or at the request of at least one third of the deputies of the Supreme Soviet.

Art. 29. The Supreme Soviet of the B.S.S.R. elects the Presidium of the Supreme Soviet of the B.S.S.R. which consists of the following members: the Chairman of the Presidium of the Supreme Soviet of the B.S.S.R. two Vice-Chairmen, the Secretary of the Presidium, and fifteen members of the Presidium.

Art. 30. The Presidium of the Supreme Soviet of the B.S.S.R. is responsible in all its activities to the Supreme Soviet of the B.S.S.R.

Art. 31. The Presidium of the Supreme Soviet of the B.S.S.R.

(a) Convokes the sessions of the Supreme Soviet of the B.S.S.R.;
(b) Interprets the laws of the B.S.S.R.; issues decrees;
(c) Conducts national referendums;
(d) Revokes decisions and decrees of the Council of Ministers if they do not conform with the laws;

(e) Between the sessions of the Supreme Soviet of the B.S.S.R., and on a recommendation of the Chairman of the Council of Ministers of the B.S.S.R., removes from offices and appoints to the offices provisional ministers, subject to approval by the Supreme Soviet of the B.S.S.R. at its next session;

(f) Awards honorary titles of the B.S.S.R.;

(g) Exercises the right to pardon citizens sentenced by the courts of the B.S.S.R.;

(h) Appoints and recalls diplomatic representatives of the B.S.S.R. to foreign states.

(i) Accepts credentials and letters of recall of diplomatic representatives accredited (to it) by foreign states.

Art. 32. The Supreme Soviet of the B.S.S.R. elects the mandate commission which scrutinizes the credentials of the deputies to the Supreme Soviet of the B.S.S.R.

On the recommendation of the mandate commission of the B.S.S.R. the Supreme Soviet of the B.S.S.R. decides either to accept the credentials or to order an election of special deputies.

Art. 33. When it deems necessary, the Supreme Soviet of the B.S.S.R. appoints commissions of inquiry and auditing commissions.

Art. 34. The deputies of the Supreme Soviet of the B.S.S.R. cannot be prosecuted by the courts nor arrested without assent of the Supreme Soviet of the B.S.S.R., or without assent of the Presidium of the Supreme Soviet of the B.S.S.R. when the Supreme Soviet of the B.S.S.R. is not in session.

Art. 35. At the conclusion of the plenary powers of the Supreme Soviet of the B.S.S.R., the Presidium of the Supreme Soviet of the B.S.S.R. appoints the date of new elections not later than two months from the day of expiration of the plenary powers of the Supreme Soviet of the B.S.S.R.

Art. 36. At the expiration of the plenary powers of the Supreme Soviet of the B.S.S.R., the Presidium of the Supreme Soviet of the B.S.S.R. continues to exercise its authority until the newly elected Supreme Soviet of the B.S.S.R. creates a Presidium of the Supreme Soviet of the B.S.S.R. newly elected by it.

Art. 37. The newly elected Supreme Soviet of the B.S.S.R. is convoked by the Presidium of the Supreme Soviet of the B.S.S.R. not later than one month after the elections.

Art. 38. The Supreme Soviet of the B.S.S.R. creates the governmental body of the B.S.S.R. called the Council of Ministers of the B.S.S.R.

Section IV

Bodies of State Administration of the Byelorussian Soviet Socialist Republic

Art. 39. The Council of Ministers of the B.S.S.R. is the highest executive and administrative body of the state of the B.S.S.R.

Art. 40. The Council of Ministers of the B.S.S.R. is responsible and subordinate to the Supreme Soviet of the B.S.S.R., and during the period between the sessions of the Supreme Soviet of the B.S.S.R. it is responsible and subordinate to the Presidium of the Supreme Soviet of the B.S.S.R.

Art. 41. The Council of Ministers of the B.S.S.R. issues decrees and orders on the basis of and in compliance with existent laws of the Union of the S.S.R. and of the B.S.S.R., and of decrees and orders of the Council of Ministers of the U.S.S.R., and controls their execution.

Art. 42. The decrees and orders of the Council of Ministers of the B.S.S.R. are compulsory for the entire territory of the B.S.S.R.

Art. 43. The Council of Ministers of the B.S.S.R.

(a) Co-ordinates and supervises the work of the Republican and of the Union-Republican Ministries of the B.S.S.R. and of other, subordinate to it, economic, administrative, and cultural institutions; co-ordinates and controls the work of authorized All-Union People's Ministries;

(b) Composes a plan of national economy of the B.S.S.R.; submits it for approval to the Supreme Soviet of the B.S.S.R., and takes steps toward its execution;

(c) Composes a state budget of the B.S.S.R. and a summary of local budgets of the B.S.S.R.; submits the state budget for approval to the Supreme Soviet of the B.S.S.R.; and takes steps towards execution of the state and local budgets;

(d) Takes steps towards safeguarding of civilian order, national defense and preservation of civilian rights;

(e) Supervises and scrutinizes work of provincial, district, and city executive committees of the Soviets of Workers' Deputies;

(f) In emergency creates special committees and principal administrative bodies for management of economic and cultural construction;

(g) Directs relations of the B.S.S.R. with foreign states in accordance with the general procedure established by the U.S.S.R. concerning relations of the United Republics with foreign states;

(h) Directs organization of armed forces of the B.S.S.R.

Art. 44. The Council of Ministers has the right to revoke orders and instructions of the Ministers of the B.S.S.R., to revoke decisions and decrees of circuit, district, and city Executive Committees of Soviets of Workers' Deputies, as well as to approve decrees and orders of circuit, district, and city Soviets of Workers' Deputies.

Art. 45. The Council of Ministers of the B.S.S.R. is created by the Supreme Soviet of the B.S.S.R. and consists of:

The Chairman of the Council of Ministers of the B.S.S.R.;
The Vice-Chairmen of the Council of Ministers of the B.S.S.R.;
The Chairman of the state planning commission of the B.S.S.R.;
The following Ministers of the B.S.S.R.:

Food industry,
Light industry,
Timber industry,
Agriculture,
Grain and livestock state farms,
Finances,
Internal trade,
Internal affairs,
Justice,
Health,
Foreign affairs,
Education,

Defense,
Local industry,
Communal economy,
Civil housing construction,
Social insurance,
Agent of the purveyance committee of the U.S.S.R.,
Chief for administration of affairs of handicrafts,
Agents of all-union ministries.

Art. 46. The Ministers of the B.S.S.R. manage the branches of the state government within the jurisdiction of the B.S.S.R.

Art. 47. To carry out decrees and laws of the U.S.S.R. and of the B.S.S.R., decrees and orders of the Council of Ministers of the U.S.S.R. and of the Council of Ministers of the B.S.S.R., and programs and instructions of the Union-Republican Ministries of the U.S.S.R.,—the Ministers of the B.S.S.R. impose tasks upon and issue instructions to the Ministries responsible to them and scrutinize execution of these tasks.

Art. 48. The Ministries of the B.S.S.R. are either Union-Republican or Republican.

The following Ministries of the B.S.S.R. belong to the class of Union-Republican Ministries of the B.S.S.R.:

Food industry,
Light industry,
Timber industry,
Agriculture,
Grain and livestock state farms,
Finances,
Internal trade,
Internal affairs,
Foreign affairs,
Justice,
Defense,
Health.

The following Ministries of the B.S.S.R. belong to the class of Republican Ministries;

Education,
Local industry,
Communal economy,
Social insurance,
Civil housing construction.

Art. 49. The Union-Republican Ministries of the B.S.S.R. supervise the branches of state government of the B.S.S.R. entrusted to them with the exception of such listed enterprises as must be approved by the Presidium of the Supreme Soviet of the U.S.S.R., and as in that case are supervised both by the Council of Ministers of the B.S.S.R. and by the related Union-Republican Ministries of the U.S.S.R.

Art. 50. The Republican Ministries of the B.S.S.R. supervise the

branches of government entrusted to them and are directly responsible to the Council of Ministers of the B.S.S.R.

Art. 51. An official of the B.S.S.R. or a minister of the B.S.S.R., if elected as a deputy to the Supreme Soviet of the B.S.S.R., must submit to the Supreme Soviet of the B.S.S.R. either oral or written resignation.

Section V

Local Bodies of State Government

Art. 52. The Soviets of Workers' Deputies constitute the state government bodies in provinces, districts, cities, towns, villages, and hamlets.

Art. 53. Provincial, circuit, district, city, great city district, town, village, and other smaller community Soviets of Workers' Deputies are elected for two years by the respective workers of provinces, districts, cities, towns, villages, and hamlets.

Art. 54. The Soviet of Workers' Deputies of a province, city, district, town, village, or hamlet supervises the cultural-political and economic upbuilding of the territory under its supervision; establishes the local budget; manages the activity of subordinate bodies of government; insures preservation of the state order: co-operates in improvement of defense of the land; insures carrying out of the laws and preservation of the rights of citizens.

Art. 55. The Soviets of Workers' Deputies make decisions and issue orders within the jurisdiction granted them by the laws of the U.S.S.R. and of the B.S.S.R.

Art. 56. The Executive Committee is the executive and managing body of a provincial, district, city, or village Soviet of Workers' Deputies. It is elected by the Soviet of Workers' Deputies and consists of a chairman, vice-chairman, secretary, and members.

Art. 57. The executive and managing body of a small community (small towns, villages, hamlets) consists of a chairman, vice-chairman, and secretary, who are elected by the related Soviet of Workers' Deputies.

Art. 58. The Executive Committees of the Soviets of Workers' Deputies of provinces, districts, cities, towns, villages, and hamlets carry out cultural-political and economic upbuilding of the territories under their jurisdiction on the basis of decisions of their respective Soviets of Workers' Deputies and of the superior state bodies.

Art. 59. The sessions of the provincial and district Soviets of Workers' Deputies are convoked by their respective Executive Committees not less than six times per year.

Art. 60. The sessions of the city and village Soviets of Workers' Deputies are convoked by their respective executive bodies not less than once a month.

Art. 61. The provincial, district, and city Soviets of Workers' Deputies elect at the time of their session a chairman and a secretary to conduct the meetings of a session.

Art. 62. The chairman of a village Soviet of Workers' Deputies calls the village Soviet into session and conducts its meetings.

Art. 63. The executive body of a provincial, district, city, or village

Soviet of Workers' Deputies is directly responsible to the Soviet of Workers' Deputies which elected it and to the executive body of a superior Soviet of Workers' Deputies.

Art. 64. The superior Executive Committees of Soviets of Workers' Deputies have the right to annul decisions and orders of the lower Executive Committees and to accept decisions and orders of the lower Soviets of Workers' Deputies.

Art. 65. The superior Soviets of Workers' Deputies have the right to annul decisions and orders of the lower Soviets of Workers' Deputies and of their Executive Committees.

Art. 66. A provincial Soviet of Workers' Deputies creates the following departments subordinate to its Executive Committee:

Land,
Education,
Health,
Finance,
Social insurance,
Communal economy,
Internal trade,
Roads,
General,
Planning commission,
Departmental staff of the Chairman of the Executive Committee.

Art. 67. In accordance with the wishes of a province and in conformance with the laws of the U.S.S.R. and of the B.S.S.R., the All-Union Ministries, as well as the Union-Republican and the Republican Ministries, establish their administrative agencies in the provincial Soviets of Workers Deputies.

Art. 68. The departments and administrative agencies of a provincial Soviet of Workers' Deputies are responsible in their activity to the provincial Soviet of Workers' Deputies and to its Executive Committee, as well as to the related Ministry of the B.S.S.R.

Art. 69. A district Soviet of Workers' Deputies creates the following departments subordinate to its Executive Committee:

Land,
Education,
Finance,
Internal trade,
Health,
Social insurance,
Road,
General,
Planning commission,
Departmental staff of the Chairman of the Executive Committee.

Besides the above-mentioned departments and in accordance with special needs of district economy, the district Soviet of Workers' Deputies

may create with the approval of the Supreme Soviet of the B.S.S.R. departments of communal and local industries.

Art. 70. In accordance with the wishes of a district and in conformance with the laws of the U.S.S.R. and of the B.S.S.R., and after the approval of the Council of Ministers of the B.S.S.R., the Ministry for internal affairs establishes its administrative agencies in the district Soviet of Workers' Deputies.

Art. 71. The departments of a district Soviet of Workers' Deputies are responsible in their activity to the district Soviet of Workers' Deputies and to its Executive Committee, as well as to the related department of the provincial Soviet of Workers' Deputies, and to the related Ministry of the B.S.S.R.

Art. 72. A city Soviet of Workers' Deputies creates the following departments subordinate to its Executive Committee:

Finance,
Communal economy,
Health,
Education,
Social insurance,
General,
Planning commission,
Departmental staff of the Chairman of the Executive Committee.

Besides the above-mentioned departments and in accordance with special needs of economy of a city and of its suburbs it may create the following departments:

Local industry,
Land.

Art. 73. The departments of a city Soviet of Workers' Deputies are subordinate in their activity to the city Soviet of Workers' Deputies and to its Executive Committee as well as to the related departments of the provincial and district Soviets of Workers' Deputies, and are also directly subordinate to the related Ministry of the B.S.S.R.

Art. 74. The departments of the city Soviets of Workers' Deputies of the cities of Minsk, Vitebsk, Gomel, and Mogilyov are subordinate in their activity to the respective Soviets of Workers' Deputies of the cities of Minsk, Vitebsk, Gomel, and Mogilyov, to their respective Executive Committees, as well as directly responsible to the related Ministry of the B.S.S.R.

Art. 75. At the conclusion of the plenary powers of the provincial, district, city, town, village, and hamlet Soviets of Workers' Deputies, their executive and managing bodies retain their authority until the newly elected Soviets of Workers' Deputies establish new executive and managing bodies.

Section VI

Budget of the Byelorussian Soviet Socialist Republic

Art. 76. The state budget of the B.S.S.R. is made by the Council of Ministers of the B.S.S.R. and is submitted by it to the Supreme Soviet of the B.S.S.R. for approval.

After approval of the state budget by the Supreme Soviet of the B.S.S.R. it is published for general information.

Art. 77. The Supreme Soviet of the B.S.S.R. elects the budgetary commission which reports to the Supreme Soviet its conclusions in regard to the state budget of the B.S.S.R.

Art. 78. On completion of its study, the state budget of the B.S.S.R. is approved by the Supreme Soviet of the B.S.S.R. and is then published for general information.

Art. 79. The budgets of the provincial, district, city, and village Soviets must show the income from the local economy separately from the state income received in their territory, and must also show the income from local taxes and levies in amounts established by the laws of the U.S.S.R. and of the B.S.S.R.

Section VII

Courts and Prosecuting Magistracy

Art. 80. In the B.S.S.R. justice is administered by the Supreme Court of the B.S.S.R., the provincial courts, the people's courts, as well as by the special courts of the Union of the S.S.R., which are created by a decree of the Supreme Soviet of the U.S.S.R.

Art. 81. Except in the cases especially foreseen by the law, the examination of the lawsuits in all the courts is conducted by the department of people's assessors.

Art. 82. The Supreme Court of the B.S.S.R. is the highest court body of the B.S.S.R.

The Supreme Court of the B.S.S.R. is charged with the responsibility of supervision over the activities of all the other court bodies of the B.S.S.R.

Art. 83. The Supreme Court of the B.S.S.R. is appointed by the Supreme Soviet of the B.S.S.R. for a term of five years.

Art. 84. The provincial courts are elected by the provincial Soviets of Workers' Deputies for a term of five years.

Art. 85. The people's courts are elected for a term of three years by secret voting of citizens of a district which is based on the general, direct, and equal elective right.

Art. 86. The court procedures in the B.S.S.R. are conducted in the Byelorussian language. Persons not possessing knowledge of this language have the right of familiarizing themselves with the contents of the case through a translator and also have the right to make court pronouncements in their own language.

Art. 87. With the exceptions previously stated by law, the examination of all lawsuit documents is open to those concerned in all the courts of the B.S.S.R., with the guarantee to an accused of the right of defense.

Art. 88. The judges are independent and are responsible to the law only.

Art. 89. The public prosecutor of the U.S.S.R. and the public prosecutor of the B.S.S.R. are charged with the supreme supervision over the exact carrying out of the laws in the territory of the B.S.S.R. by all the Ministries, by the institutions subordinate to them, as well as by the regular and special public officials, and by all the citizens.

Art. 90. The public prosecutor of the B.S.S.R. is appointed by the public prosecutor of the U.S.S.R. for a term of five years.

Art. 91. The provincial, district, and city public prosecutors are appointed by the public prosecutor of the B.S.S.R., and after approval by the public prosecutor of the U.S.S.R., for a term of five years.

Art. 92. The prosecuting magistracy bodies carry out their functions independent of any local bodies whatsoever and are subordinate to the public prosecutor of the U.S.S.R. only.

Section VIII

Basic Rights and Duties of Citizens

Art. 93. Citizens of the B.S.S.R. have the right to work which means the right to guaranteed employment, with payment for work in accordance with its quantity and quality.

The rights to employment are guaranteed by the socialist nature of the national economy, by the increasing growth of the productive forces of the Soviet economy, by the elimination of the possibility of economic crises, and by the liquidation of unemployment.

Art. 94. Citizens of the B.S.S.R. have the right to leisure.

The right to leisure is ensured by shortening a working day to seven hours for a greater majority of workers, by establishing of yearly vacations for workers with payment of wages, by placing at the disposal of workers a wide network of sanatoriums, rest homes, and clubs.

Art. 95. Citizens of the B.S.S.R. have the right to financial security in old age, as well as in cases of sickness and of loss of ability to work.

These rights are guaranteed by a wide development of social insurance for workers at the expense of the state, by free medical care of workers, and by placing at the disposal of workers a wide network of health resorts.

Art. 96. Citizens of the B.S.S.R. have the right to education.

This right is ensured by a universally compulsory primary education; free education, including university education; by a system of state scholarships for the greater majority of university students; by free instruction of workers (in their native language) in schools, factory organizations, and state farms, in crafts, agronomy, and in technical trades.

Art. 97. Women of the B.S.S.R. are accorded equal rights with men in all branches of economic, state, social, and political life.

The possibility of realizing these rights of women is ensured by affording women equally with men the right to work, payment for work, rest, social insurance, education, state protection of the interests of mother and child, pregnancy leave with pay, and provision of a wide network of maternity homes, nurseries, and kindergartens.

Art. 98. Equality of the rights of citizens of the B.S.S.R. irrespective of their nationality or race in all branches of economic, state, cultural, social, and political life is an indefeasible law.

Direct or indirect restriction of the rights; or, conversely, the establishment of direct or indirect privileges for citizens on account of their race or nationality; as well as advocacy of racial or national exclusiveness; or hatred and contempt, are punishable by law.

Art. 99. To ensure to citizens freedom of conscience, the Church in the B.S.S.R. is separated from the State and the School from the Church. Freedom of worship and freedom of anti-religious propaganda are recognized rights of all citizens.

Art. 100. In accord with the interests of workers and for the purpose of strengthening the socialist order, citizens of the B.S.S.R. have the following rights guaranteed by law:

(a) Freedom of speech;
(b) Freedom of press;
(c) Freedom of assemblies and meetings;
(d) Freedom of street processions and demonstrations.

These rights of citizens are ensured by placing at the disposal of workers and their organizations printing establishments, public buildings, streets, means of transportation, and other necessary material means.

Art. 101. In accord with the interests of workers and in order to develop the organizational self-activity and political activity of the broad masses, citizens of the B.S.S.R. are guaranteed the right of uniting into the following civilian organizations: professional unions; co-operative unions; youth organizations; sport and defense organizations; cultural, technical, and scientific fraternities; and, in particular, the right of active and informed citizens of working-class origin and from other working strata to join the All-Union Communist Party (Bolsheviki), which is the vanguard of workers in their struggle for strengthening and developing of the socialist order and which constitutes the managing nucleus of all workers' civilian and state organizations.

Art. 102. Citizens of the B.S.S.R. are guaranteed inviolability of personal freedom. No one can be arrested without a court decree or a sanction of a public prosecutor.

Art. 103. The inviolability of citizens' homes and secrecy of correspondence are guaranteed by law.

Art. 104. The B.S.S.R. offers a haven to foreign citizens who are persecuted for defending the interests of workers, for scientific activity, or for the struggle for national liberation.

Art. 105. Every citizen of the B.S.S.R. is obligated to obey the Constitution of the Byelorussian Socialist Republic, to obey the laws, to preserve work discipline, seriously carry out civilian duties, and to respect the rules of the Socialist communal life.

Art. 106. Every citizen of the B.S.S.R. is obligated to preserve and to strengthen the national socialist authority as a holy and inviolable basis of the socialist order, as a source of wealth and power of the Fatherland, and as a source of free and cultural life of all workers.

Persons who encroach upon the national socialist authority are enemies of the people.

Art. 107. General military service is compulsory under the law.

Military service in the worker-peasant Red Army represents an honorable duty of citizens of the B.S.S.R.

Art. 108. The defense of the Fatherland is a holy duty of each citizen of the B.S.S.R. Treason to the Fatherland such as breaking of an oath of

allegiance, desertion to an enemy, weakening the military might of the State, is punished with all the strictness of the law as the gravest crime.

Section IX

Election System

Art. 109. Elections of deputies to all the Soviets of Workers' Deputies the Supreme Soviet of the Byelorussian Soviet Socialist Republic, to the provincial, district, municipal, town, village, and hamlet Soviets of Workers' Deputies, are conducted by the electors on the basis of general, equal, direct, and secret suffrage.

Art. 110. Elections of the deputies are general: all citizens over eighteen years of age have the right to participate in the elections of deputies or be elected, regardless of their race, nationality, educational qualifications, length of residence, social origin, property status, and past activity, with the exception of persons mentally unfit and those sentenced by courts to the deprivation of elective rights.

Art. 111. The elections of deputies are conducted on equal basis: every citizen has one vote and all citizens participate in the elections on equal basis.

Art. 112. Women have equal rights with men to elect and be elected.

Art. 113. Citizens serving in the Red Army have the right to elect and be elected on equal basis with other citizens.

Art. 114. The elections of deputies are direct: elections to all the Soviets of Workers' Deputies, from a village or a municipal Soviet of Workers' Deputies and including the Supreme Soviet of the B.S.S.R., are conducted by direct voting of citizens.

Art. 115. The voting for election of the deputies is secret.

Art. 116. The names of the candidates for election are published in the election districts.

The right to propose candidates is ensured to civilian organizations, workers' fraternal organizations, Communist Party organizations, professional unions, co-operatives, youth organizations, and cultural organizations.

Art. 117. Every deputy must give an account of his activity and the activity of a Soviet of Workers' Deputies before the electors and may be recalled at any time upon the decision of a majority of the voters, in accordance with the procedure established by law.

Art. 118. Elections to the Soviets of Workers' Deputies of the B.S.S.R. are conducted at election districts in accordance with the following norms:

(a) To a provincial Soviet of Workers' Deputies, one deputy for not less than two thousand and not more than three thousand of the population;

(b) To a district Soviet of Workers' Deputies, one deputy for not less than five hundred and not more than one thousand of the population;

(c) To a municipal Soviet of Workers' Deputies, one deputy for not less than one hundred and fifty and not more than three hundred of the population;

(d) To a town or a village Soviet of Workers' Deputies, one deputy for not less than one hundred and not more than two hundred and fifty of the population.

The elective norms for special Soviets of Workers' Deputies are outside the norms shown in this Article and are established by the elective law of the B.S.S.R.

Section X

Emblem, Flag, Capital

Art. 119. The state emblem of the Byelorussian Soviet Socialist Republic consists of rising sun with rays, a sickle and hammer, encircled by a wreath; the left side of this wreath consists of ears of wheat intertwined with reeds, and the right, of an oak branch; underneath both halves of the wreath is shown a portion of the earth's globe. Both halves of the wreath are intertwined with a red ribbon on which are shown inscriptions in the Byelorussian, Russian, Jewish, and Polish languages: "Workers of the World, Unite!", and below them, the initials of the B.S.S.R. At the top of the emblem is shown a five-pointed star.

Art. 120. The state flag of the Byelorussian Soviet Socialist Repubic consists of a red fabric, in the upper corner next to the staff of which are shown a golden hammer and sickle and above them a red five-pointed star, with a golden ribbon surrounding them; underneath the sickle and hammer are shown the golden letters of the B.S.S.R.

The ratio of width of the fabric to its length is 1 : 2.

Art. 121. The capital of the Byelorussian Soviet Socialist Republic is the city of Minsk.

Section XI

Method of Modification of the Constitution

Art. 122. Modification of the Constitution of the Byelorussian Soviet Socialist Republic is made only upon a decision of the Supreme Soviet of the B.S.S.R., when approved by votes of at least a two-thirds majority of the members of the Supreme Soviet.

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CAMBODIA

SUMMARY

International Status

Cambodia's independence within the French Union was granted on December 16, 1948. By a further Treaty signed on November 8, 1949, France recognized the Kingdom of Cambodia as an independent associate State within the French Union. The Pau Conventions of December 1950 regulate questions concerning common service between the Associated States of Cambodia, Laos and Viet Nam on the one hand, and France. The three states form a monetary and customs union. Cambodia has been recognized by the United Kingdom, the United States and most other members of the United Nations. Negotiations for the transfer of powers

to Cambodia, like that under the 1953 Treaty with Laos, were resumed on December 20, 1953.

Cambodia is a member of the United Nations.[1] It accepted the jurisdiction of the International Court of Justice on July 17, 1952 in respect of disputes which might arise in relation to the interpretations of the Treaty of Peace with Japan. It is a member of other international organizations.

Until 1946, Cambodia was one of the five states which made up Indo China. French influence in Indo China dates from 1787 and the French protectorate over Cambodia was established in 1863. On March 9, 1945, the Japanese evicted the French authorities and proclaimed the independence of the area. Early in 1945, France announced its intention of organizing the area into five states constituting a federal union as a component part of French territory and a "modus-vivendi" was signed between France and Cambodia on January 7, 1946, granting the latter internal autonomy. On March 4, 1946 France officially reassumed control of Indo China. Resumption of fighting in Viet Nam on December 19, 1946 prevented the carrying out of the French plan for a federation.

At the Geneva Conference (April-July 1954), an Agreement on the Cessation of Hostilities in Cambodia was drawn up and signed on July 20, 1954, which provided for a cease fire and the withdrawal of foreign forces outside of Cambodian territory. The Agreement established an International Commission responsible for the control and supervision of the application of the Agreement, composed of representatives of Canada, India and Poland. The International Commissions for all three associated states (Laos, Cambodia and Viet Nam) were instructed to act in close cooperation.

Form of National Government

Cambodia is a kingdom with a constitution which was promulgated on May 6, 1947. The Preamble states that Cambodia is an autonomous state forming part of the French Union as an Associated State.

Source of Sovereign Power

"All powers emanate from the King." They are exercised as it is stated in the present Constitution.[2]

Rights of the People

No one may be accused, arrested or imprisoned except as provided by law.[3] Innocence is presumed until guilt has been declared.[4] Cambodians

[1] Application first made in 1952 was accepted December 14, 1955.
[2] Const., Art. 21. [3] Id., Art. 4. [4] Id., Art. 5.

may not be expelled from Cambodia.[1] Property is under the protection of the law.[2] Freedom of conscience,[3] speech and the press[4], association and assembly[5] are guaranteed. Provision is made for inviolability of domicile[6] and correspondence.[7] All Cambodians have the right to equal access to public employment,[8] and to petition the public authorities.[9] The state religion is Buddhism.[10]

Legislative Department

Legislative power is exercised by the National Assembly composed of deputies elected by universal, direct suffrage for a term of four years, and representing the entire Cambodian nation.[11] The Assembly may be dissolved by decision of the Council of Ministers upon the recommendation of the President of the Assembly if two votes of nonconfidence or censure resulting in the resignation of the Cabinet occur within a period of eighteen months.[12] There is also provision for a Council of the Kingdom, a consultative body charged with examining proposed legislation.[13] It is composed of 24 members, with a term of four years, as follows: 2 members of the royal family appointed by the King, two members elected by the National Assembly, eight members representing the regions and the capital elected by a restricted and indirect suffrage, eight members representing the professions and four representing the government officials.[14]

Executive Department

The King is the supreme head of the State.[15] The Council of Ministers constitutes the Royal Government.[16] It is composed of no more than 12 members, including the Secretaries of State, who may or may not be members of parliament, and is responsible to the National Assembly.[17]

Judicial Department

The constitution provides for a High Council of Magistracy to assure the discipline and independence of the Magistrates.[18] Special laws regulate the judicial organization.[19] The rights of interpretation of the constitution rests with the National Assembly.[20]

Area, Population, Language

Cambodia has an area of approximately 70,590 square miles with a

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[1] Const., Art. 6.
[2] Id., Art. 7.
[3] Id., Atr. 8.
[4] Id., Art. 9.
[5] Id., Art. 10.
[6] Id., Art. 11.
[7] Id., Art. 12.
[8] Id., Art. 13.
[9] Id., Art. 14.
[10] Id., Art. 8.
[11] Id., Arts. 50, 53.
[12] Id., Art. 69.
[13] Id., Art. 78.
[14] Id., Arts. 70–74.
[15] Id., Art. 35
[16] Id., Art. 79.
[17] Id., Arts. 79, 81.
[18] Id., Art. 96.
[19] Id., Art. 95.
[20] Id., Art. 101.

population (1950 estimate) of 4,100,000. The official language is Cambodian. French is the official language for proceedings concerning the French Union and is permitted for other purposes "until the Cambodian language is sufficiently enriched and adapted to the needs of a modern nation." [1]

[1] Const., Art. 2

CONSTITUTION OF THE KINGDOM OF CAMBODIA[1]

May 6, 1947

WE
PREAH BAT SAMDECH PREAH
NORODOM SIHANOUK VARMAN
REACH HARIVONG UPATHO SUCHEAT VISOTHIPONG AKAMOHABORAS-RAT NIKARODOM THAMMIK MOHAREACHÉATHIREACH BAROMANEAT BAROMABOPIT PREAH CHAU KRUNG KAMPUCHEA THIPPADEY

King of Cambodia, self governing State belonging to the French Union as an Associated State grant our people within the treaties that bind Cambodia to France the constitution the text of which follows.

TITLE No. 1

NATURE AND FORM OF THE STATE

Art. 1. Cambodia is a Monarchy.

Art. 2. The official tongue is Cambodian.

French is the official language for the proceedings concerning the French Union and its use is admitted in the other cases until the Cambodian language is sufficiently enriched and adapted to the needs of a modern nation.

TITLE No. 2

LIBERTIES, RIGHTS AND DUTIES OF CAMBODIANS

Art. 3. Liberty is the power of doing everything that does not injure other people's rights. The conditions upon which that liberty can be exercised are stated by the Law.

No one can be compelled to do what the Law does not ordain.

Art. 4. No one can be prosecuted, arrested, or detained except in cases determined by the Law and according to the forms it has prescribed.

No one can be kept into custody unless the lawfulness of his arrest be laid before a Magistrate and confirmed by his justified decision within the time stipulated by the Law.

Any useless harshness or coercion in the course of an arrest, any moral pressure or bodily cruelty towards a prisoner any treatment that increases

[1] Source: English translation kindly supplied by the Ministry of Foreign Affairs in Phnom-Penh in August, 1954.

the severity of the penalty lawfully to be applied to a condemned person are forbidden by the Law and engages the personal responsibility of their instigators, promotors or accomplices.

Art. 5. Any accused person is presumed not guilty until he has been declared guilty.

Privative or restrictive penalties must direct towards the reeducation of the offender.

Art. 6. The Cambodians cannot be turned out of the Cambodian territory. They cannot be forbidden to stay in some locality or compelled to settle in a determined place except in cases stipulated by the Law.

Art. 7. Property is under the protection of the Law.

No one can be deprived of his property except for reason of public necessity, in the cases established by the Law and after due indemnification

Art. 8. Liberty of conscience is absolute. So is that of worshipping which suffers no other restrictions than those made necessary by the maintenance of Public order.

Buddhism is the State religion.

Art. 9. Every Cambodian is free to speak, write, print, publish. He may, either by way of the press or any other means express, spread, defend every opinion so long as he makes no unauthorized use of that right or does not tend to disturb the public order.

No demonstration of opinion can be imposed.

Art. 10. All Cambodians have a right to associate freely, unless their association endangers or tends to endanger the liberties guaranteed by the present Constitution.

They are also granted liberty of meeting.

Art. 11. The domicile is inviolable. No one may get in except in the cases specified by the Law and according to the forms it prescribes.

Art. 12. The secrecy of letters is inviolable, temporary derogations being explicitly provided for by the Law when the higher interest of the Nation makes it necessary.

Art. 13. All the Cambodians may equally aspire to all public offices, their own merit or efficiency being the only cause of preference.

Art. 14. Each Cambodian is entitled to send a written petition to the Constituted authorities, in order to provoke the study of problems of either private or collective interest,

Art. 15. The exercise of the rights warranted by the Present Constitution cannot be suspended. However when the nation is proclaimed in a State of emergency, the rights enumerated in the articles 4, 9, (1st paragraph) 10 (2nd paragraph) and 12, may be suspended within the limits and forms fixed by the Law.

That measure should not be taken for a period exceeding six months, to be renewed in the same form. Whoever misuses it, to injure arbitrarily the material or moral rights of others, will thus engage his own responsibility.

At the end of the period of exception, whoever thinks himself arbitrarily wronged in his person or his property may claim moral or material redress before the court.

Art. 16. Every Cambodian owes loyalty to the King, must respect the Laws, defend the country and help the government by paying his taxes and by all the means within the scope of the Law.

TITLE No. 3

THE LAW AND POWERS

Art. 17. The Law is the expression of the will of the Nation. It applies to every one, whether it protects, punishes or constrains.

Warranting to all the Cambodians the exercise of the liberties and rights enumerated in the preceding title, the Law cannot, in any circumstances, infringe upon them.

Art. 18. The Law guarantees to every one the right to be rendered justice, and lack of means cannot oppose.

Art. 19. Save special stipulations explicity provided for, the Law cannot have any retrospective effect.

No one however, can be judged and punished except after breaches of the Law stipulated by an act promulgated and made compulsory previous to those breaches.

Art. 20. An act is compulsory in Phnom-Penh a clear day after it has been published in the Gazette and every where else, within the area of each Srok, five clear days after the Gazette, in which it is published, has come to the Salasrok.

However, in the case of emergency declared by the Law it is compulsory in Phnom-Penh immediately after it has been posted up at the Town Hall. And in each Srok immediately after it has been posted up at the Salasrok.

Art. 21. All the powers proceed from the King. They are exercised as it is stated in the present Constitution.

Art. 22. The legislative power is exercised in the name of the King by the National Assembly.

The initative of the Laws belongs to the King, to the Cabinet Council, the Members of the National Assembly and the Council of the Kingdom.

Art. 23. The executive is exercised in the name of the King by the Ministers.

Art. 24. The judicial power is exercised in the name of the King by the Courts of justice of different degrees and juridictions.

TITLE No. 4

THE KING

Art. 25. The throne of Cambodia is the heritage of the male descendants of King ANG-DUONG.

Art. 26. The King has the power, after a meeting of the crown Council to name an heir to the Throne as well as to cancel that nomination.

Art. 27. Should, during a vacancy of the Throne, an heir fail to be nominated thus by the King, the nomination is made by the Council of the Crown at the majority of votes, the President's being preponderant when the votes are equally divided.

Art. 28. The Council of the Crown comprises:

The President of the Board of guardians of the Royal Family.
The Prime minister.
The President of the National Assembly.
The President of the Council of the Kingdom.
The two leaders of the religious sects.
The President of the High Court of justice.

The chair of that council is entrusted to the President of the board of guardians of the Royal Family.

Art. 29. The King comes of age at eighteen. If the King is under age or unable to exercise his prerogatives, these will be exercised by a Regent.

This incapacity is established by the council of the Crown that appoints the Regent chosen among the members of the Royal Family.

Art. 30. In case of a vacancy of the Throne and failing the appointment of an heir, the Council of the Crown must meet within the three days that follow the event which has caused that vacancy in order to name the new Sovereign as well as the Regent, should the new King be under age.

The members of the council of the Crown are summoned to that meeting by their President or failing this, meet on the third of the days referred to in the preceding paragraph.

If it is for establishing the incapacity of the Sovereign the council of the crown is summoned by the President either on his own initiative or at the request of at least two members, in order to take a decision about that incapacity and, if need be, to appoint a Regent.

Art. 31. Within 8 days after a change of Sovereign, the National Assembly must sit to receive the oath of the King or the Regent.

Art. 32. Before assuming His powers the King within the National Assembly takes the following oath.

"I swear to keep the Constitution and the Laws of the Kingdom, and to devote myself to the welfare of the State and the people."

Art. 33. The Regent takes up his duties only after taking in the National Assembly the oath prescribed by the preceding article with this addition "and be true to the King."

Art. 34. From the day of the vacancy of the Throne until the moment the new King or the Regent has taken his oath, the powers of the Head of the State are exercised by the President of the National Assembly under his own responsibility. Should the King be temporarily absent from Cambodia, or be temporarily unable to exercise his powers, He entrusts these powers to a council, the President and members of which, chosen outside the Members of the government, are appointed by Him.

Art. 35. The King is the supreme Head of the State. His person is sacred.

Art. 36. The King promulgates the Laws in accordance with the conditions fixed by article 78 of the present Constitution. Within the time limit stipulated for that promulgation the King may, by a justified message, summon the National Assembly and the Council of the Kingdom for a new deliberation that cannot be refused.

Art. 37. The King communicates with the National Assembly and the Council of the Kingdom through messages.

Art. 38. The King summons the National Assembly in accordance with the stipulations of articles 58 and 59 of the present Constitution. He has the right to dissolve it upon the motion of the Cabinet council. That dissolution cannot be pronounced more than once for the same reason.

In case of dissolution of the Assembly new elections must take place within two months.

Art. 39. The King chooses the Prime Minister and constitutes him as well as the Ministers proposed by the Prime Minister.

Art. 40. The King is entitled to take the chair at the Cabinet Council. He receives the official statements of the sittings of that Council.

Art. 41. Each of the King's acts, except those concerning the domestic affairs in the King's palace must bear the counter signature of the Prime Minister and that of one or several Ministers.

Art. 42. The King creates and grants the civil and military ranks. He is the Grand Master of all the orders of the Kingdom and makes the nominations in these orders.

Art. 43. The King appoints the Magistrates upon the motion of the High council of Magistracy.

Art. 44. The King has the right of pardon and commutation of a sentence.

Art. 45. The King is the Supreme Commander of the Royal Forces.

Art. 46. The King signs the treaties concluded with France and the other Associated States of the French Union and ratifies them by virtue of a vote of the National Assembly. He appoints the personalities entrusted with offices or diplomatic missions in the foreign countries.

Art. 47. The King has the right to delegate His powers relating to the granting of civil and military ranks and the signing of the treaties.

TITLE No. 5

THE NATIONAL ASSEMBLY

Art. 48. Any Cambodian citizen, who is fully twenty years old is an elector, provided that he is not deprived of his civil rights and that he fulfils the conditions determined by the Electoral Law.

Soldiers and officers on the active list can neither be electors nor eligible. It is the same for the monks on account of the Buddhistic dogmas.

Art. 49. The electors that are at least 25 years are eligible. The cases of ineligibility are fixed by the Electoral Law.

The mandate of Deputy is incompatible with the exercise of any public office in active service.

Art. 50. The deputies at the National Assembly are elected for a period of four years, at the direct and universal suffrage.

The powers of an Assembly end when the new Assembly takes up its duties. Whenever the circumstances make it impossible, at the end of a legislature, to make new elections, the King may keep in office that legislature for periods of one year.

In case of the decease, resignation, exclusion of a deputy the vacancy will be filled according to the Law.

Art. 51. Before proceeding with its duties the Assembly must validate its members.

Art. 52. At the opening of each legislature, and before taking up their duties, the members of the Assembly whose mandate is validated, take at the meeting of the House, and in the presence of the King, the following oath.

"I swear to be true to the King and to the Constitution and to bear all my efforts to the welfare of the country".

The deputies elected in the course of a legislature and whose mandate is validated, take the oath in the presence of the King, at the next Tang-Toc, together with the officials.

Art. 53. The members of the National Assembly are the representatives of the whole Cambodian Nation and not only of those by whom they have been elected. They cannot be bound by any imperative mandate.

Art. 54. No deputy can be prosecuted, wanted, arrested, taken into custody and tried for the opinions or votes expressed by him while assuming the charges of his office.

The stipulations of the preceding paragraph constitute the immunity of the members of the Assembly from arrest.

Art. 55. During his mandate no deputy can be prosecuted or arrested for criminal or minor offence unless it is sanctioned by the National Assembly; except in the case of "flagrante delicto". The detention or prosecution of a deputy is suspended if the Assembly applies for it at the majority of 4/5 of its members.

Art. 56. Any deputy who during his mandate incurs a penalty entailing the incapacity of being elected, forfeits his quality of a member of the Assembly. This forfeiture is pronounced by the Assembly.

Art. 57. The deputies receive emoluments, fixed by reference to the salary of a class of civil servants.

Art. 58. The Assembly sit in normal session twice a year at least. Each of those sessions lasts at least three months. One of them takes place in September.

For an ordinary session the Assembly is summoned by the King.

Art. 59. The Assembly is summoned for a special session by its Board either by the King's orders, or on the motion of the Cabinet Council, or at the request made by at least one third of the Assembly. The order of the day of those sittings is published at the same time as the date of the summons.

Art. 60. The sittings of the Assembly take place in the Capital of the Kingdom and in a specially fitted up Hall, unless it be decided differently in the act of summons, on account of the circumstances.

Art. 61. Besides the cases provided for by the above articles any meeting of the Assembly outside the appointed place and the lawful time is illicit and lawfully null.

Art. 62. At the opening of each session the King reads or has a message read to the Assembly.

Art. 63. The Assembly works out the orders of the House.

Art. 64. The National Assembly alone, passes the acts. It may not delegate that right.

Art. 65. Amnesty can be granted only by an act of grace.

Art. 66. The National Assembly votes the Budget of the nation, and passes the administrative accounts. It votes also the National loans.

However the Government alone, holds the initiative of the estimates for the staff. The Assembly besides, is not qualified to discuss the amount of supplies of the National Budget granted as a subsidy to the Crown estimates.

Art. 67. The debates of the National Assembly are valid only as far as 2/3 of the members are present.

Art. 68. The debates of the Assembly are public. However the National Assembly may decide, by a vote made at the request of the government, of the President of the Assembly or at least five members to hold a secret sitting.

The accounts of the debates of the public sittings will be published in the Gazette.

Art. 69. Should, during the same period of eighteen months, two cabinet crises occur in the conditions stated in the articles 84 and 85 hereunder, the dissolution of the National Assembly may be decided within the Cabinet Council, the opinion of the President of the Assembly being previously given. The dissolution will then be pronounced by the King in accordance with that decision.

The stipulations of the above paragraph can be applied only at the end of the first eighteen months of the Legislature.

TITLE No. 6

THE COUNCIL OF THE KINGDOM

Art. 70. The council of the Kingdom is composed of appointed members and members that are elected at the restricted suffrage. The members must be at least 40 years old.

The mandate of Councillor of the Kingdom is incompatible with that of deputy.

Art. 71. The appointed members are two. They are appointed by the King and chosen from the Royal Family.

Art. 72. Two members are elected by the National Assembly at the relative majority, the members of the Assembly not being eligible.

Art. 73. Eight members, each representing a Region or the Town of Phnom-Penh are elected at the restricted and indirect suffrage by the Province councillors for the representatives of the Regions, and by the chiefs of the town districts and the common councilmen for the representative of Phnom-Penh.

The seven regions thus called upon, each to elect its own representative are composed as follows:

1st Region—Provinces of Battambang and Siemreap.
2nd „ „ Pursat and Kompong-Chhnang.
3rd „ „ Kompong-Thom and Kompon-Cham
4th „ „ Kratié and Stung-Treng
5th „ „ Prey-Veng and Svairieng.
6th „ „ Kandal and Kompong-Speu.
7th „ „ Takeo and Kampot.

Art. 74. Eight members representing the different trades and professions are elected at the direct suffrage and by letters.

It is the same for four members representing the civil servants.

Art. 75. The organisation of the Council, the forms and conditions of the nominations and the election of its members will be fixed by a special Act.

Art. 76. The Councillors of the Kingdom hold their mandate for four years. The Council is summoned and sits at the same time as The National Assembly.

Art. 77. The articles 49 (second paragraph) 51, 52, 54, 55, 56, 57, 63, 68, of the present Constitution may be applied to the Council of the Kingdom.

Art. 78. The Council of the Kingdom examines for advice the Bills that have passed first reading at the National Assembly as well as all the questions which are laid before it by the Government.

For the Bills and motions as well as for the Law of the Budget the Council gives its opinion within a month at the latest. In case of emergency, that time limit is only five days.

If the Council agrees, or if it has not said so within the fixed time limit, the act is promulgated in the text voted by the National Assembly within 10 days.

That time limit may be reduced to two days in case of emergency. If the Council of the Kingdom proposes amendments the Assembly examines them immediately on second reading. Should the bills and motions be purely and simply turned down by the Council of the Kingdom, they cannot be examined by the Assembly on second reading before one month. The text, passed on second reading at public division at the absolute majority of the members of the Assembly, is promulgated within 10 days.

TITLE No. 7

THE MINISTERS

Art. 79. The Cabinet Council constitutes the Royal government. It comprises at the utmost 12 members, the Secretaries of State included.

There is no incompatibility between the parliamentary mandate and the office of Minister. The Ministers may be taken indifferently within the Parliament or without.

Art. 80. At the beginning of each legislature, or after the resignation of a Cabinet, The King, after consulting with the President of the National Assembly, the President of the Council of the Kingdom and the leaders of the parties, appoints the Prime Minister who chooses the other Ministers. The Ministers are appointed and take up their functions only after obtaining a vote of confidence at a public division and at the absolute majority of the National Assembly.

Art. 81. The Ministers are collectively responsible, before the National Assembly, for the general policy of the Cabinet and each one of them is personally responsible for his private deeds before the Prime Minister.

Art. 82. The Ministers cannot allege any written or verbal order to elude their responsibility.

Art. 83. The Ministers must account before the National Assembly for the administration of their department when the request is made by one or several deputies, in the form of verbal or written questions or interpellation.

Art. 84. A vote of confidence may be asked for only after a resolution of the Cabinet Council. It cannot be asked for except by the Prime Minister.

The vote of confidence can take place only a full day after it has been asked for before the Assembly.

It is made by public division. The confidence can be refused to the Cabinet only at the absolute majority of the deputies at the Assembly.

This refusal involves the collective resignation of the Cabinet.

Art. 85. The vote of a motion of disapproval by the National Assembly involves the collective resignation of the Cabinet.

That vote can take place only a full day after the motion has been introduced. It is made at a public division. The motion of disapproval can be passed only at the absolute majority of the members at the Assembly.

Art. 86. The Cabinet Council meets each week, either in full Assembly, with the King or the Prime Minister in the chair, or for a sitting of studies.

Art. 87. The Ministers have free admittance to the two Houses and their committees. They are entitled to be listened to whenever required.

They can be supported in the discussion by commissaries appointed to that effect.

Art. 88. The Prime Minister may delegate his powers to one Minister.

Art. 89. The office of Prime Minister being vacant, it must be proceeded to the appointment of a new Cabinet in accordance with the stipulations of the present Constitution if that vacancy is final, or to the nomination of a Deputy President by the Council if that vacancy is to be temporary.

Art. 90. In case of dissolution of the National Assembly the Cabinet, with the exception of the Prime Minister and the Minister of the interior, remain in office to carry on the ordinary business.

The King then commissions the President of the Assembly to assume the office of Prime Minister. And this one appoints the new Minister of the interior with the agreement of the Board of the Assembly.

Art. 91. The Ministers who are not members of Parliament have the benefit of the advantages fixed by the articles 54, 55 of the present Constitution.

Art. 92. The Ministers are penally responsible for the crimes and offences committed in the discharge of their offices. In that case, and that of serious misdeeds in the discharge of their offices the National Assembly may decide to lay the affair before the High Court of Justice. The Assembly decides on that subject by secret decision and at the absolute majority of the members composing it with the exception of those who are called upon to participate in the prosecution, the inquiry and the trial.

Art. 93. The High Court of Justice comprises five members, among which there are two High Magistrates, one member elected by the National Assembly and two members elected by the Council of the Kingdom.

Those members are elected at the beginning of each Legislature and for the length of time it lasts.

Art. 94. The form of appointement and the continuance of the mandate of the two High Magistrates, members of the High Court, the organisation of that Court of Justice and the proceeding to be taken before it are fixed by a special Act.

TITLE No. 8

THE JUDICIAL POWER

Art. 95. The judicial organisation is ruled by a special Law.

Art. 96. A High Council of Magistracy guarantees, according to the Law, the discipline and independence of the Magistrates. That council is composed of:

The Minister of Justice Chairman.
Two members appointed by the King.
Two members elected by the National Assembly.
Two members elected by the Magistrates.

The decisions of the High Council of Magistracy are taken at the majority of the votes: the President's preponderating in case of the votes being equally divided.

A special Law shall fix the organisation of that Council.

TITLE No. 9

GENERAL PROVISIONS

Art. 97. The provisions referring to the Monarchic form of the State, to the representative character of the system of government and the principles of liberty and equality guaranteed by the present Constitution cannot be subjected to any motion of revision.

Art. 98. No revision can bring about the limitations of the rights reserved to the Royalty by the present Constitution.

Art. 99. The initiative of the revision of the Constitution belongs to the King, the Prime minister and the Presidents of the two Houses, these last taking steps after a favourable vote of the House which they preside over, made at the request of at least one fourth of the members of that House.

Art. 100. The procedure of revision of the Constitution is identical with that fixed for the vote of ordinary acts.

However, a majority[1] of $\frac{3}{4}$ is required of the National Assembly and the case of emergency cannot be declared.

Art. 101. The right of interpretation of the Constitutional texts belongs without appeal to the National Assembly.

Art. 102. For determining the absolute majority of the members of a House, the deceased members, those who have given in their resignation who have been dismissed or unseated, belong to the government or have been detached on a mission, are not taken into account.

Art. 103. All similar provisions not contrary to the present Constituton emain in force.

[1] Sic.

TITLE No. 10

TRANSITORY PROVISIONS

Art. 104. Till the new organisms provided for by the present Constitution be ready to work lawfully, and as the provisions made in view of the intervention of those organisms cannot be brought into force, the present ways will be followed up, considerations being made, if need be, for the constitutional articles already suitable which modify or determine those ways.

Art. 105. Especially as an application of the general rule fixed by the above article and during the whole above mentioned period.

In case of a vacancy of the Throne, from the date of that vacancy and until the nomination of the new Sovereign, and Regent if necessary, the powers of Head of the State would be assumed by the Prime minister.

The right of interpretation of the constitutional texts shall belong to the King within the Cabinet Council.

Art. 106. On account of the risks incurred by using straight off the full parliamentary system established by the present Constitution, when the National Assembly and the Council of the Kingdom are lawfully apt to assume their functions and until a date that shall be fixed by a special Law voted on a motion of the Cabinet Council, the King shall be empowered on the Cabinet Council's motion to defer the promulgation of any act voted by the National Assembly or to modify its clauses.

That decision can be taken only after the King has used his right to summon the Parliament for a new discussion of the act concerned, as stipulated by the article 36 of the present Constitution.

The period of application of the clauses stipulated by the above paragraph shall be at least six months, without the possibility of exceeding the normal limit of the first legislature.

Article 107. During the period referred to in the above article, any personality commissioned by the King to form a new Cabinet shall draw up the list of the members of his Cabinet, for its presentation before the National Assembly only after obtaining the King's agreement as to the names entered on that list.

Done in our Royal Palace in Phnom-Penh.
May 6th 1947
Signed: NORODOM SIHANOUK

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CANADA

SUMMARY

International Status

Canada is a member of the United Nations. It signed the Charter on June 26, 1945. It was a member of the League of Nations.

It signed the Statute of the Permanent Court of International Justice on March 30, 1921, and ratified it August 4, 1921. It accepted its optional clause regarding compulsory jurisdiction (Article 36) on September 20, 1929, for a period of ten years with extensive conditions. It later excluded disputes arising out of events occurring during World War II. It is deemed, under Article 36 of the Statute of the International Court of Justice, to have accepted the compulsory jurisdiction of the new Court with the same conditions.[1] It is a member of other international organizations.[2]

Canada was first accorded independent international status in 1919.[1] At the Versailles Peace Conference in that year, the United Kingdom requested separate representation in the Assembly of the League of Nations for Australia, Canada, New Zealand and Union of South Africa. This was accorded.

Canada's status vis-à-vis the Commonwealth of Nations was defined in the report of the Inter Imperial Relations Committee of the Imperial Conference of 1926 (often referred to as "the Balfour Declaration"), along with that of Australia, New Zealand, South Africa and the Irish Free State in the following terms:

> "They are autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealh of Nations."

The Statute of Westminster was passed in 1931 as a statutory recognition of certain of the resolutions of 1926 and of a subsequent Conference in 1930 and the report of an expert committee. It was the acknowledgment of an established fact that the Imperial Parliament would not legislate for the Dominions except at their request.[2]

Form of National Government

The "Constitution" of Canada is recognized both in Great Britain and in the Dominion as consisting principally of the British North America Act of 1867 and amendments of it prior to the Statute of Westminster, those being acts of the British Parliament; together with the supreme Court act of the Canadian Parliament.[3]

In the British Foreign Office publication entitled "The Constitutions of all Countries," [4] under the title "The British Empire" the following British parliamentary acts and documents are listed as constituting the Constitution of Canada:

> (1) Act of the Imperial Parliament for the Union of Canada, Nova Scotia, and New Brunswick (commonly known as the "British North America Act" of March 29, 1867 (State Papers, Vol. LVII, p. 413) with amendments of July 19, 1875, (State Papers, Vol. LXVI, p. 233) August 9, 1907, May 19, 1915 (State Papers, Vol. CLX, p. 2) and July 10, 1930 (State Papers, Vol. CXXII, p. 57);

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[1] The phrase "autonomous nations of an imperial commonwealth" was used as early as 1917 in Resolution IX adopted by the Imperial War Conference. See also "The End of Dominion Status" by F. R. Scott, American Journal of International Law, January, 1944.

[2] See text of Statute of Westminster, *infra*; and see Peaslee "International Governmental Organizations–Constitutional Documents", sections on the Commonwealth of Nations.

[3] R.S. 1952. vol. IV. ch. 259, p. 5001.

[4] The work has not been completed. This reference is to Vol. I, the only volume that has been published.

(2) Act of the Imperial Parliament respecting the establishment of provinces of June 29, 1871 (State Papers, Vol. LXI, p. 1347);
(3) Act of the Imperial Parliament respecting the representation in the Parliament of Canada of territories forming part of the Dominion but not included in any province, of June 25, 1886 (State Papers, Vol. LXXVII, p. 981);
(4) Act of the Imperial Parliament to make further provision with respect to the sums to be paid by the Dominion to the several provinces, of August 9, 1907;
(5) Letters patent constituting the office of Governor General and Commander-in-Chief, Westminster, March 23, 1931 (State Papers, Vol. CXXIV, p. 68); amended by letters patent, Westminster, September 25, 1935 (Statutory Rules and Orders, 1935, p. 1785);
(6) Royal Instructions to the Governor General and Commander-in-Chief. (St. James, March 23, 1931.)

The Canadian official collection of "British North America Acts and Selected Statutes 1867–1943," does not include the Letters Patent and Royal Instructions listed as items 5 and 6; but includes in addition to the statutes listed as items 1 to 4 also The Parliament of Canada Act of 1875, the British North America Acts of 1915, 1916, 1930, 1940 and 1943 and the Statute of Westminster, 1931. We think this Canadian collection more nearly accords to the American concept of constitutional documents for Canada; and we follow it in this collection instead of the documents listed by the British Foreign Office. The British North America Acts of 1946, 1949, 1951 and 1952 are also included as well as the Supreme Court Act.

The British North America Act of 1867 recited that Canada, Nova Scotia, and New Brunswick "desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland with a constitution similar in principle to that of the United Kingdom." [1]

In December, 1935, the Dominion and Provincial Conference at Ottawa declared for amendments to the British North America Act to authorize Canada to amend its Constitution provided a method satisfactory to the Dominion Parliament and the provincial legislatures could be devised.

In August, 1937, a board of five was named by the Premier to seek a new basis of federation.[2] The work was not completed.

There are now ten provinces in Canada: Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, Prince Edward Island, Alberta, Saskatchewan, and Newfoundland.[3] All parts of Canada not

[1] British North America Act, 1867, preamble.

[2] In announcing the formation of the Commission, Prime Minister Mackenzie King said (N. Y. *Times*, August 16, 1937): "It has been represented that unless appropriate action is taken, the set-up of governmental powers and responsibilities devised at the time of confederation will not be adequate to meet the economic and social changes and the shifts in economic power which are in progress without subjecting Canada's governmental structures to undue strains and stresses."

[3] Newfoundland united with Canada March 31, 1949 following a referendum of July 22, 1948.

within the boundaries of the provinces are under the jurisdiction of the Parliament of Canada.[1]

Source of Sovereign Power

The British North America Act as originally passed in 1867 contained this enacting clause:

> "Be it therefore enacted and declared by the Queen'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:"

That enacting clause was struck out by the Statute Law Revision Act, 1893, 56 Victoria, Chapter 14.

Rights of the People

There is no express declaration in the Constitution of Canada, as defined above, of rights of the people. As in other British Dominions, certain basic rights are recognized and enforced by the courts, which are deemed to flow from the British Bill of Rights of 1689, plus other legislative enactments, and decisions of British courts.

Legislative Department

Legislative power is vested in the Federation except as assigned exclusively to the legislatures of the provinces.[2]

Legislative power was vested by the British North America Act of 1867 in a parliament consisting of "the Queen, an upper house styled the Senate and the House of Commons." [3] The Senate is specified to consist of 96 members. [4] The House of Commons originally contained 181 members 82 from Ontario, 65 from Quebec, 19 from Nova Scotia, and 15 from New Brunswick.[5] The numbers except as to Quebec have since been altered, and new members have been added to represent Manitoba, British Columbia, Prince Edward Island, Alberta, Saskatchewan, and the Yukon Territory.[6] The British North America Act is periodically amended in order to adjust the representation in the House of Commons to the changes in population. The Act of 1952 *infra* provides for two hundred and sixty three members.

There is provision for a provincial constitution in each province. The exclusive powers of the provincial legislatures include powers respecting taxation for provincial purposes, borrowing for provincial purposes,

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[1] See Northwest Territories Act, R. S. C. 1927, C. 142, Vol. iii, p. 2871, and the Yukon Act, R. S. C. 1927, C. 215, Vol. iv, p. 4181. See also British North America Act 1871, C. 28, S. 2.

[2] British North America Act, 1867, Art. 91.

[3] Id., Art. 17.

[4] Id., 1915, (5–6 George V, ch. 45).

[5] Id., 1867, Art. 37.

[6] Id., 1871, ch. 28; and 1886, ch. 35; also Statutes of Canada, 1932–33, ch. 54.

management of public prisons, hospitals, asylums for the provinces, municipal institutions, local licensing and local provincial enterprises, marriage in the province, property and civil rights in the province, and other matters of a merely local and private nature. There are also restrictions on the competency of the Canadian Parliament to modify basic laws regarding certain of the provinces.[1]

Executive Department

Executive power is stated in the British North America Act of 1867 to be vested in the Queen [2] with provision for a Queen's privy council for Canada [3] and provision for a governor general.[4] In practice the executive government is in the hands of the cabinet selected from the members of the Privy Council for Canada who form the responsible advisory council of the sovereign's representative.[5]

Judicial Department

The judicial department includes the Supreme Court of Canada [6] and superior, district, and county courts.[7] The Supreme Court of Canada consists of the Chief Justice of Canada and eight puisne judges who are appointed by the Governor in Council.[8] The Supreme Court has appellate jurisdiction in civil and criminal cases throughout Canada.[9] Since 1949 there has been no right of appeal to the Privy Council or to any other body in the United Kingdom.[10]

Judges of the lower courts are selected from the bars of the respective provinces.[11] Judges of the superior courts are appointed and are removable by the Governor General.[12]

Area, Population, Language

Canada's area including Newfoundland (comprising also part of Labrador) added March 31, 1949 is 3,690,410 square miles. Its population with the 1949 additions (1951 census) is 14,009,429. The official languages are English and French.

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[1] British North America Act, 1867, Arts. 58 et. seq.
[2] Id., 1867, Art. 9. [3] Id., 1867, Art. 11.
[4] Id., 1867, Art. 10. [5] R.S. 1952 Vol. IV. ch. 259 p. 5001.
[6] British North America Acts. Selected Statutes 1867–1948, p. 30.
[7] Id., 1867, Art. 96. [8] Supreme Court Act, R.S. 35, s.i., sec.4.
[9] Id., sec. 35. [10] Id., sec. 54. [11] Id., 1867, Arts. 97, 98.
[12] Id., 1867, Arts. 96, 99.

THE BRITISH NORTH AMERICA ACT, 1867 [1]

30–31 VICTORIA, CHAPTER 3

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof and for Purposes connected therewith [29th March, 1867.]

WHEREAS the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland,[2] with a Constitution similar in Principle to that of the United Kingdom:

And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire:

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legilsative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

And whereas it is expedient that Provision be made for the eventual admission into the Union of other Parts of British North America.[3]

I. PRELIMINARY

1. This Act may be cited as the British North America Act, 1867.
2. Repealed.[4]

(For the valuable notes which appear on this and the following pages the editor is indebted to Dr. Maurice Ollivier, K.C., F.R.S.C., Joint Law Clerk of the House of Commons of Canada, whose notes appear in the publication of the King's Printer, Ottawa, entitled "British North America Acts and Selected Statutes 1867–1943").

[1] "The B.N.A. Act, 1867, was drafted upon the basis of the London Resolutions of 1866–67 by the London Conference of delegates of the three provinces .... The Act, as a whole, is as much the work of the London Conference as any or all of the resolutions prepared in advance of it and for its purposes." Report to the Speaker of the Senate (session of 1939) by the Parliamentary Counsel (W.F. O'Connor), Annex I, page 5.

[2] The Imperial Conference of 1926 unanimously recommended that His Majesty's title should be "George V, by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India."

The *Royal and Parliamentary Titles Act, 1927*, which provided for the alteration of the Royal Style and Titles, was assented to on the 12th of April, 1927 and in chapter 4 of the statutes of the U.K. of G.B. and Northern Ireland.

[3] The enacting clause was repealed by the statute Law Revision Act, 1893, 56 Victoria, chapter 14, of the statutes of the United Kingdom of Great Britain and Ireland. It was as follows:—

"*Be it therefore enacted and declared by the Queen'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:*"

[4] Section 2 was repealed by the Statute Law Revision Act of 1893 (chapter 14). It read as follows:—

"2. *The provisions of this Act referring to Her Majesty the Queen extend also to the Heirs and Successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland.*"

II. Union

3. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a Day therein appointed, not being more than Six Months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be One Dominion under the name of Canada; and on and after that Day those Three Provinces shall form and be One Dominion under that Name accordingly.

4. .....unless it is otherwise expressed or implied, the Name Canada shall be taken to mean Canada as constituted under this Act.[1]

5. Canada shall be divided into Four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.[2]

6. The Parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate Provinces. The Part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the Part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

7. The Provinces of Nova Scotia and New Brunswick shall have the same Limits as at the passing of this Act.

8. In the general Census of the population of Canada which is hereby required to be taken in the Year One thousand eight hundred and seventy-one, and in every Tenth Year thereafter, the respective Populations of the Four Provinces shall be distinguished.

III. Executive Power

9. The Executive Government and authority of and over Canada is hereby declared to continue and be vested in the Queen.

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[1] Part of section 4 was repealed by the *Statute Law Revision Act of 1893* (chapter 14). The lines repealed read as follows:—

"4. *The subsequent provisions of this Act, shall unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the Day appointed for the Union taking effect in the Queen's Proclamation: and in the same Provisions,*"

[2] The Province of Manitoba was formed and representation granted to it in the Senate and in the House of Commons by *The Rupert's Land Act, 1868* (31–32 Vict., c. 105 (U.K.)) and *The Manitoba Act, 1870* (33 Vict., c. 3 (Canada)).

The Province of British Columbia became part of the Union and was admitted to Confederation by order of Her Majesty Queen Victoria in Council dated the 16th day of May, 1871.

The power to establish additional Provinces in the Dominion was conferred by *The British North America Act, 1871* (34–35 Vict., c. 28).

Prince Edward Island was admitted to the Union by order of Her Majesty in Council 1873.

The Provinces of Alberta and Saskatchewan were respectively established by 4–5 Edw. VII, cc. 3 and 42 (Canada).

Provision was made by these Orders in Council and Statutes for the representation of the various Provinces admitted, in the Senate and in the House of Commons of Canada.

10. The Provisions of this Act referring to the Governor General extend and apply to the Governor General for the Time being of Canada, or other Chief Executive Officer or Administrator for the time being carrying on the Government of Canada on behalf and in the name of the Queen, by whatever Title he is designated.[1]

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the Persons who are to be Members of that Council shall be from Time to Time chosen and summoned by the Governor General and sworn in as Privy Councillors, and Members thereof may be from Time to Time removed by the Governor General.

12. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exercisable by the Governor General, with the Advice or with the Advice and Consent of or in conjunction with the Queen's Privy Council for Canada, or any Members thereof, or by the Governor General individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

13. The Provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor General acting by and with the Advice of the Queen's Privy Council for Canada.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor General from Time to Time to appoint any Person or any Persons jointly or severally to be his Deputy or Deputies within any Part or Parts of Canada, and in that Capacity to exercise during the Pleasure of the Governor General such of the Powers, Authorities, and Functions of the Governor General as the Governor General deems it necessary or expedient to assign to him or them, subject to any Limitations or Directions expressed or given by the Queen; but the Appointment of such a Deputy or Deputies shall not affect the Exercise by the Governor General himself of any Power, Authority, or Function.

15. The Commander-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

[1] The position of Governor General was defined in the Report of the Imperial Conference of 1926 (page 14) and the Report of the Conference of 1930 provided for the constitutional practice *in re* responsibility, communications, manner and instruments of appointment (pages 26 and 27).

16. Until the Queen otherwise directs, the Seat of Government of Canada shall be Ottawa.

IV. Legislative Power

17. There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

18. The privileges, immunities, and powers to be held, enjoyed and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof.[1]

19. The Parliament of Canada shall be called together not later than Six Months after the Union.

20. There shall be a Session of the Parliament of Canada once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Parliament in one Session and its first Sitting in the next Session.

The Senate

21. The Senate shall, subject to the Provisions of this Act, consist of Seventy-two Members, who shall be styled Senators.[2]

22. In relation to the Constitution of the Senate, Canada shall be deemed to consist of Three Divisions:

1. Ontario;
2. Quebec;
3. The Maritime Provinces, Nova Scotia and New Brunswick; which

[1] Section 18 dealing with the privileges ,immunities, etc., of both Houses was repealed in 1875 and section 18 above was substituted therefor. The repealed section formerly read as follows:—

"18. *The Privileges, Immunities, and Powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the Members thereof respectively shall be such as are from Time to Time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the Members thereof.*"

[2] The number of senators has now been increased to 96 but it is provided that the number shall not at any time exceed one hundred and four.

This was done by the *British North America Act, 1915* (5–6 George V, chapter 45). *See* this Act for further information.

Subparagraphs (i) and (v) of subsection one of section one of the said Act read as follows:—

"(i) *The number of Senators provided for under section twenty-one of the British North America Act, 1867, is increased from seventy-two to ninety-six:*"

"(v) *The number of Senators shall not at any time exceed one hundred and four:*"

Three Divisions shall (subject to the Provisions of this Act) be equally represented in the Senate as follows: Ontario by Twenty-four Senators; Quebec by Twenty-four Senators; and the Maritime Provinces by Twenty four Senators, Twelve thereof representing Nova Scotia, and Twelve thereof representing New Brunswick.

In the case of Quebec each of the Twenty-four Senators representing that Province shall be appointed for One of the Twenty-four Electoral Divisions of Lower Canada specified in Schedule A to Chapter One of the Consolidated Statutes of Canada.[1]

23. The Qualification of a Senator shall be as follows:

(1) He shall be of the full age of Thirty Years:
(2) He shall be either a Natural-born Subject of the Queen, or a Subject of the Queen naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of One of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada, after the Union;
(3) He shall be legally or equitably seised as of Freehold for his own Use and Benefit of Lands or Tenements held in free and common Socage, or seised or possessed for his own Use and Benefit of Lands or Tenements held in Franc-alleu or in Roture, within the Province for which he is appointed, of the Value of Four thousand Dollars, over and above all Rents, Dues, Debts, Charges, Mortgages, and Incumbrances due or payable out of or charged on or affecting the same:
(4) His Real and Personal Property shall be together worth Four thousand Dollars over and above his Debts and Liabilities:
(5) He shall be resident in the Province for which he is appointed:
(6) In the case of Quebec he shall have his Real Property Qualification in the Electoral Division for which he is appointed, or shall be resident in that Division.

24. The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon qualified Persons to the Senate; and, subject to the Provisions of this Act, every Person so summoned shall become and be a Member of the Senate and a Senator.

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[1] The senate now includes representatives of Prince Edward Island and also a fourth division comprising the western provinces of Manitoba, British Columbia, Alberta and Saskatchewan.

Subparagraph (ii) of subsection one of section one of the amending Act of 1915 reads as follows:—

"(ii) *The Divisions of Canada in relation to the constitution of the Senate provided for by section twenty-two of the said Act are increased from three to four, the Fourth Division to comprise the Western Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta, which four Divisions shall (subject to the provisions of the said Act and of this Act) be equally represented in the Senate, as follows: —Ontario by twenty-four senators; Quebec by twenty-four senators; the Maritime Provinces and Prince Edward Island by twenty-four senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof representing Prince Edward Island; the Western Provinces by twenty-four senators, six thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta:*"

25. Repealed. *See Note* [1] *below*:—

26. If at any Time on the Recommendation of the Governor General the Queen thinks fit to direct that Three or Six Members be added to the Senate, the Governor General may by summons to *Three or Six* qualified Persons (as the Case may be), representing equally the *Three* Divisions of Canada, add to the Senate accordingly. [2]

27. In case of such Addition being at any Time made the Governor General shall not summon any Person to the Senate, except on a further like Direction by the Queen on the like Recommendation, until each of the *Three* Divisions of Canada is represented by Twenty-four Senators and no more. [3]

28. The Number of Senators shall not at any Time exceed *Seventy-eight.* [4]

29. A Senator shall, subject to the Provisions of this Act, hold his Place in the Senate for Life.

30. A Senator may by Writing under his Hand addressed to the Governor General resign his Place in the Senate, and thereupon the same shall be vacant.

31. The Place of a Senator shall become vacant in any of the following Cases:—

(1) If for Two consecutive Sessions of the Parliament he fails to give his Attendance in the Senate:

(2) If he takes an Oath or makes a Declaration or Acknowledgment of Allegiance, Obedience, or Adherence to a Foreign Power, or does an Act whereby he becomes a Subject or Citizen, or entitled to the Rights or Privileges of a Citizen, of a Foreign Power.

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[1] Section 25 was repealed by the Statute Law Revision Act of 1893, chapter 14 (56 Victoria, ch. 14). It read as follows:—

"25. *Such Persons shall be first summoned to the Senate as the Queen by Warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their Names shall be inserted in the Queen's Proclamation of Union.*"

[2] The number of persons who may be summoned to the Senate has been increased from three or six to four or eight representing equally the four divisions of Canada.

See section one of the British North America Act of 1915 (5–6 George V, chapter 45), subparagraph (iii) of section one of which reads as follows:—

"(iii) *The number of persons whom by section twenty-six of the said Act the Governor general of Canada may, upon the direction of His Majesty the King, add to the Senate is increased from three or six to four or eight, representing equally the four divisions of Canada.*"

[3] The Act of 1915, above mentioned, supersedes this section by the enactment of subparagraph (iv) of section one which reads as follows:—

"(iv) *In case of such addition being at any time made the Governor General of Canada shall not summon any person to the Senate except upon a further like direction by His Majesty the King on the like recommendation to represent one of the four Divisions until such Division is represented by twenty-four senators and no more.*"

[4] Subparagraph (v) of subsection one of section one of the B.N.A. Act of 1915 which supersedes section 28 reads as follows:—

"(v) *The number of Senators shall not any time exceed one hundred and four.*"

See also note to section 147. It is provided in the Act of 1915 that in the case of the admission of Newfoundland to the Union "*the normal number of Senators shall be one hundred and two, and their maximum number one hundred and ten.*"

(3) If he is adjudged Bankrupt or Insolvent, or applies for the Benefit or any Law relating to Insolvent Debtors, or becomes a public Defaulter:

(4) If he is attainted of Treason or convicted of Felony or of any infamous Crime:

(5) If he ceases to be qualified in respect of Property or of Residence; provided ,that a Senator shall not be deemed to have ceased to be qualified in respect of Residence by reason only of his residing at the Seat of the Government of Canada while holding an Office under that Government requiring his Presence there.

32. When a vacancy happens in the Senate by Resignation, Death, or otherwise, the Governor General shall by Summons to a fit and qualified Person fill the Vacancy.

33. If any Question arises respecting the Qualification of a Senator or a Vacancy in the Senate the same shall be heard and determined by the Senate.

34. The Governor General may from Time to Time, by Instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his Stead.

35. Until the Parliament of Canada otherwise provides, the Presence of at least Fifteen Senators, including the Speaker, shall be necessary to constitute a Meeting of the Senate for the Exercise of its Powers.

36. Questions arising in the Senate shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the Negative.

The House of Commons

37. The House of Commons shall, subject to the Provisions of this Act, consist of One Hundred and eighty-one Members, of whom Eighty-two shall be elected for Ontario, Sixty-five for Quebec, Nineteen for Nova Scotia, and Fifteen for New Brunswick.[1]

38. The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon and call together the House of Commons.

39. A Senator shall not be capable of being elected or of sitting or voting as a Member of the House of Commons.

40. Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick shall, for the Purposes of the Election of Members to serve in the House of Commons, be divided into Electoral Districts as follows:—

1. Ontario

Ontario shall be divided into the Counties, Ridings of Counties, Cities, Parts of Cities, and Towns enumerated in the First Schedule to this Act,

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[1] These numbers, except as to Quebec, have been considerably altered under section 51 of this Act, and new members added to represent Manitoba, British Columbia, Prince Edward Island. Alberta, Saskatchewan and the Yukon Territory.

See the British North America Acts of 1871 (ch. 28) and of 1886 (ch. 35).

See also chapter 54 of the Statutes of Canada, 1932–33 for the present representation in the House of Commons.

each whereof shall be an Electoral District, each such District as numbered in that Schedule being entitled to return One Member.

2. Quebec

Quebec shall be divided into Sixty-five Electoral Districts, composed of the Sixty-five Electoral Divisions into which Lower Canada is at the passing of this Act divided under Chapter Two of the Consolidated Statutes of Canada, Chapter Seventy-five of the Consolidated Statutes for Lower Canada, and the Act of the Province of Canada of the Twenty-third Year of the Queen, Chapter One, or any other Act amending the same in force at the Union, so that each such Electoral Division shall be for the Purposes of this Act an Electoral District entitled to return One Member.

3. Nova Scotia

Each of the Eighteen Counties of Nova Scotia shall be an Electoral District. The County of Halifax shall be entitled to return Two Members, and each of the other Counties One Member.

4. New Brunswick

Each of the Fourteen Counties into which New Brunswick is divided, including the City and County of St. John, shall be an Electoral District. The City of St. John shall also be a separate Electoral District. Each of those Fifteen Electoral Districts shall be entitled to return One Member.

41. Until the Parliament of Canada otherwise provides, all Laws in force in the several Provinces at the Union relative to the following Matters or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the House of Assembly or Legislative Assembly in the several Provinces, the Voters at Elections of such Members, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which Elections may be continued, the Trial of controverted Elections, and Proceedings incident thereto, the vacating of Seats of Members, and the Execution of new Writs in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the House of Commons for the same several Provinces.

Provided that, until the Parliament of Canada otherwise provides, at any Election for a Member of the House of Commons for the District of Algoma, in addition to Persons qualified by the Law of the Province of Canada to vote, every male British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.[1]

42. Repealed. *See Note* [2] *below.*

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[1] See *The Dominion Elections Act, 1938*, chapter 46 of the Statutes of Canada, 1938, for qualifications of voters at elections to the House of Commons.

[2] Section 42 was repealed by the Statute Law Revision Act of 1893 (56 Vic., ch. 14). It read as follows:—

"42. *For the First Election of Members to serve in the House of Commons the Governor General shall cause writs to be issued by such Person, in such Form, and addressed to such Returning Officers as he thinks fit.*

The Person issuing writs under this Section shall have the like Powers as

43. Repealed. *See Note* [1] *below.*

44. The House of Commons on its first assembling after a General Election shall proceed with all practicable Speed to elect One of its Members to be Speaker.

45. In case of a Vacancy happening in the Office of Speaker by Death, Resignation, or otherwise, the House of Commons shall with all practicable Speed proceed to elect another of its Members to be Speaker.

46. The Speaker shall preside at all Meetings of the House of Commons.

47. Until the Parliament of Canada otherwise provides, in case of the Absence for any Reason of the Speaker from the Chair of the House of Commons for a period of Forty-eight consecutive Hours, the House may elect another of its Members to act as Speaker, and the Member so elected shall during the Continuance of such Absence of the Speaker have and execute all the Powers, Privileges, and Duties of Speaker.

48. The Presence of at least Twenty Members of the House of Commons shall be necessary to constitutue a Meeting of the House for the Exercise of its Powers; and for that Purpose the Speaker shall be reckoned as a Member.

49. Questions arising in the House of Commons shall be decided by a Majority of Voices other than that of the Speaker, and when the Voices are equal, but not otherwise, the Speaker shall have a Vote.

50. Every House of Commons shall continue for Five Years from the Day of the Return of the Writs for choosing the House (subject to be sooner dissolved by the Governor General), and no longer.

51. On the Completion of each decennial Census, the Representation of the Four Provinces shall be readjusted by such Authority, in such Manner, and from such Time, as the Parliament of Canada from Time to Time provides, subject and according to the following Rules:— [2]

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are possessed at the Union by the Officers charged with the issuing of Writs for the Election of Members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia, or New Brunswick; and the Returning Officers to whom Writs are directed under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the returning of Writs for the Election of Members to serve in the same respective House of Assembly or Legislative Assembly."

[1] Section 43 was repealed by the Statute Law Revision Act of 1893 and formerly read as follows:—

"43. *In case a Vacancy in the Representation in the House of Commons of any Electoral District happens before the Meeting of the Parliament, or after the Meeting of the Parliament before Provision is made by the Parliament in this Behalf, the Provisions of the last foregoing Section of this Act shall extend and apply to the issuing and returning of a Writ in respect of such Vacant District.*"

[2] Section 51 was amended by the Statute Law Revision Act, 1893 (56 Vict., c. 14). The words "of the Census in the Year One thousand eight hundred and seventy-one and" and the word "subsequent" were struck out in the first lines of the said section.

The first lines of this section formerly read as follows:

(1) Quebec shall have the fixed number of Sixty-five Members:

(2) There shall be assigned to each of the other Provinces such a Number of Members as will bear the same Proportion to the Number of its Population (ascertained at such Census) as the Number Sixty-five bears to the Number of the Population of Quebec (so ascertained):

(3) In the Computation of the Number of Members for a Province a fractional Part not exceeding One Half the whole Number requisite for entitling the Province to a Member shall be disregarded; but a fractional Part exceeding One Half of that Number shall be equivalent to the whole Number:

(4) On any such Re-adjustment the Number of Members for a Province shall not be reduced unless the Proportion which the Number of the Population of the Province bore to the Number of the aggregate Population of Canada at the then last preceding Readjustment of the Number of Members for the Province is ascertained at the then latest Census to be diminished by One Twentieth Part or upwards:

(5) Such Re-adjustment shall not take effect until the Termination of the then existing Parliament.

51A. Notwithstanding anything in this Act a province shall always be entitled to a number of members in the House of Commons not less than the number of senators representing such province.[1]

52. The Number of Members of the House of Commons may be from Time to Time increased by the Parliament of Canada, provided the proportionate Representation of the Provinces prescribed by this Act is not thereby disturbed.

Money Votes; Royal Assent

53. Bills for appropriating any Part of the Public Revenue, or for im posing any Tax or Impost, shall originate in the House of Commons.

54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

55. Where a Bill passed by the Houses of Parliament is presented to the Governor General for the Queen's Assent , he shall declare, according to his Discretion, but subject to the Provisions of this Act and to Her Majesty's Instructions, either that he assents thereto in the Queen's Name, or that he withholds the Queen's Assent, or that he reserves the Bill for the Signification of the Queen's Pleasure.[2]

"51. *On the Completion of the Census in the Year One thousand eight hundred and seventy-one, and of each subsequent decennial Census, the Representation of the Four.*"

Apparently it did not occur to the Statute Law Committee that they might also strike out the world "Four" at the end of the third line.

See chapter 54 of the Statutes of Canada, 1932-33 for the present representation in the House of Commons.

[1] Section 51A was added to the Act of 1867 by the British North America Act of 1915 (5-6 George V, chapter 45, section 2).

[2] The Conference on the Operation of Dominion Legislation, etc., held in London in 1929, "applying the principles laid down in the Imperial Conference Report of 1926," recommended that His Majesty's Government in the United Kingdom do not ad-

56. Where the Governor General assents to a Bill in the Queen's Name, he shall by the first convenient Opportunity send an authentic Copy of the Act to one of Her Majesty's Principal Secretaries of State, and if the Queen in Council within Two Years after Receipt thereof by the Secretary of State thinks fit to disallow the Act, such Disallowance (with a Certificate of the Secretary of State of the Day on which the Act was received by him) being signified by the Governor General, by Speech or Message to each of the Houses of the Parliament or by Proclamation, shall annul the Act from and after the Day of such Signification.[1]

57. A Bill reserved for the Signification of the Queen's Pleasure shall not have any force unless and until within Two Years from the Day on which it was presented to the Governor General for the Queen's Assent, the Governor General signifies, by Speech or Message to each of the Houses of the Parliament or by Proclamation, that it has received the Assent of the Queen in Council.

An Entry of every such Speech, Message, or Proclamation shall be made in the Journal of each House, and a Duplicate thereof duly attested shall be delivered to the proper Officer to be kept among the Records of Canada.[2]

V. Provincial Constitution

Executive Power

58. For each Province there shall be an Officer, styled the Lieutenant-Governor, appointed by the Governor General in Council by Instrument under the Great Seal of Canada.[3]

59. A Lieutenant-Governor shall hold Office during the Pleasure of the Governor General; but any Lieutenant-Governor appointed after the Commencement of the First Session of the Parliament of Canada shall not be removable within Five Years from his Appointment, except for Cause assigned, which shall be communicated to him in Writing within One Month after the Order for his Removal is made, and shall be communi-

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vise his Majesty to give the Governor General any instructions to reserve Bills presented to him for assent and that it would not be in accordance with constitutional practice for advice to be tendered to His Majesty against the views of the Government of the Dominion. "It is the right of the Government of each Dominion to advise the Crown in all matters relating to its own affairs." *Report of the Conference on the Operation of Dominion Legislation and Merchant Shipping Legislation, 1929* (p. 19).

The Imperial Conference of 1930 passed a resolution approving the Report of the Conference on the Operation of Dominion Legislation and it was stated that the said Report was to be regarded as forming part of the Report of the Conference of 1930. (See Imperial Conference 1930, Summary of Proceedings, page 19).

[1] "The present constitutional position is that the power of disallowance can no longer be exercised in relation to Dominion legislation." *Report of the Conference on the Operation of Dominion Legislation, etc.* (p. 20).

[2] *See* Note 2 to section 55.

[3] Section 92 of this Act states that in each province may make laws, *inter alia* in relation to:—

"1. *The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant-Governor.*"

cated by Message to the Senate and to the House of Commons within One Week thereafter if the Parliament is then sitting, and if not then within One Week after the Commencement of the next Session of the Parliament.

60. The Salaries of the Lieutenant-Governors shall be fixed and provided by the Parliament of Canada.

61. Every Lieutenant-Governor shall, before assuming the Duties of his Office, make and subscribe before the Governor General or some Person authorized by him, Oaths of Allegiance and Office similar to those taken by the Governor General.

62. The Provisions of this Act referring to the Lieutenant-Governor extend and apply to the Lieutenant-Governor for the Time being of each Province or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of the Province, by whatever Title he is designated.

63. The Executive Council of Ontario and of Quebec shall be composed of such Persons as the Lieutenant-Governor from Time to Time thinks fit, and in the first instance of the following Officers, namely,—the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, within Quebec, the Speaker of the Legislative Council and the Solicitor General.[1]

64. The Constitution of the Executive Authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act.[2]

65. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the Union vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, with the Advice or with the Advice and Consent of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant-Governor of Ontario and Quebec respectively, with the Advice or with the Advice and Consent of or in conjunction with the respective Executive Councils, or any Members thereof or by the Lieutenant-Governor individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland),

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[1] For Ontario, *see* R.S.O., 1937, c. 14.
For Quebec, *see* R.S.Q., 1941, c.7.
It was not necessary to provide for the Executive Councils of Nova Scotia and New Brunswick whose constitutions were to continue as they existed.

[2] For Nova Scotia, *see* R.S.N.S., 1923, c.7; 1931, c. 14.
For New Brunswick, *see* R.S.N.B., 1927, c. 10; 1936, c. 10.

to be abolished or altered by the respective Legislatures of Ontario and Quebec.[1]

66. The Provisions of this Act referring to the Lieutenant-Governor in Council shall be construed as referring to the Lieutenant-Governor of the Province acting by and with the Advice of the Executive Council thereof.

67. The Governor General in Council may from Time to Time appoint an Administrator to execute the Office and Functions of Lieutenant-Governor during his Absence, Illness, or other Inability.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the Seats of Government of the Provinces shall be as follows, namely,—of Ontario, the City of Toronto; of Quebec, the City of Quebec; of Nova Scotia, the City of Halifax; and of New Brunswick, the City of Fredericton.

Legislative Power [2]

1. Ontario

69. There shall be a Legislature for Ontario consisting of the Lieutenant-Governor and of One House, styled the Legislative Assembly of Ontario.

70. The Legislative Assembly of Ontario shall be composed of Eighty-two Members, to be elected to represent the Eighty-two Electoral Districts set forth in the First Schedule to this Act.[3]

2. Quebec

71. There shall be a Legislature for Quebec consisting of the Lieutenant-Governor and of Two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.

72. The Legislative Council of Quebec shall be composed of Twenty-four Members, to be appointed by the Lieutenant-Governor, in the Queen's Name, by Instrument under the Great Seal of Quebec, one being appointed to represent each of the Twenty-four Electoral Divisions of Lower Canada in this Act referred to, and each holding Office for the Term of his Life, unless the Legislature of Quebec otherwise provides under the Provisions of this Act.[4]

73. The Qualifications of the Legislative Councillors of Quebec shall be the same as those of the Senators for Quebec.[5]

74. The Place of a Legislative Councillor of Quebec shall become vacant in the Cases, *mutatis mutandis* in which the Place of Senator becomes vacant.

75. When a Vacancy happens in the Legislative Council of Quebec by

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[1] No provision is made for the Maritimes.

[2] "The constitutions of Quebec and Ontario rest upon statute law, which is the reason why about a third of the B.N.A. Act consists of enactments specially relating to these two provinces." W.F. O'Connor.

[3] The number of members is now 90, *see* R.S.O., 1937, c. 6, s. 2.

[4] *See* the Legislature Act, chapter 4 of the R.S.Q., 1941, *in re* the Legislative Council (composition, Speaker and officers), sections 6 to 18.

[5] *See*, as regards qualification, sections 7 and 8 of chapter 4 of the R.S.Q., 1941.

Resignation, Death, or otherwise, the Lieutenant-Governor, in the Queen's Name, by Instrument under the Great Seal of Quebec, shall appoint a fit and qualified Person to fill the Vacancy.

76. If any question arises respecting the Qualification of a Legislative Councillor of Quebec, or a Vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council.

77. The Lieutenant-Governor may from Time to Time, by Instrument under the Great Seal of Quebec, appoint a Member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his stead.[1]

78. Until the Legislature of Quebec otherwise provides, the Presence of at least Ten Members of the Legislative Council, including the Speaker shall be necessary to constitute a Meeting for the Exercise of its Powers.

79. Questions arising in the Legislative Council of Quebec shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the negative.

80. The Legislative Assembly of Quebec shall be composed of Sixty-five Members, to be elected to represent the Sixty-five Electoral Divisions or Districts of Lower Canada in this Act referred to, subject to Alteration thereof by the Legislature of Quebec: Provided that it shall not be lawful to present to the Lieutenant-Governor of Quebec for Assent any Bill for altering the Limits of any of the Electoral Divisions or Districts mentioned in the Second Schedule to this Act, unless the Second and Third Readings of such Bill have been passed by the Legislative Assembly with the Concurrence of the Majority of the Members representing all those Electoral Divisions or Districts, and the Assent shall not be given to such Bill unless an Address has been presented by the Legislative Assembly to the Lieutenant-Governor stating that it has been so passed. [2]

3. Ontario and Quebec

81. Repealed. *See Note* [3] *below.*

82. The Lieutenant-Governor of Ontario and of Quebec shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

83. Until the Legislature of Ontario and Quebec otherwise provides, a Person accepting or holding in Ontario or in Quebec any Office, Commission, or Employment, permanent or temporary, at the Nomination of the Lieutenant-Governor, to which an annual Salary, or any Fee, Allowance,

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[1] *See*, with respect to the Speaker of the Legislative Council, sections 9–14 of chapter 40 of the R.S.Q., 1941.

[2] The Legislative Assembly of Quebec now consists of eighty-six members. *See* Section 19 of chapter 4 of the R.S.Q., 1941.

[3] Section 81 was repealed by the Statute Law Revision Act of 1893 (chapter 14). It read as follows:—

"81. *The Legislatures of Ontario and Quebec respectively shall be called together not later than Six Months after the Union.*"

Emolument, or profit of any Kind or Amount whatever from the Province is attached, shall not be eligible as a Member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this Section shall make ineligible any Person being a Member of the Executive Council of the respective Province, or holding any of the following Offices, that is to say, the Offices of Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in Quebec Solicitor General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such office. [1]

84. Until the Legislatures of Ontario and Quebec respectively otherwise provide, all Laws which at the Union are in force in those Provinces respectively, relative to the following Matters, or any of them, namely,— the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the Assembly of Canada, the Qualifications or Disqualifications of Voters, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which such Elections may be continued, and the Trial of controverted Elections and the Proceedings incident thereto, the vacating of the Seats of Members and the issuing and Execution of new Writs in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the respective Legislative Assemblies of Ontario and Quebec.[2]

Provided that until the Legislature of Ontario otherwise provides, at any Election for a Member of the Legislative Assembly of Ontario for the District of Algoma, in addition to Persons qualified by the Law of the Province of Canada to vote, every male British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.

85. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for Four Years from the Day of the Return of the Writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the Legislative Assembly of Quebec being sooner dissolved by the Lieutenant-Governor of the Province), and no longer.[3]

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[1] The independence of the Legislative Assemblies is further reviewed by Acts passed in the different provinces, v.g.: — Ch. 12 of the Rev. Stat., Ont., 1937 (The Legislative Assembly Act); and ch. 4 of the Rev. Stat., Que., 1941 (The Legislature Act).

[2] *See* respecting The Legislative Assembly and Elections in Ontario, chapters 6 to 12, both inclusive ,of the Rev. Stat., Ont., 1937; on elections in Quebec, chapters 5 and 6 of the Rev. Stat., Que., 1941.

[3] "This limitation on the duration of the Legislature was carried in precise language into the Legislature Assembly Act of Ontario as it has been enacted and re-enacted from time to time until 1930, when, by c. 4, s. 2 the term was extended to five years and no longer. Then by 1942 (Ont.), c. 24 it was enacted that the then present Assembly shall continue until October 19, 1943, and that it shall not be necessary to hold any general election to choose members of the Assembly until such date without, however, affecting or abridging any prerogative of the Crown or the power of the Lieutenant-Governor to dissolve the Assembly sooner."

The King *ex rel.* Tolfree v. Clark *et al* (1943) 2 D.L.R., p. 558.

The Legislative Assembly Extension Act, 1943 (chapter 12 of the Statutes of Ontario,

86. There shall be a session of the Legislature of Ontario and that of Quebec once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Legislature in each Province in one Session and its first Sitting in the next Session.

87. The following Provisions of this Act respecting the House of Commons of Canada shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say,—the Provisions relating to the Election of a Speaker originally and on Vacancies, the Duties of the Speaker, the absence of the Speaker, the Quorum, and the Mode of voting, as if those Provisions were here re-enacted and made applicable in Terms to each such Legislative Assembly.

4. Nova Scotia and New Brunswick [1]

88. The Constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act.[2]

89. Repealed. *See Note* [3] *below.*

6. The Four Provinces

90. The following Provisions of this Act respecting the Parliament of Canada, namely,—the Provisions relating to Appropriation and Tax Bills, the Recommendation of Money Votes, the Assent to Bills, the

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1943) further extended the duration of the Legislative Assembly to the 19th day of October, 1944.

Advantage was not taken, however, of this statute and the Assembly was dissolved by the Lieutenant-Governor in July, 1943.

[1] "The provinces of Nova Scotia and New Brunswick, unlike the province of Canada, were, from the beginning, English colonies by settlement, with constitutions like that of England itself, granted under Royal Prerogative." W. F. O'Connor.

[2] The last lines of section 88 were repealed by the Statute Law Revision Act, 1893 (56 Victoria, chapter 14) of the Statutes of the United Kingdom of Great Britain and Ireland. The lines repealed were as follows:—

"and the House of Assembly of New Brunswick existing at the passage of this Act shall, unless sooner dissolved, continue for the Period for which it was elected."

[3] Section 89, and the heading therefor, were repealed by the Statute Law Revision Act of 1893 (ch. 14). They were as follows:—

"5. Ontario, Quebec, and Nova Scotia

"89. *Each of the Lieutenant-Governors of Ontario, Quebec and Nova Scotia shall cause writs to be issued for the First Election of Members of the Legislative Assembly thereof in such Form and by such Person as he thinks fit, and such Time and addressed to such Returning Officer as the Governor-General directs, and so that the First Election of a Member of the Assembly for any Electoral District or any Subdivision thereof shall be held at the same Time and at the same Places as the Election for a Member to serve in the House of Commons of Canada for that Electoral District.*"

Disallowance of Acts and the Signification of Pleasure on Bills reserved, —shall extend and apply to the Legislatures of the Several Provinces as if those Provisions were here re-enacted and made applicable in Terms to the respective Provinces and the Legislatures thereof, with the Substitution of the Lieutenant-Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of One Year for Two Years, and of the Province for Canada.

VI. Distribution of Legislative Powers [1]

Powers of the Parliament

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces, and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms in this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

1. The Public Debt and Property.
2. The Regulation of Trade and Commerce.
2a. Unemployment Insurance.[2]
3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.
6. The Census and Statistics.
7. Militia, Military and Naval Service, and Defence.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Sea Coast and Inland Fisheries.
13. Ferries between a Province and any British or Foreign Country or between Two Provinces.
14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the Issue of Paper Money.
16. Savings Banks.

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[1] The constitutional decisions of the Judicial Committee have been collected and reprinted in three volumes. The first two volumes entitled "The Canadian Constitution and the Judicial Committee" were edited by Dr. E. R. Cameron. The first volume covered the period 1867 to 1915, and the second, the period 1916 to 1929. The period from 1930 to 1939 is covered in a volume edited and annotated by C. P. Plaxton, K. C. and entitled "Canadian Constitutional Decisions of the Privy Council, 1930 to 1939."

For applicable decisions and extracts from decisions of The Judicial Committee of the Privy Council extending from 1874 to 1937, *see also* Annex 3 of the *Report to the Honourable the Speaker of the Senate of Canada* by the Parliamentary Counsel of the Senate, relating to the enactment of the B.N.A. Act, 1867, etc.

[2] Section 91 was amended by inserting item 2A in 1940. This amendment was made by the British North America Act of 1940 (3 and 4 Geo. VI, ch. 36, section 1).

17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians and Lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Exclusive Powers of Provincial Legislatures

92. In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

1. The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant-Governor.
2. Direct Taxation within the Province in order to the Raising of a Revenue for Provincial Purposes.
3. The borrowing of Money on the sole Credit of the Province.
4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.
5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.
7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.
8. Municipal Institutions in the Province.
9. Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.
10. Local Works and Undertakings other than such as are of the following Classes:—
    (a) Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province:
    (b) Lines of Steam Ships between the Province and any British or Foreign Country:
    (c) Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.

11. The Incorporation of Companies with Provincial Objects.
12. The Solemnization of Marriage in the Province.
13. Property and Civil Rights in the Province.
14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.
15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.
16. Generally all Matters of a merely local or private Nature in the Province.

Education

93. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:—

(1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:
(2) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissentient Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec:
(3) Where in any Province a System of Separate or Dissentient Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education:
(4) In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section.

Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick

94. Notwithstanding anything in this Act, the Parliament of Canada may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and of the Procedure of all or any of the Courts in those Three Provinces, and from and after the passing of any Act in that Behalf the Power of the Parliament of Canada to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making provision for such Uniformity shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof.

Agriculture and Immigration

95. In each Province the Legislature may make Laws in relation to

Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from Time to Time make Laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any Law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

VII. Judicature

96. The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

97. Until the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and the Procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor General shall be selected from the respective Bars of those Provinces.

98. The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

99. The Judges of the Superior Courts shall hold office during good Behaviour, but shall be removable by the Governor General on Address of the Senate and House of Commons.

100. The Salaries, Allowances, and Pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick), and of the Admiralty Courts in Cases where the Judges thereof are for the Time being paid by Salary, shall be fixed and provided by the Parliament of Canada.

101. The Parliament of Canada may, notwithstanding anything in this Act, from Time to Time, provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the Establishment of any additional Courts for the better Administration of the Laws of Canada.

VIII. Revenues, Debts, Assets, Taxation

102. All Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick before and at the Union had and have Power of Appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special Powers conferred on them by this Act, shall form One Consolidated Revenue Fund, to be appropriated for the Public Service of Canada in the Manner and subject to the Charges in this Act provided.

103. The Consolidated Revenue Fund of Canada shall be permanently charged with the Costs, Charges, and Expenses incident to the Collection, Management, and Receipt thereof, and the same shall form the first Charge thereon, subject to be reviewed and audited in such Manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides.

104. The annual interest of the Public Debts of the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union shall form the Second Charge on the Consolidated Revenue Fund of Canada.

105. Unless altered by the Parliament of Canada, the salary of the Governor General shall be Ten thousand Pounds Sterling Money of the United Kingdom of Great Britain and Ireland, payable out of the Consolidated Revenue Fund of Canada, and the same shall form the Third Charge thereon.

106. Subject to the several Payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall be appropriated by the Parliament of Canada for the Public Service.

107. All Stocks, Cash, Banker's Balances, and Securities for Money belonging to each Province at the time of the Union, except as in this Act mentioned, shall be the Property of Canada, and shall be taken in Reduction of the amount of the respective Debts of the Provinces at the Union.

108. The Public Works and Property of each Province, enumerated in the Third Schedule to this Act, shall be the Property of Canada.

109. All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same.

110. All Assets connected with such Portions of the Public Debt of each Province as are assumed by that Province shall belong to that Province.

111. Canada shall be liable for the Debts and Liabilities of each Province existing at the Union.

112. Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the Debt of the Province of Canada exceeds at the Union Sixty-two million five hundred thousand dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

113. The Assets enumerated in the Fourth Schedule to this Act belonging at the Union to the Province of Canada shall be the property of Ontario and Quebec conjointly.

114. Nova Scotia shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Eight million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

115. New Brunswick shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Seven million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

116. In case the Public Debts of Nova Scotia and New Brunswick do not at the Union amount to Eight million and Seven million Dollars respectively they shall respectively receive by half-yearly Payments in

advance from the Government of Canada Interest at Five per Centum per Annum on the Difference between the actual Amounts of their respective Debts and such stipulated Amounts.

117. The several Provinces shall retain all their respective Public Property not otherwise disposed of in this Act, subject to the Right of Canada to assume any Lands or Public Property required for Fortifications or for the Defence of the Country.

118. The following Sums shall be paid yearly by Canada to the several Provinces for the Support of their Governments and Legislatures:

	DOLLARS
Ontario	Eighty thousand.
Quebec	Seventy thousand.
Nova Scotia	Sixty thousand.
New Brunswick	Fifty thousand.
	Two hundred and sixty thousand;

and an annual Grant in aid to each Province shall be made, equal to Eighty Cents per Head of the Population as ascertained by the Census of One thousand eight hundred and sixty-one, and in the Case of Nova Scotia and New Brunswick, by each subsequent Decennial Census until the Population of each of those two Provinces amounts to Four hundred thousand Souls, at which Rate such Grant shall thereafter remain. Such Grants shall be in full Settlement of all future Demands on Canada, and shall be paid half-yearly in advance to each Province; but the Government of Canada shall deduct from such Grants, as against any Province, all Sums chargeable as Interest on the Public Debt of that Province in excess of the several Amounts stipulated in this Act.[1]

119. New Brunswick shall receive by half-yearly Payments in advance from Canada for the period of Ten years from the Union an additional Allowance of Sixty-three thousand Dollars per Annum; but as long as the Public Debt of that Province remains under Seven million Dollars, a

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[1] Section 118 has been superseded by the British North America Act of 1907 (7 Edward VII, ch. 11, c. 1).

As to subsidies and allowances to the provinces *see* the *Provincial Subsidies Act*, chapter 192 of the Revised Statutes of Canada, 1927, and The Maritime Provinces Additional Subsidies Act, 1942 (chapter 14 of the Statutes of Canada, 1942–43).

The subsidies to the provinces in 1943 were as follows:—

"Ontario	$ 2,941,424.28
Quebec	2,592,013.68
Nova Scotia	653,047.60
New Brunswick	693,040.16
Manitoba	1,713,284.18
British Columbia	874,561.46
Prince Edward Island	381,931.88
Alberta	1,787,475.00
Saskatchewan	2,132,175.00"
Total	$13,768,953.24"

Special compensation is also paid to the provinces which have agreed to vacate the personal income and corporation tax fields (for the duration of the war). *See* The Dominion-Provincial Taxation Agreement Act, 1942 (chapter 13 of the Statutes of Canada, 1942 43).

Deduction equal to the interest at Five per Centum per Annum on such Deficiency shall be made from that Allowance of Sixty-three thousand Dollars.

120. All Payments to be made under this Act, or in discharge of Liabilities created under any Act of the Provinces of Canada, Nova Scotia, and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such Form and Manner as may from Time to Time be ordered by the Governor General in Council.

121. All articles of the Growth, Produce, or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

122. The Customs and Excise Laws of each Province shall, subject to the Provisions of this Act, continue in force until altered by the Parliament of Canada.

123. Where Customs Duties are, at the Union, leviable of any Goods, Wares, or Merchandises in any Two Provinces, those Goods, Wares, and Merchandises may, from and after the Union, be imported from one of those Provinces into the other of them on Proof of Payment of the Customs Duty leviable thereon in the Province of Exportation, and on Payment of such further Amount (if any) of Customs Duty as is leviable thereon in the Province of Importation.

124. Nothing in this Act shall affect the Right of New Brunswick to levy the Lumber Dues provided in Chapter Fifteen of Title Three of the Revised Statutes of New Brunswick, or in any Act amending that Act before or after the Union, and not increasing the Amount of such Dues; but the Lumber of any of the Provinces other than New Brunswick shall not be subject to such Dues.

125. No Lands or Property belonging to Canada or any Province shall be liable to Taxation.

126. Such Portions of the Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick had before the Union Power of Appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all Duties and Revenues raised by them in accordance with the special Powers conferred upon by them this Act, shall in each Province form One Consolidated Revenue Fund to be appropriated for the Public Service of the Province.

IX. Miscellaneous Provisions

General

127. Repealed. *See Note* [1] *below.*

128. Every Member of the Senate or House of Commons of Canada shall before taking his Seat therein take and subscribe before the Gov-

[1] Section 127 was repealed by the Statute Law Revision Act of 1893 (56 Vict., ch. 14). It read as follows:—

"127. *If any Person being at the Passing of this Act a Member of the Legislative Council of Canada, Nova Scotia, or New Brunswick, to whom a Place in the Senate is offered, does not within Thirty Days thereafter, by*

ernor General or some Person authorized by him, and every Member of a Legislative Council or Legislative Assembly of any Province shall before taking his Seat therein take and subscribe before the Lieutenant Governor of the Province or some Person authorized by him, the Oath of Allegiance contained in the Fifth Schedule to this Act; and every Member of the Senate of Canada and every Member of the Legislative Council of Quebec shall also, before taking his Seat therein, take and subscribe before the Governor General, or some Person authorized by him, the Declaration of Qualification contained in the same Schedule.

129. Except as otherwise provided by this Act, all Laws in force in Canada, Nova Scotia, or New Brunswick at the Union, and all Courts of Civil and Criminal Jurisdiction, and all legal Commissions, Powers, and Authorities, and all Officers, Judicial, Administrative, and Ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia, and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exists under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the Authority of the Parliament or of that Legislature under this Act.

130. Until the Parliament of Canada otherwise provides, all Officers of the several Provinces having Duties to discharge in relation to Matters other than those coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be Officers of Canada, and shall continue to discharge the Duties of their respective Offices under the same Liabilities, Responsibilities, and Penalties as if the Union had not been made.

131. Until the Parliament of Canada otherwise provides, the Governor General in Council may from Time to Time appoint such Officers as the Governor General in Council deems necessary or proper for the effectual Execution of this Act.

132. The Parliament and Government of Canada shall have all Powers necessary or proper for performing the Obligations of Canada or of any Province thereof, as Part of the British Empire, towards Foreign Countries arising under Treaties between the Empire and such Foreign Countries.

133. Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or

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Writing under His hand addressed to the Governor General of the Province of Canada or to the Lieutenant Governor of Nova Scotia or New Brunswick (as the Case may be), accept the same, he shall be deemed to have declined the same; and any Person who, being at the passing of this Act a Member of the Legislative Council of Nova Scotia or New Brunswick, accepts a Place in the Senate shall thereby vacate his Seat in such Legislative Council."

Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislatures of Quebec shall be printed and published in both those Languages.

Ontario and Quebec

134. Until the Legislatures of Ontario or of Quebec otherwise provides, the Lieutenant-Governors of Ontario and Quebec may each appoint under the Great Seal of the Province the following Officers, to hold Office during Pleasure, that is to say,—the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the Case of Quebec the Solicitor General, and may, by Order of the Lieutenant-Governor in Council, from Time to Time prescribe the Duties of those Officers and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof; and may also appoint other and additional Officers to hold Office during Pleasure, and may from Time to Time prescribe the Duties of those Officers, and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof.[1]

135. Until the Legislature of Ontario or Quebec otherwise provides, all Rights, Powers, Duties, Functions, Responsibilities, or Authorities at the passing of this Act vested in or imposed on the Attorney-General, Solicitor General, Secretary and Registrar of the Province of Canada, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver General, by any Law, Statute or Ordinance of Upper Canada, Lower Canada, or Canada, and not repugnant to this Act, shall be vested in or imposed on any Officer to be appointed by the Lieutenant-Governor for the Discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the Duties and Functions of the Office of Minister of Agriculture at the passing of this Act imposed by the Law of the Province of Canada, as well as those of the Commissioner of Public Works.

136. Until altered by the Lieutenant-Governor in Council, the Great Seals of Ontario and Quebec respectively shall be the same, or of the same Design, as those used in the Provinces of Upper Canada and Lower Canada respectively before their Union as the Province of Canada.

137. The Words "and from thence to the End of the next ensuing Session of the Legislature," or Words to the same Effect, used in any temporary Act of the Province of Canada not expired before the Union shall be construed to extend and apply to the next Session of the Parliament of Canada if the subject matter of the Act is within the Powers of the same, as defined by this Act, or to the next Sessions of the Legislatures of Ontario and Quebec respectively if the Subject Matter of the Act is within the Powers of the same as defined by this Act.

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[1] For Ontario, *see* R.S.O., 1937, c. 14.
For Quebec, *see* R.S.Q. 1941, c. 7.

138. From and after the Union the Use of the Words "Upper Canada" instead of "Ontario," or "Lower Canada" instead of "Quebec," in any Deed, Writ, Process, Pleading, Document, Matter, or Thing, shall not invalidate the same.

139. Any Proclamation under the Great Seal of the Province of Canada issued before the Union to take effect at a Time which is subsequent to the Union, whether relating to that Province, or to Upper Canada, or to Lower Canada, and the several Matters and Things therein proclaimed shall be and continue of like Force and Effect as if the Union had not been made.

140. Any Proclamation which is authorized by any Act of the Legislature of the Province of Canada to be issued under the Great Seal of the Province of Canada, whether relating to that Province, or to Upper Canada, or to Lower Canada, and which is not issued before the Union, may be issued by the Lieutenant-Governor of Ontario or of Quebec, as its Subject Matter requires, under the Great Seal thereof; and from and after the Issue of such Proclamation the same and the several Matters and Things therein proclaimed shall be and continue of the like Force and Effect in Ontario or Quebec as if the Union had not been made.

141. The Penitentiary of the Province of Canada shall, until the Parliament of Canada otherwise provides, be and continue the Penitentiary of Ontario and of Quebec.[1]

142. The Division and Adjustments of the Debts, Credits, Liabilities, Properties, and Assets of Upper Canada and Lower Canada shall be referred to the Arbitrament of Three Arbitrators, One chosen by the Government of Ontario, One by the Government of Quebec, and One by the Government of Canada; and the Selection of the Arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the Arbitrator chosen by the Government of Canada shall not be a Resident either in Ontario or in Quebec.

143. The Governor General in Council may from Time to Time order that such and many of the Records, Books, and Documents of the Province of Canada as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the Property of that Province; and any Copy thereof or Extract therefrom, duly certified by the Officer having charge of the Original thereof, shall be admitted as Evidence.

144. The Lieutenant-Governor of Quebec may from Time to Time, by Proclamation under the Great Seal of the Province, to take effect from a day to be appointed therein, constitute Townships in those Parts of the Province of Quebec in which Townships are not then already constituted, and fix the Metes and Bounds thereof.

145. Repealed. *See Note* [2] *below.*

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[1] For Penitentiaries in Canada, see *The Penitentiary Act, 1939* (3 George VI, ch. 6), as amended by ch. 37 of the Statutes of 1940.

[2] Section 145 was repealed by the Statute Law Revision Act of 1893 (56 Vict., ch. 14). It read as follows:—

"X. INTERCOLONIAL RAILWAY

"145. *Inasmuch as the Provinces of Canada, Nova Scotia, and New*

XI. Admission of other Colonies

146. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the Northwestern Territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.[1]

147. In case of the Admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a Representation in the Senate of Canada of Four Members, and (notwithstanding anything in this Act) in case of the Admission of Newfoundland the normal Number

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Brunswick have joined in a Declaration that the Construction of the Intercolonial Railway is essential to the Consolidation of the Union of British North America, and to the Assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that Provision should be made for its immediate Construction by the Government of Canada: Therefore, in order to give effect to that Agreement, it shall be the Duty of the Government and Parliament of Canada to provide for the Commencement within Six Months after the Union of a Railway connecting the River St. Lawrence with the City of Halifax in Nova Scotia, and for the Construction thereof without Intermission, and the Completion thereof with all practicable Speed."

[1] The power to establish additional Provinces in the Dominion, to alter the limits of the Provinces (with their consent), to legislate for any territory not included in the Province, was conferred by The British North America Act, 1871 (34–35 Vict., c. 28). This Act at the same time confirmed the Acts of Parliament of Canada 32–33 Vict., c. 3 and 33 Vict., c. 33 respecting Rupert's Land and the N. W. Territories, and the Province of Manitoba, respectively.

Rupert's Land and the North-West Territories became part of Canada pursuant to the Rupert's Land Act 1868 (Imp.) and the Order in Council of Her Majesty, Queen Victoria, dated 23rd June, 1870.

Manitoba was admitted as a province by the Manitoba Act assented to 12th May,1870 (Dom.).

British Columbia was admitted as a province by Order in Council of Her Majesty, Queen Victoria, dated 16th May, 1871. *See* R.S.C. 1927, Vol. V, p. 4495.

Prince Edward Island was admitted as a province by Order in Council of Her Majesty, Queen Victoria, dated 26th June, 1873. *See* R.S.C. 1927, Vol. V. p. 4505.

Alberta was admitted as a province by "The Alberta Act" (Dom.), IV and V Ed. 7, c. 3 assented to 20th July, 1905. *See* R.S.C. 1927, Vol. V, p. 4513.

Saskatchewan was admitted as a province by "The Saskatchewan Act" (Dom.), IV and V Ed. VII, c. 42, assented to 20th July, 1905. *See* R.S.C. 1927, Vol. V, p. 4531.

All parts of Canada not within the boundaries of the various provinces are in all things under the jurisdiction of the Parliament of Canada. *See* the *North-West Territories Act*, R.S.C. 1927, c. 142, Vol. III, p. 2871 and the *Yukon Act*, R.S.C. 1827, c. 215, Vol. IV, p. 4181. *See also* The British North America Act, 1871, c. 28, s. 2.

of Senators shall be Seventy-six and their maximum Number shall be Eighty-two; but Prince Edward Island when admitted shall be deemed to be comprised in the third of the Three Divisions into which Canada is, in relation to the Constitution of the Senate, divided by this Act, and accordingly, after the Admission of Prince Edward Island, whether Newfoundland is admitted or not, the Representation of Nova Scotia and New Brunswick in the Senate shall, as Vacancies occur, be reduced from Twelve to Ten Members respectively, and the Representation of each of those Provinces shall not be increased at any Time beyond Ten, except under the Provision of this Act for the Appointment of Three or Six additional Senators under the Direction of the Queen.[1]

SCHEDULES [2]

THE BRITISH NORTH AMERICA ACT, 1871 [3]

34–35 VICTORIA, CHAPTER 28

An Act respecting the establishment of Provinces in the Dominion of Canada

[29th June, 1871.]

WHEREAS doubts have been entertained respecting the powers of the Parliament of Canada to establish Provinces in Territories admitted, or

[1] The British North America Act of 1886 provided for the Representation in the Parliament of Canada of Territories which for the time being form part of the Dominion of Canada, but are not included in any province (49–50 Victoria, chapter 35).

This Act was given retroactive effect by section 2 thereof.

The British North America Act of 1915 made provision for representation of Newfoundland in the Senate in the advent of its admission into the Union (5–6 George V, chapter 45, subparagraph (vi) of subsection one of section one).

[2] The first and second Schedules to the British North America Act, giving the electoral schedules for the provinces of Ontario and Quebec respectively, have been altered by subsequent legislation of Canada and those provinces. For representation in the Legislative Assembly of Ontario, see chapter six of the Revised Statutes of Ontario, 1937, and for representation in the Legislative Assembly of Quebec see chapter three of the Revised Statutes of the Province of Quebec, 1941.

For Schedules see "British North America Act & Selected Statutes 1867–1943."

[3] As to the procedure adopted to obtain the enactment of The British North America Act, 1871, this is what the late Dr. O. D. Skelton, then Under Secretary of State for External Affairs, said in the Special Committee of the House of Commons on the B.N.A. Act in 1935 (at page 31):—

"The object of this Act was to settle doubts as to the competence of the Canadian parliament to establish new provinces out of the western territories, to give them constitutions and representation in the federal parliament.

"The procedure was that the Act was passed by the United Kingdom parliament at the request merely of the Canadian government. There was no consent of or consultation with the provinces in 1871. There was not even an address from the federal parliament —an omission defended on the ground that parliament had implied concurrence by passing in the previous session the Manitoba Act, which the United Kingdom statute was sought to validate. On a motion by Holton, the House of Commons voted by 137 to 0: 'That no change in the provisions of the B.N.A. Act should be sought by the Executive Government without the previous assent of the Parliament of this Dominion.'

"David Mills moved a resolution to the effect that any alteration in the principles of

which may hereafter be admitted, into the Dominion of Canada, and to provide for the representation of such Provinces in the said Parliament, and it is expedient to remove such doubts, and to vest such powers in the said Parliament:

Be it enacted by the Queen'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. This Act may be cited for all purposes as The British North America Act, 1871.

2. The Parliament of Canada may from time to time establish new Provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any Province hereof, and may, at the time of such establishment, make provision for the constitution and administration of any such Province, and for the passing of laws for the peace, order, and good government of such Province, and for its representation in the said Parliament.[1]

3. The Parliament of Canada may from time to time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish, or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby.

4. The Parliament of Canada may from time to time make provision for the administration, peace, order, and good government of any territory not for the time being included in any Province.

5. The following Acts passed by the said Parliament of Canada, and intituled respectively,—"An Act for the temporary government of Rupert's Land and the North Western Territory when united with Canada;" and "An Act to amend and continue the Act thirty-two and thirty-three Victoria, chapter three, and to establish and provide for the government of the Province of Manitoba," shall be and be deemed to have been valid and effectual for all purposes whatsoever from the date at which they respectively received the assent in the Queen's name, of the Governor General of the said Dominion of Canada.

6. Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last-mentioned Act of the said Parliament in so far as it relates to the Province of Manitoba, or of any other Act hereafter establishing new Provinces in the said Dominion, subject always to the right of the Legislature of the

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representation in the House of Commons without the consent of the several provinces to the original compact, would be a violation of the federal principle of the constitution, but the resolution was rejected without debate."

[1] See section 146 of the British North America Act, 1867 and note. See also The British North America Act of 1886. Manitoba, carved out of the North West Territories, was the first of the new provinces to be established after Confederation. The Canadian Act of 1870 was passed in anticipation of the Order in Council admitting those territories. The Imperial Act of 1871 (above) confirms the Canadian Act.

Province of Manitoba to alter from time to time the provisions of any law respecting the qualification of electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province.

THE PARLIAMENT OF CANADA ACT, 1875 [1]

38–39 VICTORIA, CHAPTER 38

An Act to remove certain doubts with respect to the powers of the Parliament of Canada under section eighteen of the British North America Act, 1867

[19th July, 1875.]

WHEREAS by section eighteen of the British North America Act, 1867, it is provided as follows: "The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the Members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof:"

And whereas doubts have arisen with regard to the power of defining by an Act of the Parliament of Canada, in pursuance of the said section, the said privileges, powers, or immunities; and it is expedient to remove such doubts:

Be it therefore enacted by the Queen'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. Section eighteen of the British North America Act, 1867, is hereby repealed, without prejudice to anything done under that section, and the following section shall be substituted for the section so repealed.

The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not

[1] The procedure followed in obtaining this amendment was outlined by Dr. Skelton as follows:—

"The object of this Act was to settle doubts as to the power of parliament under section 18 of the B.N.A. Act to define its own privileges, powers, and immunities, and to validate the Oaths Bill. It was enacted to settle a question that had ariesn as to the power of a parliamentary committee to require evidence on oath, and also to validate the Oaths Bill, which had been passed by the Canadian Parliament, but later disallowed. The procedure again was that this Act was passed by the United Kingdom parliament, merely at the request of the Canadian government. This procedure was defended in the Dominion parliament on the ground that parliament had already approved the object by passing the Oaths Bill which had been held ultra vires, and the purpose of the United Kingdom Act was to validate it. A resolution demanding parliamentary rather than executive action was introduced but withdrawn."

confer any priviliges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof.[1]

2. The Act of the Parliament of Canada passed in the thirty-first year of the reign of Her present Majesty, chapter twenty-four, intituled "An Act to provide for oaths to witness being administered in certain cases for the purposes of either House of Parliament," shall be deemed to be valid, and to have been valid as from the date at which the Royal Assent was given thereto by the Governor General of the Dominion of Canada.

3. This Act may be cited as the Parliament of Canada Act, 1875.

THE BRITISH NORTH AMERICA ACT, 1886[2]

49–50 VICTORIA, CHAPTER 35

An Act respecting the Representation in the Parliament of Canada of Territories which for the time being form part of the Dominion of Canada, but are not included in any Province

[25th June, 1886.]

WHEREAS it is expedient to empower the Parliament of Canada to provide for the representation in the Senate and House of Commons of Canada, or either of them, of any territory which for the time being forms part of the Dominion of Canada, but is not included in any province:

Be it therefore enacted by the Queen'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. The Parliament of Canada may from time to time make provision for the representation in the Senate and House of Commons of Canada, or in either of them, of any territories which for the time being form part of the Dominion of Canada, but are not included in any province thereof.

2. Any Act passed by the Parliament of Canada before the passing of this Act for the purpose mentioned in this Act shall, if not disallowed by the Queen, be, and shall be deemed to have been, valid and effectual from

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[1] See section 18 of the British North America Act, 1867, and Note 1 thereto.

[2] The procedure followed in obtaining this amendment was outlined by Dr. Skelton as follows:—

"Its object was to empower parliament to provide for representation of territories in the Senate and House of Commons. The 1871 Act had been to empower the Dominion to make provinces out of the territories, and give them representation; this Act was to empower them to give territories, as such, representation in the Senate and House of Commons, as parliament saw fit. The procedure was that the Act was passed by the United Kingdom parliament in accordance with an address from the Senate and House of Commons. The provinces were not consulted, and did not ask to be consulted, though if the B.N.A. Act was a treaty, modification in the representation in parliament changing the balance of sectional power, might have been contended to require the consent of the existing provinces."

the date at which it received the assent, in Her Majesty's name, of the Governor General of Canada.

It is hereby declared that any Act passed by the Parliament of Canada, whether before or after the passing of this Act, for the purpose mentioned in this Act or in the British North America Act, 1871, has effect, notwithstanding anything in the British North America Act, 1867, and the number of Senators or the number of Members of the House of Commons specified in the last-mentioned Act is increased by the number of Senators or of Members, as the case may be, provided by any such Act of the Parliament of Canada for the representation of any provinces or territories of Canada.[1]

3. This Act may be cited as the British North America Act, 1886.

This Act and the British North America Act, 1867, and the British North America Act, 1871, shall be construed together, and may be cited together as the British North America Acts, 1867 to 1886.

THE BRITISH NORTH AMERICA ACT, 1907[2]

7 EDWARD VII, CHAPTER 11

An Act to make further provision with respect to the sums to be paid by Canada to the several Provinces of the Dominion

[9th August, 1907.]

WHEREAS an address has been presented to His Majesty by the Senate and Commons of Canada in the terms set forth in the schedule to this Act;

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) The following grants shall be made yearly by Canada to every

[1] See sections 21–37 of the British North America Act, 1867, and also the British North America Act of 1871, *ante*.

See Note 1 at the foot of section 118 of the B.N.A. Act, 1867.

[2] The procedure on this amendment has been outlined by Dr. Skelton, as follows:—

"Then, in 1907, after twenty years, there came the fourth amendment. This one is of particular importance. The object was to provide an increase in and definite settlement of federal subsidies to the provinces. .... The procedure in this case was that the Act was passed by the United Kingdom Parliament in accordance with and address from the Senate and House of Commons based on a series of resolutions passed by a provincial conference in 1887 and re-affirmed with some changes in similar conferences in 1902 and 1907.

"It has been contended that by adopting this procedure the Dominion recognized the necessity of securing an amendment to the B.N.A. Act to effect any change in the subsidy section and the necessity also of consulting the provinces before an amendment was requested. Perhaps it should rather be said that the Dominion recognized the desirability from this point of view, of preventing any further provincial demands, and sought by consultation with the provinces and by utilizing the formal method of amendment, to give some degree of permanance to the arrangement. Its efforts were in vain. The proposal made by Sir Wilfrid Laurier included the words 'final and unalterable settlement,' but that was rejected in London as inappropriate in a United Kingdom statute, and revision of the terms then granted has proceeded apace, without formal amendment and without incidentally the consent of all the provinces."

province, which at the commencement of this Act is a province of the Dominion, for its local purposes and the support of its Government and Legislature:—

(a) A fixed grant—

where the population of the province is under one hundred and fifty thousand, of one hundred thousand dollars;

where the population of the province is one hundred and fifty thousand, but does not exceed two hundred thousand, of one hundred and fifty thousand dollars;

where the population of the province is two hundred thousand, but does not exceed four hundred thousand, of one hundred and eighty thousand dollars

where the population of the province is four hundred thousand, but does not exceed eight hundred thousand, of one hundred and ninety thousand dollars;

where the population of the province is eight hundred thousand, but does not exceed one million five hundred thousand, of two hundred and twenty thousand dollars;

where the population of the province exceeds one million five hundred thousand, of two hundred and forty thousand dollars; and

(b) Subject to the special provisions of this Act as to the provinces of British Columbia and Prince Edward Island, a grant at the rate of eighty cents per head of the population of the province up to the number of two million five hundred thousand, and at the rate of sixty cents per head of so much of the population as exceeds that number.

(2) An additional grant of one hundred thousand dollars shall be made yearly to the Province of British Columbia for a period of ten years from the commencement of this Act.

(3) The population of the province shall be ascertained from time to time in the case of the provinces of Manitoba, Saskatchewan, and Alberta respectively by the last quinquennial census or statutory estimate of population made under the Acts establishing those provinces or any other Act of the Parliament of Canada making provision for the purpose, and in the case of any other province by the last decennial census for the time being.

(4) The grants payable under this Act shall be paid half-yearly in advance to each province.

(5) The grants payable under this Act shall be substituted for the grants or subsidies (in this Act referred to as existing grants) payable for the like purposes at the commencement of this Act to the several provinces of the Dominion, under the provisions of section one hundred and eighteen of the British North America Act, 1867, or of any Order in Council establishing a province, or of any Act of the Parliament of Canada containing directions for the payment of any such grant or subsidy, and those provisions shall cease to have effect.

(6) The Government of Canada shall have the same power of deducting sums charged against a province on account of the interest on public debt in the case of the grant payable under this Act to the province as they have in the case of the existing grant.

(7) Nothing in this Act shall affect the obligation of the Government of Canada to pay to any province any grant which is payable to that province, other than the existing grant for which the grant under this Act is substituted.

(8) In the case of the provinces of British Columbia and Prince Edward Island, the amount paid on account of the grant payable per head of the population to the provinces under this Act shall not at any time be less than the amount of the corresponding grant payable at the commencement of this Act; and if it is found on any decennial census that the population of the province has decreased since the last decennial census, the amount paid on account of the grant shall not be decreased below the amount then payable, notwithstanding the decrease of the population.

2. This Act may be cited as the British North America Act, 1907, and shall take effect as from the first date of July, nineteen hundred and seven.

SCHEDULE

To the King's Most Excellent Majesty

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Senate and Commons of Canada, in Parliament assembled, humbly approach Your Majesty for the purpose of representing that it is expedient to amend the scale of payments authorized under section 118 of the Acts of the Parliament of the United Kingdom of Great Britain and Ireland, commonly called the British North America Act, 1867, or by or under any terms or conditions upon which any other provinces were admitted to the Union, to be made by Canada to the several provinces of the Dominion for the support of their Governments and Legislatures by providing that—

A. Instead of the amounts now payable, the sums hereafter payable yearly by Canada to the several provinces for the support of their Governments and Legislatures be according to population, and as follows:—

(a) Where the population of the province is under 150,000, $ 100,000

(b) Where the population of the province is 150,000, but does not exceed 200,000, $ 150,000;

(c) Where the population of the province is 200,000, but does not exceed 400,000, $ 180,000;

(e) Where the population of the province is 800,000, but does not exceed 1,500,000, $ 220,000;

(f) Where the population of the province exceeds 1,500,000 $ 240,000.

B. Instead of an annual grant per head of population now allowed, the annual payment hereafter be at the same rate of eighty cents per head, but on the population of each province, as ascertained from time to time by the last decennial census, or in the case of the provinces of Manitoba, Saskatchewan, and Alberta respectively, by the last quinquennial census or statutory estimate, until such population exceeds 2,500,000, and at the rate of sixty cents per head for so much of said population as may exceed 2,500,000.

C. An additional allowance to the extent of one hundred thousand dollars annually be paid for ten years to the province of British Columbia.

D. Nothing herein contained shall in any case supersede or affect the terms special to any particular province upon which such province became part of the Dominion of Canada, or the right of any province to the payment of any special grant heretofore made by the Parliament of Canada to any province for any special purpose in such grant expressed.

We pray that Your Majesty may be graciously pleased to cause a measure to be laid before the Imperial Parliament at its present Session repealing the provisions of section 118 of the British North America Act, 1867, aforesaid, and substituting therefor the scale of payments above set forth, which shall be a final and unalterable settlement of the amounts to be paid yearly to the several provinces of the Dominion for their local purposes, and the support of their Governments and Legislatures.

Such grants shall be made half-yearly in advance to each province, but the Government of Canada shall deduct from such grants as against any province all sums chargeable as interest on the public debt of that province in excess of the several amounts stipulated in the said Act.

All of which we humbly pray Your Majesty to take into your favourable and gracious consideration.

(*Signed*) R. DANDURAND,
Speaker of the Senate
(*Signed*) R. F. SUTHERLAND,
Speaker of the House of Commons

Senate and House of Commons,
Ottawa, Canada,
26th April, 1907.[1]

THE BRITISH NORTH AMERICA ACT, 1915[2]

5–6 GEORGE V, CHAPTER 45

An Act to amend the British North America Act, 1867

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) Notwithstanding anything in the British North America Act, 1867, or in any Act amending the same, or in any Order in Council or terms or conditions of union made or approved under the said Acts or in any Act of the Canadian Parliament—

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[1] "As early as 1869 increased subsidies were granted to Nova Scotia by Dominion statute. Edward Blake moved in the Canadian House of Commons against that procedure on the ground that it was an unauthorized assumption of power on the part of the Dominion, but the Dominion parliament declined to accept his view and the law officers of the Crown in London, when consulted, advised that the Act was one which the Dominion parliament was competent to pass under section 91. Later in the same year the Legislature of Ontario voted an address to the Queen to have it declared that parliament had not power to disturb the financial relations between the Dominion and the several provinces as established in the B.N.A. Act. Blake, admitting that the Federal parliament now possessed the power to vary those relations, in view of the interpretation that had been given by the law officers, sought vainly to prevent the power being used—but a resolution was passed by the House of Commons by 130 to 10, against any further increases in provincial grants, a resolution which proved not worth the paper it was written on. Mr. J. A. Maxwell sums up the development thus: 'In the sixty odd years since 1869, there have been three general revisions scaling up the grants given to all the provinces, and more than a score of special revisions affecting every one. Despite heavy withdrawals from capital account (i.e. debt allowances) the four original provinces in 1928–1929 drew more than $3^1/_2$ times as much from the federal treasury as had been promised in the B.N.A. Act.' " (Dr. O. D. Skelton).

[2] Dr. Skelton's comments in the case of this amendment are as follows:—

"Object: To increase the number of senators and alter the main senatorial divisions.

"Procedure: The procedure adopted was that the Act was passed by the United Kingdom parliament following an address by the Senate and House of Commons of Canada. Prince Edward Island made representations before a House of Commons committee, which were not accepted. Other provinces were not consulted and made no representations. The suggestion was made in the House of Commons by Mr. O. Turgeon, now Senator Turgeon, that the provinces should be consulted, but it was not acted upon."

(i) The number of senators provided for under section twenty-one of the British North America Act, 1867, is increased from seventy-two to ninety-six:

(ii) The Divisions of Canada in relation to the constitution of the Senate provided for by section twenty-two of the said Act are increased from three to four, the Fourth Division to comprise the Western Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta, which four Divisions shall (subject to the provisions of the said Act and of this Act) be equally represented in the Senate, as follows:—Ontario by twenty-four senators; Quebec by twenty-four senators; the Maritime Provinces and Prince Edward Island by twenty-four senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof representing Prince Edward Island; the Western Provinces by twenty-four senators, six thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta:

(iii) The number of persons whom by section twenty-six of the said Act the Governor General of Canada may, upon the direction of His Majesty the King, add to the Senate is increased from three or six to four or eight representing equally the four divisions of Canada:

(v) In case of such addition being at any time made the Governor General of Canada shall not summon any person to the Senate except upon a further like direction by His Majesty the King on the like recommendation to represent one of the four Divisions until such Division is represented by twenty-four senators and no more:

(v) The number of senators shall not at any time exceed one hundred and four:

(vi) The representation in the Senate to which by section one hundred and forty-seven of the British North America Act, 1867, Newfoundland would be entitled in case of its admission to the Union is increased from four to six members, and in case of the admission of Newfoundland into the Union, notwithstanding anything in the said Act or in this Act, the normal number of senators shall be one hundred and two, and their maximum number one hundred and ten:

(vii) Nothing herein contained shall affect the powers of the Canadian Parliament under the British North America Act, 1886.

(2) Paragraphs (i) to (vi) inclusive of subsection (1) of this section shall not take effect before the termination of the now existing Canadian Parliament.[1]

2. The British North America Act, 1867, is amended by adding thereto the following section immediately after section fifty-one of the said Act:—

"51A. Notwithstanding anything in this Act a province shall always be entitled to a number of members in the House of Commons not less than the number of senators representing such province."

3. This Act may be cited as the British North America Act, 1915, and the British North America Acts, 1867 to 1886, and this Act may be cited together as the British North America Acts, 1867 to 1915.

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[1] Subsection two of section one repealed by the Statute Law Revision Act, 1927 (chapter 42).

THE BRITISH NORTH AMERICA ACT, 1916 [1]

6–7 GEORGE V, CHAPTER 19

An Act to amend the British North America Act, 1867

[1st June, 1916.]

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. Notwithstanding anything in the British North America Act, 1867, or in any Act amending the same, or in any Order in Council, or terms or conditions of Union, made or approved under the said Act, or under any Act of the Canadian Parliament, the term of the Twelfth Parliament of Canada is hereby extended until the seventh day of October, nineteen hundred and seventeen.

2. This Act may be cited as the British North America Act, 1916, and the British North America Acts, 1867 to 1915, and this Act may be cited together as the British North America Acts, 1867 to 1916.

THE BRITISH NORTH AMERICA ACT, 1930

20–21 GEORGE V, CHAPTER 26

An Act to confirm and give effect to certain agreements entered into between the Government of the Dominion of Canada and the Governments of the Provinces of Manitoba, British Columbia, Alberta and Saskatchewan respectively

[10th July, 1930.]

WHEREAS the agreements set out in the Schedule to this Act were entered into between the Government of the Dominion of Canada and the Governments of the Provinces of Manitoba, British Columbia, Alberta and Saskatchewan respectively subject, however, in each case to approval by the Parliament of Canada and the Legislature of the Province to which the agreement relates and also to confirmation by the Parliament of the United Kingdom:

And whereas each of the said agreements has been duly approved by the Parliament of Canada and by the Legislature of the Province to which it relates:

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[1] Dr. Skelton comments:—

"The object of this amendment was to lengthen the term of the existing Parliament for one year. The procedure was on an address by both houses. The provinces were not consulted and, as far as I recall, they were not referred to in the debate."

This Act was repealed by the Statute Law Revision Act, 1927 (chapter 42).

And whereas, after the execution of the said agreement relating to the Province of Alberta, it was agreed between the parties concerned, subject to such approval and confirmation as aforesaid, that the said Province should, in addition to the rights accruing to it under the said agreements as originally executed, be entitled to such further rights, if any, with respect to the subject matter of the said agreement as were required to be vested in the Province in order that it might enjoy rights equal to those which might be conferred upon or reserved to the Province of Saskatchewan under any agreement upon a like subject matter thereafter approved and confirmed in the manner aforesaid, and provision in that behalf was accordingly made by the Parliament of Canada and the Legislature of the Province of Alberta when approving the said agreement:

And whereas the Senate and Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to give his consent to the submission of a measure to the Parliament of the United Kingdom for the confirmation of the said agreements:

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. The agreements set out in the Schedule to this Act are hereby confirmed and shall have the force of law notwithstanding anything in the British North America Act, 1867, or any Act amending the same, or any Act of Parliament of Canada, or in any Order in Council or terms or conditions of union made or approved under any such Act as aforesaid.

2. The agreement relating to the Province of Alberta which is confirmed by this Act shall be construed and have effect for all purposes as if it contained a provision to the following effect, namely, that the said Province shall, in addition to the rights accruing to it under the said agreement as originally executed, be entitled to such further rights, if any, with respect to the subject matter of the said agreement as are required to be vested in the Province in order that it may enjoy rights equal to those conferred upon, or reserved to, the Province of Saskatchewan under the agreement relating to that Province which is confirmed by this Act.

3. This Act may be cited as the British North America Act, 1930, and the British North America Acts, 1867 to 1916, and this Act may be cited together as the British North America Acts, 1867 to 1930.

(For schedules, see *British North America Acts and Selected Statutes 1867–1943*, published by Edmond Cloutier, Ottawa, 1943).

THE BRITISH NORTH AMERICA ACT, 1940[1]

3–4 GEORGE VI, CHAPTER 36

An Act to include unemployment insurance among the classes of subjects enumerated in section ninety-one of the British North America Act, 1867

[10th July, 1940.]

WHEREAS the Senate and Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth:—

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. Section ninety-one of the British North America Act, 1867, is amended by inserting therein, after item 2 "The regulation of trade and commerce," the following item:—

"2A. Unemployment insurance."

2. This Act may be cited as the British North America Act, 1940, and the British North America Acts, 1867 to 1930, the British North America Act, 1907, and this Act may be cited together as the British North America Acts, 1867 to 1940.

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[1] The procedure in this case was that the Act was passed by the Parliament of the United Kingdom in accordance with an address from the Senate and House of Commons.

The address was moved (and the motion agreed to) in the House of Commons of the 25 of June, 1940. The provinces had been previously consulted and all of them had consented to the amendment being made.

It is interesting to note in connection with this matter that *The Unemployment and Social Insurance Act* (chapter 38 of the Statutes of Canada, 1935) had been declared *ultra vires* by a majority of the Supreme Court of Canada in 1936 and by the Judicial Committee of the Privy Council on the 28th of January, 1937, thus necessitating the amendment of the B.N.A. Act.

Less than a week after the amendment had been adopted by the Parliament of the United Kingdom *The Unemployment Insurance Act, 1940* (3–4 Geo. VI, ch. 44) was introduced in the House of Commons of Canada. The Bill was assented to on the 6th of August, 1940.

THE BRITISH NORTH AMERICA ACT, 1943 [1]

7 GEORGE VI, CHAPTER 30

An Act to provide for the readjustment of the representation of the provinces in the House of Commons of Canada consequent on the decennial census taken in the year One thousand nine hundred and forty-one

[22nd July, 1943.]

WHEREAS the Senate and House of Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth:

Be it therefore enatced 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. Notwithstanding anything in the British North America Acts, 1867 to 1940, it shall not be necessary that the representation of the provinces in the House of Commons of Canada be readjusted, in con-

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[1] This Act was passed by the Parliament of the United Kingdom in accordance with an address from the Senate and from the House of Commons. It does not appear that the provinces were consulted. On the other hand, a protest was made by the Legislature of the province of Quebec against the adoption of the measure.

The reasons for the address are given in the preamble to the resolution preceding it as follows:—

"That whereas provisions of the British North America Act require that, on the completion of each decennial census, the representation of the provinces in the House of Commons shall be readjusted;

"And whereas such readjustment involves in fact the determination of the number of members to represent each province and the number of electoral divisions within each province and the delimitation of such electoral divisions;

"And whereas Canada has been at war since September 10, 1939, and hostilities may continue for an indefinite period;

"And whereas the census of 1941 was taken during the progress of hostilities;

"And whereas the effect of enlistment in the armed forces of Canada and of employment in the production of munitions of war has been to remove large numbers of the population from their homes to serve in and with such armed forces either in other parts of Canada or overseas or to reside temporarily in other parts of Canada;

"And whereas experience has shown that such readjustment may give rise to sharp differences of opinion as to the appropriate delimitation of electoral divisions, which differences it is most desirable to avoid while Canada continues at war;

"And whereas in these circumstances it does not now seem desirable that readjustment of representation on the basis of the census of 1941 should have to be made during the continuance of the hostilities in which Canada is now engaged,

"A humble address be presented to His Majesty the King in the following words:—"

Here follows the address and the draft of the Bill which is in the exact terms of the Act above.

The measure and its purpose were fully explained by the Minister of Justice, Mr. Saint Laurent in the House of Commons on the fifth of July, 1943.

sequence of the completion of the decennial census taken in the year one thousand nine hundred and forty-one, until the first session of the Parliament of Canada commencing after the cessation of hostilities between Canada and the German Reich, the Kingdom of Italy and the Empire of Japan.

2. This Act may be cited as the British North America Act, 1943, and the British North America Acts, 1867 to 1940, and this Act may be cited together as the British North America Acts, 1867 to 1943.

THE BRITISH NORTH AMERICA ACT, 1946

10 GEORGE VI, c. 63

An Act to provide for the readjustment of representation in the House of Commons of Canada on the basis of the population of Canada

[26th July, 1946.]

WHEREAS the Senate and House of Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth;

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. Section fifty-one of the British North America Act 1867, is hereby repealed and the following substituted therefor:

"51. – (1) The number of members of the House of Commons shall be two hundred and fifty-five and the representation of the provinces therein shall forthwith upon the coming into force of this section and thereafter on the completion of each decennial census be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:—

1. Subject as hereinafter provided, there shall be assigned to each of the provinces a number of members computed by dividing the total population of the provinces by two hundred and fifty-four and by dividing the population of each province by the quotient so obtained, disregarding, except as hereinafter in this section provided, the remainder, if any, after the said process of division.

2. If the total number of members assigned to all the provinces pursuant to rule one is less than two hundred and fifty-four, additional members shall be assigned to the provinces (one to a province) having remainders in the computation under rule one commencing with the province having the largest remainder and continuing with the other provinces in the order of the magnitude of their respective remainders until the total number of members assigned is two hundred and fifty-four.

3. Notwithstanding anything in this section, if upon completion of a computation under rules one and two, the number of members to be assigned to a province is less than the number of senators representing

the said province, rules one and two shall cease to apply in respect to the said province, and there shall be assigned to the said province a number of members equal to the said number of senators.

4. In the event that rules one and two cease to apply in respect of a province then, for the purpose of computing the number of members to be assigned to the provinces in respect of which rules one and two continue to apply, the total population of the provinces shall be reduced by the number of the population of the province in respect of which rules one and two have ceased to apply and the number two hundred and fifty-four shall be reduced by the number of members assigned to such province pursuant to rule three.

5. Such readjustment shall not take effect until the termination of the then existing Parliament.

(2) The Yukon Territory as constituted by Chapter forty-one of the Statutes of Canada, 1901, together with any Part of Canada not comprised within a province which may from time to time be included therein by the Parliament of Canada for the purposes of representation in Parliament, shall be entitled to one member."

2. This Act may be cited as the British North America Act, 1946, and the British North America Acts, 1867 to 1943, and this Act may be cited together as the British North America Acts, 1867 to 1946.

THE BRITISH NORTH AMERICA ACT, 1949

12–13 GEORGE VI, c. 22

An Act to confirm and give effect to Terms of Union agreed between Canada and Newfoundland

[23rd March, 1949]

WHEREAS by means of a referendum the people of Newfoundland have by a majority signified their wish to enter into confederation with Canada;

And Whereas the Agreement containing Terms of Union between Canada and Newfoundland set out in the Schedule to this Act has been duly approved by the Parliament of Canada and by the Government of Newfoundland;

And Whereas Canada has requested, and consented to, the enactment of an Act of the Parliament of the United Kingdom to confirm and give effect to the said Agreement, and the Senate and House of Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for that purpose:

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. The Agreement containing Terms of Union between Canada and Newfoundland set out in the Schedule to this Act is hereby confirmed and shall have the force of law notwithstanding anything in the British North America Acts, 1867 to 1946.

2. In accordance with the preceding section the provisions of the New-

foundland Act, 1933, other than section three thereof (which relates to guarantee of certain securities of Newfoundland) shall be repealed as from the coming into force of the said Terms of Union.

3. This Act may be cited as the British North America Act, 1949, and the British North America Acts, 1867 to 1946, and this Act may be cited together as the British North America Acts, 1867 to 1949.

SCHEDULE

TERMS OF UNION OF NEWFOUNDLAND WITH CANADA

(Not reproduced-See Revised Statutes of Canada 1952, Volume VI, pp. 6400 et seq.)

THE BRITISH NORTH AMERICA ACT (No. 2), 1949

13 GEORGE VI, c. 81

An Act to amend the British North America Act, 1867, as respects the amendment of the Constitution of Canada
[16th December, 1949]

WHEREAS the Senate and the House of Commons of Canada in Parliament assembled have submitted an Address to His Majesty praying that His Majesty may graciously be pleased to cause a measure to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth:

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. Section 91 of the British North America Act, 1867 is hereby amended by renumbering Class 1 thereof as Class 1A and by inserting therein immediately before that Class the following as Class 1:—

> "1. The amendment from time to time of the Constitution of Canada, except as regards matters coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the provinces, or as regards rights or privileges by this or any other Constitutional Act granted or secured to the legislature or the Government of a province, or to any class of persons with respect to schools or as regards the use of the English or the French language or as regards the requirements that there shall be a session of the Parliament of Canada at least once each year, and that no House of Commons shall continue for more than five years from the day of the return of the Writs for choosing the House: Provided, however, that a House of Commons may in time of real or apprehended war, invasion or insurrection be continued by the Parliament of Canada if such

continuation is not opposed by the votes of more than one-third of the members of such House."

2. This Act may be cited as the British North America (No. 2) Act, 1949, and shall be included among the Acts which may be cited as the British North America Acts, 1867 to 1949.

THE BRITISH NORTH AMERICA ACT, 1951

14–15 GEORGE VI, c. 32

An Act to amend the British North America Act, 1867

[31st May, 1951]

WHEREAS the Senate and House of Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a measure to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth:

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. The British North America Act, 1867, is amended by adding thereto immediately after section ninety-four thereof the following heading and section:—

"Old Age Pensions

94A. It is hereby declared that the Parliament of Canada may from time to time make laws in relation to old age pensions in Canada, but no law made by the Parliament of Canada in relation to old age pensions shall affect the operation of any law present or future of a Provincial Legislature in relation to old age pensions."

2. This Act may be cited as the British North America Act, 1951, and the British North America Acts, 1867 to 1949, and this Act may be cited together as the British North America Acts, 1867 to 1951.

THE BRITISH NORTH AMERICA ACT, 1952

1 ELIZABETH II, c. 15

An Act to amend the British North America Acts, 1867 to 1951, with respect to the Readjustment of Representation in the House of Commons

[18th June, 1952]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Section fifty-one of the British North America Act, 1867, as enacted

by the British North America Act, 1946, is repealed and the following substituted therefor:

"51. (1) Subject as hereinafter provided, the number of members of the House of Commons shall be two hundred and sixty-three and the representation of the provinces therein shall forthwith upon the coming into force of this section and thereafter on the completion of each decennial census be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:

1. There shall be assigned to each of the provinces a number of members computed by dividing the total population of the provinces by two hundred and sixty-one and by dividing the population of each province by the quotient so obtained, disregarding, except as hereinafter in this section provided, the remainder, if any, after the said process of division.

2. If the total number of members assigned to all the provinces pursuant to rule one is less than two hundred and sixty-one, additional members shall be assigned to the provinces (one to a province) having remainders in the computation under rule one commencing with the province having the largest remainder and continuing with the other provinces in the order of the magnitude of their respective remainders until the total number of members assigned is two hundred and sixty-one.

3. Notwithstanding anything in this section, if upon completion of a computation under rules one and two, the number of members to be assigned to a province is less than the number of senators representing the said province, rules one and two shall cease to apply in respect of the said province, and there shall be assigned to the said province a number of members equal to the said number of senators.

4. In the event that rules one and two cease to apply in respect of a province then, for the purpose of computing the number of members to be assigned to the provinces in respect of which rules one and two continue to apply, the total population of the provinces shall be reduced by the number of the population of the province in respect of which rules one and two have ceased to apply and the number two hundred and sixty-one shall be reduced by the number of members assigned to such province pursuant to rule three.

5. On any such readjustment the number of members for any province shall not be reduced by more than fifteen per cent below the representation to which such province was entitled under rules one to four of this subsection at the last preceding readjustment of the representation of that province, and there shall be no reduction in the representation of any province as a result of which that province would have a smaller number of members than any other province that according to the results of the then last decennial census did not have a larger population; but for the purposes of any subsequent readjustment of representation under this section any increase in the number of members of the House of Commons resulting from the application of this rule shall not be included in the divisor mentioned in rules one to four of this subsection.

6 Such readjustment shall not take effect until the termination of the then existing Parliament.

(2) The Yukon Territory as constituted by chapter forty-one of the statutes of Canada, 1901, shall be entitled to one member, and such other part of Canada not comprised within a province as may from time to time be defined by the Parliament of Canada shall be entitled to one member."

2. This Act may be cited as the British North America Act, 1952 and

the British North America Acts, 1867 to 1951, and this Act may be cited together as the British North America Acts, 1867 to 1952.

AN ACT RESPECTING THE SUPREME COURT OF CANADA

Short Title

1. This Act may be cited as the Supreme Court Act R.S., c.35, s.1.

Interpretation

2. In this Act,

(a) "appeal" includes any proceedings to set aside or vary any judgment of the court appealed from;

(b) "final judgment" means any judgment, rule, order or decision that determines in whole or in part any substantive right of any of the parties in controversy in any judicial proceeding;

(c) "judge" means a judge of the Supreme Court of Canada and includes the Chief Justice;

(d) "judgment", when used with reference to the court appealed from, includes any judgment, rule, order, decision, decree, decretal order or sentence thereof; and when used with reference to the Supreme Court, includes any judgment or order of that Court;

(e) "judicial proceeding" means and includes any action, suit, cause, matter or other proceeding in disposing of which the court appealed from has not exercised merely a regulative, administrative, or executive jurisdiction;

(f) "Registrar" means the Registrar of the Supreme Court;

(g) "the court appealed from" means the court from which the appeal is brought directly to the Supreme Court, whether such court is one of original jurisdiction or a court of appeal;

(h) "the Supreme Court" or "the Court" means the Supreme Court of Canada;

(i) "witness" means any person, whether a party or not, to be examined under the provisions of this Act. R.S., c. 35, s. 2.

The Court

3. The court of common law and equity in and for Canada now existing under the name of the Supreme Court of Canada is hereby continued under that name, as a general court of appeal for Canada, and as an additional court for the better administration of the laws of Canada and shall continue to be a court of record. R.S., c. 35, s.3.

The Judges

4. The Supreme Court shall consist of a chief justice to be called the Chief Justice of Canada, and eight puisne judges, who shall be appointed by the Governor in Council by letters patent under the Great Seal. 1949 (2nd Sess.), c. 37, s.1.

5. Any person may be appointed a judge who is or has been a judge of a superior court of any of the provinces of Canada, or a barrister or advocate of at least ten years standing at the bar of any of the said provinces. R.S., c. 35, s. 5.

6. Three at least of the judges shall be appointed from among the judges

of the Court of Queen's Bench, or of the Superior Court, or the barristers or advocates of the Province of Quebec. 1949 (2nd Sess.), c. 37, s. 1.

7. No judge shall hold any other office of emolument either under the Government of Canada or under the government of any province of Canada. R.S., c. 35, s. 7.

8. The judges shall reside at the City of Ottawa, or within five miles thereof. R.S., c. 35, s. 8.

9. (1) Subject to subsection (2), the judges hold office during good behaviour, but are removable by the Governor General on address of the Senate and House of Commons.

(2) A judge ceases to hold office upon attaining the age of seventy-five years. 1949 (2nd Sess.), c. 37, s. 1.

10. Every judge shall, before entering upon the duties of his office as such judge, take an oath in the following form:

I,....., do dolemnly and sincerely promise and swear that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trust reposed in me as Chief Justice (or as one of the judges) of the Supreme Court of Canada. So help me God. R.S., c. 35, s. 10.

11. The oath referred to in section 10 shall be administered to the Chief Justice before the Governor General, or person administering the Government of Canada, in Council, and to the puisne judges by the Chief Justice, or, in his absence or illness, by any other judge present at Ottawa. R.S., c.35, s. 11.

The Registrar and Other Officers

12. The Governor in Council may, by an instrument under the Great Seal, appoint a fit and proper person, being a barrister of at least five years' standing, to be Registrar of the Supreme Court. R.S., c. 35, s. 12.

13. The Registrar holds office during pleasure and shall reside and keep an office at the City of Ottawa. R.S., c. 35, s. 13.

14. The Registrar has the rank of a deputy head of a department, and shall be paid a salary of not less than four thousand two hundred dollars and not more than eight thousand five hundred dollars to be determined by the Governor in Council. 1951 (2nd Sess.), c. 25, s. 1.

15. The Registrar shall, subject to the direction of the Minister of Justice, oversee and direct the officers, clerks and employees appointed to the Court. R.S., c. 35, s. 15.

16. The Registrar shall give his full time to the public service, and shall not receive any pay, fee or allowance in any form in excess of the amount hereinbefore provided. R.S., c. 35, s. 16.

17. The Registrar shall, under the supervision of the Minister of Justice; have the management and control of the Library of the Court and the purchase of all books therefor. R.S., c. 35, s. 17.

18. The Registrar shall, until otherwise provided, publish the reports the decisions of the Court. R.S., c. 35, s. 18.

19. The Registrar has such authority to exercise the jurisdiction of a judge sitting in chambers as may be conferred upon him by general rules or orders made under this Act. R.S., c. 35, s. 19.

20. The provisions of the Civil Service Act, the Civil Service Superannuation and Retirement Act, and the Civil Service Superannuation Act, so far as applicable, extend and apply to the officers, clerks and servants at the seat of Government. R.S., c. 35, s. 20.

21. The Sheriff of the County of Carleton, in the Province of Ontario, is ex officio an officer of the Court and shall perform the duties and functions of a sheriff in connection therewith. R.S., c. 35, s. 21.

Barristers and Solicitors

22. All persons who are barristers or advocates in any of the provinces of Canada may practise as barristers, advocates and counsel in the Supreme Court. R.S., c. 35, s. 22.

23. All persons who are attorneys or solicitors of the superior courts in any of the provinces of Canada may practise as attorneys, solicitors and proctors in the Supreme Court. R.S., c. 35, s. 23.

24. All persons who may practise as barristers, advocates, counsel, attorneys, solicitors or proctors in the Supreme Court are officers of the Court. R.S., c. 35, s. 24.

Sessions and Quorum

25. Any five of the Supreme Court shall constitute a quorum and may lawfully hold the Court. R.S., c. 35, s. 25.

26. It is not necessary for all the judges who have heard the argument in any case to be present in order to constitute the Court for delivery of judgment in that case, but in the absence of any judge, from illness or any other cause, judgment may be delivered by a majority of the judges who were present at the hearing. R.S., c. 35, s. 26.

27. (1) Any judge who has heard the case and is absent at the delivery of judgment, may hand his opinion in writing to any judge present at the delivery of judgment, to be read or announced in open court, and then to be left with the Registrar or reporter of the Court.

(2) A judge who has resigned his office, or who has ceased to hold office under the provisions of section 9 shall, within six months thereafter, for the purposes of this section, be deemed to be absent at the delivery of judgment in any case heard by him in which judgment has not been delivered during his tenure of office. R.S., c. 35, s. 27; 1929, c. 58, s.1.

28. (1) No judge against whose judgment an appeal is brought, or who took part in the trial of the cause or matter, or in the hearing in a court below, shall sit or take in the hearing of or adjudication upon the proceedings in the Supreme Court.

(2) In any cause or matter in which a judge is unable to sit or take part in consequence of this section, any four of the other judges of the Supreme Court constitute a quorum and may lawfully hold the Court. R.S., c. 35, s. 28.

29. Any four judges constitute a quorum and may lawfully hold the Court in cases where the parties consent to be heard before a court so composed. R.S., c. 35, s. 29.

30. (1) Where at any time there is not a quorum of the judges of the Supreme Court available to hold or continue any session of the Court, owing to a vacancy or vacancies, or to the absence through illness or on leave or in the discharge of other duties assigned by statute or order in council, or to the disqualification of a judge or judges, the Chief Justice, or, in his absence, the senior puisne judge, may in writing request the attendance at the sittings of the Court, as an ad hoc judge, for such period as may be necessary, of a judge of the Exchequer Court, or, should the judges of the said court be absent from Ottawa or for any reason unable to sit, of a judge of a provincial superior court to be designated in writing by the Chief Justice or in his absence by any Acting Chief Justice or the senior puisne judge of such provincial court upon such request being made to him in writing.

(2) Unless two of the judges of the Supreme Court available fulfil the requirements of section 6, the ad hoc judge for the hearing of an appeal from a judgment rendered in the Province of Quebec shall be a judge of the Court of Queen's Bench or a judge of the Superior Court of that Province designated as above provided.

(3) A duplicate of the requisition of the Chief Justice or senior puisne judge and where a judge of a provincial court is designated to act, the letter designating him shall be filed with the registrar and is conclusive evidence of the authority of the judge named therein to act under this section.

(4) It is the duty of the judge whose attendance has been so requested or who has been so designated in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he possesses the powers and privileges and shall discharge the duties of a puisne judge of the Supreme Court.

(5) An ad hoc judge who attends a sittings of the Supreme Court or any conference of the judges called for the consideration of judgments in cases in which he sat, shall be paid his travelling expenses and shall receive a per diem allowance for living expenses of ten dollars for each day, that he is necessarily absent from his place of residence, as provided by the Judges Act.

(6) In any case in which judgment is not delivered while such judge is attending the sittings of the Court or a conference of the judges, his opinion shall be delivered as is provided by section 27. R.S., c. 35, s. 30.

31. (1) The Court may, in any Admiralty appeal, in which it may think it expendient so to do, call in the aid of one or more assessors specially qualified and try and hear such appeal, wholly or partially with the assistance of such assessors.

(2) The remuneration, if any, to be paid to such assessors shall be determined by the Court. R.S., c. 35, s. 31.

32. (1) The Supreme Court, for the purpose of hearing and determining appeals, shall hold, in each year, at the City of Ottawa, three sessions.

(2) The first session shall begin on the first Tuesday in February, the second on the fourth Tuesday in April, and the third on the first Tuesday in October, in each year.

(3) The dates in subsection (2), fixed for the beginning of each session, may be varied by the Governor in Council, or by the Court, if notice is given in the Canada Gazette not less than four weeks before the date that may be fixed for the beginning of any session.

(4) Each of the said sessions shall be continued until the business before the Court is disposed of. R.S., c. 35, s. 32; 1928, c. 9, s. 1.

33. The Supreme Court may adjourn any session from time to time and meet again at the time appointed for the transaction of business. R.S., c. 35, s. 33.

34. The Court may be convened at any time by the Chief Justice, or, in the event of his absence or illness, by the senior puisne judge, in such manner as is prescribed by the rules of Court. R.S., c. 35, s. 34.

Appellate Jurisdiction

35. The Supreme Court shall have, hold and exercise an appellate, civil and criminal jurisdiction within and throughout Canada. R.S., c. 35, s. 35.

36. Subject to sections 40 and 44, an appeal to the Supreme Court lies from a final judgment or a judgment granting a motion for a nonsuit or directing a new trial of the highest court of final resort in a province, or a judge thereof, pronounced in

(a) a judicial proceeding where the amount or value of the matter in controversy in the appeal exceeds two thousand dollars, or

(b) proceedings for or upon a writ of habeas corpus or mandamus. 1949 (2nd Sess.), c. 37, s. 2.

37. An appeal lies to the Supreme Court from an opinion pronounced by the highest court of final resort in a province on any matter referred to it for hearing and consideration by the Lieutenant Governor in Council of that province whenever it has been by the statutes of that province declared that such opinion is to be deemed a judgment of the said highest court of final resort and that an appeal lies therefrom as from a judgment in an action. 1949 (2nd Sess.), c. 37, s. 2.

38. Subject to sections 40 and 44, an appeal to the Supreme Court lies with leave of the highest court of final resort in a province from a final judgment of that court where, in the opinion of that court, the question involved in the appeal is one that ought to be submitted to the Supreme Court for decision. 1949 (2nd Sess.), c. 37, s. 2.

39. Subject to sections 40 and 44, an appeal to the Supreme Court lies in respect of a question of law alone with leave of the highest court of final resort in a province from a final judgment of another court of that province, the judges of which are appointed by the Governor General, pronounced in a judicial proceeding where the amount or value of the matter in controversy in the appeal exceeds two thousand dollars and an appeal lies to that court of final resort, if the consent in writing of the parties or their solicitors, verified by affidavit, is filed with the Registrar of the Supreme Court and with the registrar, clerk or prothonotary of the court from which the appeal is to be taken. 1949 (2nd Sess.), c. 37, s. 2.

40. No appeal to the Supreme Court lies under section 36, 38 or 39 from

a judgment in a criminal cause, in proceedings for or upon a writ of habeas corpus, certiorari or prohibition arising out of a criminal charge, or in proceedings for or upon a writ of habeas corpus arising out of a claim for extradition made under a treaty. 1949 (2nd Sess.), c. 37, s. 2.

41. (1) Subject to subsection (3) and to section 44, an appeal lies to the Supreme Court with leave of that court from any final or other judgment of the highest court of final resort in a province, or a judge thereof, in which judgment can be had in the particular case sought to be appealed to the Supreme Court, whether or not leave to appeal to the Supreme Court has been refused by any other court.

(2) Leave to appeal under this section may be granted during the period fixed by section 64 or within thirty days thereafter or within such further extended time as the Supreme Court or a judge may either before or after the expiry of the said thirty days fix or allow.

(3) No appeal to the Supreme Court lies under this section from the judgment of any court acquitting or convicting or setting aside or affirming a conviction or acquittal of an indictable offence or, except in respect of a question of law or jurisdiction, of an offence other than an indictable offence.

(4) Whenever the Supreme Court has granted leave to appeal, the Supreme Court or a judge may, notwithstanding anything in this Act extend the time within which the appeal may be allowed. 1949 (2nd Sess.), c. 37, s. 2.

42. Notwithstanding anything in this Act the Supreme Court has jurisdiction as provided in any other Act conferring jurisdiction. 1949 (2nd Sess.), c. 37, s. 2.

43. Where the right to appeal or to apply for special leave to appeal is dependent on the amount or value of the matter in controversy the amount or value may be proved by affidavit, and it shall not include interest subsequent to the day on which the judgment to be appealed from was pronounced or any costs. 1949 (2nd Sess.), c. 37, s. 2.

44. No appeal lies to the Supreme Court from a judgment or order made in the exercise of judicial discretion except in proceedings in the nature of a suit or proceeding in equity originating elsewhere than in the Province of Quebec and except in mandamus proceedings. 1949 (2nd Sess.), c. 37, s. 2.

Judgments

45. The Court may quash proceedings in cases brought before it in which an appeal does not lie, or whenever such proceedings are taken against good faith. R.S., c. 35, s. 45.

46. The Court may dismiss an appeal or give the judgment and award the process or other proceedings that the court, whose decision is appealed against, should have given or awarded. R.S., c. 35, s. 46.

47. On any appeal, the Court may, in its discretion, order a new trial, if the ends of justice seem to require it, although such new trial is deemed necessary upon the ground that the verdict is against the weight of evidence. R.S., c. 35, s. 47.

Costs

48. The Court may, in its discretion, order the payment of the costs of the court appealed from and of the court of original jurisdiction, and also of the appeal, or any part thereof, as well when the judgment appealed from is varied or reversed as when it is affirmed. R.S., c. 35, s. 48.

Amendments

49. At any time during the pendency of an appeal before the Court, the Court may, upon the application of any of the parties, or without any such application, make all such amendments as are necessary for the purpose of determining the appeal, or the real question or controversy between the parties as disclosed by the pleadings, evidence or proceedings. R.S., c. 35, s. 49.

50. An amendment referred to in section 49 may be made, whether the necessity for the same is or is not occasioned by the defect, error, act, default or neglect of the party applying to amend. R.S. c. 35, s. 50.

51. Every amendment shall be made upon such terms as to payment of costs, postponing the hearing or otherwise as to the Court seems just. R.S., c. 35, s.51.

Interest

52. If on appeal against any judgment, the Court affirms such judgment, interest shall be allowed by the Court for such time as execution has been delayed by the appeal. R.S., c. 35, s. 52.

Certificate of Judgment

53. The judgment of the Court in appeal shall be certified by the Registrar to the proper officer of the court of original jurisdiction, who shall thereupon make all proper and necessary entries thereof; and all subsequent proceedings may be taken thereupon as if the judgment had been given or pronounced in the said last mentioned court. R.S., c. 35, s. 53.

Judgment Final and Conclusive

54. (1) The Supreme Court shall have, hold and exercise exclusive ultimate appellate civil and criminal jurisdiction within and for Canada; and the judgment of the Court shall, in all cases, be final and conclusive.

(2) Notwithstanding any royal prerogative or anything contained in any Act of the Parliament of the United Kingdom or any Act of the Parliament of Canada or any Act of the legislature of any province of Canada or any other statute or law, no appeal lies or shall be brought from or in respect of the judgment of any court, judge or judicial officer in Canada to any court of appeal, tribunal or authority by which, in the United Kingdom, appeals or petitions to Her Majesty in Council may be ordered to be heard.

(3) The Judicial Committee Act, 1833, chapter 41 of the statutes of the United Kingdom of Great Britain and Ireland, 1833, and the Judicial

Committee Act, 1844, chapter 69 of the statutes of the United Kingdom of Great Britain and Ireland, 1844, and all orders, rules or regulations made under the said Acts are hereby repealed in so far as the same are part of the law of Canada. 1949 (2nd Sess.), c. 37, s. 3.

Special Jurisdiction

References by Governor in Council

55. (1) Important questions of law or fact touching

(a) the interpretation of the British North America Acts;
(b) the constitutionality or interpretation of any Dominion or provincial legislation;
(c) the appellate jurisdiction as to educational matters, by the British North America Act, 1867, or by any other Act or law vested in the Governor in Council;
(d) the powers of the Parliament of Canada, or of the legislatures of the provinces, or of the respective governments thereof, whether or not the particular power in question has been or is proposed to be exercised; or
(e) any other matter, whether or not in the opinion of the Court ejusdem generis with the foregoing enumerations, with reference to which the Governor in Council sees fit to submit any such question;

may be referred by the Governor in Council to the Supreme Court for hearing and consideration; and any question touching any of the matters aforesaid, so referred by the Governor in Council, shall be conclusively deemed to be an important question.

(2) Where a reference is made to the Court under subsection (1) it is the duty of the Court to hear and consider it, and to answer each question so referred; and the Court shall certify to the Governor in Council, for his information, its opinion upon each such question, with the reasons for each such answer; and such opinion shall be pronounced in like manner as in the case of a judgment upon an appeal to the Court; and any judge who differs from the opinion of the majority shall in like manner certify his opinion and his reasons.

(3) Where the question relates to the constitutional validity of any Act that has heretofore been or is hereafter passed by the legislature of any province, or of any provision in any such Act, or in case for any reason, the government of any province has any special interest in any such question, the attorney general of such province shall be notified of the hearing, in order that he may be heard if he thinks fit.

(4) The court has power to direct that any person interested, or, where there is a class of persons interested, any one or more persons as representatives of such class, shall be notified of the hearing upon any reference under this section, and such persons are entitled to be heard thereon.

(5) The Court may, in its discretion, request any counsel to argue the case as to any interest that is affected and as to which counsel does not appear, and the reasonable expenses thereby occasioned may be paid by the Minister of Finance out of any moneys appropriated by Parliament for expenses of litigation.

(6) The opinion of the Court upon any such reference, although advisory

only, shall, for all purposes of appeal to Her Majesty in Council, be treated as a final judgment of the said Court between parties. R.S., c. 35, s. 55.

References by Senate or House of Commons

56. The Court, or any two of the judges thereof, shall examine and report upon any private bill or petition for a private bill presented to the Senate or House of Commons, and referred to the Court under any rules or orders made by the Senate or House of Commons. R.S., c. 35, s. 56.

Habeas Corpus

57. (1) Every judge of the Court, except in matters arising out of any claim for extradition under any treaty has concurrent jurisdiction with the courts or judges of the several provinces, to issue the writ of habeas corpus ad subjiciendum, for the purpose of an inquiry into the cause of commitment in any criminal case under any Act of the Parliament of Canada.

(2) If the judge refuses the writ or remands the prisoner, an appeal lies to the Court. R.S., c. 35, s. 57.

58. In any habeas corpus matter before a judge of the Supreme Court, or on any appeal to the Supreme Court in any habeas corpus matter, the Court or judge has the same power to bail, discharge or commit the prisoner or person, or to direct him to be detained in custody or otherwise to deal with him as any court, judge or justice of the peace having jurisdiction in any such matters in any province of Canada. R.S., c. 35, s. 58.

59. (1) On any appeal to the Court in any habeas corpus matter the Court may by writ or order direct that any prisoner or person on whose behalf such appeal is made shall be brought before the Court.

(2) Unless the Court so direct it is not necessary for such prisoner or person to be present in court but he shall remain in the charge or custody to which he was committed or had been remanded, or in which he was at the time of giving the notice of appeal, unless at liberty on bail, by order of a judge of the court that refused the application or of a judge of the Supreme Court. R.S., c. 35, s. 59.

60. An appeal to the Supreme Court in any habeas corpus matter shall be heard at an early day, whether in or out of the prescribed sessions of the Court. R.S., c. 35, s. 60.

Certiorari

61. A writ of certiorari may, by order of the Court or a judge thereof, issue out of the Supreme Court, to bring up any papers or other proceedings had or taken before any court, judge or justice of the peace, and that are considered necessary with a view to any inquiry, appeal or other proceeding had or to be had before the Court. R.S, c. 35, s. 61.

Cases removed from Provincial Courts

62. (1) Where the legislature of any province of Canada has passed an Act agreeing and providing that the Supreme Court has jurisdiction in any of the following cases, that is to say:

(a) of suits, actions or proceedings in which the parties thereto by their pleading have raised the question of the validity of an Act of the Parliament of Canada, when in the opinion of a judge of the court in which the same are pending such question is material;

(b) of suits, actions or proceedings in which the parties thereto by their pleadings have raised the question of the validity of an Act of the legislature of such province, when in the opinion of a judge of the court in which the same are pending such question is material;

the judge who has decided that such question is material shall at the request of the parties, and may without such request, if the thinks fit, in any suit, action or proceeding within the class or classes of cases in respect of which such Act so agreeing and providing has been passed, order the case to be removed to the Supreme Court for the decision of such question, whatever may be the value of the matter in dispute, and the case shall be removed accordingly.

(2) The Supreme Court shall thereupon hear and determine the question so raised and shall remit the case with a copy of its judgment thereon to the court or judge whence it came to be then and there dealt with as to justice appertains.

(3) There shall be no further appeal to the Supreme Court on any point decided by it in any such case, nor, unless the value of the matter in dispute exceeds five hundred dollars, on any other point in such case.

(4) This section applies only to cases of a civil nature. R.S., c. 35, s. 62.

Procedure in Appeals

63. Proceedings in appeals shall, when not otherwise provided for by this Act, or by the Act providing for the appeal, or by the general rules and orders of the Supreme Court, be as nearly as possible in conformity with the present practice of the Judicial Committee of Her Majesty's Privy Council. R.S., c. 35, s. 63.

64. (1) Except as otherwise provided, every appeal shall be brought within sixty days from the signing or entry or pronouncing of the judgment appealed from, but the months of July and August shall be excluded in the computation of the said sixty days.

(2) The appellant may appeal from the whole or any part of any judgment, or order, and at the time of bringing the appeal he shall, if he intends to limit the appeal, give notice stating that part only of such judgment or order is complained of, and shall in the notice specify such part. R.S., c. 35, s. 64.

65. (1) Notwithstanding anything in this Act the court proposed to be appealed from, or any judge thereof, may, under special circumstances allow an appeal, although the same is not brought within the time hereinbefore prescribed in that behalf.

(2) In such case, the court or judge shall impose such terms as to security or otherwise as seem proper under the circumstances.

(3) This section does not apply to any appeal in the case of an election petition.

(4) Notwithstanding anything in this Act a judge of the Supreme Court may, on an application for leave to appeal in forma pauperis, allow

an appeal by giving the applicant leave to serve notice of appeal although the time prescribed by section 64 has expired. R.S., c. 35, s. 66; 1951, c. 61, s. 1.

66. (1) No writ shall be required or issued for bringing any appeal in any case to or into the Court, but it is sufficient that the party desiring so to appeal has, within the time herein limited in the case, given the security required and obtained the allowance of the appeal.

(2) Whenever error in law is alleged, the proceedings in the Supreme Court shall be in the form of an appeal. R.S., c. 35, s. 67.

67. The appeal shall be upon a case to be stated by the parties, or, in the event of difference, to be settled by the court appealed from, or a judge thereof, and the case shall set forth the judgment objected to and so much of the pleadings, evidence, affidavits and documents as is necessary to raise the question for the decision of the Court; but the Court may, in its discretion, on special grounds, and by special leave, receive further evidence upon any question of fact, such evidence to be taken in the manner authorized by this Act, either by oral examination in Court, by affidavit, or by deposition, as the Court may direct. R.S., c. 35, s. 68; 1928, c. 9, s. 3.

68. The clerk or other proper officer of the court appealed from shall, upon payment to him of the proper fees and the expenses of transmission, transmit the case forthwith after such allowance to the Registrar, and further proceedings shall thereupon be had according to the practice of the Supreme Court. R.S., c. 35, s. 69.

Security and the Staying of Execution

69. (1) No appeal shall be allowed until the appellant has given proper security, to the extent of five hundred dollars, to the satisfaction of the court from whose judgment he is about to appeal, or a judge thereof, or to the satisfaction of the Supreme Court, or a judge thereof, that he will effectually prosecute his appeal and pay such costs and damages as may be awarded against him by the Supreme Court.

(2) This section does not apply to appeals by or on behalf of the Crown or in election cases, in cases in the Exchequer Court, in criminal cases, or in proceedings for or upon a writ of habeas corpus. R.S., c. 35, s. 70.

70. (1) Upon the perfecting of the security referred to in section 69, execution shall be stayed in the original cause, except that

(a) where the judgment appealed from directs an assignment or delivery of documents or personal property, the execution of the judgment shall not be stayed, until the things directed to be assigned or delivered have been brought into court, or placed in the custody of such officer or receiver as the court appoints, nor until security has been given to the satisfaction of the court appealed from, or of a judge thereof, in such sum as the court or judge directs, that the appellant will obey the order or judgment of the Supreme Court;

(b) where the judgment appealed from directs the execution of a conveyance or any other instrument, the execution of the judgment shall not be stayed, until the instrument has been executed and deposited with the proper officer of the court appealed from, to abide the order or judgment of the Supreme Court;

(c) where the judgment appealed from directs the sale or delivery of possession of real property, chattels real or immovables, the execution of the judgment shall not be stayed, until security has been entered into to the satisfaction of the court appealed from, or a judge thereof, and in such amount as the said last mentioned court or judge directs, that during the possession of the property by the appellant he will not commit, or suffer to be committed, any waste on the property, and that if the judgment is affirmed, he will pay the value of the use and occupation of the property from the time the appeal is brought until delivery of possession thereof, and also, if the judgment is for the sale of property and the payment of a deficiency arising upon the sale, that the appellant will pay the deficiency; and

(d) where the judgment appealed from directs the payment of money, either as a debt or for damages or costs, the execution of the judgment shall not be stayed, until the appellant has given security to the satisfaction of the court appealed from, or of a judge thereof, that if the judgment or any part thereof is affirmed, the appellant will pay the amount thereby directed to be paid, or the part thereof as to which the judgment is affirmed, if it is affirmed only as to part, and all damages awarded against the appellant on such appeal.

(2) Where the court appealed from is a court of appeal and the assignment or conveyance, document, instrument, property or thing as aforesaid has been deposited in the custody of the proper officer of the court in which the cause originated, the consent of the party desiring to appeal to the Supreme Court, that it shall so remain to abide the judgment of the Supreme Court, is binding on him and shall be deemed a compliance with the requirements in that behalf of this section.

(3) In any case in which execution may be stayed on the giving of security under this section, the security may be given by the same instrument whereby the security prescribed in section 69 is given. R.S., c. 35, s. 71.

71. (1) When the security has been perfected and allowed, any judge of the court appealed from may issue his fiat to the sheriff, to whom any execution on the judgment has issued, to stay the execution, and the execution shall be thereby stayed, whether a levy has been made under it or not.

(2) Where the court appealed from is a court of appeal, and execution has been already stayed in the case, the stay of execution continues without any new fiat, until the decision of the appeal by the Supreme Court.

(3) Unless a judge of the court appealed from otherwise orders no poundage shall be allowed against the appellant, upon any judgment appealed from, on which any execution is issued before the judge's fiat to stay the execution is obtained. R.S., c. 35, s. 72.

72. Where at the time of the receipt by the sheriff of the fiat, or of a copy thereof, the money has been made or received by him, but not paid over to the party who issued the execution, the party appealing may demand back from the sheriff the amount made or received under the execution, or so much thereof as is in his hands not paid over, and in default of payment by the sheriff, upon such demand, the party appealing may recover the same from him in an action for money had and received, or by means of an order or rule of the court appealed from. R.S., c. 35, s. 73.

73. Where the judgment appealed from directs the delivery of perishable

property, the court appealed from, or a judge thereof, may order the property to be sold and the proceeds to be paid into court, to abide the judgment of the Supreme Court. R.S., c. 35, s. 74.

Discontinuance of Proceedings

74. (1) An appellant may discontinue his proceedings by giving to the respondent a notice entitled in the Supreme Court and in the cause, and signed by the appellant, his attorney or solicitor, stating that he discontinues such proceedings.

(2) Upon such notice being given, the respondent is at once entitled to the costs of and occasioned by the proceedings in appeal, and may, in the court of original jurisdiction, either sign judgment for such costs or obtain an order from such court, or a judge thereof, for their payment, and may take all further proceedings in that court as if no appeal had been brought. R.S., c. 35, s. 75.

Consent to Reversal of Judgment

75. A respondent may consent to the reversal of the judgment appealed against, by giving to the appellant a notice entitled in the Supreme Court and in the cause, and signed by the respondent, his attorney or solicitor, stating that he consents to the reversal of the judgment, and thereupon the Court, or any judge thereof, shall pronounce judgment of reversal as of course. R.S., c. 35, s. 76.

Dismissal For Delay

76. (1) Where an appellant unduly delays to prosecute his appeal, or fails to bring the appeal on to be heard at the first session of the Supreme Court, after the appeal is ripe for hearing, the respondent may, on notice to the appellant, move the Supreme Court, or a judge thereof in chambers, for the dismissal of the appeal.

(2) Such order shall thereupon be made as the Court or judge deems just. R.S., c. 35, s. 77.

Death of Parties

77. In the event of the death of one of several appellants, pending the appeal to the Supreme Court, a suggestion may be filed on his death, and the proceedings may thereupon be continued at the suit of and against the surviving appellant, as if he were the sole appellant. R.S., c. 35, s. 78.

78. (1) In the event of the death of a sole appellant, or of all the appellants, the legal representative of the sole appellant, or of the last surviving appellant, may, by leave of the Court or a judge, file a suggestion of the death, and that he is such legal representative, and the proceedings may thereupon be continued at the suit of and against such legal representative as the appellant.

(2) If no such suggestion is made, the respondent may proceed to an affirmance of the judgment, according to the practise of the Court, or take such other proceedings as he is entitled to. R.S., c. 35, s. 79.

79. In the event of the death of one of several respondents, a suggestion may be filed of such death, and the proceedings may be continued against the surviving respondents. R.S., c. 35, s. 80.

80. A suggestion of the death of one of several appellants or of a sole appellant or of all the appellants or of one of several respondents, if untrue, may on motion be set aside by the Court or a judge. R.S., c. 35, s. 81.

81. In the event of the death of a sole respondent, or of all the respondents, the appellant may proceed, upon giving one month's notice of the appeal and of his intention to continue the same, to the representative of the deceased party, or if no such notice can be given, then upon such notice to the parties interested as a judge of the Supreme Court directs. R.S., c. 35, s. 82.

82. In the event of the death of a sole plaintiff or defendant before the judgment of the court in which an action or an appeal is pending is delivered, and if such judgment is against the deceased party, his legal representatives, on entering a suggestion of the death, are entitled to proceed with and prosecute an appeal in the Supreme Court, in the same manner as if they were the original parties to the suit. R.S., c. 35, s. 83.

83. In the event of the death of a sole plaintiff or sole defendant before the judgment of the court in which an action or an appeal is pending is delivered, and if such judgment is in favour of such deceased party, the other party, upon entering a suggestion of the death is entitled to prosecute an appeal to the Supreme Court against the legal representatives of such deceased party, but the time limited for appealing shall not run until such legal representatives are appointed. R.S., c. 35, s. 84.

Entry of Causes

84. The appeals set down for hearing shall be entered by the Registrar on a list divided into five parts, and numbered as follows:—Number one, Election Cases; Number two, Western Provinces Cases; Number three, Maritime Provinces Cases; Number four, Quebec Province Cases, Number five, Ontario Province Cases; and the Registrar shall enter all Election Appeals on part numbered one, all appeals from the Yukon Territory and the Provinces of British Columbia, Alberta, Saskatchewan and Manitoba on part numbered two, all appeals from the Provinces of Newfoundland, Nova Scotia, New Brunswick and Prince Edward Island on part numbered three, all appeals from the Province of Quebec on part numbered four, and all appeals from the Province of Ontario on part numbered five; and such appeals shall be heard and disposed of in the order in which they are so entered, unless otherwise ordered by the Chief Justice or one of the puisne judges at his direction. 1949 (2nd Sess.), c. 37, s. 5.

Evidence

85. All persons authorized to administer affidavits to be used in any of the superior courts of any province, may administer oaths, affidavits and affirmations in such province to be used in the Supreme Court. R.S. c. 35, s. 86.

86. (1) The Governor in Council may, by commission, from time to time, empower such persons as he thinks necessary, within or out of Canada, to administer oaths, and take and receive affidavits, declarations and affirmations in or concerning any proceeding had or to be had in the Supreme Court.

(2) Every such oath, affidavit, declaration or affirmation so taken or made is as valid and of the like effect, to all intents, as if it had been administered, taken, sworn, made or affirmed before the Court or before any judge or competent officer thereof in Canada.

(3) Every commissioner so empowered shall be styled "a commissioner for administering oaths in the Supreme Court of Canada." R.S., c. 35, s. 87.

87. Any oath, affidavit, affirmation or declaration concerning any proceeding had or to be had in the Supreme Court administered, sworn, affirmed or made out of Canada is as valid and of like effect to all intents as if it had been administered, sworn, affirmed or made before a commissioner appointed under this Act, if it is so administered, sworn, affirmed or made out of Canada before

(a) a commissioner authorized to take affidavits to be used in Her Majesty's High Court of Justice in England,

(b) a notary public and certified under his hand and official seal,

(c) a mayor or chief magistrate of any city, borough, or town corporate in Great Britain or Ireland, or in any colony or possession of Her Majesty out of Canada, or in any foreign country, and certified under the common seal of such city, borough, or town corporate,

(d) a judge of any court of superior jurisdiction in any colony or possession of Her Majesty, or dependency of the Crown out of Canada, or

(e) a consul, vice-consul, acting consul, pro-consul or consular agent of Her Majesty exercising his functions in any foreign place and certified under his official seal. R.S., c. 35, s. 88.

88. Every document purporting to have affixed, imprinted or subscribed thereon or thereto the signature of a

(a) commissioner appointed under this Act,

(b) person authorized to take affidavits to be used in any of the superior courts of any province,

(c) commissioner authorized to receive affidavits to be used in Her Majesty's High Court of Justice in England,

(d) notary public under his official seal,

(e) mayor or chief magistrate of any city, borough or town corporate in Great Britain or Ireland, or in any colony or possession of Her Majesty out of Canada, or in a foreign country, under the common seal of the corporation,

(f) judge of any court of superior jurisdiction in any colony or possession of Her Majesty, or dependency of the Crown out of Canada under the seal of the court of which he is such judge, or

(g) consul, vice-consul, acting consul, pro-consul or consular agent of Her Majesty exercising his functions in any foreign place under his official seal,

in testimony of any oath, affidavit, affirmation or declaration having been administered, sworn, affirmed or made by or before him, shall be admitted in evidence without proof of the signature or seal or official character of such person. R.S., c. 35, s. 89.

89. No informality in the heading or other formal requisites of any

affidavit, declaration or affirmation, made or taken before any person under any provision of this or any other Act, shall be an objection to its reception in evidence in the Supreme Court, if the court or judge before whom it is tendered thinks proper to receive it; and if the same is actually sworn to, declared or affirmed by the person making it before any person duly authorized thereto, and is received in evidence, no such informality shall be set up to defeat an indictment for perjury. R.S., c. 35, s. 90.

90. (1) If any party to any proceeding had or to be had in the Supreme Court is desirous of having therein the evidence of any person, whether a party or not, or whether resident within or out of Canada, the Court or any judge thereof, if in its or his opinion it is, owing to the absence, age or infirmity, or the distance of the residence of such person from the place of trial, or the expense of taking his evidence otherwise, or for any other reason, convenient so to do, may, upon the application of such party, order the examination of any such person upon oath, by interrogatories or otherwise, before the Registrar of the Court, or any commissioner for taking affidavits in the Court, or any other person or persons to be named in such order, or may order the issue of a commission under the seal of the Court for the examination.

(2) The Court or a judge may, by the same or any subsequent order, give all such directions touching the time, place and manner of the examination, the attendance of the witnesses and the production of papers thereat, and all matters connected therewith, as appears reasonable. R.S., c. 35, s. 91.

91. Every person authorized to take the examination of any witness pursuant to this Act, shall take such examination upon the oath of the witness, or upon affirmation, in any case in which affirmation instead of oath is allowed by law. R.S., c. 35, s. 92.

92. The Supreme Court, or a judge thereof, may, if it is considered for the ends of justice expedient so to do, order the further examination, before either the Court or a judge thereof, or other person, of any witness, and if the party on whose behalf the evidence is tendered neglects or refuses to obtain such further examination, the Court or judge, in its or his discretion, may decline to act on the evidence. R.S., c. 35, s. 93.

93. Such notice of the time and place of examination as is prescribed in the order, shall be given to the adverse party. R.S., c. 35, s. 94.

94. Where an order is made for the examination of a witness, and a copy of the order, together with a notice of the time and place of attendance, signed by the person or one of the persons to take the examination, has been duly served on the witness within Canada, and he has been tendered his legal fees for attendance and travel, his refusal or neglect to attend for examination or to answer any proper question put to him on examination, or to produce any paper that he has been notified to produce shall be deemed a contempt of court and may be punished by the same process as other contempts of court; but he shall not be compelled to produce any paper that he would not be compelled to produce, or to answer any question that he would not be bound to answer in court. R.S. c. 35, s. 95.

95. Where the parties in any case pending in the Court consent, in writing, that a witness may be examined within or out of Canada by interrogatories or otherwise, the consent and the proceedings had thereunder are as valid in all respects as if an order had been made and the proceedings had thereunder. R.S., c. 35, s. 96.

96. All examinations taken in Canada pursuant to this Act shall be returned to the Court; and the depositions, certified under the hands of the person or one of the persons taking the same, may, without further proof, be used in evidence, saving all just exceptions. R.S., c. 35, s. 97.

97. All examinations taken out of Canada pursuant to this Act shall be proved by affidavit of the due taking of the examinations, sworn before some commissioner or other person authorized under this or any other Act to take such affidavit, at the place where such examination has been taken, and shall be returned to the Court; and the depositions so returned, together with such affidavit, and the order or commission, closed under the hand and seal of the person or one of the persons authorized to take the examination, may, without further proof, be used in evidence, saving all just exceptions. R.S., c. 35, s. 98.

98. Where any examination has been returned, any party may give notice of such return, and no objection to the examination being read has effect, unless taken within the time and in the manner prescribed by general order. R.S., c. 35, s. 99.

General

99. (1) The process of the Court runs throughout Canada, and shall be tested in the name of the Chief Justice, or in case of a vacancy in the office of chief justice, in the name of the senior puisne judge of the Court, and shall be directed to the sheriff of any county or other judicial division into which any province is divided.

(2) The sheriffs of the said respective counties or divisions are ex officio officers of the Supreme Court, and shall perform the duties and functions of sheriffs in connection with the Court.

(3) In any case where the sheriff is disqualified, the process shall be directed to any of the coroners of the county or district. R.S., c. 35, s. 100.

100. Every commissioner for administering oaths in the Supreme Court, who resides within Canada, may take and receive acknowledgments or recognizances of bail, and all other recognizances in the Supreme Court. R.S., c. 35, s. 101.

101. An order in the Supreme Court for payment of money, whether for costs or otherwise, may be enforced by such writs of execution as the Court prescribes. R.S., c. 35, s. 102.

102. No attachment as for contempt shall issue in the Supreme Court for the non-payment of money only. R.S., c. 35, s. 103.

103. (1) The judges of the Supreme Court, or any five of them, may, from time to time, make general rules and orders

(a) for regulating the procedure of and in the Supreme Court and the bringing of cases before it from courts appealed from or otherwise, and

for the effectual execution and working of this Act, and the attainment of the intention and objects thereof;

(b) for allowing appeals in forma pauperis by leave, nothwithstanding section 69, and for allowing a respondent leave to defend in forma pauperis;

(c) for empowering the Registrar to do any such thing and transact any such business as is specified in the rules or orders, and to exercise any authority and jurisdiction in respect of the same as is now or may be hereafter done, transacted or exercised by a judge of the Court sitting in chambers in virtue of any statute or custom or by the practice of the Court;

(d) for fixing the fees and costs to be taxed and allowed to, and received and taken by, and the rights and duties of the officers of the Court;

(e) for awarding and regulating costs in such Court in favour of and against the Crown, as well as the subject; and

(f) with respect to matters coming within the jurisdiction of the Court, in regard to references to the Court by the Governor in Council, and in particular with respect to investigations of questions of fact involved in any such reference.

(2) Such rules and orders may extend to any matter of procedure or otherwise not provided for by this Act, but for which it is found necessary to provide, in order to ensure the proper working of this Act and the better attainment of the objects thereof.

(3) All such rules as are not inconsistent with the express provisions of this Act have force and effect as if herein enacted.

(4) Copies of all such rules and orders shall be laid before both Houses of Parliament at the session next after the making thereof. R.S., c. 35, s. 104; 1949 (2nd Sess.), c. 37, s. 6.; 1951, c. 61, s. 2.

104. Any moneys or costs awarded to the Crown shall be paid to the Minister of Finance, and he shall pay out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, any moneys or costs awarded to any person against the Crown. R.S., c. 35, s. 105.

105. In any proceeding to which Her Majesty is a party, either as represented by the Attorney General of Canada or otherwise, costs adjudged to Her Majesty shall not be disallowed or reduced upon taxation merely because the solicitor or the counsel who earned such costs, or in respect of whose services the costs are charged, was a salaried officer of the Crown performing such services in the discharge of his duty and remunerated therefor by his salary, or for that or any other reason not entitled to recover any costs from the Crown in respect of the services so rendered, and the costs recovered by or on behalf of Her Majesty in any such case shall be paid into the Consolidated Revenue Fund. R.S., c. 35, s. 106.

106. (1) All fees payable to the Registrar under this Act shall be paid by means of stamps, issued for that purpose by the Minister of National Revenue, who shall regulate the sale thereof.

(2) The proceeds of the sale of such stamps shall be paid into the Consolidated Revenue Fund of Canada. R.S., c. 35, s. 107.

107. Notwithstanding anything in section 3 of An Act to amend the Supreme Court Act, chapter 37 of the statutes of 1949 (second session), an appeal from or in respect of a judgment pronounced in

(a) a judicial proceeding that was commenced prior to the 23rd day of December, 1949, or

(b) a reference made by the Governor in Council or by the Lieutenant-Governor in Council of a province prior to the 23rd day of December, 1949.

lies or may be brought as if that section had not been enacted. 1949 (2nd Sess.), c. 37, s. 7.

THE STATUTE OF WESTMINSTER, 1931

22 GEORGE V, CHAPTER 4

An Act to give effect to certain resolutions passed by Imperial Conferences held in the years 1926 and 1930 [1]

[11th December, 1931]

WHEREAS the delegates of His Majesty's Governments in the United Kingdom, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland, at Imperial Conferences holden at Westminster in the years of our Lord nineteen hundred and twenty-six and nineteen hundred and thirty did concur in making the declarations and resolutions set forth in the Reports of the said Conferences:

And whereas it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position [2] of all the members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne [3] or the Royal Style and Titles [4] shall

[1] The Statute of Westminster was passed to confirm and ratify certain declarations made by the Delegates to the Imperial Conferences of 1926 and 1930. The Dominions represented at the Conference were Canada, Australia, New Zealand, South Africa, the Irish Free State, Newfoundland and India, although the latter is not touched by the Statute.

[2] As to this constitutional position one may quote a passage in the report of the Inter-Imperial Relations Committee of the Imperial Conference of 1926 usually called "The Balfour Declaration":—

"They are autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or internal affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth." Imperial Conference, 1926, Summary of Proceedings, page 12.

[3] Although the desiderata set out in the Preamble respecting the Succession to the Throne is not followed by any positive enactment in the enacting part of the Statute pursuant to the recital in the Preamble and to the provision of section four of the Statute after King Edward VIII had executed the instrument of abdication it was found necessary to declare the assent of the Parliament of Canada, to the alteration in the law touching the Succession to the Throne and in March, 1937, "An Act respecting alteration in the law touching the Succession to the Throne" (ch. 16) was passed for the purpose of consenting to the Act of the United Kingdom intituled "His Majesty's declaration of Abdication Act, 1936."

[4] The Royal style and titles are now "George VI, by the Grace of God of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India." (See the Royal and Parliamentary Titles Act, 1927, chapter 4 of the Statutes of the U.K., 1927.) This was in accordance with the recommendation of the Imperial Conference, 1926, (Summary of Proceedings, page 13).

hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom:

And whereas it is in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion:[1]

And whereas it is necessary for the ratifying, confirming and establishing of certain of the said declarations and resolutions of the said Conferences that a law be made and enacted in due form by authority of the Parliament of the United Kingdom:

And whereas the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland have severally requested and consented to the submission of a measure to the Parliament of the United Kingdom for making such provision with regard to the matters aforesaid as is hereafter in this Act contained:[2]

Now, therefore, 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. In this Act the expression "Dominion" means any of the following Dominions, that is to say, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland.

2. (1) The Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of this Act by the Parliament of a Dominion.

(2) No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the pro-

[1] The second and third paragraphs of the Preamble are declaratory of constitutional conventions. The second is not even translated into an enactment. The third is translated into law by section four of the Statute; it accepts and confirms the following proposition in the Report of the Conference of 1926:—

"On the question raised with regard to the legislative competence of members of the British Commonwealth of Nations other than Great Britain, and in particular to the desirability of those members being enabled to legislate with extra-territorial effect, we think that it should similarly be placed on record that the constitutional practice is that legislation by the Parliament at Westminster applying to a Dominion would only be passed with the consent of the Dominion concerned." (Summary of Proceedings, page 15.)

[2] The House of Commons and the Senate of Canada on the 30th of June and 8th of July, respectively, adopted an address to His Majesty in order that there may be passed a statute of the Parliament of the United Kingdom to enact paragraph 2 and 3 of the Preamble and sections 2, 3, 4, 5, 6, 7 and 11. (See the speech of the Rt. Hon. R. B. Bennett, Prime Minister of Canada, starting at page 3191 of the House of Commons, Debates, 1931, in which he said that "the Statute of Westminster is the culmination of the long, long effort that has been made since we were a colony, to become the self-governing dominion that we now are." In the said speech he made a short historical sketch of the various steps taken, more particularly reviewing what transpired at the conferences of 1926, 1929 and 1936. See also the speeches of Messrs. Lapointe, Ralston and Bourassa which follow.

visions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule, or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the Dominion.[1]

3. It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.[2]

4. No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.[3]

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[1] Pursuant to the declarations which had been made at the Conference of 1926, the conference of experts which met in 1929 recommended the repeal of this Act of 1865 which had been passed in the first instance to extend the powers of colonial legislatures beyond the narrow limits assigned to them by judicial decisions. The Act of 1865 had declared that laws passed by a colony should not be invalid unless they were repugnant to some Act of Parliament which applied to the colony, and only to the extent of such repugnancy. (See Nadan vs. The King, 1926 A.C. p. 482).

To repeal the Act of 1865 was not sufficient, for there was a danger that the repeal might be held to restore the old common law doctrine; it was therefore considered necessary to indicate that the Acts adopted by a Dominion since 1865 could not become inoperative on account of being repugnant to the law of England.

The provinces (especially Ontario and Quebec) requested and obtained at the Interprovincial Conference which sat during April, 1931, that the benefits of section 2 be extended to them and this is the reason for the enactment of subsection (2) of section 7 of the Statute.

[2] The right of extra-territoriality, which is one of the attributes of sovereignty, is the operation of laws upon the persons, the rights and the statutes existing outside of the limits of a state but continuing however to be subject to the laws of that state. It means for a nation the right to legislate for its own nationals outside of the limits of territorial waters, in such a way as to subject them to its own laws when they return to their country's jurisdiction.

Canada's limitations with respect to extra-territoriality previously extended notably to fisheries, taxes, navigation, aviation, marriage, criminal law, copyright, deportation and finally to the bringing into force of Acts on smuggling and illegal immigration.

Section 3 stipulates in an absolutely clear manner and without any restrictions that the Parliament of a Dominion has full power to make laws having extra-territorial operation.

This section does not apply to the legislature of the provinces, thus avoiding the conflict of laws which might arise if each province had the power to enact laws having extra-territorial operation.

[3] The situation with respect to Canada's right to legislate may be summarized as follows:—

In the beginning the United Kingdom would legislate for all its colonies without any form of consultation. The second period occurred when the colonies obtained the right to legislate subject to many restrictions, certain matters being reserved and remaining within the jurisdiction of the Parliament of the United Kingdom.

During a third period the Dominions were allowed to adopt for their own territory the British Statute, as in 1911 the Copyright Act and in 1914 the British Nationality Act.

A fourth period was that of consultation when the acts of interest to the whole Empire were to be adopted only after consultation of the different parties interested. For practical purposes, so far as uniformity of laws is required this period is still in existence, but the consultation has now become voluntary; for instance Canada's Merchant Shipping Act has been enacted in conformity with the Convention respecting the British

5. Without prejudice to the generality of the foregoing provisions of this Act, sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping Act, 1894, shall be construed as though reference therein to the Legislature of a British possession did not include reference to the Parliament of a Dominion.[1]

6. Without prejudice to the generality of the foregoing provisions of this Act, section four of the Colonial Courts of Admiralty Act, 1890 (which requires certain laws to be reserved for the signification of His Majesty's pleasure or to contain a suspending clause), and so much of section seven

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Commonwealth Merchant Shipping Agreement which has been signed in London on the 10th of December 1931.

The United Kingdom has itself limited its own power of legislating with respect to the dominions by the adoption of section 4 of the Statute. As may be noticed from the perusal of this section, the British Acts referred to, are those which have been passed after the coming into force of the Statute of Westminster.

The Acts passed previously and which previously applied to the Dominions remain in force until the Canadian Parliament decides to repeal them. This section follows the recommendation of the Conference of 1930.

[1] Up to the time of the passing of the Statute of Westminster, Canada's legislative autonomy in matters relating to merchant shipping was circumscribed by the provisions of the Colonial Laws Validity Act, 1865, and also by sections 735 and 736 of the Merchant Shipping Act of 1894 (British) and from the fact that the Dominion could not give to its legislation extra-territorial effect.

The Merchant Shipping Act of 1854 applied to Great Britain and to its colonies, as there were then no Dominions. When the first Dominion was created in 1867, power was given to Canada's federal Parliament to legislate as to navigation and merchant shipping. Its legislation, however, could be valid only in so far as it was not repugnant to that of the United Kingdom. A new British statute was passed in 1894 which was a consolidation of the Act of 1854 with the amendments made in the course of the past forty years.

Therefore the British Act of 1894 with the amendments made thereto up to 1911, also Canada's own merchant shipping legislation have governed up to the coming into force of Canada's own statute passed in 1934. From 1911, it had been stipulated that the amendments made to the legislation of the United Kingdom would not apply to the Dominions.

The Colonial Laws Validity Act was an obstacle to Canada's autonomy in matters of shipping legislation and another difficulty came from the fact that it could not pass laws having extra-territorial operation. These difficulties have ceased to exist from the operation of sections 2 and 3 of the Statute of Westminster already mentioned, which have cured these defects.

Section 2 states that the Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of the Act by the Parliament of a Dominion, and section 3, that the Parliament of a Dominion has full power to make laws having extra-territorial operation. The non-application of the Colonial Laws Validity Act removed the main obstacle with respect to Canada's right to legislate on merchant shipping.

However, it was not sufficient to state that the Colonial Laws Validity Act would not apply in the future nor to declare that the Dominion Parliament could make laws having extra-territorial operation, but it was also necessary that sections 735 and 736 of the Imperial Merchant Shipping Act should cease to apply to the Dominions, and this was done by section 5 of the Statute of Westminster.

For that reason, the Dominion has exercised that right by passing a new Merchant Shipping Act in 1934.

By passing that Act, the Dominion has exercised the absolute right it has of legislating with respect to ships, wherever they may come from, when they happen to be in Canadian waters; it has exercised its right to legislate as to ships registered in Canada, whether they be in Canadian waters or elsewhere, subject in that case to local laws when the ships happen to be in non-Canadian waters or ports.

of that Act as requires the approval of His Majesty in Council to any rules of Court for regulating the practice and procedure of a Colonial Court of Admiralty, shall cease to have effect in any Dominion as from the commencement of this Act.[1]

7. (1) Nothing in this Act shall be deemed to apply to the repeal, amendment or alteration of the British North America Acts, 1867 to 1930, or any order, rule or regulation made thereunder.[2]

(2) The provisions of section two of this Act shall extend to laws made by any of the Provinces of Canada and to the powers of the legislatures of such Provinces.[3]

(3) The powers conferred by this Act upon the Parliament of Canada or upon the legislatures of the Provinces shall be restricted to the enactment of laws in relation to matters within the competence of the Parliament of Canada or of any of the legislatures of the Provinces respectively.[4]

8. Nothing in this Act shall be deemed to confer any power to repeal or alter the Constitution Act of the Commonwealth of Australia or the Constitution Act of the Dominion of New Zealand otherwise than in accordance with the law existing before the commencement of this Act.

9. (1) Nothing in this Act shall be deemed to authorize the Parliament of the Commonwealth of Australia to make laws on any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia.

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[1] It is a moot question whether this section was necessary or not. The Colonial Courts of Admiralty Act of 1890 did govern, up to the passing of the Statute of Westminster, the constitution and, to a certain extent, the functioning of Canada's courts of admiralty and had the effect of limiting their jurisdiction. Section 4 prevented the Dominion legislatures from extending their jurisdiction or affecting their procedure without the approval of the Secretary of State.

The jurisdiction of Canada's court of admiralty was limited to that of High Court of Admiralty in England; on the other hand since 1890 important additions were made to the admiralty jurisdiction of the High Court which were not added to the jurisdiction of the Canadian Exchequer Court as a court of admiralty (chapter 29 of the Canadian statutes of 1891 had made the Exchequer Court a court of admiralty under the Colonial Courts of Admiralty Act).

The restrictions imposed upon Canada have now disappeared by virtue of section 6 of the statute. It will not be necessary any more that Canada's enactments before coming into force be approved by the Sovereign in Council and as we have seen in the note to section 2 the Dominion Parliament was given power to repeal Acts of the United Kingdom "in so far as the same is part of the law of the Dominion," which of course includes the power to repeal, as far as Canada is concerned, the Colonial Courts of Admiralty Act, 1890.

[2] The British North America Acts, 1867 to 1930 referred to are the following:—

The British North America Act, 1867 (being the main Act).

The British North America Act, 1871 (Establishment of Provinces).

The British North America Act, 1886 (Representation of Territories).

The British North America Act, 1915 (Alteration of constitution of Senate).

The British North America Act, 1930 (Natural Resources).

[3] See Note appended to section 2 of the Statute.

[4] The areas of legislative competence of Canada and the provinces as delimited by sections 91 and 92 respectively are not altered so that no power is given here to Canada to invade provincial rights or to the provinces to affect the powers of the federal Parliament.

As to the distribution of legislative powers see the said sections 91 and 92 of the British North America Act, 1867, with notes appended thereto.

(2) "Nothing in this article shall be deemed to require the concurrence of the Parliament or Government of the Commonwealth of Australia in any law made by the Parliament of the United Kingdom with respect to any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia, in any case where it would have been in accordance with the Constitutional practice existing before the commencement of this Act that the Parliament of the United Kingdom should make that law without such concurrence."

(3) In the application of this Act to the Commonwealth of Australia the request and consent referred to in section four shall mean the request and consent of the Parliament and Government of the Commonwealth.

10. (1) None of the following sections of this Act, that is to say, sections two, three, four, five and six, shall extend to a Dominion to which this section applies as part of the law of that Dominion unless that section is adopted by the Parliament of the Dominion, and any Act of that Parliament adopting any section of this Act may provide that the adoption shall have effect either from the commencement of this act or from such later date as is specified in the adopting Act.

(2) The Parliament of any such Dominion as aforesaid may at any time revoke the adoption of any section referred to in subsection (1) of this section.

(3) The Dominions to which this section applies are the Commonwealth of Australia, the Dominion of New Zealand and Newfoundland.

11. Notwithstanding anything in the Interpretation Act, 1889, the expression "Colony "shall not, in any Act of the Parliament of the United Kingdom passed after the commencement of this Act, include a Dominion or any Province or State forming part of a Dominion.

12. This Act may be cited as the Statute of Westminster, 1931.[1]

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[1] This is not the first and only "Statute of Westminster." Under Edward the First we find 3 Edward 1. A.D. 1275 "Les premiers Estatuts de Westminster" (this title from Lib. Scac. Westm. X fo. xxj [xxv], translated in English as "The STATUTES OF WESTMINSTER; The First." This code of 1275 dealt with Freedom of election, Reasonableness of Amerciaments, Distress, Champerty and Extortion by tne King's officers, Deceits by pleaders, Excessive tolls in market towns, etc.

The Statute of Westminster the Second is the name given to the Code of 1285 (13 Edward 1. A.D. 1285) "Statuta Reg' Edwardi edita apud Westmon in Parleamento suo Pasch' anno Regni Sui T'ciodecimo:—xiij."

The Statute of Westminster the Third (18 Edward 1. A.D. 1289–90) is referred to as the Statute "Quia Emptores Terrarum" and has to do with the Selling and Buying of Land. In the printed copies and translations it is intituled "Statutum Westm. iij etc."

There is a fourth Statute of Westminster which contains the legislative sentence against the Despensers passed at Westminster in the summer of 1321. See Stubbs "Constitutional History of England," Volume II, pages 368–378 (4th edition).

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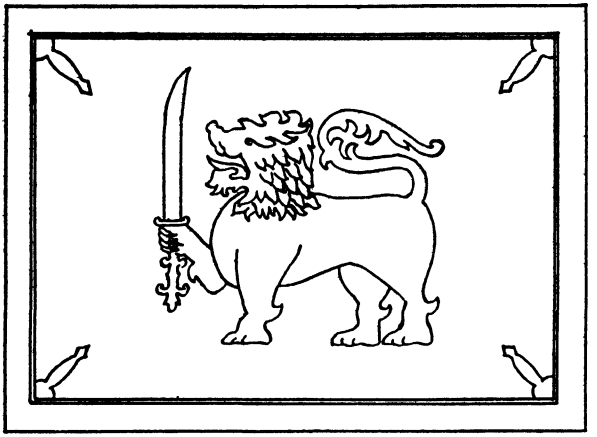
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CEYLON

SUMMARY

International Status

Ceylon is a member of the United Nations.[1] It accepted the jurisdiction of the International Court of Justice on April 23, 1952 in respect of disputes which might arise in relation to the interpretation or execution of the treaty of peace with Japan.[2] It is a member of numerous other international organizations.

Ceylon's independence, within the British Commonwealth of Nations, was recognized by an Order in Council of the United Kingdom dated December 19, 1947, effective February 4, 1948.[3]

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[1] Application originally made in 1948 was accepted December 14, 1955.

[2] See Yearbook of the Court, 1951–52, p. 40.

[3] The Ceylon Independence (Commencement) Order in Council, 1947. See also The Ceylon Independence Act, 1947 (11 Geo. 6, Ch. 7), of December 10, 1947, and The Ceylon Independence Order in Council, 1947, of December 19, 1947.

Form of Government

Ceylon, like many of the other Dominions within the British Commonwealth of Nations, is governed by its own Parliament and by a Cabinet of Ministers responsible to that Parliament. It also has a Governor General appointed by the British King.

Its basic constitutional documents consist of The Ceylon (Constitution) Order in Council, 1946, of May 15, 1946; The Ceylon Independence Act, 1947 (11 Geo. 6., Ch. 7), of December 10, 1947; certain amendments to that act including the Order in Council, 1947, of November 26, 1947; The Ceylon (Office of Governor General) Letters Patent, 1947, of December 19, 1947; and Royal Instructions to the Governor General dated December 19, 1947.[1]

Source of Sovereign Power

The source of sovereign power is indicated in the constitutional documents as being the British King.

Rights of the People

The Constitution provides that no law enacted by Parliament shall prohibit or restrict the exercise of any religion; make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable; confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religions; or alter the constitution of any religious body except with the consent of the governing authority of that body; and that any such laws shall be "void." [2]

Apart from these provisions, other safeguards of the rights of the people are to be found in British constitutional documents, precedents and traditions.

Legislative Department

Provision is made for a Parliament of the Island, consisting of His Britannic Majesty and two Chambers known respectively as the Senate and the House of Representatives.[3] The Senate consists of thirty Senators of whom fifteen are elected by the House of Representatives and fifteen are appointed by the Governor General.[4] The Senators are elected or appointed for terms of six years, one third of their number retiring every second year.[4] Their terms are not affected by dissolution of Parliament.[4] The first House of Representatives consisted of one hundred and one members, ninety-five elected by the qualified voters in the nine

[1] See "The Constitution of Ceylon," published as Sessional Paper III, 1948 by the Ceylon Government Press, Colombo.
[2] The Ceylon (Constitution) Order in Council, 1946, as amended, Sec. 29.
[3] Id., Sec. 7. [4] Id., Sec. 8.

Provinces and six appointed by the Governor General of the Island.[1] The members of subsequent Houses of Representatives are to be elected in electoral districts based on the population and area of the Provinces (one district for every 75,000 inhabitants and an additional district for every 1,000 square miles); provided, however, that any Province in which there is "a substantial concentration of persons united by a community of interest, whether social, religious or otherwise, but differing in one or more of these respects from the inhabitants" of the area of their residence, may be divided into electoral districts in such a way as to render possible the representation of that interest.[2] Unless Parliament is sooner dissolved by the Governor General, every House of Representatives continues for five years from the date appointed for its first meeting and no longer.[3]

Bills passed by both Chambers become law upon signification of the Royal Assent through the Governor General.[4] "Money Bills" passed by the House of Representatives become law upon signification of the Royal Assent without the approval of the Senate if they have been sent to the Senate by the House at least one month before the end of a session.[5] Any Bill other than a "Money Bill" becomes law upon signification of the Royal Assent without the approval of the Senate, if it "is passed by the House of Representatives in two successive sessions, whether of the same Parliament or not, and, (a) having been sent to the Senate in the first of those sessions, at least one month before the end of that session, is not passed by the Senate in that session, and, (b) having been sent to the Senate in the second of those sessions, is not passed by the Senate within one month after it has been so sent, or within six months after the commencement of that session, whichever is the later." [6]

Executive Department

The executive power of the Island is vested in His Britannic Majesty and is exercised on His Majesty's behalf by the Governor General.[7] A Cabinet of Ministers appointed by the Governor General and collectively responsible to Parliament is charged with the general direction and control of the Government.[8] The head of the Cabinet is called the Prime Minister.[8] All the Ministers must be Members of Parliament, and at least two of them, including the Minister of Justice, must be Senators.[9]

The Governor General's functions include, in addition to the appointment and dismissal of Ministers, the summoning, proroguing and dissolution of Parliament. In the exercise of any of these functions he must "act in accordance with the constitutional conventions applicable to the exercise of a similar function in the United Kingdom by His Majesty." [10]

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[1] The Ceylon (Constitution) Order in Council, 1946, as amended, Sec. 74.
[2] Id., Sec. 41. [3] Id., Sec. 11. [4] Id., Sec. 36.
[5] Id., Sec. 33. [6] Id., Sec. 34. [7] Id., Sec. 45.
[8] Id., Sec. 46. [9] Id., Secs. 48, 49. [10] Id., Sec. 4.

The appointment, transfer, dismissal and disciplinary control of all public officers, as defined in the Constitution,[1] are vested in a Public Service Commission of three members appointed by the Governor General.[2]

Judicial Department

Provision is made for a Supreme Court and Courts of Assize, the members of which are appointed by the Governor General.[3] The appointment, transfer, dismissal and disciplinary control of all judicial officers, except the Judges of the Supreme Court and the Commissioners of Assize, are vested in a Judicial Service Commission consisting of the Chief Justice of the Supreme Court and two other persons appointed by the Governor General. One of the persons so appointed must be, and the other must be or have been, a Judge of the Supreme Court.[4]

Area, Population, Language

The area of Ceylon is 25,332 square miles with a population (1953 census) of 8,103,648. The languages are English, Sinhalese and Tamil.[5]

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[1] The Ceylon (Constitution) Order in Council, 1946, as amended, Sec. 3.
[2] Id., Secs. 58, 60. [3] Id., Sec. 52. [4] Id., Secs. 53, 55.
[5] See Section 6 of the Ceylon (Parliamentary Elections) Order in Council, 1946.

CONSTITUTION of CEYLON[1]

THE CEYLON INDEPENDENCE ACT, 1947 (11 Geo. 6., Ch. 7.)

An Act to make provision for, and in connection with, the attainment by Ceylon of fully responsible status within the British Commonwealth of Nations
10th December 1947

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) No act of the Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to Ceylon as part of the law of Ceylon, unless it is expressly declared in that Act that Ceylon has requested, and consented to, the enactment thereof.

(2) As from the appointed day His Majesty's Government in the United Kingdom shall have no responsibility for the government of Ceylon.

(3) As from the appointed day the provisions of the First Schedule to this Act shall have effect with respect to the legislative powers of Ceylon.

2. As from the appointed day Ceylon shall be included in the definition of "Dominion" in paragraph (23) of section one hundred and ninety of the Army Act and of the Air Force Act (which section, in each Act, relates generally to the interpretation of the Act), and accordingly in the said paragraph (23), in each Act, for the words "and Newfoundland" there shall be substituted the words "Newfoundland and Ceylon".

3. (1) No court in Ceylon shall, by virtue of the Indian and Colonial Divorce Jurisdiction Acts, 1926 and 1940, have jurisdiction in or in relation to any proceedings for a decree for the dissolution of a marriage, unless those proceedings were instituted before the appointed day, but, save as aforesaid and subject to any provision to the contrary which may hereafter be made by any Act of the Parliament of the United Kingdom or

[1] The "Constitution of Ceylon" is set forth in seven documents here reprinted from a copy of the Ceylon Government Press publication kindly supplied to the editor by the Department of State, Washington. They are printed in the order in which they appear in the Government publication.

of Ceylon, all courts in Ceylon shall have the same jurisdiction under the said Acts as they would have had if this Act had not been passed.

(2) Any rules made on or after the appointed day under subsection (4) of section one of the Indian and Colonial Divorce Jurisdiction Act, 1926, for a court in Ceylon shall, instead of being made by the Secretary of State with the concurrence of the Lord Chancellor, be made by such authority as may be determined by the law of Ceylon, and so much of the said subsection and of any rules in force thereunder immediately before the appointed days as requires the approval of the Lord Chancellor to the nomination for any purpose of any judges of any such court shall cease to have effect.

(3) The references in subsection (1) of this section to proceedings for a decree for the dissolution of a marriage include references to proceedings for such a decree of presumption of death and dissolution of a marriage as is authorised by section eight of the Matrimonial Causes Act, 1937.

4. (1) As from the appointed day, the Acts and Regulations referred to in the Second Schedule to this Act shall have effect subject to the amendments made by that Schedule, and His Majesty may by Order in Council make such further adaptations in any Act of the Parliament of the United Kingdom of an earlier session than this Act, or in any instrument having effect under any such Act, as appear to him necessary in consequence of section one of this Act:

Provided that this subsection shall not extend to Ceylon as part of the law thereof.

(2) Notwithstanding anything in the Interpretation Act, 1889, the expression "colony" shall not include Ceylon in any Act of the Parliament of the United Kingdom passed on or after the appointed day or in any such Act passed before that day, but in the same session as this Act, to provide for the independence of Burma as a country not within His Majesty's dominions.

(3) Any Order in Council made under this section may be varied or revoked by a subsequent Order in Council and, though made after the appointed day, may be made so as to have effect from that day.

(4) Every Order in Council made under this section shall be laid before Parliament forthwith after it is made, and if either House of Parliament within the period of forty days beginning with the day on which any such Order is laid before it resolves that an Address be presented to His Majesty praying that the Order be annulled, no further proceedings shall be taken thereunder and His Majesty in Council may revoke the Order, so, however, that any such resolution or revocation shall be without prejudice to the validity of anything previously done under the Order or to the making of a new Order.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

(5) Notwithstanding anything in subsection (4) of section one of the

Rules Publication Act, 1893, an Order in Council made under this section shall not be deemed to be or to contain a statutory rule to which that section applies.

5. (1) This Act may be cited as the Ceylon Independence Act, 1947.

(2) In this Act the expression "the appointed day" means such day as His Majesty may by Order in Council appoint.

SCHEDULES

FIRST SCHEDULE

Legislative Powers of Ceylon

1. (1) The Colonial Laws Validity Act, 1865, shall not apply to any law made after the appointed day by the Parliament of Ceylon.

(2) No law and no provision of any law made after the appointed day by the Parliament of Ceylon shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of Ceylon shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of Ceylon.

2. The Parliament of Ceylon shall have full power to make laws having extra-territorial operation.

3. Without prejudice to the generality of the foregoing provisions of this Schedule, sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping Act, 1894, shall be construed as though reference therein to the legislature of a British possession did not include reference to the Parliament of Ceylon.

4. Without prejudice to the generality of the foregoing provisions of this Schedule, section four of the Colonial Courts of Admiralty Act, 1890 (which requires certain laws to be reserved for the signification of His Majesty's pleasure or to contain a suspending clause), and so much of section seven of that Act as requires the approval of His Majesty in Council to any rules of Court for regulating the practice and procedure of a Colonial Court of Admiralty, shall cease to have effect in Ceylon.

SECOND SCHEDULE

Amendments not Affecting Law of Ceylon

British Nationality

1. The following enactments (which provide for certificates of naturalisation granted and other things done under the law of one part of His Majesty's dominions to be recognised elsewhere), namely—

(a) Section eight of the British Nationality and Status of Aliens Act, 1914; and

(b) Paragraph (c) of section eight of the British Nationality and Status of Aliens Act, 1943;

shall apply in relation to Ceylon as they apply in relation to the Dominions specified in the First Schedule to the said Act of 1914.

Financial

2. As respects goods imported after such date as His Majesty may by Order in Council appoint section four of the Import Duties Act, 1932, and section two of the Isle of Man (Customs) Act, 1932 (which relate to imperial preference other than colonial preference), shall apply to Ceylon.

3. In section nineteen of the Finance Act, 1923 (which, as extended by section twenty-six of the Finance Act, 1925, provides for exemption from income tax and land tax of the High Commissioner and other officials of self-governing dominions), the expression "self-governing dominion" shall include Ceylon.

4. In the Colonial Stock Act, 1943 (which extends the stocks which may be treated as trustee securities), the expression "Dominion" shall include Ceylon.

Visiting Forces

5. The following provisions of the Visiting Forces (British Commonwealth) Act, 1933, namely—

(a) Section three (which deals with deserter);

(b) Section four (which deals with attachment and mutual powers of command);

(c) The definition of "visiting force" for the purposes of that Act generally which is contained in section eight thereof;

shall apply in relation to forces raised in Ceylon as they apply in relation to forces raised in the Dominions within the meaning of the Statute of Westminster, 1931.

Ships and Aircraft

6. (1) In the definition of "Dominion ship or aircraft" contained in subsection (2) of section three of the Emergency Powers (Defence) Act, 1939, and in that contained in Regulation one hundred of the Defence (General) Regulations, 1939, the expression "a Dominion" shall include Ceylon.

(2) Paragraph (2) of Regulation fifty-four of the Defence (General) Regulations, 1939 (which confers power by notice to requisition from certain British subjects and companies space or accomodation in ships and aircraft), shall not authorise service of a notice on a British subject resident in Ceylon or a corporation incorporated under the law of Ceylon.

7. The Ships and Aircraft (Transfer Restriction) Act, 1939, shall not apply to any ship by reason only of its being registered in, or licensed under the law of, Ceylon; and the penal provisions of that Act shall not apply to persons in Ceylon (but without prejudice to the operation with respect to any ship to which that Act does apply of the provisions thereof relating to the forfeiture of ships).

8. In the Whaling Industry (Regulation) Act, 1934, the expression "British ship to which this Act applies" shall not include a British ship registered in Ceylon.

Matrimonial Causes

9. Section four of the Matrimonial Causes (War Marriages) Act, 1944

(which provides for the general recognition in British courts of decrees and orders made by virtue of that Act or of any law passed in a part of His Majesty's dominions outside the United Kingdom and declared by an Order in Council to correspond to that Act), shall, in relation to the making of any further Order in Council as respects a law of Ceylon, apply subject to the same provision for securing reciprocity as is made by proviso (ii) to subsection (1) thereof in the case of Dominions within the meaning of the Statute of Westminster, 1931.

Copyright

10. If the Parliament of Ceylon repeals or amends the Copyright Act, 1911, as it forms part of the law of Ceylon, then—

(a) Except by virtue of sub-paragraph (b) of this paragraph, that Act shall no longer apply in relation to Ceylon as a part of His Majesty's dominions to which the Act extends, so, however, that this provision shall not prejudicially affect any legal rights existing at the time of the repeal or amendment;

(b) Ceylon shall be included in the expression "self-governing dominion" for the purposes of subsection (2) of section twenty-five and subsection (3) of section twenty-six of that Act (which relate to reciprocity with self-governing dominions having their own copyright law), and the said subsection (2) shall have effect in relation to Ceylon as if that Act, so far as it remains part of the law of Ceylon, had been passed by the Parliament thereof.

THE CEYLON INDEPENDENCE (COMMENCEMENT) ORDER IN COUNCIL, 1947

At the Court at Buckingham Palace, the 19th day of December, 1947

Present:

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

WHEREAS by the Ceylon Independence Act, 1947, provision is made for the attainment by Ceylon of fully responsible status within the British Commonwealth of Nations:

AND WHEREAS in the said Act the expression "the appointed day" means such day as His Majesty may by Order in Council appoint:

AND WHEREAS it is expedient to appoint, by this Order, the appointed day for the purposes of the said Act:

NOW, THEREFORE, His Majesty, in exercise of the powers conferred on Him by the Ceylon Independence Act, 1947, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows:—

1. This Order may be cited as the Ceylon Independence (Commencement) Order in Council, 1947.

2. The appointed day for the purposes of the Ceylon Independence Act shall be the fourth day of February, 1948.

THE CEYLON INDEPENDENCE ORDER IN COUNCIL, 1947

At the Court at Buckingham Palace, the 19th day of December, 1947

Present:

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

WHEREAS by the Ceylon (Constitution) Order in Council, 1946 (hereinafter called "the Principal Order") as amended by the Ceylon (Constitution) (Amendment) Order in Council, 1947, the Ceylon (Constitution) (Amendment No. 2) Order in Council, 1947, and the Ceylon (Constitution) (Amendment No. 3) Order in Council, 1947 (hereinafter together called "the Amending Orders"), provision is made for the Government of Ceylon and for the establishment of a Parliament in and for Ceylon:

AND WHEREAS by the Ceylon Independence Act, 1947, provision is made for the attainment by Ceylon of fully responsible status within the British Commonwealth of Nations:

AND WHEREAS it is expedient for the same purpose that the Principal Order and the Amending Orders should be amended in the manner hereinafter appearing:

NOW, THEREFORE, it is hereby ordered by His Majesty, by and with the advice of His Privy Council as follows:—

1. (1) This Order may be cited as the Ceylon Independence Order in Council, 1947.

(2) The Principal Order, the Amending Orders and this Order may be cited together as the Ceylon (Constitution and Independence) Orders in Council, 1946 and 1947.

(3) This Order shall be construed as one with the Principal Order.

(4) This Order shall come into operation on the day appointed by His Majesty by Order in Council as the appointed day for the purposes of the Ceylon Independence Act, 1947.

2. (1) (*Incorporated in the Principal Order*).

(2) Every reference in the Principal Order to the Governor shall be read and construed as a reference to the Governor-General.

(*Accordingly, the expression "Governor-General" has been substituted for "Governor" in the Principal Order as printed on succeeding pages*)

3. (*Incorporated in the Principal Order*).

4. The power of His Majesty, His Heirs and Successors, with the advice of His or Their Privy Council—

(a) To make laws having effect in the Island for the purposes specified in subsection (1) of Section 30 of the Principal Order; and

(b) To revoke, add to, suspend or amend the Principal Order or the Amending Orders, or any part of those Orders,

shall cease to exist.

5. No Bill passed by both Chambers of the Legislatures of the Island

or by the House of Representatives alone, in accordance with the provisions of the Principal Order shall be reserved for the signification of His Majesty's pleasure; and the provisions in that behalf contained in Sections 36 and 37 of the Principal Order shall accordingly cease to have effect.

6. The provisions of the Principal Order and of the Amending Orders specified in Column 1 of the Schedule to this Order are hereby revoked to the extent, or amended in the manner, specified in Column 2 of that Schedule.

7. Nothing in this Order shall be construed as affecting—

(a) The continuance, subject to the modifications made by this Order, of the Parliament of Ceylon as constituted immediately before the commencement of this Order;

(b) Save as expressly provided by this Order, the tenure of office of any Minister, Parliamentary Secretary, Senator, or Member of the House of Representatives, or of any person appointed to any office under the provisions of the Principal Order; or

(c) The validity or continued operation of any Proclamation, Order, Regulation or other Instrument made under the Principal Order before the commencement of this Order, without prejudice however to any power to amend, revoke or replace any such Instrument.

8. The Governor-General may, before the expiry of a period of six months from the commencement of this Order, by Proclamation published in the *Government Gazette*, make such provision as he is satisfied is necessary or expedient, in consequence of the provisions of this Order, for modifying, adding to or adapting any written law which refers in whatever terms to the Governor or to any public officer or authority, or otherwise for bringing any written law into accord with the provisions of this Order and of the Principal Order as amended by this Order, or for giving effect to those provisions.

THE SCHEDULE [1]

REVOCATIONS AND AMENDMENTS OF PROVISIONS OF THE PRINCIPAL ORDER AND AMENDING ORDERS

THE CEYLON (CONSTITUTION) ORDER IN COUNCIL, 1946

At the Court at Buckingham Palace, the 15th day of May, 1946

Present:

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

WHEREAS by the Orders in Council set out in the First Schedule to this Order provision is made for the constitution of a State Council for the Island of Ceylon:

[1] *The revocations and amendments have been incorporated in the Principal and Amending Orders as reproduced on succeeding pages.*

And whereas in the years 1944 and 1945 a Commission was appointed by His Majesty's Government under the chairmanship of the Right Honourable Herwald, Baron Soulbury, O.B.E., M.C., to visit the Island of Ceylon in order to examine and discuss proposals for constitutional reform, and the said Commission duly visited the Island and made a report to His Majesty's Government:

And whereas a Statement of Policy on Constitutional Reform in Ceylon was presented to Parliament by His Majesty's Government in the month of October, 1945:

And whereas paragraph 10 of the said Statement of Policy contained the following decision:

> "His Majesty's Government are in sympathy with the desire of the people of Ceylon to advance towards Dominion status and they are anxious to co-operate with them to that end. With this in mind, His Majesty's Government have reached the conclusion that a Constitution on the general lines proposed by the Soulbury Commission (which also conforms in broad outline, save as regards the Second Chamber, with the Constitutional scheme put forward by the Ceylon Ministers themselves) will provide a workable basis for constitutional progress in Ceylon.
>
> "Experience of the working of Parliamentary institutions in the British Commonwealth has shown that advance to Dominion status has been effected by modification of existing constitutions and by the establishment of conventions which have grown up in actual practice.
>
> "Legislation such as the Statute of Westminster has been the recognition of constitutional advances already achieved rather than the instrument by which they were secured. It is therefore the hope of His Majesty's Government that the new constitution will be accepted by the people of Ceylon with a determination so to work it that in a comparatively short space of time such Dominion status will be evolved. The actual length of time occupied by this evolutionary process must depend upon the experience gained under the new constitution by the people of Ceylon":

And whereas, having regard to the matters aforesaid, it is expedient to revoke the said Orders in Council and to make other provision in lieu thereof:

Now, therefore, it is hereby ordered by His Majesty, by and with the advice of His Privy Council, as follows:—

PART I

Preliminary

1. (1) This Order may be cited as the Ceylon (Constitution) Order in Council, 1946.

(2) Nothing in this Order shall extend to the Maldive Islands.

2. (1) This Order shall be published in the *Government Gazette.*

(2) Parts I., IV. and IX. of this Order shall come into operation on the date on which this Order is published in the *Government Gazette.*

(3) Part III. of this Order shall come into operation on such date as the Governor may appoint by Proclamation, being a date not earlier than nine months from the date on which this Order is published in the *Government Gazette.*

(4) Parts II, V., VI. and VII. of this Order shall come into operation

on such date or dates as the Governor may appoint by Proclamation, being a date or dates not later than the date on which the names of Members elected to the first House of Representatives are first published in the *Government Gazette*.

(5) Part VIII. of this Order shall come into operation on the date of the first meeting of the House of Representatives.

3. (1) In this Order, unless the context otherwise requires—

"Adjourn" with its grammatical variations and cognate expressions means terminate a sitting of the Senate or the House of Representatives, as the case may be;

"British subject" means any person who is a British subject according to the law for the time being of the United Kingdom, any person who has been naturalised under any enactment of any of His Majesty's dominions, and any person who is a citizen or subject of any of the Indian States as defined for the purposes of the Government of India Act, 1935;

"Dissolve" with its grammatical variations and cognate expressions means terminate the continuance of a Parliament;

"Elector" means a person entitled to vote at an election of a Member;

"The existing Orders in Council" means the Orders in Council set out in the First Schedule to this Order;

"General election" means the first general election of Members after the date on which this Part of this Order comes into operation or a general election of Members after a dissolution;

"Governor-General" means the Governor-General and Commander-in-Chief of the Island and includes the Officer for the time being Administering the Government and, to the extent to which a Deputy for the Governor-General is authorised to act, that Deputy;

"Island" means the Island of Ceylon and the dependencies thereof;

"Judicial office" means any paid judicial office;

"Legislative Council" means the Legislative Council which was constituted by the Ceylon (Legislative Council) Order in Council, 1923;

"Member" or "Member of Parliament" means a Member of the House of Representatives;

"Parliament" means the Parliament of the Island;

"President" means the President, for the time being, of the Senate and includes the Deputy President or other Senator who may for the time being be acting as President;

"Proclamation" means a Proclamation by the Governor-General published in the *Government Gazette*;

"Prorogue" with its grammatical variations and cognate expressions means bring a session of Parliament to an end;

"Public office" means any office the holder of which is a public officer;

"Public officer" means any person who holds a paid office, other than a judicial office, as a servant of the Crown in respect of the Government of the Island, but does not include—

(a) The Governor-General or any member of the Governor-General's office or of his personal staff,

(c) The President, the Speaker, or an officer of the Senate or the House of Representatives,

(c) The Clerk to the Senate, the Clerk to the House of Representatives or a member of the staff of the Clerk to the Senate or the Clerk to the House of Representatives,

(d) A Minister or Parliamentary Secretary, or a person who, having held office as a Minister under the existing Orders in Council immediately prior to the date on which Part III. of this Order comes into operation, continues to hold office as a Minister at any time during the period commencing on that date and ending on the date on which Ministers or other authorities assume charge of such functions as may be assigned to them under this Order,

(e) A Senator or a Member of Parliament by reason only of the fact that he receives any remuneration or allowance as a Senator or Member,

(f) A member of the Judicial Service Commission,

(g) A member of the Public Service Commission,

(h) The Auditor-General,

(i) A member of the Ceylon Defence Force or of the Ceylon Naval Volunteer Force or of any other naval, military, or air force that may be raised under the provisions of any Act of Parliament, by reason only of his membership of any such force,

(j) A Crown Advocate other than a Crown Counsel,

(k) A Crown Proctor;

"Secretary of State" means one of His Majesty's Principal Secretaries of State;

"Senator" means a person who is for the time being a Member of the Senate;

"Session" means the meetings of Parliament commencing when Parliament first meets after being constituted under this Order, or after its prorogation or dissolution at any time, and terminating when Parliament is prorogued or is dissolved without having been prorogued;

"Sitting" means a period during which the Senate or the House of Representatives, as the case may be, is sitting continuously without adjournment, and includes any period during which the Senate or the House of Representatives is in Committee;

"Speaker" means the Speaker for the time being of the House of Representatives and includes the Deputy Speaker or other Member who may for the time being be acting as Speaker;

"State Council" means the State Council constituted by the Ceylon (State Council) Order in Council, 1931;

"United Kingdom" means the United Kingdom of Great Britain and Northern Ireland.

(2) Any reference in this Order to an Order in Council shall be construed as a reference to that Order as amended by any subsequent Order.

(3) Any reference to the holder of a particular judicial or public office shall be deemed to include a reference to a person acting in that office.

(4) In the interpretation of this Order, the provisions of the Interpretation Ordinance other than the definition of "the Government" shall, subject to the express provisions of this Order, and notwithstanding any provision to the contrary in that Ordinance, apply as it applies for the interpretation of an Ordinance of the State Council, or of an Act of Parliament.

PART II

The Governor-General

4. (1) The Governor-General shall be appointed by His Majesty, and shall have and may exercise in the Island during His Majesty's pleasure, but subject to the provisions of this Order, such powers, authorities and functions of His Majesty as His Majesty may be pleased to assign to him.

(2) All powers, authorities and functions vested in His Majesty or the Governor-General shall, subject to the provisions of this Order and of any other law for the time being in force, be exercised as far as may be in accordance with the constitutional conventions applicable to the exercise of similar powers, authorities and functions in the United Kingdom by His Majesty:

Provided that no act or omission on the part of the Governor-General shall be called in question in any court of law or otherwise on the ground that the foregoing provisions of this subsection have not been complied with.

5. (1) The Governor-General shall receive a salary of £ 8,000 a year.

(2) During any period in which the Office of Governor-General is vacant or the Governor-General is absent from the Island, or is from any cause prevented from, or incapable of, acting in the duties of his Office, the Officer Administering the Government shall receive a salary calculated at the rate of £ 6,000 a year and shall not be entitled to receive during that period any salary in respect of any other office.

(3) The salary of the Governor-General or of the Officer Administering the Government shall be charged on the Consolidated Fund and shall not be altered during his continuance in office.

(4) In the assessment of any income tax which may be payable under any written law, no account shall be taken of the salaries provided by this Section for the Governor-General and for the Officer Administering the Government or of the annual value of any official residence occupied by either of them as such.

6. The salaries of any member of the Governor-General's office and of his personal staff shall be determined by Parliament and shall be charged on the Consolidated Fund.

PART III

The Legislature

General

7. There shall be a Parliament of the Island which shall consist of His Majesty,and two Chambers to be known respectively as the Senate and the House of Representatives.

8. (1) The Senate shall consist of thirty Senators of whom fifteen (hereinafter referred to as "elected Senators") shall be elected by the House of Representatives and fifteen (hereinafter referred to as "appointed Senators") shall be appointed by the Governor-General.

(2) The Senate shall be a permanent body and the term of office of a Senator shall not be affected, and the seat of a Senator shall not become vacant, by reason of a dissolution of Parliament.

(3) One third of the Senators shall retire every second year.

(4) Subject to the provisions of Section 73 of this Order, the term of office of a Senator shall be six years from the date of his election or appointment:

Provided that—

(a) A person who is elected or appointed a Senator to fill a casual vacancy shall be deemed to be elected or appointed to serve only for the remainder of his predecessor's term of office;

(b) A person who is elected or appointed to fill a vacancy caused by the termination of a Senator's period of office by effluxion of time shall, for the purposes of this Section, be deemed to have been elected or appointed on such termination.

(5) A separate election shall be held for the filling of each casual vacancy among the elected Senators.

(6) A retiring Senator shall, if otherwise qualified, be eligible for re-election or re-appointment from time to time.

(7) In this Section, the expression "casual vacancy" means a vacancy occurring otherwise than by the termination of a Senator's period of office by effluxion of time.

9. (1) After the first election under Section 17 of this Order of the Speaker, the Deputy Speaker and Chairman of Committees and the Deputy Chairman of Committees, the House of Representatives shall, before proceeding to any other business, elect fifteen Senators; and thereafter, as soon as may be after the occurrence of a vacancy among the elected Senators, the House of Representatives shall elect a person to fill such vacancy.

(2) The election of Senators shall, whenever such election is contested, be according to the principle of proportional representation, each voter having one transferable vote.

(3) As soon as may be after the election of a Senator, the Clerk to the House of Representatives shall communicate to the Governor-General and the Clerk to the Senate the name of the person elected.

10. (1) As soon as may be after the first election of Senators under Section 9 of this Order, the Governor-General shall appoint fifteen Senators, and thereafter, whenever there is a vacancy among the appointed Senators, the Governor-General shall appoint a person to fill the vacancy:

Provided that, if there is at the same time a vacancy among the elected Senators, the Governor-General may defer filling the vacancy among the appointed Senators until the vacancy among the elected Senators has been filled.

(2) Whenever a person is appointed a Senator under this Section, the Governor-General shall cause to be sent to the Clerk to the Senate a certificate signed by the Governor-General setting out the name of the person appointed and the date of appointment. Such certificate shall be conclusive for all purposes and shall not be questioned in any court of law.

(3) In the exercise of his functions under this Section the Governor-General shall endeavour to appoint persons who he is satisfied have rendered distinguished public service or are persons of eminence in professional, commercial, industrial or agricultural life, including education, law, medicine, science, engineering and banking.

11. (1) Subject to the provisions of Section 74 of this Order, the House of Representatives shall consist of the Members elected by the electors of the several electoral districts constituted in accordance with the provisions of this Order, and the Members, if any, appointed by the Governor-General under subsection (2) of this Section.

(2) Where after any general election the Governor-General is satisfied that any important interest in the Island is not represented or is inadequately represented, he may appoint any persons not exceeding six in number, to be Members of the House of Representatives.

(3) When the seat of a Member appointed under this Section falls vacant the Governor-General may appoint a person to fill the vacancy.

(4) (*Revoked*).

(5) Unless Parliament is sooner dissolved, every House of Representatives shall continue for five years from the date appointed for its first meeting and no longer, and the expiry of the said period of five years shall operate as a dissolution of Parliament.

12. Subject to the provisions of this Order, a person who is qualified to be an elector shall be qualified to be elected or appointed to either Chamber.

13. (1) A Senator shall be disqualified for being elected or appointed or for sitting or voting as a Member of the House of Representatives.

(2) A person shall be disqualified for being elected or appointed as a Senator or for sitting or voting in the Senate if he has not attained the age of thirty-five years.

(3) A person shall be disqualified for being elected or appointed as a Senator or a Member of the House of Representatives or for sitting or voting in the Senate or in the House of Representatives—

(a) If he is not a British subject or is by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign Power or State; or

(b) If he is a public officer or a judicial officer or the Auditor-General; or

(c) If he, directly or indirectly, by himself or by any person on his behalf or for his use or benefit, holds, or enjoys any right or benefit under any contract made by or on behalf of the Crown in respect of the Government of the Island for the furnishing or providing of money to be remitted abroad or of goods or services to be used or employed in the service of the Crown in the Island;

(d) If he has received, or is a member of any incorporated or unincorporated body of less than twenty-five persons which has received, during the period of twelve months immediately preceding, from the public funds of the Island, any grant of such a nature that the award or amount thereof is within the discretion of the Crown or of a public officer; or

(e) If he is an undischarged bankrupt or insolvent, having been declared a bankrupt or insolvent under any law in force in any part of His Majesty's dominions or in any territory under His Majesty's protection or in any territory in which His Majesty has from time to time jurisdiction; or

(f) If he is serving or has, during the period of seven years immediately preceding, completed the serving of a sentence of imprisonment (by whatever name called) for a term of three months or longer imposed by any court in any part of His Majesty's dominions or in any territory under His Majesty's protection or in any territory in which His Majesty has from time to time jurisdiction, for an offence punishable with imprisonment for a term exceeding twelve months, or is under sentence of death imposed by any such court, or is serving, or has during the period of seven years immediately preceding, completed the serving of a sentence of imprisonment for a term of three months or longer awarded in lieu of execution of any such sentence:

Provided that, if any person disqualified under this paragraph is granted a free pardon, such disqualification shall cease from the date on which the pardon is granted; or

(g) If he is, under any law in force in the Island, found or declared to be of unsound mind; or

(h) If by reason of his conviction for a corrupt or illegal practice or by reason of the report of an election judge in accordance with the law for the time being in force relating to the election of Senators or Members of Parliament, he is incapable of being registered as an elector or of being elected or appointed as a Senator or Member, as the case may be; or

(i) If by reason of his conviction for a corrupt or illegal practice, he would have been incapable of being elected as a member of the Legislative Council or of the State Council if the laws relating to the election of Members to those bodies has remained in operation; or

(j) If by reason of his expulsion or resignation from the State Council before the date upon which this Part of this Order comes into operation he would have been incapable of being elected or appointed a Member of the State Council if the Ceylon (State Council) Order in Council, 1931, as amended by the Ceylon (State Council) Amendment Order in Council, 1943, had remained in force; or

(k) If during the preceding seven years he has been adjudged by a competent court or by a Commission appointed with the approval of the Senate or the House of Representatives or by a Committee thereof to have accepted a bribe or gratification offered with a view to influencing his judgment as a Senator or as a Member of Parliament.

(4) The provisions of paragraphs (c) and (d) of subsection (3) of this Section shall not apply to —

(i) Any contract for subscription to a loan to be issued to the public on advertised terms;

(ii) Any pension, gratuity, or other benefit payable from the public revenues or other funds of the Island;

(iii). Any grant to any municipal council, urban council or other public authority established by or under any written law; or

(iv) Any grant to any person or body of persons for purposes mainly religious, educational or otherwise charitable or any salary or allowance payable from the public revenue or other funds of the Island to any person not being a public officer, employed by or under any person or body of persons for any such purposes.

(5) For the purposes of paragraph (k) of subsection (3) of this Section, the acceptance by a Senator or Member of Parliament of any allowance or other payment made to him by any trade union or other organisation solely for the purposes of his maintenance shall not be deemed to be the acceptance of a bribe or gratification.

14. (1) Any person who—

(a) Having been appointed or elected a Member of the Senate or House of Representatives, but not having been, at the time of such appointment or election, qualified to be so appointed or elected, shall sit or vote in the Senate or House of Representatives, or

(b) Shall sit or vote in the Senate or House of Representatives after his seat therein has become vacant or he has become disqualified from sitting or voting therein,

knowing, or having reasonable ground for knowing, that he was so disqualified, or that his seat has become vacant, as the case may be, shall be liable to a penalty of five hundred rupees for every day upon which he so sits or votes.

(2) The penalty imposed by this Section shall be recoverable by action in the District Court of Colombo instituted by any person who may sue for it:

Provided that no such action, having been instituted, shall proceed further unless the leave of the District Judge of the Court is obtained.

(3) Where, after the institution of any action in pursuance of the provisions of this Section, no steps in pursuit of the action are taken by the person instituting the action for any period of three months the action shall be dismissed with costs.

15. (1) The Governor-General may, from time to time, by Proclamation summon, prorogue, or dissolve Parliament.

(2) Parliament shall be summoned to meet once at least in every year.

(3) A Proclamation proroguing Parliament shall fix a date for the next session, not being more than four months after the date of the Proclamation:

Provided that, at any time while Parliament stand prorogued,

(a) The Governor-General may by Proclamation summon Parliament for an earlier date (not being less than three days from the date of such Proclamation);

(b) The Governor-General may dissolve Parliament.

(4) A Proclamation dissolving Parliament shall fix a date or dates for the general election of Members of Parliament, and shall summon a new Parliament to meet on a date not later than four months after the date of the Proclamation.

(5) If at any time, after the dissolution of Parliament, the Governor-General is satisfied that an emergency has arisen of such a nature that an earlier meeting of Parliament is necessary, the Governor-General may by Proclamation summon the Parliament which has been dissolved for a date not less than three days from the date of such Proclamation, and such Parliament may be kept in session until the meeting of the new Parliament.

16. (1) The Senate shall at its first meeting elect two Senators to be respectively the President and the Deputy President and Chairman of Committees (hereinafter referred to as the "Deputy President") thereof.

(2) A Senator holding office as the President or the Deputy President of the Senate shall, unless he earlier resigns his office, vacate his office if he ceases to be a Senator.

(3) Whenever the office of President or Deputy President of the Senate becomes vacant, the Senate shall, at its first meeting after the occurrence of the vacancy, elect another Senator to be the President or the Deputy President, as the case may be.

(4) The President, or in his absence the Deputy President, or in their absence a Senator elected by the Senate for the sitting, shall preside at sittings of the Senate.

17. (1) The House of Representatives shall, at its first meeting after a general election, elect three Members to be respectively the Speaker, the Deputy Speaker and Chairman of Committees (hereinafter referred to as the "Deputy Speaker") and the Deputy Chairman of Committees thereof.

(2) A Member holding office as the Speaker or the Deputy Speaker or the Deputy Chairman of Committees of the House of Representatives shall, unless he earlier resigns his office or ceases to be a Member, vacate his office on the dissolution of Parliament.

(3) Whenever the office of Speaker, Deputy Speaker or Deputy Chairman of Committees becomes vacant otherwise than as a result of a dissolution of Parliament, the House of Representatives shall at its first meeting after the occurrence of the vacancy elect another Member to be the Speaker, Deputy Speaker or Deputy Chairman of Committees as the case may be.

(4) If Parliament, after having been dissolved, is summoned under subsection (5) of Section 15, each of the Members mentioned in subsection (2) of this Section shall, notwithstanding anything in that subsection, resume and continue to hold his office while that Parliament is kept in session.

(5) The Speaker, or in his absence the Deputy Speaker, or in their absence the Deputy Chairman of Committees shall preside at sittings of the House of Representatives. If none of them is present, a Member elected by the House of Representatives for the sitting shall preside at sittings of the House.

18. Save as otherwise provided in subsection (4) of Section 29, any question proposed for decision by either Chamber shall be determined by a majority of votes of the Senators or Members, as the case may be, present and voting. The President or Speaker or other person presiding shall not vote in the first instance but shall have and exercise a casting vote in the event of an equality of votes.

19. Each Chamber shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings therein shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

20. If at any time during a meeting of either Chamber the attention of the person presiding is drawn to the fact that there are, in the case of a meeting of the Senate, fewer than six Senators present, or, in the case of a meeting of the House of Representatives, fewer than twenty of the members present, the persons presiding shall, subject to any Standing Order of the Chamber, adjourn the sitting without question put.

21. Subject to the provisions of this Order, each Chamber may, by resolution or Standing Order, provide for

(i) The election and retirement of the President and Deputy President, in the case of the Senate;

(ii) The election and retirement of the Speaker, the Deputy Speaker and the Deputy Chairman of Committees, in the case of the House of Representatives;

(iii) The regulation of its business, the preservation of order at its sittings and any other matter for which provision is required or authorised to be so made by this Order.

22. (1) Each Chamber may adjourn from time to time as it may determine by resolution or Standing Order until Parliament is prorogued or dissolved.

(2) During the adjournment of either Chamber for a period exceeding one month the President, or Speaker, as the case may be shall, if requested by the Prime Minister, convene, in such manner as may be prescribed by the Standing Orders of that Chamber, a meeting of the Senate or the House of Representatives for the transaction of any urgent business of public importance.

23. (1) The seat of a Senator shall become vacant—

(a) Upon his death; or

(b) If, by writing under his hand, addressed to the Clerk to the Senate, he resigns his seat; or

(c) If he becomes subject to any of the disqualifications mentioned in Section 13 of this Order; or

(d) If, without the leave of the Senate first obtained, he absents himself from the sittings of the Senate during a continuous period of three months; or

(e) Upon the termination of his term of office.

(2) As soon as may be after the seat of an elected Senator becomes vacant, the Clerk to the Senate shall inform the Clerk to the House of Representatives of the vacancy.

(3) As soon as may be after the seat of an appointed Senator becomes vacant, the Clerk to the Senate shall inform the Governor-General of the vacancy.

24. (1) The seat of a Member of Parliament shall become vacant—

(a) Upon his death; or

(b) If, by writing under his hand addressed to the Clerk to the House of Representatives, he resigns his seat; or

(c) If he is elected or appointed a Member of the Senate; or

(d) If he becomes subject to any of the disqualifications mentioned in Section 13 of this Order; or

(e) If, without the leave of the House of Representatives first obtained, he absent himself from the sittings of the House during a continuous period of three months; or

(f) Upon the dissolution of Parliament.

(2) Whenever the seat of a Member of Parliament falls vacant under this Section except upon a dissolution of Parliament, the Clerk to the House of Representatives shall inform the Governor-General who shall (except in the case of a Member appointed under the provisions of subsection (2) of Section 11 of this Order), within one month, by notice in the *Government Gazette*, order the holding of an election to fill the vacancy.

25. Except for the purpose of electing the President or the Speaker, no Senator or Member of Parliament shall sit or vote in the Senate or the House of Representatives until he has taken and subscribed before the Senate or the House of Representatives, as the case may be, the oath of allegiance in accordance with the provisions of the Promissory Oaths Ordinance or shall have made the appropriate affirmation in lieu thereof as provided in the said Ordinance.

26. If provision is made by law for the payment to Senators or Members of Parliament of any remuneration or allowance in their capacity as Senators or Members of Parliament, the receipt by any Senator or Member of Parliament of such remuneration or allowance shall not disqualify him from sitting or voting in the Senate or the House of Representatives, as the case may be.

27. (1) The privileges, immunities and powers of the Senate and the House of Representatives and of Senators and Members of Parliament may be determined and regulated by Act of Parliament, but no such privileges, immunities or powers shall exceed those for the time being held or enjoyed by the Commons House of Parliament of the United Kingdom or of its Members.

(2) Until Parliament otherwise provides, the privileges of the Senate and the House of Representatives and of Senators and Members of

Parliament shall be the same as the privileges of the State Council and of its Members at the date on which it is last dissolved.

28. (1) There shall be a Clerk to the Senate who shall be appointed by the Governor-General.

(2) There shall be a Clerk to the House of Representatives who shall be appointed by the Governor-General.

(3) The members of the staff of the Clerk to the Senate shall be appointed by him in consultation with the President.

(4) The members of the staff of the Clerk to the House of Representatives shall be appointed by him in consultation with the Speaker.

(5) The Clerk to the Senate, the Clerk to the House of Representatives and the members of their staffs shall, while they hold their offices as such, be disqualified for being elected or appointed as a Senator or as a Member of Parliament or for sitting or voting in the Senate or the House of Representatives.

(6) The Clerk to the Senate and the Clerk to the House of Representatives shall not be removable except by the Governor-General on an address of the Senate, or of the House of Representatives, as the case may be:

Provided that, unless Parliament otherwise provides, the age for their retirement shall be sixty years.

Legislative Powers and Procedure

29. (1) Subject to the provisions of this Order, Parliament shall have power to make laws for the peace, order and good government of the Island.

(2) No such law shall—

(a) Prohibit or restrict the free exercise of any religion; or

(b) Make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable; or

(c) Confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religions; or

(d) Alter the constitution of any religious body except with the consent of the governing authority of that body:

Provided that, in any case where a religious body is incorporated by law no such alteration shall be made except at the request of the governing authority of that body.

(3) Any law made in contravention of subsection (2) of this Section shall, to the extent of such contravention, be void.

(4) In the exercise of its powers under this section, Parliament may amend or repeal any of the provisions of this Order, or of any other Order of His Majesty in Council in its application to the Island:

Provided that no Bill for the amendment or repeal of any of the provisions of this Order shall be presented for the Royal Assent unless it has endorsed on it a certificate under the hand of the Speaker that the number of votes cast in favour thereof in the House of Representatives amounted to not less than two-thirds of the whole number of members of the House (including those not present).

Every certificate of the Speaker under this subsection shall be conclusive for all purposes and shall not be questioned in any court of law.

30. (*Revoked*).

31. (1) A Bill, other than a Money Bill, may be introduced in either Chamber. A Money Bill shall not be introduced in the Senate.

(2) In this Section and in Sections 33 and 34 of this Order, "Money Bill" means a Public Bill which contains only provisions dealing with all or any of the following subjects, that is to say, the imposition, repeal, remission, alteration or regulation of taxation; the imposition for the payment of debt, expenses of administration or other financial purposes, of charges on the Consolidated Fund or on any other public funds or on moneys provided by Parliament, or the variation or repeal of any such charges; the grant of money to the Crown or to any authority or person, or the variation or revocation of any such grant; the appropriation, receipt, custody, investment, issue or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan; or any subordinate matter incidental to any of the aforesaid subjects.

In this subsection the expressions "taxation", "debt", "public fund", "public money" and "loan" do not include any taxation imposed, debt incurred, fund or money provided or loan raised, by any local authority.

32. (1) A Bill shall not be deemed to have been passed by both Chambers unless it has been agreed to by both Chambers, either without amendment or with such amendments only as are agreed to by both Chambers.

(2) A Bill which has been passed by the Senate with any amendment which is subsequently rejected by the House of Representatives shall be deemed not to have been passed by the Senate.

33. (1) If a Money Bill, having been passed by the House of Representatives and sent to the Senate at least one month before the end of the session, is not passed by the Senate within one month after it is so sent, the Bill may, notwithstanding that it has not been passed by the Senate, be presented to the Governor-General with or without any amendments which have been made by the Senate and agreed to by the House of Representatives, and shall take effect as an Act of Parliament on the Royal Assent thereto being signified.

(2) There shall be endorsed on every Money Bill when it is sent to the Senate and when it is presented to the Governor-General for Royal Assent a certificate under the hand of the Speaker that it is a Money Bill. Before giving his certificate the Speaker shall consult the Attorney-General or the Solicitor-General.

34. (1) If a Bill, other than a Money Bill, is passed by the House of Representatives in two successive sessions, whether of the same Parliament or not, and,

(a) having been sent to the Senate in the first of those sessions at least one month before the end of that session, is not passed by the Senate in that session, and,

(b) having been sent to the Senate in the second of those sessions, is not passed by the Senate within one month after it has been so sent, or

within six months after the commencement of that session, whichever is the later,

the Bill may, notwithstanding that it has not been passed by the Senate, be presented to the Governor-General and shall take effect as an Act of Parliament on the Royal Assent thereto being signifed.

(2) There shall be endorsed on every Bill, when it is presented to the Governor-General for the Royal Assent in pursuance of the provisions of subsection (1) of this Section, a certificate under the hand of the Speaker that the provisions of subsection (1) have been complied with and that the Bill presented for the Royal Assent is identical with the Bill sent to the Senate in the first of the two sessions in which it was passed by the House of Representatives. Before giving his certificate the Speaker shall consult the Attorney-General or the Solicitor-General.

(3) For the purposes of subsection (2) of this Section, a Bill presented for the Royal Assent shall be deemed to be the same Bill as a former Bill sent to the Senate in the preceding session, if, when it is sent to the Senate, it is identical with the former Bill or contains only such alterations as are certified by the Speaker 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 Senate in the former Bill in the preceding sessions; and any amendments which are certified by the Speaker to have been made by the Senate in the second session and agreed to by the House of Representatives shall be inserted in the Bill as presented to the Governor-General in pursuance of this Section:

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

35. Every certificate of the Speaker under Section 33 or Section 34 of this Order shall be conclusive for all purposes and shall not be questioned in any court of law.

36. (1) No Bill shall become an Act of Parliament until His Majesty has given His consent thereto.

(2) When a Bill has been passed by both Chambers or by the House of Representatives alone in accordance with the provisions of this Order, it shall be presented to the Governor-General, who may assent in His Majesty's name, or refuse such assent.

(3) (*Revoked*).

37. (*Revoked*).

38. (1) In every Bill presented to the Governor-General, other than a Bill presented under Section 33 or Section 34 of this Order, 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 Senate and the House of Representatives of

Ceylon in this present Parliament assembled, and by the authority of the same as follows:—"

(2) In every Bill presented to the Governor-General under Section 33 or Section 34 of this Order, 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 House of Representatives of Ceylon in this present Parliament assembled, in accordance with the provisions of Section 33 (or Section 34 as the case may be) of the Ceylon (Constitution) Order in Council, 1946, and by the authority of the same, as follows:—"

(3) Any alteration in a Bill necessary to give effect to subsection (2) of this Section shall not be deemed to be an amendment of the Bill.

39. (1) Any law which has been assented to by the Governor-General and which appears to His Majesty's Government in the United Kingdom—

(a) To alter, to the injury of the stock-holder, any of the provisions relating to any Ceylon Government stock specified in the Second Schedule to this Order; or,

(b) To involve a departure from the original contract in respect of any of the said stock.

may be disallowed by His Majesty through a Secretary of State.

(2) The provisions of subsection (1) of this Section shall also apply in relation to any Ceylon Government stock issued after the date upon which this Part of this Order comes into operation which, at the request of the Government of the Island, has been included in the list kept by the Treasury of the United Kingdom, in conformity with the provisions of Section 2 of the Colonial Stock Act, 1900, of securities in which a trustee may invest.

(3) Wherever any such law has been disallowed by His Majesty, the Governor-General shall cause notice of such disallowance to be published in the *Government Gazette*.

(4) Every law so disallowed shall cease to have effect as soon as notice of such disallowance shall be published as aforesaid; and thereupon any enactment repealed or amended by or in pursuance of the law disallowed shall have effect as if such law had not been made. Subject as aforesaid the provisions of Section 6 of the Interpretation Ordinance shall apply.

PART IV

Delimitation of Electoral Districts

40. (1) Within one year after the completion of every general census of the Island following the general census of 1946, the Governor shall establish a Delimitation Commission.

2. Every Delimitation Commission established under this Section shall consist of three persons appointed by the Governor-General who shall select persons who he is satisfied are not actively engaged in politics. The Governor-General shall appoint one of such persons to be the Chairman.

(3) If any member of a Delimitation Commission shall die, or resign or if the Governor-General shall be satisfied that any such member has

become incapable of discharging his functions as such, the Governor-General shall, in accordance with the provisions of subsection (2) of this Section, appoint another person in his place.

(4) (*Revoked*).

41. (1) Every Delimitation Commission established under Section 40 of this Order shall divide each Province of the Island into a number of electoral districts ascertained as provided in subsection (2) of this Section and shall assign names thereto.

(2) The total number of persons who, according to the last preceding general census, were for the time being resident in the Province shall be ascertained to the nearest 75,000. In respect of each 75,000 of this number the Delimitation Commission shall allot one electoral district to the Province and shall add a further number of electoral districts (based on the number of square miles in the Province at the rate of one additional electoral district for each 1,000 square miles of area calculated to the nearest 1,000) as follows:—

Western Province	1
Central Province	2
Southern Province	2
Northern Province	4
Eastern Province	4
North-Western Province	3
North-Central Province	4
Province of Uva	3
Province of Sabaragamuwa	2

(3) Subject to the provisions of subsections (4) and (5) of this Section, each electoral district of a Province shall have as nearly as may be an equal number of persons:

Provided that, in dividing a Province into electoral districts, every Delimitation Commission shall have regard to the transport facilities of the Province, its physical features and the community or diversity of interest of its inhabitants.

(4) Where it appears to the Delimitation Commission that there is in any area of a Province a substantial concentration of persons united by a community of interest, whether racial, religious or otherwise, but differing in one or more of these respects from the majority of the inhabitants of that area, the Commission may make such division of the Province into electoral districts as may be necessary to render possible the representation of that interest. In making such division the Commission shall have due regard to the desirability of reducing to the minimum the disproportion in the number of persons resident in the several electoral districts of the Province.

(5) Notwithstanding anything in subsection (1) of this Section, the Delimitation Commission shall have power to create in any Province one or more electoral districts returning two or more members:

Provided that in any such case the number of electoral districts for that Province, as ascertained in accordance with the provisions of subsection (2) of this Section, shall be reduced so that the total number of Members to be returned for that Province shall not exceed the total number of electoral districts so ascertained.

42. In the event of a difference of opinion among the members of any Delimitation Commission, the opinion of the majority of the members thereof shall prevail and shall be deemed to be the decision of the Commission. Where each member of the Commission is of a different opinion the opinion of the Chairman shall be deemed to be the decision of the Commission.

43. The Chairman of every Delimitation Commission shall communicate the decisions of the Commission to the Governor-General who shall by Proclamation publish the names and boundaries of the electoral districts as decided by the Commission, and the number of members to be returned by each such district; and the districts specified in the Proclamation for the time being in force shall be the electoral districts of the Island for all the purposes of this Order and of any law for the time being in force relating to the election of Members of the House of Representatives.

44. Any re-division of the Provinces of the Island into electoral districts, effected by any Delimitation Commission established under Section 40 of this Order, and any alteration consequent upon such re-division in the total number of the Members of the House of Representatives shall, in respect of the election of Members thereof, come into operation at the next general election held after such re-division and not earlier.

PART V

The Executive

45. The executive power of the Island shall continue vested in His Majesty and may be exercised, on behalf of His Majesty, by the Governor-General in accordance with the provisions of this Order and of any other law for the time being in force.

46. (1) There shall be a Cabinet of Ministers who shall be appointed by the Governor-General and who shall be charged with the general direction and control of the government of the Island and who shall be collectively responsible to Parliament.

(2) Of the Ministers, one who shall be the head of the Cabinet, shall be styled the "Prime Minister"; of the other Ministers one shall be styled the "Minister of Justice" and another shall be styled the "Minister of Finance."

(3) (*Revoked*).

(4) The Prime Minister shall be in charge of the Ministry of Defence and External Affairs and shall administer the matters relating to that Ministry in addition to such other matters as he may determine to retain in his charge. Each Minister, other than the Prime Minister, shall be charged with the administration of such subjects and functions as may be assigned to him by the Prime Minister.

47. The Governor-General may appoint Parliamentary Secretaries to assist the Ministers in the exercise of their Parliamentary and departmental duties:

Provided that the number of Parliamentary Secretaries shall not at any time exceed the number of Ministers.

48. Not less than two Ministers, one of whom shall be the Minister of Justice, shall be Members of the Senate. If Parliamentary Secretaries are appointed in pursuance of the provisions of Section 47 of this Order, not more than two of them shall be Members of the Senate.

49. (1) Every Minister and every Parliamentary Secretary shall hold office during His Majesty's pleasure:

Provided that any Minister or Parliamentary Secretary may at any time resign his office by writing under his hand addressed to the Governor-General.

(2) A Minister or Parliamentary Secretary who for any period of four consecutive months is not a member of either Chamber shall, at the expiration of that period, cease to be a Minister or Parliamentary Secretary, as the case may be.

(3) Whenever a Minister or Parliamentary Secretary is, from any cause whatever, unable to perform any of the functions of his office, the Governor-General may appoint a person, whether or not he has already been appointed a Minister or Parliamentary Secretary, to act in the place of the said Minister or Parliamentary Secretary, as the case may be, either generally or in the performance of any particular function. For the purposes of this Order, a person so appointed shall be deemed to be a Minister or a Parliamentary Secretary, as the case may be, as long as his appointment shall subsist.

(4) A person appointed to be or to act as a Minister or Parliamentary Secretary shall, before entering on the duties of his office, take and subscribe before the Governor-General the official oath in accordance with the provisions of the Promissory Oaths Ordinance or shall make the appropriate affirmation in lieu thereof as provided in the said Ordinance.

50. There shall be a Secretary to the Cabinet who shall be appointed by the Governor General. The Secretary to the Cabinet shall have charge of the Cabinet Office and shall, in accordance with such instructions as may be given to him by the Prime Minister, summon meetings of the Cabinet, arrange the business for, and keep the minutes of such meetings, and convey the decisions of the Cabinet to the appropriate person or authority.

51. (1) There shall be for each Ministry a Permanent Secretary who shall be appointed by the Governor-General.

(2) Each Permanent Secretary shall, subject to the general direction and control of his Minister, exercise supervision over the department or departments of Government in the charge of his Minister.

(3) For the purpose of this Section the department of the Auditor-General, the office of the Clerk to the Senate, the office of the Clerk to the House of Representatives and the Cabinet Office shall be deemed not to be departments of Government.

(4) The Governor-General may transfer any Permanent Secretary to any public office.

PART VI

The Judicature

52. (1) The Chief Jutsice and Puisne Judges of the Supreme Court and Commissioners of Assize shall be appointed by the Governor-General.

(2) Every Judge of the Supreme Court shall hold office during good behaviour and shall not be removable except by the Governor-General on an address of the Senate and the House of Representatives.

(3) The age for the retirement of Judges of the Supreme Court shall be sixty-two years:

Provided that the Governor-General may permit a Judge of the Supreme Court who has reached the age of sixty-two years to continue in office for a period not exceeding twelve months.

(4) The salaries of the Judges of the Supreme Court shall be determined by Parliament and shall be charged on the Consolidated Fund.

(5) Every Judge of the Supreme Court appointed before the date on which this Part of this Order comes into operation and in office on that date shall continue in office as if he had been appointed under this Part of this Order.

(6) The salary payable to any such Judge shall not be diminished during his term of office.

53. (1) There shall be a Judicial Service Commission which shall consist of the Chief Justice, who shall be the Chairman, a Judge of the Supreme Court, and one other person who shall be, or shall have been, a Judge of the Supreme Court. The members of the Commission, other than the Chairman, shall be appointed by the Governor-General.

(2) No person shall be appointed as, or shall remain, a member of the Judicial Service Commission, if he is a Senator or a Member of Parliament.

(3) Subject to the provisions of subsection (5) of this Section, every member of the Judicial Service Commission, other than the Chairman, shall, unless he earlier resigns his office, or is removed therefrom as hereinafter provided, or being a Judge of the Supreme Court ceases so to be, hold office for a period of five years from the date of his appointment, and shall be eligible for re-appointment.

(4) The Governor-General may for cause assigned remove any member of the Judicial Service Commission from his office.

(5) The Governor-General may grant leave from his duties to any member of the Judicial Service Commission, and may appoint a person qualified to be a member of the Judicial Service Commission to be a temporary member for the period of such leave.

(6) Where a person is appointed to be a member of the Judicial Service Commission, he may be paid such salary or allowance as may be determined by Parliament. Any salary or allowance payable to such person shall be charged on the Consolidated Fund and shall not be diminished during his term of office.

(7) (*Revoked*).

54. There shall be a Secretary to the Judicial Service Commission who shall be appointed by the Commission.

55. (1) The appointment, transfer, dismissal and disciplinary control of judicial officers is hereby vested in the Judicial Service Commission.

(2) Any judicial officer may resign his office by writing under his hand addressed to the Governor-General.

(3) Every judicial officer appointed before the date on which this Part of this Order comes into operation and in office on that date shall continue in office as if he had been appointed under this Part of this Order.

(4) The Judicial Service Commission may, by Order published in the *Government Gazette*, delegate to the Secretary to the Commission the power to authorise all transfers, other than transfers involving increase of salary, or to make acting appointments in such cases and subject to such limitations as may be specified in the Order.

(5) In this Section "appointment" includes an acting or temporary appointment and "judicial officer" means the holder of any judicial office but does not include a Judge of the Supreme Court or a Commissioner of Assize.

56. Every person who, otherwise than in the course of his duty, directly or indirectly, by himself or by any other person, in any manner whatsoever influences or attempts to influence any decision of the Judicial Service Commission or of any member thereof shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment:

Provided that nothing in this Section shall prohibit any person from giving a certificate or testimonial to any applicant or candidate for any judicial office.

PART VII

The Public Service

57. Save as otherwise provided in this Order, every person holding office under the Crown in respect of the Government of the Island shall hold office during His Majesty's pleasure.

58. (1) There shall be a Public Service Commission which shall consist of three persons, appointed by the Governor-General, one at least of whom shall be a person who has not, at any time during the period of five years immediately preceding, held any public office or judicial office. The Governor-General shall nominate one of the members of the Commission to be the Chairman.

(2) No person shall be appointed as, or shall remain, a member of the Public Service Commission if he is a Senator or a Member of Parliament.

(3) Every person who, immediately before his appointment as a member of the Public Service Commission, is a public officer shall, when such appointment takes effect, cease to hold any paid office previously held by him as a servant of the Crown in respect of the Government of the Island, and shall accordingly cease to be a public officer for the purposes of this Order; and he shall be ineligible for further appointment as a public officer:

Provided that any such person shall, until he ceases to be a member of

the Public Service Commission or, while continuing to be such a member, attains the age at which he would, if he were a public officer, be required to retire be deemed to hold a pensionable office in the service of the Crown in respect of the Government of the Island for the purposes of any written law relating to the grant of pensions, gratuities or other allowances in respect of such service.

(4) Subject to the provisions of subsection (6) of this Section, every person who is appointed to be a member of the Public Service Commission shall, unless he earlier resigns his office or is removed therefrom, hold office for a period of five years from the date of his appointment and shall be eligible for re-appointment.

(5) The Governor-General may for cause assigned remove any member of the Public Service Commission from his office.

(6) The Governor-General may grant leave from his duties to any member of the Public Service Commission, and may appoint a person qualified to be a member of the Public Service Commission to be a temporary member for the period of such leave.

(7) A member of the Public Service Commission may be paid such salary as may be determined by Parliament. The salary payable to any such member shall be charged on the Consolidated Fund and shall not be diminished during his term of office.

(8) For the purposes of Chapter IX of the Penal Code, a member of the Public Service Commission shall be deemed to be a public servant.

59. There shall be a Secretary to the Public Service Commission who shall be appointed by the Commission.

60. (1) The appointment, transfer, dismissal and disciplinary control of public officers is hereby vested in the Public Service Commission:

Provided that appointments and transfers to the office of Attorney-General shall be made by the Governor-General.

(2) In subsection (1) of this Section the expression "transfer" means a transfer involving an increase of salary.

61. The Public Service Commission may, by Order published in the *Government Gazette*, delegate to any public officer, subject to such conditions as may be specified in the Order, any of the powers vested in the Commission by subsection (1) of Section 60. Any person dissatisfied with any decision made by any public officer under any power delegated as aforesaid may appeal therefrom to the Commission and the decision of the Commission on such appeal shall be final.

62. The provisions of Section 56 of this Order shall apply in relation to the Public Service Commission as though the reference therein to the Judicial Service Commission were a reference to the Public Service Commission and the reference to judicial office were a reference to public office.

63. (1) Any officer holding office in the public service on the day immediately preceding the day appointed by His Majesty by Order in Council as the appointed day for the purposes of the Ceylon Independence Act, 1947, being an officer—

(a) Who, at any time before the seventeenth day of July, 1928, was appointed or selected for appointment to a public office, appointment to

which was subject to the approval of a Secretary of State, or who, at any time before that day, had entered into an agreement with the Crown Agents for the Colonies to serve in any public office for a specified period; or

(b) Who, on or after the seventeenth day of July, 1928, was appointed or selected for appointment (otherwise than on agreement for a specified period) to a public office, appointment to which was subject to the approval of a Secretary of State; or

(c) Who, on or after the seventeenth day of July, 1928, had entered into an agreement with the Crown Agents for the Colonies to serve for a special period in a public office, appointment to which was not subject to the approval of a Secretary of State, and who, on the day appointed as aforesaid, either has been confirmed in a permanent and pensionable office or is a European member of the Ceylon Police Force;

may, if he elects to retire from the public service in accordance with the provisions of subsection (2) of this Section, be granted a pension or gratuity in accordance with and subject to the provisions of Article 88 of the Ceylon (State Council) Order in Council, 1931, and the regulations made thereunder, notwithstanding the revocation of that Order by section 91 of this Order; and those provisions shall apply accordingly subject to any proclamation made under Section 88 of this Order.

(2) Election to retire for the purposes of subsection (1) of this Section may be exercised:—

(a) In the case of an officer to whom paragraph (a) of that subsection applies, at any time after this part of this Order comes into operation;

(b) In the case of an officer to whom either paragraph (b), or paragraph (c) of that subsection applies, at any time within two years after the day appointed as aforesaid.

(3) In this Section the expression "public office" shall, notwithstanding the provisions of Section 3, include a judicial office.

[Note: The Schedule to the Ceylon Independence Order in Council, 1947 (which amended Section 63 of the principal Order) contains the following provision:—

In the case of a person retiring before the day appointed by His Majesty by Order in Council as the appointed day for the purposes of the Ceylon Independence Act, 1947, Section 63 shall continue to have effect as if the foregoing amendments had not been made.

All cases of retirement under Section 63 before February 4, 1948, are therefore governed by Section 63 in its form as set out in Section 6 of the Ceylon (Constitution) (Amendment) Order in Council, 1947, and as reproduced below:—

63. (1) Any officer holding office in the public Service on the day immediately preceding the day on which this Part of this Order comes into operation (in this Section referred to as "the material date"), being an officer—

(a) Who, at any time before the seventeenth day of July, 1928, was appointed or selected for appointment to a public office, appointment to which was subject to the approval of a Secretary of State, or who, at any time before that day, had entered into an agreement with the Crown Agents for the Colonies to serve in any public office for a specified period; or

(b) Who, on or after the seventeenth day of July, 1928, but before the ninth day of October, 1945, was appointed or selected for appointment (otherwise than on agreement for a specified period) to a public office, appointment to which was subject to the approval of a Secretary of State; or

(c) Who, on or after the seventeenth day of July, 1928, but before the ninth day of October, 1945, had entered into an agreement with the Crown Agents for the Colonies to serve for a specified period in a public office, appointment to which was not subject to the approval of a Secretary of State, and who, at the material date, either has been confirmed in a permanent and pensionable office or is a European member of the Ceylon Police Force;

may, if he elects to retire from the public service in accordance with the provisions of subsection (2) of this Section, be granted a pension or gratuity in accordance with and subject to the provisions of Article 88 of the Ceylon (State Council) Order in Council, 1931, and the regulations made thereunder, notwithstanding the revocation of that Order by Section 91 of this Order; and those provisions shall apply accordingly subject to any proclamation made under Section 88 of this Order.

(2) Election to retire for the purposes of subsection (1) of this Section may be exercised—

(a) In the case of an officer to whom paragraph (a) of that subsection applies, at any time after this part of this Order comes into operation;

(b) In the case of an officer to whom either paragraph (b), or paragraph (c) of that subsection applies, at any time within two years after the first meeting of the House of Representatives.

64. (1) All pensions, gratuities, or other like allowances which have been, or which may be, granted to any persons who have been, and have ceased to be, in the service of the Crown in respect of the Government of the Island at any time before the date on which this Part of this Order comes into operation, or to the widows, children or dependents of such persons, shall be governed by the written law under which they were granted, or, if granted after that date, by the written law in force on that date, or, in either case, by any written law made thereafter which is not less favourable.

(2) Subject to the provisions of Section 63 of this Order all pensions, gratuities and other like allowances which may be granted to persons who, on the date on which this Part of this Order comes into operation, are in the service of the Crown in respect of the Government of the Island, or to the widows, children or dependents of such persons, shall be governed by the written law in force on that date or by any written law made thereafter which is not less favourable.

65. All pensions and gratuities granted in accordance with the provisions of this Order shall be charged on the Consolidated Fund.

PART VIII

Finance

66. (1) The funds of the Island not allocated by law to specific purposes shall form one Consolidated Fund into which shall be paid the produce of all taxes, imposts, rates and duties and all other revenues of the Island not allocated to specific purposes.

(2) The interest on the public debt, sinking fund payments, the costs, charges and expenses incidental to the collection, management and receipt of the Consolidated Fund and such other expenditure as Parliament may determine shall be charged on the Consolidated Fund.

67. (1) Save as otherwise expressly provided in subsection (3) of this Section, no sum shall be withdrawn from the Consolidated Fund except under the authority of a warrant under the hand of the Minister of Finance.

(2) No such warrant shall be issued unless the sum has by resolution of the House of Representatives or by any law been granted for specified public services for the financial year during which the withdrawal is to take place or is otherwise lawfully charged on the Consolidated Fund.

(3) Where the Governor-General dissolves Parliament before the Appropriation Bill for the financial year has received the Royal Assent, he may, unless Parliament shall have already made provision, authorise the issue from the Consolidated Fund and the expenditure of such sums as he may consider necessary for the public services until the expiry of a period of three months from the date on which the new House of Representatives is summoned to meet.

68. (1) Notwithstanding any of the provisions of Section 66 of this Order, Parliament may by law create a Contingencies Fund for the purpose of providing for urgent and unforeseen expenditure.

(2) The Minister of Finance, if satisfied

(a) That there is need for any such expenditure, and
(b) That no provision for such expenditure exists,

may, with the consent of the Prime Minister, authorise provision to be made therefor by an advance from the Contingencies Fund.

(3) As soon as possible after every such advance, a Supplementary Estimate shall be presented to Parliament for the purpose of replacing the amount so advanced.

69. No Bill or motion, authorising the disposal of, or the imposition of charges upon, the Consolidated Fund or other funds of the Island, or the imposition of any tax or the repeal, augmentation or reduction of any tax for the time being in force shall be introduced in the House of Representatives except by a Minister, nor unless such Bill or motion has been approved either by the Cabinet or in such manner as the Cabinet may authorise.

70. (1) There shall be an Auditor-General who shall be appointed by the Governor-General and who shall hold office during good behaviour.

(2) The salary of the Auditor-General shall be determined by Parliament, shall be charged on the Consolidated Fund and shall not be diminished during his term of office.

(3) The office of Auditor-General shall become vacant—

(a) By his death: or
(b) By his attaining the age of fifty-five years or such higher age as the Governor-General may determine; or
(c) By his resignation in writing addressed to the Governor-General; or
(d) By his removal by the Governor-General on account of ill-health or physical or mental infirmity in the like circumstances and subject to the

same conditions as a public officer in receipt of similar pensionable emoluments; or

(e) By his removal by the Governor-General upon an address from the Senate and the House of Representatives praying for his removal.

71. (1) The accounts of all departments of Government, including the offices of the Cabinet, the Clerk to the Senate, the Clerk to the House of Representatives, the Judicial Service Commission and the Public Service Commission shall be audited by the Auditor-General who, with his deputies, shall at all times be entitled to have access to all books, records, or returns relating to such accounts.

(2) The Auditor-General shall report annually to the House of Representatives on the exercise of his functions under this Order.

PART IX

Transitional Provisions, Repeals and Savings

72. The Governor shall, before the first election of Senators in accordance with the provisions of Section 9 of this Order, make regulations prescribing the method of voting and of transferring and counting votes in any election of Senators; and such regulations shall have effect as if enacted in this Order until Parliament shall otherwise provide.

73. For the purpose of securing that one-third of the Senators shall retire every second year, at the first meeting of the Senate under this Order, the Senate shall by lot divide the Senators into three classes, each class consisting of five elected Senators and five appointed Senators; and the term of office of the Senators of the first class shall terminate at the expiry of a period of two years, the term of office of the Senators of the second class shall terminate at the expiry of a period of four years, and the term of office of the Senators of the third class shall terminate at the expiry of a period of six years, from the date of election or appointment, as the case may be. For the purposes of this Section, appointed Senators shall be deemed to have been appointed on the day on which elected Senators are elected.

74. Notwithstanding anything in Section 11 of this Order the first House of Representatives shall consist of one hundred and one Members, ninety-five of whom shall be elected in accordance with the law in force relating to the election of Members of Parliament, and six of whom shall be appointed by the Governor-General.

75. Until Parliament otherwise provides, the remuneration and allowances payable to Members of the first House of Representatives, including the Speaker, the Deputy Speaker and the Deputy Chairman of Committees, shall be the same as the remuneration and allowances paid to the Members of the State Council and the aforesaid officers thereof.

76. (*Revoked*).

77. As soon as may be after the publication of the first Proclamation under Section 43 of this Order, a register of electors shall be prepared for each electoral district in accordance with the law then in force relating to the election of Members of Parliament.

78. (*Revoked*).

79. (*Revoked*).

80. (*Revoked*).

81. The first Standing Orders of the Senate and of the House of Representatives shall be made by the Governor. Any Standing Order made by the Governor may be amended or revoked by the Chamber for which that Order is made.

82. (1) (*Revoked*).

(2) The person holding the office of Clerk of the State Council and the persons on the staff of the State Council on the date immediately preceding the date on which Part III of this Order comes into operation shall, on that date, be transferred to the service of the House of Representatives and shall be deemed to have been appointed respectively as Clerk to the House of Representatives and as members of his staff under Section 28 of this Order. The persons referred to in this subsection shall, until Parliament otherwise provides, hold their appointments on as nearly as may be the same terms and conditions as those on which they were employed under the State Council.

83. (*Revoked*).

84. (1) (*Revoked*).

(2) (*Revoked*).

(3) If any person ceasing to hold office under the provisions of this Section, having held such office on the ninth day of October, 1945, is not transferred to any public service outside the Island and is granted a pension or gratuity in respect of service under the Government of the Island, his case shall be treated in the computation of such pension or gratuity as if he had elected to retire under the provisions of subsection (2) of Section 63 on the day upon which he ceased to hold office under the provisions of this Section.

85. (*Revoked*).

86. (*Revoked*).

87. (*Revoked*).

88. (*Revoked*).

89. Subject to the provisions of any Proclamation made under Section 88 of this Order—

(a) Every reference in any written law in force on the date of the first meeting of the House of Representatives under this Order to the Legislative Council or to the State Council shall, on and after that date and until Parliament otherwise provides, be read and construed as a reference to the House of Representatives;

(b) Every reference in any written law aforesaid to an Officer of State, a Minister or an Executive Committee shall, on and after the date of the first meeting of the House of Representatives under this Order and until Parliament otherwise provides, be read and construed as a reference to the Minister or other authority to whom the particular power, authority or function is assigned under this Order.

90. Nothing contained in Sections 88 and 89 of this Order shall affect the passing by Parliament of any law relating to the vesting or the exercise of any of the powers, authorities or functions to which those Sections refer.

91. The existing Orders in Council shall be revoked on the date on which Part III of this Order comes into operation:

Provided that the preceding provisions of this Section shall not prejudice or affect—

(a) Anything lawfully done under any of the Orders aforesaid or the continuance of any legal proceeding begun before the date aforesaid;
(b) The continued operation of any law in force in the Island immediately before the date aforesaid.

92. (*Revoked*).

FIRST SCHEDULE

The Ceylon (State Council) Order in Council, 1931.
The Ceylon (State Council) Amendment Order in Council, 1934.
The Ceylon (State Council) Amendment Order in Council, 1935.
The Ceylon (State Council) Amendment Order in Council, 1937.
The Ceylon (State Council) Amendment Order in Council, 1939.
The Ceylon (State Council) Amendment Order in Council, 1943.

SECOND SCHEDULE

Ceylon Government 5 per cent Inscribed Stock (1960–70).
Ceylon Government $4^1/_2$ per cent Inscribed Stock (1965).
Ceylon Government $3^1/_2$ per cent Inscribed Stock (1954–59).
Ceylon Government $3^1/_4$ per cent Inscribed Stock (1959).
Ceylon Government 3 per cent Inscribed Stock (1959–64).

THE CEYLON (CONSTITUTION) (AMENDMENT No. 3) ORDER IN COUNCIL, 1947

At the Court at Buckingham Palace, the 26th day of November, 1947

Present:

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

WHEREAS by the Ceylon (Constitution) Order in Council, 1946, (hereinafter called "the Principal Order") provision was made (amongst other things) for the establishing of a Parliament in and for the Island of Ceylon:

And whereas the definition "Public Officer" in subsection (1) of Section 3 of the Principal Order was amended by the Ceylon (Constitution) (Amendemnt No. 2) Order in Council, 1947, (hereinafter called "the Amending Order"):

And whereas by the Amending Order power was reserved for His Majesty, His Heirs and Successors to revoke, add to or amend the Amending Order or any part thereof, as to Him or Them should seem fit:

And whereas it is expedient for the purpose of removing doubts, to make provision as to the time at which the amendment made in the Principal Order is to be construed as having taken effect:

Now, therefore, it is hereby ordered by His Majesty, by and with the advice of His Privy Council as follows:—

1. (1) This Order may be cited as the Ceylon (Constitution) (Amendment No. 3) Order in Council, 1947, and shall be construed as one with the Principal Order.

(2) This Order shall come into operation forthwith and shall be published in the *Government Gazette*.

2.[1] For the removal of doubts ,it is hereby declared that the amendment made in the Principal Order by section 2 of the Amending Order shall be construed as having taken effect as from the fifth day of July, 1947 (being the date on which Part III of the Principal Order came into operation); and any election petition or other legal proceedings pending at the date of this Order which may be affected by the provisions of this Order shall be determined accordingly subject to such orders as to costs as to the court or judge may seem just.

3. (*Revoked*).

THE CEYLON (OFFICE OF GOVERNOR-GENERAL) LETTERS PATENT, 1947

Letters Patent passed under the Great Seal of the Realm, constituting the office of Governor-General and Commander-in-Chief of the Island of Ceylon and its Dependencies

[Dated 19th December, 1947]

GEORGE THE SIXTH, by the Grace of God of Great Britain, Ireland, and the British Dominions beyond the Seas King, Defender of the Faith. To all to whom these Presents shall come, Greeting!

WHEREAS by the Ceylon Letters Patent, 1947, we did constitute the Office of Governors and Commander-in-Chief in and over Our Island of Ceylon and its Dependencies:

And whereas We are minded to make fresh provisions as is hereinafter provided:

Now know ye that We do by these Presents declare Our will and pleasure as follows:—

1. (1) In these Letters Patent, unless the context otherwise requires:—

"The Governor-General" means the Governor-General and Commander-in-Chief of the Island, and includes the Officer for the time being Administering the Government of the Island and, to the extent to which a Deputy for the Governor-General is authorised to act, that Deputy;

"The Public Seal" means the Public Seal of the Island.

(2) In the interpretation of these Letters Patent, the provisions of the Interpretation Ordinance of Ceylon shall, subject to the express provisions of these Letters Patent, and notwithstanding any provision to the contrary in that Ordinance apply as they apply for the interpretation of an Ordinance in force in the Island.

2. These Letters Patent may be cited as the Ceylon (Office of Gov-

[1] The amendment referred to in Section 2 of the Order is the addition of all the words after "Parliamentary Secretary" in paragraph (d) of the definition of "public officer" in Section 3 (1) of the principal Order.

ernor-General) Letters Patent, 1947, and shall come into operation on the day appointed by Us by Order in Our Privy Council as the appointed day for the purposes of the Ceylon Independence Act, 1947.

3. The Ceylon Letters Patent, 1947, are hereby revoked but without prejudice to any appointment lawfully made, or to any other thing lawfully done, thereunder.

4. There shall be a Governor-General and Commander-in-Chief in and over Our Island of Ceylon and its Dependencies and appointments to the said Office shall be by Commission under Our Sign Manual and Signet.

5. We do hereby authorise, empower and command the Governor-General to do all things belonging to his Office in accordance with these Letters Patent, such Commission as aforesaid, such Instructions as may from time to time be given to him by Us under Our Sign Manual and Signet, The Ceylon (Constitution and Independence) Orders in Council 1946 and 1947, and such other laws as may from time to time be in force in the Island.

6. Every person appointed to fill the office of Governor-General shall, with all due solemnity, before entering on any of the duties of his Office, cause the Commission appointing him to be Governor-General to be read and published in the presence of the Chief Justice or, in his absence, some other Judge of Our Supreme Court of Ceylon and of such Members of the Cabinet of the Island as can conveniently attend; which being done, he shall then and there take before them the Oath of Allegiance and the Official Oath in the forms set out in the Promissory Oaths Ordinance, which Oaths the said Chief Justice or Judge is hereby required to administer.

7. (1) Whenever the Office of Governor-General is vacant, or the Governor-General is absent from the Island, or is for any cause prevented from, or incapable of, acting in the duties of his Office, then such other person as We may appoint under Our Sign Manual and Signet, or if there is no such person in the Island and capable of discharging the duties of the administration, then the person for the time being lawfully performing the functions of Chief Justice shall, during Our pleasure, administer the Government of the Island.

(2) Before assuming the administration of the Government of the Island any such person shall, in the form and manner prescribed in Article 6 of these Letters Patent, take the Oath of Allegiance and the Official Oath (as Governor-General); which being done, We do hereby authorise, empower and command such person, subject, if he is appointed as aforesaid under Our Sign Manual and Signet, to the terms of his appointment, during Our pleasure, to do all things that belong to the Office of Governor-General as provided in these Letters Patent.

(3) Any such person aforesaid shall not continue to administer the Government after the Governor-General or some other person having a prior right to administer the same has notified that he has assumed or resumed or is about to assume or resume the administration.

(4) The Governor-General or any other person as aforesaid shall not be regarded as absent from the Island or prevented from or incapable of

acting in the duties of his Office for the purposes of this Article during his passage to or from any Dependency of the Island or when there is a subsisting appointment of a Deputy under the next succeeding Article of these Letters Patent.

8. (1) Whenever the Governor-General has occasion to be absent from the seat of Government but not from the Island, or to be absent from the Island for a period which he has reason to believe will be of short duration, or whenever by reason of illness which he has reason to believe will be of short duration he considers it desirable so to do, he may, by Instrument under the Public Seal, appoint any person in the Island to be his Deputy during such absence or illness, and in that capacity to exercise and perform for and on behalf of the Governor-General during such absence or illness all such powers and functions vested in the Governor-General by these Letters Patent or otherwise as shall be specified by such Instrument.

(2) By the appointment of a Deputy as aforesaid the power and authority of the Governor-General shall not be abridged, altered, or in any way affected otherwise than as We may at any time hereafter think proper to direct; and every such Deputy shall conform to and observe all such instructions as the Governor-General shall from time to time address to him for his guidance.

(3) Any appointment under this Article may at any time be revoked by Us or by the Governor-General, and, in case of absence as aforesaid, shall cease and determine upon the return of the Governor-General to the seat of Government or to the Island, as the case may be.

9. Subject to the provisions of the Ceylon (Constitution and Independence) Orders in Council, 1946 and 1947, and of any other law for the time being in force, the Governor-General may constitute and appoint in Our name and on Our behalf all such Judges, Commissioners, Justices of the Peace and other officers as may lawfully be constituted or appointed by Us, and, subject as aforesaid, may, for cause shown to his satisfaction, dismiss or suspend from the exercise of his office any person in Our service in the Island, or take other disciplinary action as respects any such person.

10. When any offence has been committed for which the offender may be tried in the Island, the Governor-General may, as he shall see fit, in Our name and on Our behalf, grant a pardon to any accomplice in such offence who shall give such information as shall lead to the conviction of the principal offender, or of any one of such principal offenders if more than one, and further may grant to any offender convicted of any such offence in any Court within the Island, a pardon, either free or subject to lawful conditions, or any respite, either indefinite or for such period as the Governor-General may think fit, of the execution of any sentence passed on such offender, and may remit the whole or any part of such sentence or of any penalties or forfeitures otherwise due to Us.

11. Subject to any law for the time being in force, the Governor-General may, in Our name and on Our behalf, make and execute, under the Public Seal, grants and dispositions of any lands or other immovable property within the Island which may be lawfully granted or disposed of by Us.

12. The Governor-General shall keep and use the Public Seal for sealing all things whatsoever that shall pass the said Seal.

13. We do hereby require and command all Our Officers, Civil and Military, and all other inhabitants of the Island to be obedient, aiding and assisting unto the Governor General.

14. We do hereby reserve to Ourselves, Our Heirs and Successors full power and authority to revoke, add to, or amend these Letters Patent as to Us or Them shall seem fit.

In witness whereof We have caused these Our Letters to be made Patent. Witness Ourself at Westminster this nineteenth day of December, 1947, in the twelfth year of Our Reign.

By Warrant under The King's Sign Manual
NAPIER.

ROYAL INSTRUCTIONS

INSTRUCTIONS passed under the Royal Sign Manual and Signet to the Governor-General and Commander-in-Chief of the Island of Ceylon and its Dependencies

GEORGE R.

Dated 19th December, 1947.

Instructions to Our Governor-General and Commandier-in-Chief in and over Our Island of Ceylon and its Dependencies or other Office for the time being Administering the Government of Our said Island and its Dependencies.

Whereas by the Ceylon Letters Patent, 1947, We did constitute the Office of Governor and Commander-in-Chief in and over Our Island of Ceylon and its Dependencies:

And whereas We did issue to the Governor certain Instructions under Our Sign Manual and Signet dated the twenty-fifth day of August, 1947, (hereinafter called "the existing Instructions"):

And whereas by the Ceylon (Office of Governor-General) Letters Patent, 1947, (hereinafter called "the Letters Patent") We have revoked the Ceylon Letters Patent, 1947, and have ordered and declared that there shall be a Governor-General and Commander-in-Chief in and over the Island:

And whereas we are minded to issue fresh Instructions under Our Sign Manual and Signet for the guidance of the Governor-General or any other Officer Administering the Government of the Island:

Now, therefore, as from the day appointed by Us by Order in Our Privy Council as the appointed day for the purposes of the Ceylon Independence Act, 1947, We do hereby revoke the existing Instructions, but without prejudice to any appointment lawfully made, or any other thing lawfully done, thereunder, and instead thereof We do hereby direct and enjoin and declare Our will and pleasure as follows:—

1. The Governor-General may, whenever he thinks fit, require any person in the public service of the Island to take the Oath of Allegiance

together with such other oath or oaths as may from time to time be prescribed by any law in force in the Island, in the form prescribed by any such law. The Governor-General is to administer such oaths or cause them to be administered by any other person.

2. (1) Whenever there is a subsisting appointment of a Deputy to the Governor-General under the Letters Patent, these Instructions, so far as they apply to any matter or thing to be done, or any powers or functions to be exercised or performed, by such Deputy, shall be deemed to be addressed to, and shall be observed by, such Deputy.

(2) Any such Deputy may, if he thinks fit, apply to Us for instructions in any matters; but he shall forthwith transmit to the Governor-General a copy of every despatch or other communication so addressed to Us.

3. We do hereby direct and enjoin that the Governor-General in the exercise of the powers conferred upon him by Article 10 of the Letters Patent shall not grant a pardon, respite or remission to any offender without first receiving, in every case, the advice of one of his Ministers. Where any offender shall have been condemned to suffer death by the sentence of any Court, the Governor-General shall cause a report to be made to him by the Judge who tried the case; and he shall forward such report to the Attorney-General with instructions that after the Attorney-General has advised thereon, the report shall be sent, together with the Attorney-General's advice, to the Minister whose function it is to advise the Governor-General on the exercise of the said powers.

4. Except for the purpose of visiting for a short period any Dependency of the Island, the Governor-General shall not quit the Island without having first obtained leave from Us for so doing.

5. In these Instructions, unless the context otherwise requires:—

"The Island" means the Island of Ceylon and the Dependencies thereof;

"The Governor-General" means the Governor-General and Commander in-Chief of the Island of Ceylon and includes the Officer for the time being Administering the Government and, to the extent to which a Deputy for the Governor-General is authorised to act, that Deputy.

Given at Our Court at St. James' this Nineteenth day of December, 1947, in the Twelfth year of Our Reign.

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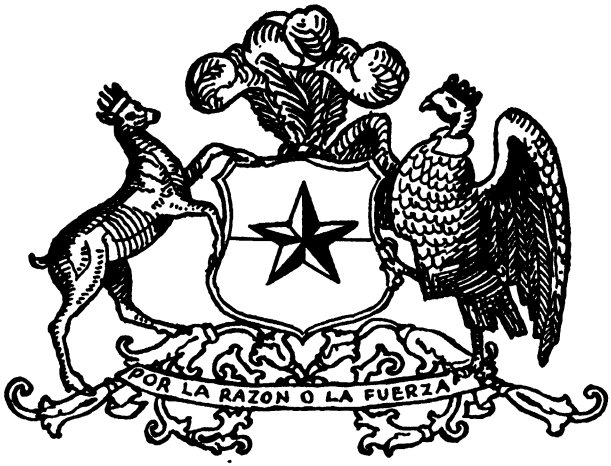
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CHILE

SUMMARY[1]

International Status

Chile is a member of the United Nations. It signed the Charter of that organization in San Francisco on June 26, 1945, and deposited its ratification on October 11, 1945. It also signed the Declaration of the United Nations of January 1, 1942.

It joined the League of Nations in 1920. It signed the Statute of the Permanent Court of International Justice, September 7, 1921,[2] but it did not accept the optional clause (Art. 36) respecting obligatory jurisdiction

[1] The editor is indebted to the Chilean Embassy in Washington for suggestions for the summary and amendments to the English translation of the constitution for the second edition.

[2] Ratified July 20, 1928.

and it is not, as of the time of our going to press, subject to the obligatory jurisdiction of the International Court of Justice, though it is automatically a party to its Statute of 1945.[1] It is a member of the Organization of the American States, the Postal Union and numerous other international organizations.[2] It is a party to the Paris Treaty of 1928 for the Renunciation of War.

Chile revolted from Spanish rule in 1810 and adopted her first constitution in 1812. New Constitutions were adopted in 1818, 1822, 1823 and 1828. On May 25, 1833, a constitution establishing centralized power was adopted, which was amended at various times. It was supplanted by the present Constitution of September 18, 1925.

Form of National Government

Chile's present written Constitution was adopted September 18, 1925.[3] It provides for a "unitary state" with a government "republican and representatively democratic." [4]

There is constitutional provision for provincial and communal administration [5] with instructions for decentralization of power.[6]

Source of Sovereign Power

Sovereignty "rests essentially in the nation, which delegates the exercise thereof to the authorities established by this Constitution". [7]

Rights of the People

The Constitution guarantees "to all the inhabitants of the Republic" equality before the law; freedom from slavery; freedom of religion; freedom of the press; the right of assembly and association and to present petitions; freedom of teaching; obligatory primary education; freedom from the exaction of contribution or personal service or requisitions by armed bodies; inviolability of property and freedom from expropriation except with compensation; inviolability of the home and of letters and telegraphic correspondence; and freedom of transit within the Republic.[8] It also guarantees due process of law,[9] freedom from being required to testify against one's self,[10] freedom from torture and undue punishments.[10] Military service is compulsory.[11]

Protection of labor, industry, and "the work of social security, especially as referring to sanitary dwelling and economic conditions of living" is mandatory,[12] and the State is directed by the Constitution "to favor the Convenient partition of estates and the creation of family ownership. [12]

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[1] Under the provisions of Article 93 of the Charter of the United Nations. For list of such nations, see Yearbook of the Court, 1951–52 pp. 35–43

[2] See Table I.

[3] Amended November 23, 1943.

[4] Const., Art. 1.

[5] Id., Arts. 94–106.

[6] Id., Art. 107.

[7] Id., Art. 2.

[8] Id., Art. 10.

[9] Id., Arts. 11–16.

[10] Id., Art. 18.

[11] Id., Art. 10.

[12] Id., Art. 10 (14th).

Legislative Department

The legislative body known as the National Congress consists of two branches, the Chamber of Deputies and the Senate.[1] The Chamber of Deputies is composed of one person for each thirty thousand inhabitants elected by direct vote.[2] The members of the Senate are elected by direct ballot "for the nine provincial groups, as fixed by law, with regard to the characteristics and interests of the several regions of the territory of the Republic." [3] Each group elects five senators.[3] In 1948 there were 45 senators and 147 deputies, all elected by direct popular vote. Senators serve for terms of eight years.[4] The Chamber of Deputies is renewed every four years.[5]

The Constitution provides for proportional representation with respect to "opinions and political parties" in elections of both deputies and senators.[6] Congress is granted powers set forth in specific categories.[7]

Executive Department

The President of the Republic is elected for a term of six years and cannot be reelected for the ensuing term.[8] He is elected by direct vote of the citizens of all the Republic having the right of suffrage.[9] The President may not leave Chile during his term of office without the consent of Congress.[10] Presidental powers are set forth in seventeen categories.[11]

Ministers of state are provided for, who render accounts to the President who in turn reports to the Congress.[12] Ministers may attend sessions of the Chamber of Deputies or of the Senate and take part in debates, with preference in speaking but without the right to vote.[13]

Judicial Department

Judicial power is vested in a Supreme Court [14] and other tribunals.[15] "Ministers" of the Supreme Court are chosen by the President of the Republic from a list of five persons chosen by the court.[16] It is mandatory that "Ministers" of the court of appeals who have been longest in office shall occupy places on the list.[16] There is also a provision for "scholastic judges." [16] The President and Congress are prohibited from exercising judicial functions.[17]

Area, Population, Language

Chile's area is 296,717 square miles. Its population is estimated (December 31, 1952) at 6,009,870. The language is Spanish. Racially it includes Spanish settlers and their descendants, native Araucanian Indians Fuegians and Changos, also mixed Spanish Indians and European immigrants.

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[1] Const., Art. 24. [2] Id., Art. 37. [3] Id., Art. 40. [4] Id. Art. 41.
[5] Id., Art. 38. [6] Id., Art. 25. [7] Id., Arts. 42, 43, 44 [8] Id., Art. 62.
[9] Id., Art. 63. [10] Id., Art. 67. [11] Id., Art. 72. [12] Id., Art. 77.
[13] Id., Art. 78. [14] Id., Art. 86. [15] Id., Arts. 83–87. [16] Id., Art. 83. [17] Id., Art. 80.

POLITICAL CONSTITUTION of the REPUBLIC OF CHILE[1]

September 18, 1925 (as amended)

CHAPTER I

The State, Government and Sovereignty

Art. 1. The State of Chile is unitary. Its government is republican and representatively democratic.

Art. 2. The sovereignty rests essentially in the nation, which delegates the exercise thereof to the authorities established by this Constitution.

Art. 3. No person or assembly of persons has authority to arrogate the title or representation of the people, to usurp its rights, or to make demands in its name. Violation of this article is sedition.

Art. 4. No magistracy, or person, or assembly of persons, not even under the pretext of extraordinary circumstances, is empowered to assume any other authority or rights than those expressly conferred upon them by the laws. Every act in contravention of this article is void.

CHAPTER II

Nationality and Citizenship

Art. 5. Chileans are:

1. Those born in the territory of Chile; excepting the children of foreigners who may happen to be in Chile in the service of their government and the children of transient foreigners, all of whom shall be empowered to choose between the nationality of their parents and that of Chile;
2. The children of Chilean father or mother, born in foreign territory, by the sole act of becoming resident in Chile. The children of Chileans born abroad, the father or mother being at that time in the service of the republic, are Chileans even for those purposes wherein the fundamental, or any other laws, may require birth within Chilean territory;
3. Foreigners who may obtain letters of naturalization in conformity to law, upon express renunciation of their former nationality;
4. Those who have obtained a special favor of naturalization by law.

Naturalized persons will have the right to hold public office by popular election only after five years of being in possession of letters of naturalization.

The law will prescribe the procedure for choosing between Chilean and foreign nationality, for the granting, denial or cancellation of letters of

[1] Translated by William C. Wells of the Pan American Union Staff, with amendments translated by Dorothy W. Peaslee.

naturalization, and for the keeping of a register of all these proceedings.

Art. 6. Chilean nationality is lost:

1. By naturalization in a foreign country;
2. By cancellation of the letters of naturalization;
3. By lending aid during war to the enemies of Chile or of her allies.

Those who may have lost Chilean nationality for any of the reasons set out in this article cannot be rehabilitated except by law.

Art. 7. Chileans who may have attained twenty-one years of age, who know how to read and write, and are inscribed in the electoral registers are citizens with the right of suffrage.

These registers are open to public inspection and are valid for such time as the law may determine.

Inscriptions will be permanent and be suspended only for the periods as by law indicated.

In popular elections voting shall always be by secret ballot.

Art. 8. The exercise of the right of suffrage is suspended:

1. For physical or mential incapacity which prevents free and deliberative action;
2. When the citizen shall be under indictment for an offense carrying afflictive punishment;

Art. 9. The status of citizen with right of suffrage is lost:

1. By loss of Chilean nationality;
2. By sentence to afflictive punishment. Those who on this account may have lost their citizenship may petition the Senate for restoration.[1]

Chapter III

Constitutional Guarantees

Art. 10. The Constitution insures to all the inhabitants of the Republic:

1. Equality before the law. In Chile there is no privileged class.

In Chile there are no slaves, and he who sets foot upon its territory becomes free. Chileans cannot engage in the slave traffic. The foreigner who does so, cannot live in Chile or be naturalized therein;

2. Practice of all beliefs, liberty of conscience, and the free exercise of all religions that may not be contrary to morality, good usage, and public order. Therefore, the respective religious bodies have the right to erect and maintain houses of worship and accessory property under the conditions of security and hygiene as fixed by the laws and regulations.

The churches, creeds, and religious institutions of any ritual shall have those rights in respect to property as the laws now in force may grant or recognize; but they will be subject, under the guaranties of this Constitution, to ordinary law in the exercise of ownership over their future acquired property.

Churches and accessory property intended for the service of any religious sect shall be exempt from taxation;

3. Freedom to express, without prior censorship, opinions, orally or in writing, through the medium of the press or in any other form; yet without prejudice to the liability of answering for offenses and abuses that

[1] Afflictive punishment (*pena aflictiva*) is in general a term of punishment longer than three years (See Article 37 of the Chilean Penal Code).

may be committed in the exercise of this liberty in the manner and in the cases as determined by law;

4. The right of assembly without prior license and without arms. In plazas, streets, and other places of public use, assemblies will be governed by the general police regulations;

5. The right of association without prior license and in conformity with the law;

6. The right of presenting petitions to the constituted authority upon any matter of public or private interest, without any other limitation than that of using respectful and suitable language;

7. The freedom of teaching.

Public education is the first concern of the State.

Primary education is obligatory.

There shall be a bureau of public education in whose charge will be the inspection of national instruction and its direction under the authority of the Government;

8. Admission to all public employments and offices without other conditions than those imposed by the law;

9. The equal apportionment of imposts and taxes in proportion to property, or in progression or form as fixed by law, and the equal apportionment of other public obligations.

Direct or indirect levies can be imposed only by law, and without such special authorization every State authority and every individual is prohibited from imposing such, even though it be under pretext of urgency, of being in voluntary form, or of any other nature.

No kind of personal service or contribution can be exacted except by virtue of an order from the proper authority founded upon a law that authorizes the said exaction.

No armed body can make requisitions or exact any kind of aid except through the civil authorities and by order of the latter.

A special law will prescribe the means for recruitment and replacement of the sea and land forces.

All Chileans able to bear arms, unless they be especially exempt by law, shall be inscribed in the military registers;

10. Inviolability of all property, without any distinction.

No one can be deprived of property under his control, or of any part thereof, or of the right he may have therein, except by virtue of a judicial decree or a writ of expropriation on account of public interest, conformable to a law. In this case indemnification, as may be agreed on, or as may be determined in the corresponding court proceedings, shall be paid the owner in advance.

The exercise of ownership is subject to the limitations or regulation that the maintenance and advancement of social order may demand, and, in this sense, the law may impose obligations or servitudes for public benefit in favor of the general interests of the State, of the health of the citizenry, and of the public welfare;

11. Exclusive property in every discovery of production, for such time as the law may concede. If the law shall exact expropriation, the author or inventor shall be given suitable indemnification;

12. Inviolability of the home.

The house of any person living in Chilean territory can be forcibly entered only for a special purpose, determined by law, and by virtue of an order from the competent authority;

13. Inviolability of epistolary and telegraphic correspondence. Documents or public securities shall not be opened, intercepted, or examined except in the cases expressly designated by the law;

14. Protection of labor, industry, and the works of social security, especially as referring to sanitary dwellings and economic conditions of living, so as to give to each inhabitant a minimum of welfare adequate for the satisfaction of his personal needs and those of his family. The law will regulate this organization.

The State shall favor the convenient partition of estates and the creation of family ownership.

No kind of labor or industry can be prohibited unless it be contrary to good usage, the public security, or public health, or as the national interests may demand and a law so declare.

It is the duty of the State to care for the public health and hygienic welfare of the country. A sufficient amount of money to maintain a national health service must be appropriated each year.

15. Freedom to sojourn at any point of the Republic, to remove from one place to another, or to depart from the territory, under the condition that police regulations be observed, and saving always prejudice to a third party; otherwise, no one can be detained, prosecuted, arrested, or deported except in the manner as determined by the laws.

Art. 11. No one can be sentenced unless he be legally tried in accordance with a law promulgated prior to the act which the trial refers to.

Art. 12. No one can be tried by special commissions, or otherwise than by the tribunal the law appoints and has previously constituted.

Art. 13. No one can be arrested except by the order of a public functionary expressly empowered by law and after such order has been made known to him, in legal form; unless he be surprised *in flagrante delicto*, and in this case for the sole purpose of being brought before the proper judge.

Art. 14. No one can be arrested, subjected to preventive detention, or imprisoned except in his dwelling or in public places intended for this purpose.

Those in charge of prisons cannot receive therein anyone in the character of arrested, indicted, or imprisoned without transcribing in their registers the detention order issued by an authority having legal capacity. They may nevertheless receive within the precincts of the prison for detention those brought for the purpose of being presented before the proper judge, but under obligation to render an account to the latter within twenty-four hours.

Art. 15. In case an authority orders the arrest of any person, it must, within the forty-eight hours following, make report thereof to the proper judge and place at his disposal the person detained.

Art. 16. Every individual who may be arrested, indicted, or imprisoned contrary to the provisions of the foregoing articles may apply, for himself, or by any one in his name, to the judicial authority designated by law, petitioning that the due process of law be observed. This judicial authority may order the individual to be brought before it and its order shall be exactly obeyed by all those having charge of the prisons and places of detention. Informed of the facts, it shall decree his immediate release, or cause the legal defects to be corrected, or put the individual at the disposition of the proper judge; proceeding in all, briefly and summarily, either itself correcting the defects or reporting them out to whomsoever may be concerned in order that they be corrected.

Art. 17. No order of incommunication shall prevent the official in charge of a house of detention from visiting the person detained, indicted, or imprisoned therein.

This official is obliged, provided that the person arrested so requires, to transmit to the proper judge a copy of the order of arrest, or make de-

mand that he be given a copy, or himself give a certificate that such a person is arrested, if at the time of his arrest the necessary order was overlooked.

Art. 18. In criminal cases the accused shall not be obliged to testify under oath about his own actions, nor can his ascendants, descendants, spouse, or relatives, within the third degree of consanguinity or second of affinity, inclusive, be obliged so to testify.

No torture must be used, nor in any case confiscation of property be imposed, except forfeiture in the cases established by law.

Art. 19. One not answerable for an offense to which the law attaches afflictive [1] punishment shall not be detained or subjected to preventive imprisonment if he be sufficiently bonded personally, or in indemnification of the action, in the form and according to the nature of the cases as determined by law.

Art. 20. Every person, in favor of whom a verdict of acquittal is rendered, or prosecution finally abandoned, shall have the right to be indemnified in manner as determined by law, for the pecuniary or merely moral injuries that he may have unjustly suffered.

Art. 21. The State treasuries shall not make any payment except by virtue of a decree issued by competent authority in which shall be cited the law or the part of the budget authorizing said payment.

An autonomous institution bearing the name of Comptrollership General of the Republic shall supervise the receipt and expenditure of funds of the national treasury, the Municipalities, the Office of Public Welfare, and of other offices which the laws may determine; it shall examine and pass upon the accounts of those responsible for the property of such entities, keep the general accounts of the Nation and discharge such other duties provided for by the law. Excepted from this provision are the accounts of the National Congress, which will be Governed in accordance with its own internal regulations.

The Controllership will not give effect to those decrees which exceed the limit fixed in paragraph No. 10 of Article 72 of this Constitution, and will remit complete copies of antecedents to the Chamber of Deputies.

It will also send a copy to the same chamber of the decrees of which it takes cognizance, and which are issued with the signature of all the Ministers of State, as provided for in the pargraph cited above.[2]

Art. 22. The public forces are essentially obedient. No armed body can deliberate.

Art. 23. Every resolution the President of the Republic, the Chamber of Deputies, the Senate or the courts of justice may agree to in the presence of or on demand of an army, a commandant at the head of an armed force, or of any assembly of people, with or without arms and in disobedience of the authorities, is null and void and cannot produce any effect.

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[1] See Note to Articles 8 and 9.

[2] Law Number 7,727, Constitutional Reform, November 23, 1943.

Chapter IV

The National Congress

Art. 24. The National Congress is composed of two branches—the Chamber of Deputies and the Senate.

Art. 25. In elections of deputies and senators a method shall be used, that, in practice, will result in giving an effective proportionality in representation to opinions and to political parties.

Art. 26. The verification of the elections of deputies and senators and cognizance of nullification protests that may be brought against them are under the jurisdition of the Qualification Court.[1]

But both the Chamber of Deputies and the Senate are empowered exclusively to pass upon the disabilities of their members and to accept their resignations if the causes upon which the disability is founded are of such a nature as to make them physically or morally unfit for the discharge of their duties. In order for a resignation to be accepted, two-thirds of the deputies or senators present must concur.

Art. 27. In order to be elected deputy or senator it is necessary to possess the requisites of citizenship with right of suffrage and never to have been sentenced for an offense carrying afflictive punishment.[2]

Senators in addition must have attained thirty-five years of age.

Art. 28. The following cannot be elected deputies or senators:

1. ministers of State;
2. intendentes and governors;
3. magistrates of the superior courts of justice, scholastic judges and officials of the public ministry;[3]
4. natural persons and the agents or administrators of juridical persons or companies who may have contracts with the State, or are sureties for the same.

Art. 29. The offices of deputies and senators are incompatible *inter se* and with those of representatives and municipal councilors.[4]

They are likewise incompatible with every public employment paid from government or municipal funds and with every service or commission of the same kind, with the exception of employments, services, or commissions of higher, secondary, and special education, located in the city in which congress holds its sessions.

The elected must choose between the office of deputy or senator and another office, employment, service, or commission that he may be discharging, within fifteen days, if he be within the territory of the Republic,

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[1] See Article 79.

[2] See note to Articles 8 and 9.

[3] Scholastic judges (*jueces de letras*) are of two categories: "for minor amounts" (*de menor cuantía*) and "for major amounts" (*de mayor cuantía*). Scholastic judges must be citizens and qualify for appointment by receiving the degree of "*Licenciado en Ciencias Jurídicas y Sociales* (approximately equivalent to an LL.M. in the United States) and by admission to the Bar. See Código Orgánico de Tribunales, Titles III and X.

The Public Ministry represents in the courts the interests of society in all legal matters affecting it. See Title XI of Código Orgánico de Tribunales.

[4] Representatives are members of the provincial assemblies. Municipal councilors are called regidores. See Articles 95 and 102.

and within one hundred days if he be absent therefrom. These periods shall be counted from the approval of the election. In default of a choice declared within the period the elected shall cease holding his office of deputy or senator.

Art. 30. No deputy or senator, from the moment of his election and until six months after the termination of office, shall be named for any service, commission, or public employment paid from government or municipal funds.

This provision does not control in case of foreign war, nor is it to be applied to the offices of President of the Republic, ministers of state and diplomatic agents, but only those offices conferred during the existence of a state of war are compatible with the functions of deputy or senator.

Art. 31. The deputy or senator who absents himself from the country for more than thirty days without permission of the chamber to which he belongs. or in the recess thereof, of its President, shall cease to hold his office. Special laws alone can authorize an absence of more than a year.

Likewise the deputy or senator shall cease to hold his office who, during its exercise, enters into or becomes surety for contracts with the State; and one who acts as counsel or under power of attorney in any kind of proceeding pending against the Treasury, or as solicitor or agent in personal negotiations of administrative character.

Art. 32. Deputies and senators are inviolable for the opinions they may express and the votes they may cast in the discharge of their offices.

Art. 33. No deputy or senator from the day of his election can be indicted, prosecuted or arrested, except in a case *in flagrante delicto* if the Court of Appeals of the respective jurisdiction, in full session, does not previously authorize the indictment by declaring that there exist grounds for prosecution. From this decision an appeal may be taken to the Supreme Court.

Art. 34. In case of any deputy or senator being arrested *in flagrante delicto* he shall be immediately placed at the disposition of the respective court of appeals with the summary information. The court will then proceed conformably to the provisions of the foregoing article.

Art. 35. From the moment in which it is declared, by a final decision, that there exist grounds for prosecutions the accused deputy or senator becomes suspended from office and at the disposal of the competent judge.

Art. 36. If a deputy or senator dies or ceases for any cause, before the last year of his term, to belong to the Chamber of Deputies or to the Senate he shall be replaced in the manner provided for in the electoral law, for the remaining period of his term.

The deputy or senator who accepts the position of minister of state must be replaced within a period of thirty days.

The Chamber of Deputies

Art. 37. The Chamber of Deputies is composed of members elected by the departments, or by groups of adjoining departments within each province, as the law may provide by direct vote and in the manner as determined by the electoral law.

One deputy shall be elected for each thirty thousand inhabitants and for a fraction of not less than fifteen thousand.

Art. 38. The Chamber of Deputies shall be renewed in the aggregate every four years.

Art. 39. Exclusive powers of the Chamber of Deputies are:

1. To declare whether or not there be grounds for the accusations that ten, at the least, of its members may formulate against the following officials:

(a) the President of the Republic, for acts of his administration by which the honor or the security of the State may be gravely compromised, or the Constitution or the laws openly infringed. Such an accusation may be introduced while the President is in office and in the six months following the expiration of his term. During this latter period the President cannot absent himself from the Republic without permission of the Chamber;

(b) the minister of state, for the offenses of treason, extortion, mis-appropriation of public funds, bribery, violation of the Constitution, disregard of the laws in having failed to cause their execution, and for having gravely compromised the security or the honor of the nation. Such accusations may be introduced while the minister is in office and in the three months following the expiration of his term. During this latter period the minister cannot absent himself from the Republic without permission of the chamber, or in its recess of its president;

(c) the magistrates of the Superior Tribunals of Justice and the Controller General of the Republic, for flagrant dereliction of duty;[1]

(d) the generals or admirals of the armed forces for having compromised gravely the security or the honor of the Nation;

(e) intendentes and governors [2] for the offenses of treason, sedition, infringement of the Constitution, misappropriation of public funds, and extortion.

In all of these cases the chamber, after having heard the accused and the report of a committe of five deputies, chosen by lot, excluding the accusers, shall declare within a period of ten days whether or not there be grounds for prosecution.[3] The committe report must be presented within a period of six days, after which the chamber shall proceed without it. If its vote is affirmative, the chamber will name three deputies to formulate the accusation and prosecute before the Senate. If the accused does not attend the session to which he is cited, or does not send a written defense, the chamber may renew the citation or proceed without his defense.

In order to declare that there be grounds for prosecution in the case of letter (a), the vote of the majority of the deputies entitled to vote shall be necessary.

In other cases the accused will be suspended from office from the moment in which the chamber declares that there be grounds for prosecution. The suspension will cease if the Senate rejects the accusation or does not pass upon it within the thirty days following;

2. To scrutinize the acts of the Government. In order to exercise this power the chamber may, on vote of a majority of the deputies present, adopt resolutions or make suggestions that shall be forwarded in writing to the President of the Republic. The resolutions or suggestions shall not

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[1] Law Number 7,727, Constitutional Reform, November 23, 1943.

[2] An intendente is the chief executive of a province, a governor of the subordinate department. See Articles 89 and 90.

[3] The procedure of declaring grounds for prosecution against such a person (*declarar haber lugar la formación de causa*) is a form of impeachment resembling the procedure of the United States House of Representatives. However, see Article 33.

affect the political responsibility of the ministers and will be answered in writing by the President of the Republic or verbally by the appropriate minister.

The Senate

Art. 40. The Senate is composed of members elected by direct ballot for the nine provincial groups, as fixed by law, with regard to the characteristics and interests of the several regions of the territory of the Republic. Each group is entitled to elect five senators.

Art. 41. The Senate will be renewed every four years by parts in the manner as determined by law. Each senator will remain eight years in office.

Art. 42. Exclusive powers of the Senate are:

1. To take cognizance of accusations that the Chamber of Deputies may present in accordance with Article 39 after a prior hearing of the accused. If the latter does not attend the session to which he is cited, or does not send a written defense, the Senate may renew the citation or proceed without his defense.

The Senate will act as a jury and be limited to declaring whether the accused is or is not guilty of the offense or abuse of power charged against him.

The declaration of guilt must be pronounced by a two-thirds part of the senators entitled to vote when the matter is an accusation against the President of the Republic, and by a majority of the senators entitled to vote in other cases.

Through the declaration of guilt the accused becomes deprived of his office.

The official found guilty will be tried in accordance with the laws by the ordinary tribunal having jurisdiction, both for the application of the penalty as prescribed for the offense committed and for the execution of its judgement as to the civil liability for damages and injuries suffered by the State or private persons;

2. To decide whether or not there be grounds for the admission of accusations that any private individual may present against the ministers on account of damages he may have suffered unjustly from any act of theirs, following the same procedure as in the foregoing number;

3. To declare whether or not there be grounds for prosecution, in criminal matters, against intendentes and governors. Excepted therefrom is the case where the accusation is initiated by the Chamber of Deputies;

4. To take cognizance of conflicts in jurisdiction that may arise between the political or administrative authorities and the superior courts of justice;

5. To grant the restoration referred to in Article 9;

6. To extend or to deny its consent to the acts of the President of the Republic in cases in which the Constitution or the law may so require.

If the Senate shall not pass upon the matter within thirty days after call for urgency by the President of the Republic, its consent shall be taken for granted;

7. To render an opinion to the President of the Republic in all cases in which he may consult it.

Powers of Congress

Art. 43. Exclusive powers of Congress are:

1. Annually to approve or disapprove the statement of disbursement of funds intended for the expenses of the public administration, which the Government must present;

2. To give its consent for the President of the Republic to leave the national territory;

3. To declare, when the President of the Republic tenders his resignation from office, whether or not the causes upon which he bases it do disable him from holding the office, and in consequence whether to accept or to refuse the resignation;

4. To declare, when there may be occasion for doubts, whether the disability that debars the President from the exercise of his functions is of such a nature that a new election should be held;

5. To approve or reject treaties that, before their ratification, the President of the Republic shall present to it.

All of the above resolutions shall be subject in Congress to the same procedure as a law.

Art. 44. Only by virtue of a law is it possible:

1. To impose taxes of any kind or nature, to repeal existing taxes, to fix their apportionment when necessary among the provinces or communes and to determine their proportionality or progression;

2. To authorize the contraction of loans, or of any other kind of operations which may affect the credit and financial responsibility of the State;

3. To authorize the alienation of State or municipal property, or its lease, or concession for more than twenty years;

4. Annually to approve the estimate of receipts and in the same law to fix the expenditures of the public administration. The budget law shall not alter expenditures or taxation prescribed in general or special laws. Only variable expenditures can be modified by it, but the initiative for increases therein or for changing the estimate of receipts belongs exclusively to the President of the Republic. The proposed budget law must be presented to Congress four months in advance of the date on which it should begin to be operative, and if at the expiration of this period it has not been approved, the bill as presented by the President of the Republic shall become effective. In case the proposed bill be not presented in time, the period of four months shall begin to count from the date of its presentation.

Congress cannot approve any new expenditure chargeable to the funds of the nation without at the same time creating or indicating the sources of revenue necessary to provide for this expenditure;

5. To create or abolish public employments, to determine or to modify their powers, to increases or diminish their salaries, to grant pensions and to decree public honors to those rendering distinguished services. Laws granting pensions must be passed by a vote of two-thirds of the members present in each chamber;

6. To fix the remuneration that deputies and senators shall receive. The remuneration cannot be changed during a legislative period except to take effect in the period following;

7. To establish or to modify the political or the administrative division of the country; to habilitate ports of entry and to establish customhouses.

8. To prescribe the weight, fineness, value, type, and denomination of the coinage and the system of weights and measures;

9. To fix the land and sea forces that shall be maintained in service in time of peace and of war;

10. To allow the entry of foreign troops into the territory of the Republic, with limitation of the time of their stay therein;

11. To allow the departure of national troops from the territory of the Republic, prescribing the time of their return;

12. To approve or disapprove a declaration of war on the proposal of the President of the Republic;

13. To restrain personal liberty and freedom of the press, or suspend or restrict exercise of the right of assembly, when supreme need for the de-

fense of the State, preservation of the constitutional régime, or internal peace may so demand, and only for periods not to exceed six months.

If such laws prescribe penalties, infliction thereof shall always be made by the established tribunals. Aside from the cases prescribed in this number, no law shall be enacted to suspend or restrict the liberties or rights that the Constitution insures;

14. To grant general pardons and amnesties;

15. To select the city in which the President of the Republic must reside, the sessions of the National Congress be held and the Supreme Court function.

Enactment of the Laws

Art. 45. Laws may be originated in the Chamber of Deputies or in the Senate, through a message directed by the President of the Republic, or on motion of any of their members. Such motions cannot be signed by more than ten deputies or by more than five senators.

Amendments to sections or items of the general budget law can be proposed by the President of the Republic only. In like manner belongs to the President of the Republic the initiative to alter the political or administrative division of the country; to create new services or salaried positions and to grant increases in salaries and honorariums of the employees of the public administration, of government enterprises and semifiscal institutions. The National Congress may only accept, diminish, or reject proposed services, positions, emoluments, or increases. This provision shall not be applied respecting the National Congress or to services dependent therefrom.[1]

Laws respecting taxation of any nature whatever, the budgets of the public administration and recruiting shall originate in the Chamber of Deputies only.

Laws respecting amnesty and general pardons shall originate in the Senate only.

Art. 46. The President of the Republic may declare urgency of dispatch for a bill, and in such a case the respective chamber must pass upon the matter within the period of thirty days.

Declaration of urgency may be repeated in all constitutional steps of procedure on the bill.

Art. 47. A bill rejected in the chamber of origin cannot be reintroduced except after one year.

Art. 48. A bill approved in the chamber of origin shall pass immediately to the other chamber for discussion.

Art. 49. A bill to rally rejected by the revisory chamber shall return to that of its origin, where it will be again considered and if then approved by two-thirds of the members present, it shall go for a second time to the chamber that rejected it. It will be understood that the latter disapproves it if two-thirds of the members present so agree.

Art. 50. A bill that is added to or amended by the revisory chamber will return to that of its origin; and, in the latter it will be understood that, with the vote of the majority of the members present, the additions or amendments are approved.

[1] Law Number 7,727, Constitutional Reform, November 23, 1943.

But if the additions or amendments are disapproved, the bill will return a second time to the revisory chamber, from where, if the additions or amendments are approved again by a majority of two-thirds of the members present, the bill will return to the other chamber. It will be understood that the latter rejects the additions or amendments if two-thirds of the members present so agree.

Art. 51. When on account of insistencies, an agreement between the two chambers on fundamental points of the bill is not reached, or when one changes substantially the bill of the other, mixed committees of an equal number of deputies and senators may be designated in order to suggest a form and method of resolving the difficulties arisen.

Art. 52. A bill approved by both chambers will be submitted to the President of the Republic, who, if he also approves, will cause it to be promulgated as law.

Art. 53. If the President of the Republic disapproves the bill he will return it to the chamber of origin with suitable suggestions [1] within a period of thirty days.

Art. 54. If the two chambers approve the suggestions, the bill shall have the force of law and be returned to the President to be promulgated.

If the two chambers reject all or any of the suggestions and insist, by two-thirds of the members present, on all or part of the bill as approved by them, it shall be returned to the President to be promulgated.

Art. 55. If the President of the Republic should not return the bill within thirty days counting from the date of its submission, it will be understood that he approves it and will promulgate it as law. If Congress should close its sessions before the thirty days in which to make the return shall have expired, the President will make it within the first ten days of the following ordinary or extraordinary legislative term.

Sessions of Congress

Art. 56. Congress will begin its ordinary sessions on the twenty-first of May and adjourn on the eighteenth of September of each year.

At the opening of each ordinary session the President of the Republic shall give an account to Congress in joint session of the administrative and political state of the Nation.

Art. 57. Congress will hold extraordinary sessions when called by the President of the Republic, and when called by the President of the Senate at the written request of a majority of the members of the Chamber of Deputies or of the Senate.

When called by the President of the Republic, it cannot transact any other legislative business than that mentioned in the call; yet proposals of constitutional reform may be introduced, discussed, and voted on, although they do not appear in the call.

When called by the President of the Senate, it may transact any business within its competency.

Art. 58. The Chamber of Deputies shall not enter into session, nor

[1] In practice these take the form of amendments or other like textual changes. The word used in the Spanish is *observaciones* literally observation, or criticisms.

pass resolutions without the concurrence of one-fifth of its membership, nor the Senate without the concurrence of one-fourth of its membership. Each one of the chambers will provide in its internal regulations for closure of debate by simple majority.

Art. 59. The Chamber of Deputies and the Senate will open and close their ordinary and extraordinary legislative terms at the same time. Nevertheless, they may function separately for matters within their exclusive competency, in which case the call will be issued by the president of the respective chamber.

Chapter V

The President of the Republic

Art. 60. A citizen with the title *President of the Republic of Chile* administers the State and is the supreme chief of the Nation.

Art. 61. In order to be chosen President of the Republic it is required to have been born in the territory of Chile, to be at least thirty years of age, and to possess the necessary qualifications for being a member of the Chamber of Deputies.

Art. 62. The President of the Republic will remain in the exercise of his office for the term of six years, and cannot be re-elected for the ensuing term.

Art. 63. The President shall be elected by a direct vote of the citizens of all the Republic having the right of suffrage, sixty days before the day on which the term of the incumbent should expire and in the manner as determined by law.

Cognizance of complaints that may occur in respect to the voting, rectifications and general scrutiny of the election belongs to the Qualification Court.[1]

Art. 64. The two branches of Congress, convened in public session, fifty days subsequent to the votation, a majority of the total membership being present and under the direction of the president of the Senate, shall take into consideration the general scrutiny made by the Qualification Court and will proceed to proclaim as President of the Republic the citizen who may have obtained more than one-half of the votes validly cast.

If the scrutiny does not show this majority, a joint session of congress shall elect from among the citizens who may have received the two highest relative majorities; but if two or more citizens shall be tied in the highest relative majority, the election shall be made only as between them.

If on the day appointed in this article a majority of the total membership of Congress does not assemble, the session shall be held on the following day with the deputies and senators who may attend.

Art. 65. The election appertaining to the joint congress shall be made by more than one-half of the votes in secret ballot.

If on taking the first ballot this absolute majority does not result, a second ballot shall be taken and at this the balloting shall be limited to the two persons who on the first ballot may have obtained the greatest

[1] See Article 79.

number of votes, and the blank ballots shall be added to those of the one who may then obtain the largest plurality.

In case of a tie, a third ballot in the same manner shall be taken on the day following.

If this results again in a tie the President of the Senate shall at once make the decision.

Art. 66. When the President of the Republic in person commands the armed forces, or when from illness, absence from the territory of the Republic, or from any other weighty reason, he cannot exercise his office, the minister, whom the order of precedence as fixed by law may designate, shall substitute for him, under the title of Vice President of the Republic. In default of such, the minister who follows in the order of precedence, and in default of all the ministers, the president of the Senate, the president of the Chamber of Deputies or the president of the Supreme Court successively.

In case of death, or declaration of there being cause for resignation, or other kind of absolute impossibility, which cannot be ended before the completion of the time remaining of the constitutional period, the Vice President in the first ten days of his incumbency shall issue the proper orders to proceed, within the period of sixty days, to a new election of President in the manner prescribed by the Constitution and by the electoral law.

Art. 67. The President cannot leave the territory of the Republic during the time of his incumbency, without the consent of Congress.

Art. 68. The President shall vacate office on the same day that completes the six years for which the exercise of his powers lasts and the newly elected will succeed him.

Art. 69. If the President-elect finds himself prevented from taking possession of the office, he shall be substituted meanwhile, under the title of Vice President of the Republic, by the president of the Senate, and, in his default, by the president of the Chamber of Deputies, and, in his default, by the president of the Supreme Court.

But if the impediment of the President-elect be absolute or appears as if it would last indefinitely or for a longer period than that prescribed for the exercise of the Presidency, the Vice President, in the ten days following the declaration which Congress must make, shall issue the proper orders to proceed within the period of sixty days to a new election in the manner prescribed by the Constitution and by the electoral law.

Art. 70. The President-elect on taking possession of the office in the presence of both branches of Congress shall make oath or promise before the president of the Senate faithfully to discharge the office of President of the Republic, to preserve the integrity and independence of the nation and to observe and cause to be observed the Constitution and the laws.

Art. 71. To the President of the Republic is confided the administration and government of the State, and his authority is extended to all that has for its purpose the preservation of public order in the interior and the external security of the Republic, in accordance with the Constitution and the laws.

Art. 72. Special powers of the President are:

1. To concur in the making of the laws according to the Constitution, to approve and to promulgate the same;

2. To prescribe regulations, decrees, and instructions that he may deem suitable for the execution of the laws;

3. To extend the ordinary sessions of Congress and to call extraordinary sessions;

4. To watch over the ministerial conduct of the judges and other employees of the judicial power, and for this purpose to request the Supreme Court that, if conformable, it may determine the fact of their bad conduct, or the Public Minister [1] that it institute disciplinary measures before the competent tribunal, or that, if there be sufficient grounds, it file the proper accusation;

5. To appoint at will the ministers of state, officials of the ministries, diplomatic agents, intendentes, and governors.

Appointment of ambassadors and diplomatic ministers shall be submitted to the approval of the Senate, but they and other officials mentioned in this number are within the exclusive confidence of the President of the Republic and are to be kept in their positions while they enjoy the said confidence;

6. To appoint the magistrates of the superior courts of justice and scholastic judges;[2]

7. To supply the other civil and military employees that the laws may determine, conformably to the administrative statute and to confer, with the approval of the Senate, the offices or grades of colonel, captain of the navy and other superior offices of the army and navy.

On the field of battle, he may confer these superior military offices at his own instance;

8. To dismiss employees appointed by himself for incompetency or other cause that may render their services useless or prejudicial with the approval of the Senate if they be heads of offices, or high employees, and with the report of the respective authority if they be subordinate employees, in conformity with the organic laws of each service;

9. To grant pensions, retirement pay, and widow and orphan benefits according to the laws;

10. To care for the collection of the public revenues and to decree their expenditure in accordance with law. The President of the Republic with the signatures of all the Ministers of State may decree expenditures not authorized by law, only for needs not permitting delay arising from public calamities, foreign agression, internal disorders or from the exhaustion of funds appropriated to maintain services which may not cease without grave injury to the country. The total of the expenditures made for these purposes, may not exceed annually two percent of the total amount authorized by the General Budget Law. Employees may be engaged chargeable to this same law, but without increasing or diminishing the respective item through transfers. The Ministers of State or the officials who authorize or pass expenditures in violation of the provisions of this paragraph will be jointly and severally liable for restitution, and guilty of the offense of malversation of public funds. [3]

11. To grant juridical personality [4] to private institutions and to cancel it; to approve their by-laws, to reject the same, and to accept amendments.

12. To grant individual pardons. Officials accused by the Chamber of Deputies and tried by the Senate can be pardoned by Congress only.

13. To dispose of the sea and land forces, to organize and distribute them as he may find convenient;

14. To command in person the sea and land forces with the approval of

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[1] Corresponding to attorney general. [2] See note to Article 28.
[3] Law Number 7,727, Constitutional Reform, November 23, 1943.
[4] i.e., to grant incorporation.

the Senate. In this case the President of the Republic may reside at any place occupied by Chilean arms;

15. To declare war with the prior authorization of law;

16. To maintain political relations with foreign powers, receive their agents, admit their consuls, conduct negotiations, make preliminary stipulations, conclude and sign all treaties of peace, alliance, truce, neutrality, commerce, concordats, and other conventions. Treaties before their ratification must be presented to the approval of Congress. The discussion and deliberations on these matters shall be in secret if the President of the Republic so demands;

17. To declare in a state of assembly one or more provinces invaded or menaced in case of foreign war, and in a state of siege [1] one or several points of the Republic in case of foreign attack.

In case of internal disturbance the declaration of one or more places being in a state of siege belongs to Congress, but if Congress be not in session, the President may make it for a determined period.

If on the meeting of Congress the period named be not expired, the declaration made by the President of the Republic shall be understood as a proposal of law.

Through the declaration of a state of siege, there is conceded to the President of the Republic only the authority to transfer persons from one department to another and to confine them in their own houses, or in places other than jails, or intended for the confinement or imprisonment of ordinary criminals.

Measures taken on account of the state of siege shall have no greater duration than the siege, but thereby shall not be infringed the constitutional guaranties granted to deputies and senators.

Ministers of State

Art. 73. The number of the ministers and their respective departments shall be determined by law.

Art. 74. In order to be named minister, the qualifications exacted to be a deputy are required.

Art. 75. All orders of the President of the Republic must be signed by the minister of the respective department, and shall not be obeyed without this essential requisite.

Art. 76. Every minister shall be personally responsible for the acts he may sign, and jointly for those he may sign or agree to with other ministers.

Art. 77. As soon as Congress shall convene in ordinary session, the ministers must report to the President of the Republic on the state of the Nation with respect to the affairs of the department which each one has in charge, in order that the President may in turn report to Congress.

For the same purpose they are obliged to present to him the annual budget of the expenditures that should be made in their respective departments and render an account to him of the disbursement of the amounts decreed to meet the expenditures of the preceding year.

Art. 78. The ministers may, when they deem it expedient, attend sessions of the Chamber of Deputies or of the Senate and take part in the debates, with preference in speaking, but without the right to vote.

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[1] To declare a state of assembly or siege is in effect to suspend the operation of ordinary law. It is analogous to a declaration of martial law in the United States, though probably not quite as broad.

Chapter VI

The Electoral Qualification Court

Art. 79. A special court to be called the Qualification Court shall have cognizance of the election returns for President of the Republic, deputies, and senators.

This court will act as a jury in the determination of facts and give judgment in accordance with law.

Its membership shall be five and is to be renewed every four years at least fifteen days prior to the date of the first election they must judge.

The same court will judge all the elections that take place during the four years.

The five members of the court shall be chosen by lot from among the following persons: one from among the individuals who may have discharged the offices of president or vice president of the Chamber of Deputies for more than one year; one from among the individuals who may have discharged the offices of president or vice president of the Senate for a like period; two from among the individuals who may discharge the offices of Ministers[1] of the Supreme Court, and one from among the individuals who may be in discharge of the offices of the ministers of the court of appeals in the city where Congress holds its sessions.

The law will regulate the organization and procedure of the Qualification Court.

Chapter VII

The Judicial Power

Art. 80. The power of judging civil and criminal causes belongs exclusively to the tribunals established by law. Neither the President of the Republic nor the Congress shall, in any case exercise judicial functions, call before him or it causes pending in court or revive terminated proceedings.

Art. 81. A special law will determine the organization and powers of the courts that may be necessary for the speedy and full administration of justice throughout the territory of the Republic.

Only by virtue of a law can a change be made in the powers of the courts or in the number of their members.

Art. 82. The law shall determine the qualifications that the judges respectively must have and the number of years that persons appointed Ministers of Courts or scholastic judges [2] must have practiced the legal profession.

Art. 83. In respect to the appointment of judges the law shall conform to the following general principles:

Ministers and Fiscals [3] of the Supreme Court will be chosen by the Presi-

[1] In Chile the formal title of the judges of the higher courts is minister. See Articles 82 and 83.

[2] Minister is the formal title of a judge of the higher courts. Scholastic judges, see note to Article 28.

[3] The Fiscal of the Supreme Court is the chief of the Public Ministry. See note to Article 28. See Article 72, paragraph 4. See Title XI of Código Orgánico de Tribunales.

dent of the Republic from a list of five persons proposed by the said Court. The two senior Ministers of Courts of Appeals shall appear on the list. The other three places will be filled in accordance with the merits of the candidates, it being permissible for persons outside the justice administration to be included in the list.

Ministers and Fiscals of the Courts of Appeals shall be designated by the President of the Republic from a list of three proposed by the Supreme Court.

Scholastic judges [1] shall be designated by the President of the Republic from a list of three proposed by the Court of Appeals of the respective jurisdiction. For the preparation of the lists, there shall be opened a competitive contest at which the persons interested must present their titles and antecedents.

The scholastic judge at the seat of a Court of Appeals, or the senior scholastic judge in the rank next below that to be filled, shall appear respectively on the corresponding list. The other two places will be filled in accordance with the merits of the candidates.

Art. 84. Judges are personally responsible for bribery, failure to observe the laws governing procedure and in general for every betrayal of trust or tortious administration of justice. The law will determine the cases and the method of making this responsibility effective.

Art. 85. The judges will remain in office during good behavior, but judges of the lower courts shall exercise their respective judicial functions for such time as the law may determine.

Judges, whether of limited or unlimited tenure, may only be removed from office by virtue of a sentence after due legal trial.

Nevertheless, the President of the Republic on the proposal, or with the consent, of the Supreme Court may authorize exchanges, or order the transfer of judges from one post to another of equal rank.

In any case the Supreme Court, upon demand of the President of the Republic at the solicitation of the party interested, or *ex-officio* may declare that judges have not been of good behavior, and after statement from the accused and the respective court of appeals, may, by a two-thirds vote of its members, decide upon their removal from office.

These decisions will be communicated to the President of the Republic for their enforcement.

Art. 86. The Supreme Court has directive, corrective and economic supervision over all the Tribunals of the Nation, in accordance with the law establishing their organization and powers.

The Supreme Court in individual cases under its cognizance, or which may have been submitted to it in an action interposed in a cause pending before another court, may declare inapplicable. for that instance, any legal provision contrary to the Constitution. This action may be taken at any stage of the cause without suspending proceedings.

It shall have cognizance also of disputes of competence, not under the

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[1] See note to Article 28. As a rank that of scholastic judge is just below that of minister judge.

control of the Senate, that may arise between political or administrative authorities and the tribunals of justice.

Art. 87. There shall be administrative tribunals with permanent membership to pass upon claims that may be interposed against arbitrary acts or measures of the political or administrative authorities, cognizance of which is not given by the Constitution or the laws to any other tribunals. Their organization and attributes are matters of law.

Chapter VIII

Internal Government of the State

Art. 88. For the internal government [1] of the State, the territory of the Republic is divided into provinces, the provinces into departments, the departments into sub-delegations and sub-delegations into districts.

Intendentes

Art. 89. The chief governmental authority in each province is vested in an intendente who exercises the office in conformity with the laws and orders and instructions from the President of the Republic, of whom he is the natural and immediate agent. He shall remain in office for three years.

The intendente within the province under him, as the representative of the President of the Republic, will be the Supervisor of all public works and services of the provincial territory.

Governors

Art. 90. The governmental authority in each department is vested in a governor, subordinate to the intendente of the province. His term of office will be for three years.

The intendente is also governor of the department in whose capital he may reside.

The governors are appointed by the President of the Republic on the recommendation of the respective intendentes and may be removed by the latter with the approval of the President of the Republic.

Sub-delegates

Art. 91. The sub-delegations are governed by a sub-delegate, subordinate to the governor of the department and appointed by him. Sub-delegates remain one year in office and may be removed by the governor, who will report to the intendente the reasons therefor.

Inspectors

Art. 92. Districts are governed by an inspector under the orders of the sub-delegate, who appoints and may remove them after reporting the reasons therefor to this governor.

[1] A distinction is drawn between political government and administrative régime. Chapter VIII relates to the former, Chapter IX to the latter.

Chapter IX

Internal Administrative Regime

Art. 93. For the internal administration the national territory is divided into provinces and the provinces into communes.

There shall be in each province the number of communes that the law may determine. Each communal territory will correspond to a complete sub-delegation.

The administrative division called province will coincide with the political division of the same name, and the administrative division called commune will coincide with the political division called sub-delegation.

The law in creating new communes must always take care to establish the respective sub-delegations and to mark out for the former and for the latter the same limits.

Provincial Administration

Art. 94. The administration of each province is vested in the intendente who will be advised, as determined in law, by a provincial assembly of which he will be the president.

Art. 95. Each provincial assembly will be composed of representatives designated by the municipalities of the province at their first session, by cumulative vote.

These offices are compulsory and unremunerative, and last for three years.

The municipalities will designate the number of representatives that the law may determine for each.

Art. 96. In order to be designated a representative the same qualifications are required as for being a deputy and in addition to have resided in the province for more than one year.

Art. 97. The provincial assemblies will hold their meetings in the capitals of the respective provinces, and will choose annually at their first session, by a majority of the members present, a person from their midst to exercise the office of vice president.

Art. 98. The provincial assemblies will hold sessions with a majority of their members at the time in office; they will have administrative attributes and will dispose of the revenues which the law may determine. The law may authorize them to impose determined taxes for local benefit.

They may be dissolved by the President of the Republic with the approval of the Senate.

When a provincial assembly is dissolved, the replacement of its membership for the period to complete the term remaining shall be proceeded with in the manner as indicated in Article 95.

Art. 99. The provincial assemblies must annually make known to the President of the Republic, through the intermediation of the intendente, the needs of the province and indicate the amounts necessary to meet the same.

Art. 100. Ordinances or resolutions that a provincial assembly may pass must be brought to the attention of the intendente, who within ten

days may suspend their execution if he deems them contrary to the Constitution or the laws, or prejudicial to the interests of the province or of the State.

The ordinance or resolution suspended by the intendente will return for consideration to the provincial assembly.

If the assembly insists on its previous action by a vote of two-thirds of the members present, the intendente shall order the same to be promulgated and to take effect.

But when the suspensions are founded on the grounds that the ordinance or resolution is contrary to the Constitution or the laws, the intendente must submit the facts to the Supreme Court in order that it may rule definitely.

Communal Administration

Art. 101. The local administration of each commune or group of communes established by law is vested in a Muncipal Council.

Each Municipal Council upon installation shall designate an alcalde [1] to preside over it and to execute its decisions.

In cities of more than one hundred thousand inhabitants and in others that may be designated by law, the alcalde will be appointed by the President of the Republic and may be remunerated. The President of the Republic may remove him with the approval of the respective provincial assembly.

Art. 102. The municipalities shall have the regidors [1] that the law may fix for each one. Their number will not be less than five nor more than fifteen. These offices are compulsory and unremunerative and last for three years.

Art. 103. In order to be elected regidor the same qualifications are required as for being a deputy and, in addition, to have resided in the commune for more than one year.

Art. 104. The election of regidors will be made by direct vote and in agreement with the special provisions prescribed by the law on organization and attributes of the municipalities.

There shall be for this purpose special registers in each commune, and to be inscribed therein it is required to have attained the age of twenty-one years and to be able to read and write. Foreigners are required in addition to have resided five years in the country.

Qualifications [2] of the elections of regidors, jurisdiction over protests of nullification that may occur in reference thereto, and the solution of matters that may subsequently arise belong to such authority as the law may determine.

Art. 105. The municipalities will hold sessions with a majority of their members at the time in office; they will have such administrative attributes and disburse such revenues as the law may determine.

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[1] In the main, alcalde and regidor correspond to the terms mayor and alderman.

[2] i.e., determination of the returns. See Article 79.

Especially it belongs to them:

1. To take care of hygienic police, public comfort, adornment and recreation;
2. To promote education, agriculture, industry, and commerce;
3. To take care of primary schools and other educational services that may be supported by municipal funds;
4. To take care of the construction and repair of the roads, walks, bridges, and all works of necessity, utility, or adornment paid for with municipal funds;
5. To administer and disburse public property and taxes in conformity with the regulations as dictated by law;
6. To enact municipal ordinances respecting these matters without prejudice to the attributes that the following article gives the respective provincial assembly.

The law may impose on each municipality a quota proportional to its annual revenues as a contribution to the general expenditures of the province.

The appointment of municipal employees will be made conformably to the statute that the law will establish.

Article 106. Municipalities will be submitted to the correctional and economic vigilance of the respective provincial assemblies, in accordance with law.

The powers that Article 100 grants to the intendente in respect to the provincial assembly shall belong to the latter in respect to municipalities of its jurisdiction.

Municipalities may be dissolved by the provincial assembly, in virtue of grounds which the law may establish, on a vote of the majority of the representatives specially cited for this purpose, and without prejudice to the provisions of Article 100.

Administrative Decentralization

Art. 107. With the purpose of proceeding to the decentralization of the interior administrative régime, the laws will confer gradually upon the provincial or communal organizations the powers and administrative faculties presently exercised by other authorities.

The general services of the nation will be decentralized through the formation of the zones that the law may fix.

In any case, the supervision of the services of a province is entrusted to the intendente, and the ultimate control of them lies with the President of the Republic.

Chapter X

Amendment of the Constitution

Art. 108. The amendment of constitutional provisions will be submitted to the same procedure as a proposal of law, saving the exceptions hereinafter indicated.

A bill for amendment must receive for approval in each body the affirmative vote of a majority of the deputies or senators entitled to vote.

Sixty days after the approval of a Bill as provided for in the preceding

paragraph, the Congress in public Joint Session, with the attendance of a majority of its total membership, shall take cognizance of the Bill and proceed to vote thereon without further debate.

The Bill approved by a majority of the Joint Session of Congress shall be sent to the President of the Republic.

If upon the day designated a majority of the total membership of the Congress does not meet, the session shall be held the following day with such deputies and senators as may be in attendance.

Art. 109. The President of the Republic may make observations upon the Bill only to propose changes or corrections in the amendments agreed upon by the Joint Session of Congress.

If the modifications that the President of the Republic may suggest are approved by both chambers the Bill shall be returned to the President for promulgation.

If the two chambers reject all or any of the suggestions of the President of the Republic and insist by a vote of two-thirds of their members present upon all or part of the Bill approved by them, it shall be returned to the President for promulgation; or in order that the points in disagreement may, should he deem it convenient, be submitted to the people in a national referendum, within thirty days. The proposal approved by the plebiscite will be promulgated as a constitutional amendment.

Art. 110. When the proposal is promulgated, its provisions shall form a part of the Constitution and be incorporated therein.

Transitory Provisions

First:—

The existing laws respecting the matters[1] covered by Article 30, Paragraph 3; Article 73, Paragraphs 8, 13 and 14, and Article 95, Paragraphs 3 and 4 of the Constitution of 1823, abolished by this constitutional reform, are hereby repealed.

For five years the State will hand over to His Grace the Archbishop of Santiago the sum of two million five hundred thousand pesos annually, to be expended in the country on the ritual needs of the Catholic Church.

Second:—

Elections to choose the new President of the Republic, will be held on October 24, 1925, in order to comply with the provisions of Article 63 and so that the President-elect may take office on December 23 of the same year.

Third:—

Proclamation of the new President of the Republic, or his selection in case no citizen obtains the necessary majority at the polls, will be made by the deputies and senators elected in conformity with the following provisions. For this sole purpose the Qualification Court will give special warrants to the candidates whom it may regard as having the best right in view of the antecedents as may be known.

[1] These matters all concern the interrelations of Church and State, appointment to ecclesiastical dignities, presentation to benefices, authorization of decretals and bulls, and cognate subjects.

Fourth:—

The general elections for the new congress will be held on Sunday, November 22, 1925.

Fifth:—

Until the law shall fix the provincial groupings referred to in Article 40 the following are constituted:

1. Tarapacá and Antofagasta;
2. Atacama and Coquimbo;
3. Aconcagua and Valparaiso;
4. Santiago;
5. O'Higgins, Colchagua, and Curicó;
6. Talca, Linares, and Maule;
7. Ñuble, Concepción, and Bio-bio;
8. Arauco, Malleco, and Cautín;
9. Valdivia, Llanquihue, and Chiloé.

The groups of adjoining departments mentioned in Article 37 will be fixed provisionally by the President of the Republic with reference to the general census taken on December 15, 1920.

Sixth:—

The electoral law for the new congress shall provide for determining the manner of selecting the senators that in each group of provinces shall serve for a period of eight years and those who serve for a period of four years only, with the view of regulating the election of the senate by parts in conformity with Article 41.

Seventh:—

The constitutional period for the new congress will begin to count from May 21, 1926, without prejudice to its being called in extraordinary session as soon as the Qualification Court may finally approve the warrants of the deputies and senators.

Eighth:—

The salary to be paid deputies and senators, until the respective law is enacted, shall be two thousand pesos a month.

From this sum shall be deducted monthly the amount of fifty pesos for each session of the chamber or of the committee that is not held or which adjourns on account of the failure of the deputy or senator to attend, except in the case where two or more committees meet at the same time and he may have attended one of them.

Ninth:—

For the purposes of Article 79 it shall be considered that all persons who may have discharged the office of president or vice president of the Chamber of Deputies or of the Senate prior to the promulgation of this reform of the Constitution, have had the one year of duration in office that the article exacts.

Tenth:—

The present constitutional reform shall come into operation thirty days after its publication in the *Diario Oficial*.

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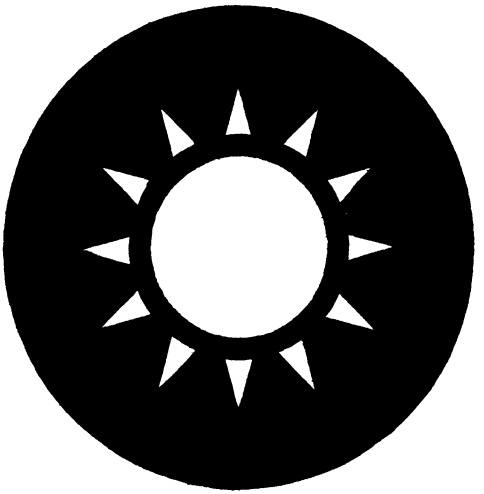
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CHINA

SUMMARY

International Status

After a period of civil war starting in 1946 between Nationalist and Communist forces, the mainland of China came under the control of the latter during 1949. The government of the National Republic of China was moved to Taipeh, on the Island of Formosa, on December 8, 1949 under Chiang Kai-Shek who, on March 1, 1950, resumed the presidency of it. This government represents China in the United Nations [1] and is still recognized by the United States and many other nations.[2]

[1] For circumstances and voting see Yearbook of the United Nations, 1951, pp. 265–266

[2] According to the Chinese Embassy in Canberra 55 nations continued to recognize

On September 21, 1949 the "People's Republic of China" was proclaimed in Peking by the "Chinese Political Consultative Conference." That regime has been recognized as the Government of China by a number of countries.[1] Efforts by it to obtain recognition of its delegates in the United Nations have not been successful.[2]

China is a member of the United Nations. It signed the Charter of that organization at San Francisco on June 26, 1945, and deposited its ratification September 28, 1945.

The United States, Great Britain and China signed a treaty on January 11, 1943 abolishing extraterritoriality and other special rights which had been extant for approximately one hundred years.

China became an original member of the League of Nations in 1920. It signed the Statute of the Permanent Court of International Justice on December 18, 1920. It deposited its ratification May 13, 1922, and accepted compulsory jurisdiction of that court for a term of five years upon the sole condition of reciprocity. It has also accepted the compulsory jurisdiction of the International Court of Justice.[3] It is a member of the Postal Union and various other international organizations.[4]

The Treaty of Kiakhta of 1915 between China, Russia, and Outer Mongolia recognized Hutukhia Khan as ruler of Outer Mongolia. China as the suzerain power was granted authority to appoint residents at Urga and three other towns.

The action of Japan in 1932 in causing a puppet government to be set up in Manchuria as an independent state was opposed by the Chinese authorities and was not recognized by other nations with the exception of Japan, Germany, Italy, Spain, Hungary, Thailand and Denmark. Under

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the Nationalist Government as of July 1, 1954, consisting of the following: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Cambodia, Canada, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, German Federal Republic, Greece, Guatemala, Haiti, Honduras, Iran, Iraq, Ireland, Italy, Korea, Japan, Lebanon, Liberia, Libya, Laos, Luxembourg, Mexico, New Zealand, Nicaragua, Panama, Paraguay, Peru, Portugal, Philippines, Saudi Arabia Spain, Syria, Thailand, Transjordan, Turkey, Union of South Africa, United States of America, Uruguay, Vatican City, Venezuela, Viet Nam, and Yemen.

[1] The Chinese Embassy in Canberra stated the number as of July 1, 1954 to be 22, including the following: Afghanistan, Albania, Bulgaria, Burma, Ceylon, Czechoslovakia, Denmark, Finland, Hungary, India, Indonesia, Israel, Netherlands, Norway, Pakistan, Poland, Rumania, Sweden, Switzerland, USSR, United Kingdom and Yugoslavia.

[2] They were rejected by the Security Council on August 1, 1950 by a vote of 8 to 3, and by the Assembly on September 19, 1950 by a vote of 33 to 16. Following action by Communist China in joining the North Koreans in challenging the United Nations action in Korea, the General Assembly voted on February 2, 1951 by a vote of 44 to 7 that the Communist regime in China was guilty of aggression. The United States Senate on June 3, 1953 passed a resolution by a vote of 76 to 0 opposing the admission of Communist China's representatives in the United Nations. The U.S. House of Representatives reaffirmed this in July 1954 by a vote of 381 to 0.

[3] See Yearbook of the Court, 1951–52 pp. 35–43.

[4] See Table I.

direction of the Japanese military forces, however, the rule of this "independent state" of Manchukuo continued under the leadership of Henry Pu Yi (last Emperor of Manchu dynasty of China) until the capitulation of the Japanese army in 1945. Manchukuo erected a highly developed form of state capitalism dictated by the demands of the Japanese economy.

On March 22, 1940, the late Wang Ching-wei set up a government in Nanking which was recognized by Japan and was supported by Japanese forces. That government was recognized only by Japan, Germany, Italy, Denmark, and Thailand.

Form of National Government[1]

China, whose status as a nation dates from at least the Chow dynasty, founded 1122 B.C., became a republic on February 12, 1912 with a president, vice-president, an executive ministry, and a bicameral legislature. Territorial officials in the provinces, including provincial governors, were appointed by the Central Government but were free to act independently in many local matters.

Between 1916, when Yuan Chi-Kai, who had led the successful revolution against the imperial régime, died, and June, 1928, there were extended disputes among rival factions in China. Such Central Government as existed held only occasional meetings and its measures were not very effective. The Central Government was centered for a time at Pekin. The People's National Party, "Kuomintang," was represented by a nationalist government at Canton. The Nationalists captured Pekin in June, 1928, and the capital of the country was transferred to Nanking.

Chiang Kai-Chek was installed as the chief of the victorious national armies on October 10, 1928. An "Organic Law" was promulgated in 1928 [2] declaring that the "National Government shall exercise all the governing powers of the Republic of China." [3] The National Government was declared to be composed of the following five yuan: the executive yuan, the legislative yuan, the judicial yuan, the examination yuan, and the control yuan. [4] A state council was created [5] composed of state councilors and the chairman of the National Government. During World War II an important body of the National Government was the central executive committee, which exercised power with regard to party and government affairs. The central executive committee elected the chairman of the National Government and the presidents and vice-presidents of the five yuan.

The "Organic Law" of 1928 was in the nature of a skeleton outline of government. A more comprehensive draft was prepared at the direction

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[1] For data regarding the "People's Republic", see p. 533.
[2] Amended December 29, 1931, December 27, 1932.
[3] Organic Law of 1928, Art. 1. [4] Id., Art. 5. [5] Id., Art. 11.

of the legislative yuan, pursuant to action taken by the national emergency conference held April, 1932, and by the central executive committee of the Kuomintang held shortly thereafter. It was then decided to hold a people's congress in March, 1934, and public criticism was invited.[1] The draft was approved by the standing committee of the Central Executive of the Kuomintang and was published by mandate of the National Government on May 5, 1936. A plan to hold a people's congress or constitutional convention in November, 1937, to ratify the proposed constitution was interrupted by the Japanese hostilities.

During the war a commission of twenty-five councilors was appointed by the people's political council which reported findings at a session of the council in April, 1940. It was not until near the end of the year 1946, however, that a national assembly, deemed to be representative of the whole body of Chinese citizens, met for final action upon the draft of 1936.

The Constitution adopted by the National Assembly on Christmas Day, 1946, and promulgated by the National Government January 1, 1947 to become effective December 25, 1947, declares China to be a democratic republic founded on the "three principles of the People" (nationalism, democracy, people's livelihood).[2] There are five "yuan", or branches, of the government: the executive, legislative, judicial, examination, and control yuan.[3]

Respect for the United Nations Charter "in order to .... promote international cooperation, advance international justice, and ensure world peace", is prescribed.[4] The powers of the central and local governments are summarized in Articles 107–111 and the outlines of the system of local governments are set forth in Articles 112–128 of the Constitution.

Source of Sovereign Power

The Constitution of 1947 declares that "the sovereignty of the Republic of China resides in the whole body of citizens." [5]

The preamble says that the Constitution is promulgated "by virtue of the mandate received from the whole body of citizens."

Rights of the People

The Constitution of 1947 provides that all racial groups of the Republic shall enjoy equality.[6] There are extensive declarations of rights and duties of citizens, including equality before the law; [7] personal liberty; [8] right to trial; [9] freedom to change residence; [10] freedom of speech, academic

[1] During the two and one-half months that followed, 291 memoranda containing criticisms and suggestions were received by the Legislative Yuan. These suggestions are contained in a publication entitled *The Compilation of Opinions on the Preliminary Draft of the Constitution.*

[2] Const. 1947, Art. 1. [3] Id., Arts. 53–106. [4] Id., Art. 141.
[5] Id., Art. 2. [6] Id., Art. 5. [7] Id., Art. 7.
[8] Id., Art. 8. [9] Id., Art. 8. [10] Id., Art. 10.

instruction, writing and publication;[1] inviolability of correspondence;[2] religious freedom;[3] freedom of assembly and association;[4] protection of the right of existence, the right of work, and the right of property;[5] the right to present petitions, file complaints, or institute legal proceedings;[6] the right of "election, recall, initiative, and referendum";[7] the right to take public examinations and to hold public offices;[8] the duty of paying taxes;[9] and the duty of performing military service.[10] All other liberties and rights of the people that are not inimical to social order or public interest are also guaranteed under the Constitution.[11]

Citizens whose rights are impaired by public functionaries contrary to the law may claim indemnity from the State, and the public officials so offending are liable both criminally and for civil damages.[12]

One of the chapters of the Constitution (Chapter XIII) deals with "fundamental national policies." It provides that "all land within the territory of the Republic of China shall in principle belong to the whole body of citizens" and that "if any land has an increase in its value, not through the exertion of labor and the employment of capital, the state shall levy thereon an increment tax, the proceeds of which shall be enjoyed by the people in common."[13] The state may, by law, restrict private wealth and privately operated enterprises "if they are deemed to obstruct the balanced development of public economy and private livelihood."[14] "Public utilities and other enterprises of monopolistic nature" are, "as a principle," to be "under public operation."[15] The same chapter contains special provisions for social security[16] and for education and culture.[17]

Legislative Department

The Constitution of 1947 provides for a national assembly which shall, in accordance with the provisions of the Constitution, exercise political power on behalf of the whole body of citizens.[18] This assembly will be composed of one or more delegates from every "hsien," municipality, or area of equivalent status; four delegates from every league and one from every special "banner" in Mongolia; and numbers of delegates to be determined by law from Tibet, the border regions, the Chinese nationals residing abroad, and the occupational groups and women's organizations in China.[19] Delegates

[1] Const. of 1947, Art. 11. [2] Id., Art. 12. [3] Id., Art. 13.
[4] Id., Art. 14. [5] Id., Art. 15. [6] Id., Art. 16.
[7] Id., Art. 17. [8] Id., Art. 18. [9] Id., Art. 19.
[10] Id., Art. 20. [11] Id., Art. 22. [12] Id., Art. 24.
[13] Id., Art. 143. [14] Id., Art. 145. [15] Id., Art. 144.
[16] Id., Arts. 152–157. [17] Id., Arts. 158–167. [18] Id., Art. 25.
[19] A "hsien" is a rural unit of government. Areas of status equivalent to "hsiens" or municipalities are to be determined by law. If the population of a "hsien", municipality, or equivalent area exceeds 500,000, an additional delegate is allowed for every additional 500,000. The Mongolian political organization consists of leagues and of smaller units which are distinguished by flags and banners and which are themselves called banners.

are to be elected every six years.[1] The procedure for election of delegates, the organization of the National Assembly, and the procedure for the exercise of the functions and powers of the National Assembly are to be prescribed by law.[2] The Constitution provides that the National Assembly shall be summoned by the President of the Republic to meet ninety days before the expiration of his term[3] and that it may convene in extraordinary sessions in certain specified circumstances.[4]

The functions and powers of the National Assembly are limited to the election and recall of the President and the Vice-President, the amendment of the Constitution, the ratification of amendments proposed by the legislative yuan, and the institution and enforcement of measures pertaining to the initiative and referendum.[5]

The highest legislative body provided for in the Constitution is the legislative yuan.[6] This body will hold two regular sessions of four months each, subject to extension if necessary, every year. It will have "the power to decide upon statutory or budgetary bills or bills concerning martial law, general amnesty, declaration of war, conclusion of peace, treaties, and other important affairs of state."[7] Its members will be elected for three-year terms: five from each province or municipality with a population of less than 3,000,000; an additional member for every additional 1,000,000 persons in each province or municipality with a population in excess of 3,000,000; and additional members (in numbers to be determined by law) elected by the Mongolian leagues, Tibet, various racial groups in border regions, Chinese nationals residing abroad, and various occupational groups.[8] Statutory bills passed by the legislative yuan are to be sent to the President of the Republic and to the executive yuan. The President must promulgate them within ten days unless the executive yuan, with his approval, requests reconsideration by the legislative yuan.[9] Bills which are upheld by two-thirds of the members of the legislative yuan participating in reconsideration become law.[10]

Executive Department

The President is head of the state and represents the Republic in official foreign relations.[11] He is given command of the land, sea, and air forces of the whole country.[12] He has the power, in accordance with the provisions of the Constitution of 1947, to conclude treaties, declare war, and make peace.[13] Civil and military officers are appointed and removed by the President, in accordance with law.[14] He is empowered, in accordance with law, to promulgate laws and issue mandates with the countersignature

[1] Const. of 1947, Art. 28. [2] Id., Art. 34. [3] Id., Art. 29.
[4] Id., Art. 30. [5] Id., Art. 27.
[6] Id., Art. 62. [7] Id., Art. 63. [8] Id. Art. 64.
[9] Id., Art. 72. [10] Id., Art. 57. [11] Id.,Art. 35.
[12] Id., Art. 36. [13] Id., Art. 38. [14] Id., Art. 41.

of the president of the executive yuan or of both the president of the executive yuan and the heads of the ministries or commissions concerned.[1] In emergencies, during the recess of the legislative yuan, he may issue decrees with the approval of the council of the executive yuan.[2] In the event of a vacancy in the office of President, the Vice-President succeeds to the presidency.[3] Any citizen of the Republic over forty years of age is eligible to the office of President or Vice-President.[4] The term of office of each is six years; election to a second term is permitted.[5]

The highest administrative organ of the State is the executive yuan, [6] comprising "a president, a vice-president, a number of heads of various ministries and commissions and a number of executive members without portfolio." [7] The president of the executive yuan is appointed by the President of the Republic with the consent of the legislative yuan.[8] The vice-president and other members of the executive yuan are appointed by the President of the Republic upon the recommendation of the president of the executive yuan.[9] The administrative policies and reports of the executive yuan must be presented to the legislative yuan. The latter may, by resolution, request the alteration of any important policy. Reconsideration of a resolution requesting such alteration may be demanded by the executive yuan, with the approval of the President of the Republic, but if two-thirds of the members of the legisiative yuan participating in the reconsideration uphold the original resolution, the president of the executive yuan must "abide by the same or resign from office." [10] The executive yuan is required to present the national budget to the legislative yuan three months before the beginning of each fiscal year,[11] and is required to present the budget statement to the control yuan within four months after the end of each fiscal year.[12]

Judicial Department

The highest judicial organ of the State is the judicial yuan, comprising a president, a vice-president, and "a number of grand judges," all appointed by the President of the Republic with the consent of the control yuan.[13] The judicial yuan will "attend to the adjudication of civil, criminal, and administrative suits and to disciplinary measures against public functionaries." [14] It has "the power to interpret the Constitution and also the power to unify the interpretations of laws and decrees." [15] Judges must be "independent of party affiliations" and "subject to no interference of any kind." [16] They hold office for life.[17]

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[1] Const. of 1947, Art. 37.
[2] Id., Art. 43.
[3] Id., Art. 49.
[4] Id., Art. 45.
[5] Id., Art. 47.
[6] Id., Art. 53.
[7] Id., Art. 54.
[8] Id., Art. 55.
[9] Id., Art. 56.
[10] Id., Art. 57.
[11] Id., Art. 59.
[12] Id., Art. 60.
[13] Id., Arts. 77, 79.
[14] Id., Art. 77.
[15] Id., Arts. 78, 173.
[16] Id., Art. 80.
[17] Id., Art. 81.

The Examination Yuan

Matters relating to public employment are entrusted to an examination yuan, comprising a president, a vice-president and a number of examination members, all appointed by the President of the Republic with the consent of the control yuan.[1] No person may be appointed to a public office in China without having passed an examination in open competition.[2] Examination members must be independent of party affiliations and free from interference in the exercise of their functions.[3]

The Control Yuan

The control yuan, composed of persons elected for six-year terms by provincial and municipal councils, local district councils of Mongolia and Tibet, and overseas Chinese communities, has "the powers of consent, impeachment, ratification, and auditing."[4] In the exercise of its "censorial powers," the control yuan "may request the executive yuan and its ministries and commissions to present to it for perusal orders issued by them and related documents."[5] It may appoint committees to investigate the administration of the executive yuan and the ministries and commissions of the latter and may propose measures of rectification and improvement of such administration.[6] It may also institute impeachment against any public functionary of the central or a local government, against the personnel of the judicial or the examination yuan, or against the President and Vice-President of the Republic.[7]

Area, Population, Language

The total area of China is approximately 4,300,000 square miles. The population, including Manchuria, Outer Mongolia and Tibet, is estimated (1950) at 483,870,000. The area of the Island of Formosa under control of the Nationalist Goverment is 13,890 square miles with a population (1950 census) of 7,647,703 exclusive of troops. The prevailing language is Chinese.

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[1] Const. of 1947, Arts. 83, 84. [2] Id., Arts. 85. [3] Id., Art. 88.
[4] Id., Arts. 90–93. [5] Id., Art. 95. [6] Id., Arts. 96, 97.
[7] Id., Arts. 97–100.

THE CONSTITUTION of the REPUBLIC OF CHINA[1]

December 25, 1947

PREAMBLE

The National Assembly of the Republic of China, by virtue of the mandate received from the whole body of citizens, in accordance with the teachings of Dr. Sun Yat-sen, founder of the Republic of China, and in order to consolidate the power of the State, safeguard the rights of the people, ensure social security and promote the welfare of the people, hereby adopt this Constitution to be promulgated and enforced throughout the land for faithful and perpetual observance by all.

CHAPTER I

GENERAL PROVISIONS

Art. 1. The Republic of China, founded on the San Min Chu I (three principles of the people), is a democratic republic of the people, for the people, and governed by the people.

Art. 2. The sovereignty of the Republic of China resides in the whole body of citizens.

Art. 3. Persons possessing the nationality of the Republic of China are citizens of the Republic of China.

Art. 4. The territory of the Republic of China comprises its original areas. It shall not be altered except by resolution of the National Assembly.

Art. 5. All racial groups of the Republic of China shall enjoy equality.

Art. 6. The national flag of the Republic of China shall have a red background with a blue sky and a white sun in the upper left corner.

CHAPTER II

RIGHTS AND DUTIES OF THE PEOPLE

Art. 7. All citizens of the Republic of China, irrespective of sex, religion, race, class, or party affiliation, shall be equal before the law.

Art. 8. Freedom of person shall be guaranteed to the people. No person may, except in case of flagrante delicto as otherwise provided for by law, be arrested or detained except through a judicial or a police organ in

[1] Adopted by the National Assembly on December 25, 1946, and promulgated by the National Government on January 1, 1947, to become effective on December 25, 1947; translation released by Chinese News Service, January 11, 1947.

compliance with legal procedure. No person may be tried or punished except by a law court in accordance with legal procedure. Any arrest, detention, trial, or punishment, if conducted not in accordance with legal procedure, may be refused.

When a person is arrested or detained on suspicion of having committed a crime, the organ responsible therefor shall in writing inform the said person and his designated relatives or friends of the reason for the arrest or detention, and shall, within twenty four hours, turn him over to a competent court for trial. The said person, or any other person, may petition the competent court to demand from the organ concerned the surrender, within twenty-four hours, of the said person to the court for trial.

The court may not reject the petition mentioned in the preceding section, nor shall it order the organ concerned to make an investigation and report first. The organ concerned may not refuse to execute or delay in executing the writ of the court for surrender of the said person for trial.

When a person is arrested or detained illegally, he or any other person may petition the court for investigation. The court may not reject such a petition, and shall, within twenty-four hours, make the investigation with the organ concerned, and proceed with the case in accordance with law.

Art. 9. No person may, except those in active military service, be subject to trial by a military court.

Art. 10. The people shall have the freedom of domicile and of change of domicile.

Art. 11. The people shall have the freedom of speech, academic instruction, writing and publication.

Art. 12. The people shall have the freedom of secrecy of correspondence.

Art. 13. The people shall have the freedom of religious belief.

Art. 14. The people shall have freedom of assembly and of association.

Art. 15. The right of existence, the right of work, and the right of property shall be guaranteed to the people.

Art. 16. The people shall have the right to present petitions, file complaints, or institute legal proceedings.

Art. 17. The people shall have the right of election, recall, initiative, and referendum.

Art. 18. The people shall have the right to take public examinations and to hold public offices.

Art. 19. The people shall have the duty of paying taxes in accordance with law.

Art. 20. The people shall have the duty of performing military service in accordance with law.

Art. 21. The people shall have the right and duty of receiving citizens' education.

Art. 22. All other liberties and rights of the people that are not inimical to social order or public interest shall be guaranteed under the Constitution.

Art. 23. No one of the liberties and rights enumerated in the preceding articles may, except as warranted by reason of preventing infringement of

the liberties of other persons, averting an imminent crisis, maintaining social order, or advancing public interest, be restricted by law.

Art. 24. Any public functionary who, in violation of law, infringes upon the liberties or rights of any person shall, besides being subject to disciplinary measures in accordance with the law, be responsible under criminal and civil laws. The injured person may, in accordance with law, claim indemnity from the state for damage sustained.

Chapter III

THE NATIONAL ASSEMBLY

Art. 25. The National Assembly shall, in accordance with provisions of this Constitution, exercise political power on behalf of the whole body of citizens.

Art. 26. The National Assembly shall be composed of the following delegates:

(1) One delegate to be elected by every hsien,[1] municipality, or area of an equivalent status. In case the population exceeds 500,000, an additional delegate shall be elected for every additional 500,000. What constitutes an area equivalent to a hsien or to a municipality shall be determined by law.

(2) Delegates to be elected by Mongolia: four from every league and one from every special banner.[2]

(3) The number of delegates to be elected from Tibet shall be determined by law.

(4) The number of delegates to be elected by various racial groups in the border regions shall be determined by law.

(5) The number of delegates to be elected by Chinese nationals residing abroad shall be determined by law.

(6) The number of delegates to be elected by occupational groups shall be determined by law.

(7) The number of delegates to be elected by women's organizations shall determined by law.

Art. 27. The function and powers of the National Assembly shall be as follows:

(1) Election of the President and the Vice-President.
(2) Recall of the President or the Vice-President.
(3) Amendment of the Constitution.
(4) Ratification of amendments to the Constitution proposed by the legislative yuan.

With respect to the exercise of the powers of initiative and referendum, besides what is stipulated in the preceding third and fourth sections, the National Assembly shall institute measures pertaining thereto and enforce them, after the said two powers shall have been exercised in one-half of the hsien and municipalities of the whole country.

Art. 28. Delegates to the National Assembly shall be elected every six years.

The terms of the office of the delegates to each National Assembly shall terminate on the day of convocation of the next National Assembly.

[1] A rural unit of government.
[2] A unit distinguished by a flag or banner.

Incumbent government officials may not be elected delegates to the National Assembly in constituencies where they hold office.

Art. 29. The National Assembly shall be summoned by the President to meet ninety days prior to the date of expiration of the term of each presidency.

Art. 30. The National Assembly may, in any of the following circumstances, convene in extraordinary session:

(1) when, in accordance with the provisions of Article 49 of this Constitution, it is necessary to hold a supplementary election of the President and the Vice-President;
(2) when, in accordance with a resolution of the control yuan, an impeachment against the President or the Vice-President is instituted;
(3) when, in accordance with a resolution of the legislative yuan, an amendment to the Constitution is proposed;
(4) when it is convened upon a petition of over two-fifths of the delegates of the National Assembly.

When an extraordinary session is called in accordance with the preceding first or second section, the president of the legislative yuan shall issue the notice of convocation; when called in accordance with the preceding third or fourth section, such session shall be summoned by the President (of the Republic).

Art. 31. The National Assembly shall meet at the seat of the Central Government.

Art. 32. No delegate to the National Assembly shall be held responsible outside the Assembly for opinions he may express or for votes he may cast in sessions of the Assembly.

Art. 33. While the Assembly is in session, no delegate to the National Assembly shall, except in case of flagrante delicto ,be arrested or detained without the permission of the National Assembly.

Art. 34. The organization of the National Assembly, the election and recall of delegates to the National Assembly, and the procedure of the exercise of the functions and powers of the National Assembly shall be prescribed by law.

Chapter IV

THE PRESIDENT

Art. 35. The President is the head of the state and represents the Republic of China in official foreign relations.

Art. 36. The President shall command the land, sea, and air forces of the whole country.

Art. 37. The President shall, in accordance with law, promulgate laws and issue mandates with the countersignature of the president of the executive yuan or of both the president of the executive yuan and the heads of ministries or commissions concerned.

Art. 38. The President shall, in accordance with the provisions of this Constitution, exercise the powers of conclusion of treaties, declaration of war, and making of peace.

Art. 39. The President may, in accordance with law, declare martial law with the approval or confirmation of the legislative yuan. When the

legislative yuan deems it necessary it may, by resolution, request the President to rescind such law.

Art. 40. The President shall, in accordance with law, exercise the power of granting general amnesties, pardons, remission of sentences, and restitution of civil rights.

Art. 41. The President shall, in accordance with law, appoint and remove civil and military officers.

Art. 42. The President may, in accordance with law, confer honors, and award decorations.

Art. 43. In case of natural calamity, an epidemic, or a serious national financial or economic change, necessitating emergency measures to be taken, the President, during the recess of the legislative yuan, may, by resolution of the executive yuan council, and in accordance with the emergency decrees law, issue an emergency decree expedient and necessary to cope with the situation. Such a decree shall, within one month after issuance, be presented to the legislative yuan for confirmation; in case the legislative yuan dissents, the said decree shall immediately become null and void.

Art. 44. In case of any difference of opinion arising among the different yuan that is not covered by this Constitution, the President may summon a meeting of the presidents of the yuan concerned for consultation to settle the difference.

Art. 45. Any citizen of the Republic of China having attained to the age of forty years may be eligible to the office of the President or the Vice-President.

Art. 46. The election of the President and the Vice-President shall be prescribed by law.

Art. 47. The term of office of the President and the Vice-President shall be six years. They may be elected for a second term.

Art. 48. The President shall, at the time of his inauguration, take an oaths as follows:

> I do solemnly and sincerely swear before the people of the whole country that I will observe the Constitution, faithfully perform my duties, and promote the welfare of the people, safeguard the security of the State and will not betray the trust of the people. Should I break my oath, I shall be willing to submit myself to severe punishment the State may decree.

Art. 49. In event of the President's office becoming vacant, the Vice-President shall succeed to the presidency until the expiration of the presidential term. In case both the President's and the Vice-President's offices become vacant, the president of the executive yuan shall discharge the duties of the President's office. In accordance with the provisions of Article 30 of this Constitution, an extraordinary session of the National Assembly shall be convened for the purpose of holding a supplementary election of the President and the Vice-President, who shall hold office until the completion of the unfinished term of the former president.

In case the President becomes unable to attend to office due to any cause, the Vice-President shall discharge the duties of his office. In case both the President and the Vice-President become unable to attend to

office, the president of the executive yuan shall discharge the duties of the President's office.

Art. 50. The President shall retire from office on the day his term expires. If by that time the succeeding President shall not have yet been elected or, if already elected, both the President and the Vice-President shall not have been inaugurated, the president of the executive yuan shall discharge the duties of the President's office.

Art. 51. The period for the president of the executive yuan to discharge the duties of the President's office shall not exceed three months.

Art. 52. The President, except in case of commitment of rebellion or treason, shall not, without having been recalled or released from office, be liable to criminal prosecution.

CHAPTER V

ADMINISTRATION

Art. 53. The executive yuan is the highest administrative organ of the State.

Art. 54. The executive yuan shall comprise a president, a vice-president, a number of heads of various ministries and commissions, and a number of executive members without portfolio.

Art. 55. The president of the executive yuan shall be appointed by the President of the Republic with the consent of the legislative yuan. During the recess of the legislative yuan, if the president of the executive yuan resigns, or if his office becomes vacant, the vice-president of the yuan shall discharge the duties of the office of the president of the executive yuan. The President of the Republic shall, within forty days, request the legislative yuan to summon a meeting to consent to his nominee for the presidency of the executive yuan.

Pending the consent of the legislative yuan to the said nominee, the vice-president of the executive yuan shall discharge the duties of the office of the president of the yuan.

Art. 56. The vice-president, the heads of the various ministries and commissions, and the executive members without portfolio of the executive yuan shall be appointed by the President of the Republic upon the recommendation of the president of the executive yuan.

Art. 57. The executive yuan shall be responsible to the legislative yuan in accordance with the following provisions:

(1) The executive yuan has the responsibility to present to the legislative yuan its administrative policies and its administrative reports. Legislative members have, in the sessions of the legislative yuan, the right to interpellate the president and the heads of the various ministries and commissions of the executive yuan.

(2) If the legislative yuan dissents to any important policy of the executive yuan, it may, by resolution, ask the executive yuan to alter such policy. With respect to such resolution, the executive yuan may, with the approval of the President of the Republic, request the legislative yuan for reconsideration. If, in reconsideration, two-thirds of the attending members of the legislative yuan uphold the original resolution the president of the executive yuan shall either abide by the same or resign from office.

(3) If the executive yuan desires reconsideration of a resolution passed by the legislative yuan on a statutory, budgetary, or treaty bill for execution, it may, with the approval of the President of the Republic, request, within ten days after the delivery of the said resolution to the executive yuan, the legislative yuan for reconsideration. If, in reconsideration, two thirds of the attending members of the legislative yuan uphold the original resolution, the president of the executive yuan shall either abide by the same or resign from office.

Art. 58. The executive yuan shall have an executive yuan council to be composed of its president, the vice-president, the heads of the various ministries and commissions, and the executive members without portfolio of the executive yuan, with the yuan president as chairman.

Prior to the submission to the legislative yuan of any statutory or budgetary bill or any bill concerning declaration of martial law, granting of general amnesty, declaration of war, conclusion of peace, treaties, or other important affairs, or concerning matters of common concern to the various ministries and commissions, the president and the heads of the various ministries and commissions of the executive yuan shall present the same to the executive yuan council for discussion and decision.

Art. 59. The executive yuan shall, three months before the beginning of every fiscal year, present to the legislative yuan the budget for the following fiscal year.

Art. 60. The executive yuan shall, within four months after the end of every fiscal year, present the budget statement to the control yuan.

Art. 61. The organization of the executive yuan shall be prescribed by law.

Chapter VI

Legislation

Art. 62. The legislative yuan is the highest legislative organ of the State, to be constituted of legislative members elected by the people. It shall exercise the legislative power on behalf of the people.

Art. 63. The legislative yuan shall have the power to decide upon statutory or budgetary bills or bills concerning martial law, general amnesty, declaration of war, conclusion of peace, treaties, and other important affairs of state.

Art. 64. Members of the legislative yuan shall be elected in accordance with the following provisions:

(1) Those elected by provinces and by municipalities under the direct jurisdiction of the National Government: five from each province or municipality with a population of less than 3,000,000; and, in case of a population exceeding 3,000,000, one additional member for every additional 1,000,000 persons;
(2) Those elected by Mongolian leagues;
(3) Those elected by Tibet;
(4) Those elected by various racial groups in border regions;
(5) Those elected by Chinese nationals residing abroad;
(6) Those elected by occupational groups.

The election of the legislative members and the allotment of the number of legislative members in the preceding second to sixth sections shall be determined by law.

The number of women members in the various items of the first section shall be determined by law.

Art. 65. Members of the legislative yuan shall serve a term of three years, and are re-eligible. The general election shall be completed within three months prior to the expiration of each term of office.

Art. 66. The legislative yuan shall comprise a president and a vice-president to be elected by and from among the legislative members.

Art. 67. The legislative yuan may organize various committees.

Such committees may invite government officials and private persons concerned to be present at their meeting for consultation.

Art. 68. The legislative yuan shall hold two regular sessions every year, to be convened by itself. The first session shall last from February to the end of May, and the second session from September to the end of December. When necessary, a session may be extended.

Art. 69. In any of the following circumstances, the legislative yuan may hold an extraordinary session:

(1) At the request of the president of the Republic;
(2) Upon the petition of more than one-fourth of the legislative members.

Art. 70. The legislative yuan shall not make proposals for an increase in the expenditures listed in the budget presented by the executive yuan.

Art. 71. At the meetings of the legislative yuan, the presidents of the various yuan concerned and the heads of the various ministries and commissions concerned may be present to present their opinions.

Art. 72. Statutory bills passed by the legislative yuan shall be sent to the President of the Republic and to the executive yuan. The President shall within ten days after their receipt, promulgate them. The President may proceed with them in accordance with the provisions of Article 57 of this Constitution.

Art. 73. No member of the legislative yuan shall be held responsible outside of the yuan for opinions he may express and votes he may cast in sessions of the yuan.

Art. 74. No legislative member may, except in case of *flagrante delicto* be arrested or detained without the permission of the legislative yuan.

Art. 75. No legislative members may concurrently hold a public office.

Art. 76. The organization of the legislative yuan shall be prescribed by law.

Chapter VII

JUDICIARY

Art. 77. The judicial yuan is the highest judicial organ of the State and shall attend to the adjudication of civil, criminal, and administrative suits and to disciplinary measures against public functionaries.

Art. 78. The judicial yuan shall have the power to interpret the Constitution and also the power to unify the interpretations of laws and decrees.

Art. 79. The judicial yuan shall comprise a president and a vice-

president, who shall be appointed by the President of the Republic with the consent of the control yuan.

The judicial yuan shall have a number of grand judges to attend to matters stipulated in Article 78 of the Constitution, who shall be appointed by the President with the consent of the control yuan.

Art. 80. Judges shall be independent of party affiliations and shall, in accordance with law, have independence in the exercise of their functions, subject to no interference of any kind.

Art. 81. The judges shall hold office for life. No judge may be removed from office unless he shall have been subject to criminal or disciplinary punishment or shall have been declared to be under interdiction. No judge may, except in accordance with law, be suspended, transferred, or have his salary reduced.

Art. 82. The organization of the judicial yuan and the law courts of various grades shall be prescribed by law.

Chapter VIII

EXAMINATION

Art. 83. The examination yuan is the highest examination organ of the state and shall attend to matters relating to examination, employment, registration and ranking, checking of records, scaling of salaries, promotion and transfers, safeguarding of tenures, commendation, compensation, retirement, pension system, etc.

Art. 84. The examination yuan shall comprise a president and a vice-president and a number of examination members who shall be appointed by the President with the consent of the control yuan.

Art. 85. In the selection of public functionaries, the system of examinations by open competition shall be enforced, quotas of candidates shall be prescribed severally according to provinces and areas, and examinations shall be held in designated districts. No person may be appointed to a public office without having passed an examination.

Art. 86. The following qualifications shall be determined and registered through examination by the examination yuan in accordance with law:

(1) Qualifications for appointment as public functionaries;
(2) Qualifications for practice in specialized professions and as technicians.

Art. 87. The examination yuan may, with respect to matters under its charge, present statutory bills to the legislative yuan.

Art. 88. Examination members shall be independent of party affiliations and shall, in accordance with law, have independence in the exercise of their functions.

Art. 89. The organization of the examination yuan shall be prescribed by law.

Chapter IX

CONTROL

Art. 90. The control yuan is the highest organ of control of the State and shall exercise the powers of consent, impeachment, ratification, and auditing.

Art. 91. The control yuan shall be composed of control members, to be elected by provincial and municipal councils, the local district councils of Mongolia and Tibet, and overseas Chinese communities. The allotment of their respective numbers shall be made in accordance with the following provisions:

(1) Five members from every province;
(2) Two members from every municipality under the direct jurisdiction of the Central Government;
(3) Eight members from Mongolian leagues and banners;
(4) Eight members from Tibet;
(5) Eight members from Chinese nationals residing abroad.

Art. 92. The control yuan shall comprise a president and a vice-president, to be elected by and from the control members.

Art. 93. Control members shall serve a term of six years and are re-eligible.

Art. 94. When the control yuan exercises the power of consent in accordance with the Constitution, it shall do so by resolutions of a majority of its attending members.

Art. 95. The control yuan, in the exercise of its censorial powers, may request the executive yuan and its ministries and commissions to present to it for perusal orders issued by them and related documents.

Art. 96. The control yuan, according to the nature of the work of the executive yuan and its ministries and commissions, may appoint severally a number of committees to investigate their administration with the view of finding out whether or not there is any violation of law or any neglect of duty on the part of the executive yuan and of its ministries and commissions.

Art. 97. The control yuan may on the basis of the investigations and resolutions of its committees, propose measures of rectification, to be sent to the executive yuan, and its ministries and commissions concerned, with request to effect improvement.

When the control yuan deems a public functionary in the central or a local government guilty of neglect of duty or violation of law, it may propose measures of rectification or institute an impeachment. If the criminal law is involved, the case shall be turned over to a law court.

Art. 98. Any impeachment by the control yuan against a public functionary of the central or a local government shall be instituted upon the proposal of more than one control member and the endorsement, after due consideration, of more than nine control members.

Art. 99. In the institution of impeachment against personnel of the judicial yuan or of the examination yuan for neglect of duty or violation of law, the provisions of Articles 95, 97, and 98 shall be applicable.

Art. 100. Any impeachment against the President or the Vice-President

by the control yuan shall be instituted upon the proposal of more than one-fourth, and the endorsement, after due consideration, of the majority of the entire membership of the yuan, and the same shall be brought before the National Assembly.

Art. 101. No control member shall be held responsible outside the yuan for opinions he may express or for votes he may cast in sessions of the yuan.

Art. 102. Without the permission of the control yuan, no control member may be arrested or detained except in case of flagrante delicto.

Art. 103. No member of the control yuan may concurrently hold public office or carry on a professional practice.

Art. 104. In the control yuan, there shall be an auditor-general, who shall be appointed by the President of the Republic with the consent of the legislative yuan.

Art. 105. The auditor-general shall, within three months after the presentation of the budget statement by the executive yuan, complete the auditing thereof in accordance with law, and submit an auditing report to the legislative yuan.

Art. 106. The organization of the control yuan shall be prescribed by law.

Chapter X

POWERS OF THE CENTRAL AND LOCAL GOVERNMENT

Art. 107. The following matters shall be legislated upon and executed by the Central Government:

(1) Foreign affairs;
(2) National defense and military affairs concerning national defense;
(3) Nationality law and criminal, civil, and commercial laws;
(4) Judicial system;
(5) Aviation, national highways, state owned railways, navigation, postal service, and telegraph service;
(6) Central Government finance and national revenues;
(7) Demarcation between national and provincial or hsien revenues;
(8) State operated economic enterprises;
(9) Currency system and state banks;
(10) Weights and measures;
(11) Policies of international trade;
(12) Financial and economic matters of an international nature;
(13) Other matters of the Central Government as stipulated in the Constitution.

Art. 108. The following matters shall be legislated upon and executed by the Central Government. Their execution may be delegated to the provincial and hsien governments:

(1) General rules governing provincial and hsien self-government;
(2) Division of administrative areas;
(3) Forestry, mining, and commerce;
(4) Educational system;
(5) Banking and exchange systems;
(6) Shipping and coastal fishery;
(7) Public utilities;
(8) Co-operative enterprises;

(9) Water and land communication and transportation covering more than two provinces;
(10) Water conservancy, waterways, and agricultural and pastoral enterprises covering more than two provinces;
(11) Registration and ranking, appointment, supervision, and protection of officials in the central and local governments;
(12) Land legislation;
(13) Labor legislation and other social legislation;
(14) Eminent domain;
(15) Census-taking and compilation of statistics of national population;
(16) Immigration and land reclamation;
(17) Police system;
(18) Public health;
(19) General relief, compensation and unemployment relief;
(20) Preservation of ancient books, articles, and landmarks of cultural value.

With respect to the preceding sections, the provinces may enact separate laws and rules, provided these shall not contravene national laws.

Art. 109. The following matters shall be legislated upon and executed by the province. Their execution may be delegated to the hsien:

(1) Provincial education, provincial public health, provincial industries, and provincial communications.
(2) Management and disposal of provincial property;
(3) Provincial and municipal administration;
(4) Province-operated enterprises;
(5) Provincial co-operative enterprises; ,
(6) Provincial agriculture and forestry, provincial water conservancy, provincial fishing and animal husbandry, and provincial engineering;
(7) Provincial finance and provincial revenue;
(8) Provincial debts; ,
(9) Provincial banks;
(10) Enforcement of provincial police administration;
(11) Provincial charitable and public welfare enterprises;
(12) Other matters delegated in accordance with national legislation.

Any of the items in the preceding paragraph covering more than two provinces, may, except as otherwise provided for by law, be undertaken jointly by the provinces concerned.

When any province, in undertaking the items in the first paragraph, finds its funds insufficient, it may, by resolution of the legislative yuan receive a subsidy from the national treasury.

Art. 110. The following matters shall be legislated upon and executed by the hsien:

(1) Hsien education, hsien public health, hsien industries, and hsien communications;
(2) Management and disposal of hsien property;
(3) Hsien-operated enterprises;
(4) Hsien co-operative enterprises;
(5) Hsien agriculture and forestry, hsien river conservancy, hsien fishing and animal husbandry, and hsien engineering;
(6) Hsien finance and hsien revenue;
(7) Hsien debts;
(8) Hsien bank;
(9) Administration of hsien policing and defense;
(10) Hsien charitable and public welfare enterprises;
(11) Other matters delegated in accordance with national legislation and the provincial self-government law.

Any preceding section covering more than two hsien may, except as otherwise provided for by law, be undertaken jointly by the hsien concerned.

Art. 111. Should there occur any matter not enumerated in Articles 107, 108, 109 and 110, the same shall fall within the jurisdiction of the Central Government if it is of national nature, of the province if it is of provincial nature, and of the hsien if it is of hsien nature. Any dispute over jursidiction shall be settled by the legislative yuan.

Chapter XI

Local Government System

Part 1

The Province

Art. 112. A province may convene a provincial assembly to enact, in accordance with the general rules of provincial and hsien self-government, a provincial self-government law, provided the same shall not contravene the Constitution.

The organization of the provincial assembly and the election of the representatives shall be prescribed by law.

Art. 113. A provincial self-government law should contain the following provisions:

(1) In the province, there shall be a provincial council. Members of the provincial council shall be elected by the people of the province.
(2) In the province, there shall be a provincial government with a provincial Governor ,to be elected by the people of the province.
(3) Relationship between the province and the hsien.

The legislative power of the province shall be exercised by the provincial council.

Art. 114. The provincial self-government law after enactment, shall be immediately submitted to the judicial yuan. The judicial yuan, if it deems any part thereof unconstitutional, shall declare null and void the article or articles repugnant to the Constitution.

Art. 115. If, in its enforcement, the provincial self-government law encounters serious obstacles on account of any of the articles therein, the judicial yuan shall first summon the parties concerned to present their views, and then the presidents of the executive yuan, legislative yuan, judicial yuan, examination yuan, and control yuan shall form a committee, with the president of the judicial yuan as chairman, to propose formulas for settlement.

Art. 116. The provincial laws and regulations that are in contravention with national laws shall be null and void.

Art. 117. In case doubt arises as to whether or not there is a contravention between a provincial law or regulation and a national law, interpretation thereof shall be made by the judicial yuan.

Art. 118. The self-government of municipalities under the direct jurisdiction of the Central Government shall be stipulated by law.

Art. 119. The local self-government system of the Mongolian leagues and banners shall be stipulated by law.

Art. 120. The self-government system of Tibet shall be guaranteed.

Part 2

The Hsien

Art. 121. The hsien shall enforce hsien self-government.

Art. 122. The hsien may convene a hsien assembly and enact, in accordance with the general rules of provincial and hsien self-government, a hsien self-government law, provided the same shall not contravene the Constitution or the provincial self-government law.

Art. 123. People of the hsien, with respect to matters concerning hsien self-government, shall exercise the right of initiative and referendum in accordance with law, and in regard to the magistrate and other hsien self-government officers, shall exercise the right of election and recall in accordance with law.

Art. 124. In the hsien, there shall be a hsien council. Members of the hsien council shall be elected by people of the hsien.

The legislative power of the hsien shall be exercised by the hsien council.

Art. 125. Hsien laws and regulations that are in contravention of national laws or provincial laws and regulations shall be null and void.

Art. 126. In the hsien, there shall be a hsien government with a hsien magistrate, to be elected by the people of the hsien.

Art. 127. The hsien magistrate shall attend to the enforcement of hsien self-government and to the execution of matters delegated by the central and provincial governments.

Art. 128. The provisions governing the hsien shall apply, mutatis mutandis, to the municipality.

Chapter XII

Election, Recall, Initiative, and Referendum

Art. 129. The election stipulated in the Constitution, except when otherwise provided for by the Constitution, shall be universal, equal, and direct suffrage and by secret ballot.

Art. 130. Any citizen of the Republic of China having attained the age of twenty years shall have the right of election in accordance with law. Unless otherwise provided by the Constitution and laws, any citizen having attained to the age of twenty-three years shall have the right of being elected in accordance with law.

Art. 131. All candidates in the election stipulated in the Constitution shall openly campaign for election.

Art. 132. Coercion or inducement shall be strictly forbidden in elections. Suits arising in connection with elections shall be tried by the court.

Art. 133. A person elected may, in accordance with law, be recalled by his constituency.

Art. 134. In the elections, the minimum number of women to be elected

shall be fixed, and measures pertaining thereto shall be prescribed by law.

Art. 135. Measures with respect to the number and election of representatives of citizens in interior areas whose conditions of living and habits are peculiar shall be prescribed by law.

Art. 136. The people's exercise of their two rights of initiative and referendum shall be stipulated by law.

Chapter XIII

Fundamental National Policies

Part 1

National Defense

Art. 137. The national defense of the Republic of China shall have as its aim safeguarding of the national security and preservation of world peace.

The organization of national defense shall be prescribed by law.

Art. 138. The land, sea, and air forces of the whole land shall, independent of individual, regional, or party affiliation, be loyal to the state and shall protect the people.

Art. 139. No political party or faction or individual may make use of armed force as an instrument in a political struggle for power.

Art. 140. No military man in active service may concurrently hold a civil office.

Part 2

Foreign Policy

Art. 141. The foreign policy of the Republic of China shall, in a spirit of independence and initiative and on the basis of the principles of equality and reciprocity, cultivate good neighborliness with other nations and respect treaties and the United Nations Charter in order to protect the rights and interests of overseas Chinese nationals, promote international co-operation, advance international justice, and ensure world peace.

Part 3

National Economy

Art. 142. National economy shall be based on the principle of the people's livelihood for equitable distribution of land ownership and control of capital in order to obtain a well-balanced development of public economy and private livelihood.

Art. 143. All land within the territory of the Republic of China shall in principle belong to the whole body of citizens. Private ownership of land, acquired by the people in accordance with law, shall be protected and restricted by law. Privately owned land shall be liable to taxation according to its value and the government may buy such land according to its value.

Mines imbedded in the land and natural power which may be economic-

ally utilized for public benefit shall belong to the State and shall in no wise be affected by the people's acquisition of the right of ownership over such land.

If any land has an increase in its value, not through the exertion of labor and the employment of capital, the State shall levy thereon an increment tax, the proceeds of which shall be enjoyed by the people in common.

In the distribution and adjustment of land, the State shall, as a principle, assist self-farming land owners and persons who make use of the land by themselves, and shall also regulate their appropriate areas of operation.

Art. 144. Public utilities and other enterprises of monopolistic nature shall, as a principle, be under public operation. The same may, if permitted by law, be operated by citizens.

Art. 145. With respect to private wealth and privately operated enterprises, the State shall restrict them by law if they are deemed to obstruct the balanced development of public economy and private livelihood.

Co-operative enterprises shall receive encouragement and assistance by the State.

Citizen's productive enterprises and foreign trade shall receive encouragement, guidance, and protection by the State.

Art. 146. The State shall, through the employment of scientific technique, develop river conservancy, increase the productivity of the land, improve agricultural conditions, plan for the utilization of land, and exploit agricultural resources in order to bring about the industrialization of agriculture.

Art. 147. The Central Government, in order to attain a balanced economic development among the provinces, shall extend appropriate aid to undeveloped provinces.

The province, in order to attain a balanced economic development among the hsien, shall extend appropriate aid to undeveloped hsien.

Art. 148. Within the territorial bounds of the Republic of China, all goods shall be permitted to flow freely.

Art. 149. Private financial institutions shall, in accordance with law, be subject to state control.

Art. 150. The state shall extensively establish financial institutions for the people to relieve unemployment.

Art. 151. With respect to Chinese nationals residing abroad, the State shall foster and ensure the development of their economic enterprises.

Part 4

Social Security

Art. 152. The State shall provide opportunity of employment to people who are capable of work.

Art. 153. The State, in order to improve the livelihood of laborers and farmers and to increase their productive technical skill, shall enact laws and carry out the policy for their protection.

Women and children engaged in labor shall, according to their age and physical condition, be accorded special protection.

Art. 154. Capital and labor shall, on the principle of harmony and

co-operation, promote productive enterprises. Mediation and arbitration of disputes between capital and labor shall be stipulated by law.

Art. 155. The State, in order to promote social welfare, shall enforce a social insurance system. To the aged, the infirm, and the crippled among the people who are unable to earn a living, and to victims of unusual calamities, the State shall extend appropriate assistance and relief.

Art. 156. The State, in order to secure the foundation of national existence and development, shall protect motherhood and carry out the policy of promoting the welfare of women and children.

Art. 157. The state, in order to improve national health, shall extensively establish sanitation and infant health protection enterprises and a system of socialized medical service.

Part 5

Education and Culture

Art. 158. Education and culture shall have as its aim the development among citizens of a national spirit, a democratic spirit, national morality, sound and healthy physique, of sciences and of the knowledge and ability to earn a living.

Art. 159. Citizens shall have equal opportunity to receive education.

Art. 160. All children of the school age from six to twelve years shall receive primary education free and those who are poor shall be supplied with textbooks by the government.

All citizens beyond school age who have not received primary education shall receive supplementary education free, and shall also be supplied with textbooks by the government.

Art. 161. Governments of various grades shall extensively establish scholarships to assist students who, posessing a good record in scholarship and conduct, are financially unable to pursue advanced studies.

Art. 162. All public and private educational institutions in the country shall, in accordance with law, be subject to state supervision.

Art. 163. The State shall pay due attention to the balanced development of education in various areas and shall promote social education in order to raise the cultural standard of the citizens in general. Educational and cultural expenses of border regions and undeveloped regions shall be subsidized by the national treasury. The more important local educational and cultural enterprises may be undertaken or subsidized by the Central Government.

Art. 164. Expenditure for educational, scientific, and cultural purposes shall be, in case of the Central Government, not less than fifteen percent of the total national budget, in case of the province, not less than twenty-five percent of the total provincial budget, and, in case of the hsien, not less than thirty-five percent of the total hsien budget. Educational and cultural foundations established in accordance with law shall together with their property be protected.

Art. 165. The State shall safeguard the livelihood of those who work in the educational fields of sciences and arts, and shall, in accord with the

development of national economy, raise their scale of treatment from time to time.

Art. 166. The State shall encourage scientific discoveries and inventions and shall protect ancient landmarks and articles of historical, cultural, or artistic value.

Art. 167. The State shall extend encourgement or subsidies to the following enterprises of individuals:

(1) Educational enterprises in the country which have been operated with good record by private individuals;
(2) Educational enterprises of Chinese nationals residing abroad which have been operated with good record;
(3) Persons who may have made discoveries in learning or in techniques;
(4) Persons who may have long been engaged in education and with good records.

Part 6

Border Regions

Art. 168. The State shall accord legal protection to the status of the racial groups in the border regions, and shall render special assistance to their undertakings of local self-government.

Art. 169. The State shall positively undertake and foster the development of education, culture, communications, river conservancy, public health, and other economic and social enterprises of the racial groups in the border regions. With respect to the utilization of land, the state shall, according to the climate and the nature of the soil and in the light of what is deemed suitable to the life and habits of the people, protect the land and assist its development.

Chapter XIV

ENFORCEMENT AND AMENDMENT OF THE CONSTITUTION

Art. 170. The term "law", as used in the Constitution, denotes a law that shall have been passed by the legislative yuan and promulgated by the President.

Art. 171. Laws in contravention to the Constitution shall be null and void. When doubt arises as to whether or not a law is in contravention to the Constitution, interpretation thereon shall be made by the judicial yuan.

Art. 172. Ordinances in contravention of the Constitution or of laws shall be null and void.

Art. 173. The power to interpret the Constitution resides in the judicial yuan.

Art. 174. Amendments to the Constitution shall be made in accordance with one of the following procedures:

(1) Upon the proposal of one-fifth of the total number of the representatives of the National Assembly and by a resolution of three-fourths of the representatives present at a meeting having a quorum of two-thirds of the entire Assembly, an amendment may be made.
(2) Upon the proposal of one-fourth of the members of the legislative

yuan and by a resolution of three-fourths of the members present at a meeting having a quorum of three-fourths of the members of the yuan, an amendment may be drawn up and submitted to the National Assembly for ratification. Such a proposed amendment to the Constitution shall, six months before the coming into session of the National Assembly, be publicly published.

Art. 175. Matters provided by the Constitution which require procedures of enforcement shall be prescribed by law.

The preparatory procedure for the enforcement of the Constitution shall be decided upon by the National Assembly which shall have instituted the Constitution.

Data regarding

THE "PEOPLE'S REPUBLIC OF CHINA"

The "People's Republic of China" was proclaimed on September 21, 1949 in Peking by the "Chinese Political Consultative Conference". This regime claims to be the government of the entire area of China and has been in military control of most or all of the mainland of China since 1949. About 22 of the 89 nations had, as of the time of our going to press, recognized this regime.[1] Efforts of its officials to be recognized as representatives of China in the organs of the United Nations have been unsuccessful.[2]

The "People's Republic of China" is a regime avowedly of the Communist pattern. The membership in the Communist Party in China was estimated by the Statesmen's Yearbook, 1953 edition, p. 857, as having been "5–8 million members" in September 1952 (about 1¼ to 1⅝% of the total population). In the Communist Party in China there is, theoretically, a National Party Congress which meets every three years. The last meeting at the time of our going to press, had been held in 1945.

The controlling organ of the Party is the Political Bureau ("Politburo") of the Communist Party's Central Committee in China. The Committee itself has about 40 or more regular members, and 25 or more alternates. The Political Bureau ("Politburo") has a total of about ten members.

The Political Bureau ("Politburo") of the Communist Party's Control Committee in China, at the time of our going to press, had four principal divisions, each administered by a prominent Communist Party member. The divisions, roughly, relate to (1) party affairs, (2) military affairs, (3) economic affairs, and (4) the operation of the government.

The Central Committee of the Communist Party in China also has a Secretariat whose chief is the Chairman of the Political Bureau and the leader of the Communist Party in China.

This prevailing system of operation of Communist regimes, i.e. by having the officials of a single party control for an extensive period or permanently, the operations of a paralleling governmental organization is comparable in many respects to the situation which existed in Germany under the regime of the Nazi Party from about 1933 to 1945.

The paralleling governmental structure in China contemplates an

[1] See footnotes 2 and 3 on p. 508. [2] Id.

"All China People's Congress" as its principal organ. Such a Congress has not, as of the time of our going to press, been elected. If and when it is chosen, the voting presumably is likely to follow the Communist practice of being done with a single ballot containing only one list of candidates.

The present chief governmental operating organ of the "People's Republic of China" is the "Central People's Governmental Council" which is understood to contain some members who do not belong to the Communist Party but who sit as members of the Council with a view to encouraging popular support of non-party members.

For administrative purposes under the Communist regime the entire area on the mainland of China is divided into six regions, the Northeastern, the Northern, the Eastern, the Central Southern, the Southwestern and the Northwestern, with military and civil officials, and with various provincial and municipal committees and other organs.

An "Organic Law" was adopted by the "Chinese People's Consultative Conference" in September 1949. The Conference also adopted a Common Program of 60 articles, stating, among other aims, that the Republic opposes imperialism, feudalism and bureaucratic capitalism and strives for the independence, democracy, peace, unification, prosperity and strength of China. The "Organic Law" states that the People's Republic has the State form of the People's Democratic Dictatorship led by the working class based on the alliance of workers and peasants and rallying all democratic classes and nationalities within the country. If further states that the Government takes the form of the People's Congress system based on the principle of democratic centralism.

The Programme goes on to state that the People's Republic unites with all peace and freedom loving countries and peoples throughout the world, first of all with the Soviet Union, all People's Democracies and all oppressed nations and stands in the camp for international peace and democracy to oppose jointly imperialistic aggression and to defend lasting world peace.

The Programme denounces all laws, decrees and judicial systems of the National Republic "oppressing the people" and declares that the Central People's Government shall examine, and where necessary, revise, renegotiate or abrogate treaties and agreements between the National Republic and foreign governments.

The Common Programme passed by the "People's Consultative Conference" in 1949 declares that the people of the Republic shall have freedom of thought, speech, publication, assembly, association, correspondence, person, domicile, moving from one place to another, religious belief and holding processions and demonstrations. It says that women are guaranteed equal rights with men and all nationalities in the Republic are stated to have equal rights and duties.

The Organic Law of September 1949 provides for the State Administration Council as the chief executive organ, whose members are appointed by the People's Government Council, and for a Supreme People's Court and the People's Procurator General's Office as the highest judicial-supervisory organs of the country.

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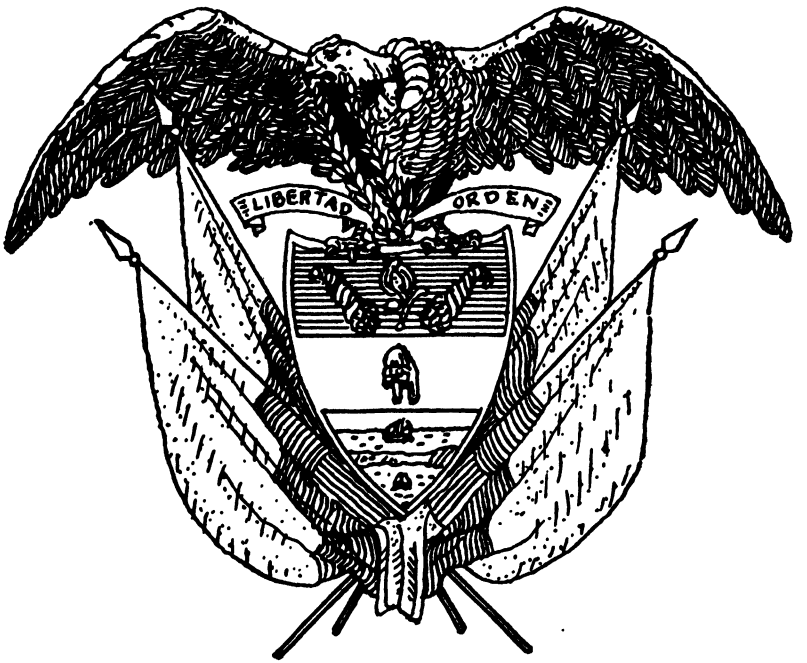
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COLOMBIA

SUMMARY

International Status

Colombia is a member of the United Nations. It signed the Charter of that organization at San Francisco on June 26, 1945 and deposited its ratification on September 1, 1945.

It became a member of the League of Nations in 1920. It signed the Statute of the old Permanent Court of International Justice prior to January 28, 1921, and ratified it July 6, 1932. It is a party to the Statute of the International Court of Justice of 1945 and is subject to its obligatory jurisdiction.[1] It is a member of the Organization of the American States, the Postal Union and numerous other international organizations.[2]

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[1] See Yearbook of the Court, 1951–52, pp. 35–43, 187.
[2] See Table I.

Colombia, following a period as a Spanish colony, was established as a Republic by Simón Bolívar in 1819. It originally comprised the territory now known as Colombia, Panama, Venezuela, and Ecuador. In 1829–30 Venezuela and Ecuador withdrew from the association and in 1831 the remaining territories, including what is now Colombia and Panama, were formed into a republic known as New Granada. In 1858 the name was changed to the Granadine Confederation and the name was again changed in 1861 to the United States of Colombia. Panama seceded from Colombia in 1903 and became a separate republic.

Form of National Government

Colombia has a written constitution adopted August 4, 1886.[1] It provides that Colombia is reorganized as a unitary Republic.[2] However, the Constitution of 1886 recited in its preamble that it was decreed by the delegates of nine states, Antioquia, Bolívar, Boyacá, Cauca, Cundinamarca, Magdalena, Panamá, Santander, and Tolima.[3]

The Constitution provides for a President and ministers, a bi-cameral congress and a Supreme Court and superior district tribunals and other tribunals.

The national territory is divided into departments, districts, and delegacies.[4] There are provisions in the Constitution for departmental and municipal administration.[5] The boundaries of departments may from time to time be changed by law.[6]

Source of Sovereign Power

Sovereignty "is essentially and exclusively vested in the Nation." [7] The preamble refers to "God, supreme source of all authority." [8]

Rights of the People

Civil rights and social guarantees are conferred upon "all persons residing in Colombia." [9] They include prohibition upon slavery,[10] protection of the person, family,[11] domicile,[11] protection against *ex post facto* laws[12] and imprisonment for debt "unless it is to secure the results of a suit."[11] No one is required to give testimony against himself or close relatives in criminal proceedings.[13] Public officers are answerable for ex-

[1] The numerous amendments made after 1886 were embodied in a codification of constitutional provisions in force on February 16, 1945. A further amendment was made on December 23, 1946. A committee of experts to suggest further amendments met in the Summer of 1952 and was still working on the matter in 1953 and 1954. Predecessors of the Constitution of August 4, 1886, were Constitutions of November 17, 1831, April 20, 1843, May 28, 1853, February 27, 1855, May 22, 1858, and May 8, 1863. A Committee to study the Constitution of 1886 with a view to its possible revision was appointed in 1952 but, as of the date of going to press, has made no report.

[2] Const., Art. 1. [3] Preamble to Constitution of 1886. [4] Const., Art. 5.
[5] Id., Arts. 181-201. [6] Id., Art. 5. [7] Id., Art. 2.
[8] Id., Preamble. [9] Id., Art. 16. [10] Id., Art. 22.
[11] Id., Art. 23. [12] Id., Art. 26, 28. [13] Id., Art. 25.

ceeding their powers,[1] and may not plead in defense the order of a superior officer.[2]

The penalty of death is prohibited.[3] "The penalty of confiscation may not be imposed." [4] Expropriation must be "by judicial order and after indemnification."[5]

Freedom of conscience and the liberty of all cults that are not contrary to Christian morality or to the laws are guaranteed.[6]

Primary education is gratuitous, and compulsory up to the grade determined by law.[7] There are guarantees of freedom of the press in time of peace,[8] of inviolability of private correspondence and telegraphic communications,[9] of freedom to choose a profession or occupation,[10] of the right to strike except in the public services,[11] the right to petition authorities,[12] and the right of peaceful assembly.[13] Government monopoly of munitions of war is required.[14] All Colombians are subject to military service if required.[15]

Legislative Department

The Congress is granted legislative power under twenty-four categories [16] and is prohibited from performing specified functions.[17]

The two houses of the Congress are the Senate and House of Representatives. Cabinet ministers may appear before the legislative houses.[18] Judges of the Supreme Court are also permitted to be heard in discussions of bills relating to civil legislation and judicial procedure.[19]

The Senate is composed of three or more senators from each department [20] elected for four year terms,[21] and is elected by direct vote of all male citizens in the respective departments.[22] The Constitution provides that the Senate shall exercise certain judicial functions.[23] These include the trial of impeachments.[24]

The House of Representatives is composed of one member for every ninety thousand inhabitants with a substitute elected for each representative.[25]

The Federal Congress in 1948 consisted of 63 members of the Senate elected for terms of four years and 126 members of the House of Representatives elected for terms of two years.

Executive Department

The President is elected by direct vote for four years and is ineligible

[1] Const., Art. 20.
[2] Id., Art. 21.
[3] Id., Art. 29.
[4] Id., Art. 34.
[5] Id., Art. 30.
[6] Id., Art. 53.
[7] Id., Art. 41.
[8] Id., Art. 42.
[9] Id., Art. 38.
[10] Id., Art. 39.
[11] Id., Art. 18.
[12] Id., Art. 45.
[13] Id., Art. 46.
[14] Id., Art. 48.
[15] Id., Art. 165.
[16] Id., Art. 76.
[17] Id., Art. 78.
[18] Id., Art. 83.
[19] Id., Art. 84.
[20] Id., Art. 93.
[21] Id., Art. 95.
[22] Id., Arts. 171, 176.
[23] Id., Art. 58.
[24] Id., Art. 96.
[25] Id., Art. 99.

for two successive terms.[1] His powers are set forth in thirty-two categories.[2]

Cabinet ministers are "organs of communication between government and Congress; they introduce bills, ... take part in the debates," and may be required to appear before the houses.[3]

Judicial Department

There is a Supreme Court, composed of the number of magistrates determined by law.[4] The members of the Court are elected by the legislative houses from lists of three nominated by the President of the Republic.[5] The term of service is five years and members may be reelected indefinitely.[6]

The country is divided into judicial districts, each containing a superior tribunal.[7]

The Supreme Court is specifically charged with "the guardianship of the integrity of the Constitution."[8] It has jurisdiction of all cases brought against specified officers for violation of the Constitution [9] and has power to decide definitively on the enforceability of bills vetoed by the government as unconstitutional, as well as on the constitutionality of laws or decrees issued by the government.[10]

Area, Population, Language

The area of Colombia is 447,536 square miles. The population was estimated in 1952 at 11,768,430. The prevailing language is Spanish.

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[1] Const., Arts. 114, 129.
[2] Id., Arts. 118–120.
[3] Id., Art. 134.
[4] Id., Art. 147.
[5] Id., Art. 149.
[6] Id., Art. 148.
[7] Id., Art. 152.
[8] Id., Art. 214.
[9] Id., Art. 151(2).
[10] Id., Art. 214.

POLITICAL CONSTITUTION of the REPUBLIC OF COLOMBIA[1]

With amendments To February 16, 1945

IN THE NAME OF GOD, supreme source of all authority, and for the purpose of strengthening the national unity and securing the benefits of justice, liberty, and peace, we have decided to decree, as we do hereby decree, the following political Constitution of Colombia.

Title I

The Nation and Its Territory

Art. 1. The Colombian Nation is reorganized as a unitary republic.

Art. 2. Sovereignty is essentially and exclusively vested in the Nation, and from that source are derived all the public powers, which shall be exercised within the limits prescribed by this Constitution.

Art. 3. The boundaries of Colombia with the neighboring nations are the following:

> With Venezuela, those defined in the arbitral award pronounced by the government of the King of Spain March 16, 1891; with Brazil, those defined in the Treaties of April 24, 1907, and November 15, 1928; with Peru, those defined in the Treaty of March 24, 1922; with Ecuador, those defined in the Treaty of July 15, 1916, and with Panama, those defined in the Treaty of August 20, 1924.

Colombia also, in addition to the islands, islets, keys, headlands, and banks pertaining to her in the marginal seas, includes the island of Malpelo and the archipelago of San Andréas and Providencia.

The boundary lines of the Republic with the conterminous nations may be altered only by virtue of public treaties, duly approved by the Congress.

Art. 4. The territory, with the public property forming a part thereof, belongs exclusively to the Nation.

Art. 5. The national territory is divided into departments, districts, and delegacies; the first and the last, into municipalities or municipal districts.

The law may provide for the creation of new departments, either dividing or not dividing the existing entities, subject to the following conditions:

> 1. That it shall have been requested by three-fourths of the councilmen of the area in which the new department is to be created;

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[1] Translated from Spanish text of codification of constitutional provisions in force, made by the Colombian Government under authority of Legislative Act No. 1 of 1945. A committee of experts was appointed by the Government in 1953 to consider further amendments.

2. That the new department shall have at least two hundred fifty thousand inhabitants and five hundred thousand pesos of annual revenue;
3. That the department, or each of the departments, from which the new one is separated, shall continue to have a population of at least two hundred fifty thousand inhabitants and an annual revenue of five hundred thousand pesos.

The law may separate territory of one department in order to add it to another or others adjacent thereto, taking into account the opinion of the inhabitants of the respective territory and the previous views of the governors of the interested departments.

The law shall regulate whatever relates to this provision.

Doubtful boundary lines shall be determined by boundary commissions appointed by the Senate.

The districts and delegacies remain under the immediate administration of the government, and it is incumbent upon the legislature to provide for their administrative organization and for the special régime of the municipalities which comprise them.

The law may create and suppress districts and delegacies, annex them wholly or in part to the departments, give them special statutes and regulate their electoral, judicial, and administrative-law organization.

Art. 6. The law may convert into a department the District of Chocó, although it does not have the number of inhabitants required by the second subparagraph of Article 2 of Legislative Act No. 1 of 1936, without affecting the territories of the Departments of Antioquia, Caldas, and Valle del Cauca.

Art. 7. Besides the general division of the territory, there shall be within the limits of each department other divisions for the proper regulation of the public service.

The divisions relating to finance, military affairs, and public instruction need not coincide with the general division.

Title II

The Inhabitants: Natives and Foreigners

Art. 8. Colombians are:

1. By birth:
   (a) The natives of Colombia, upon one of two conditions: that their father or mother shall have been a native or national of Colombia, or that, if children of foreigners, they be domiciled in the Republic;
   (b) The children of Colombian father or mother born in a foreign country and afterward domiciled in the Republic;
2. By adoption:
   (a) Foreigners who apply for and obtain letters of naturalization;
   (b) Native Spanish Americans and Brazilians who, with the authorization of the government, request registration as Colombians before the municipality of the place where they reside.

Art. 9. Colombian nationality is forfeited by naturalization and domiciliation in a foreign country; it may be recovered under the laws.

Art. 10. It is the duty of all nationals and foreigners in Colombia to live in submission to the Constitution and the laws and to respect and obey the authorities.

Art. 11. Foreigners shall enjoy in Colombia the same civil rights as

are conceded to Colombians. But the law may, for reasons of public order, subject to special conditions, deny the exercise of specified civil rights by foreigners.

Foreigners shall likewise enjoy in the territory of the Republic the guaranties conceded to nationals, subject to the limitations which may be established by the Constitution or the laws.

Political rights shall be reserved to nationals.

Art. 12. The capacity, the recognition, and, in general, the regulation of companies and other juridical persons shall be determined by the Colombian law.

Art. 13. The Colombian, although he may have lost his nationality, who is taken with weapons in hand in war against Colombia shall be tried and punished as a traitor.

Naturalized foreigners and those domiciled in Colombia shall not be obliged to bear arms against the country of their origin.

Art. 14. Colombians over twenty-one years of age are citizens.

Citizenship is lost in fact when nationality is lost. It is also lost or suspended, by virtue of judicial decision, in the cases determined by the laws.

Those who have lost citizenship may apply for reinstatement.

Art. 15. The quality of active citizenship is an indispensable condition precedent to the exercise of the right to vote and to be elected to and hold public offices carrying with them authority or jurisdiction. The suffrage and the capacity to be elected by popular vote are reserved to men.

Title III

Civil Rights and Social Guarantees

Art. 16. The authorities of the Republic are established to protect all persons residing in Colombia in their lives, honor, and property and to secure the fulfillment of the social duties of the state and of individuals.

Art. 17. Labor is a social obligation and shall enjoy the special protection of the state.

Art. 18. The right to strike, except in the public services, is guaranteed. The law shall regulate its exercise.

Art. 19. Public aid is a function of the state. It must be given to those who, lacking the means of subsistence and the right to demand it of other persons, are physically unable to work.

The law shall determine the manner in which aid shall be given and the cases in which it must be given directly by the state.

Art. 20. Private persons are answerable to the authorities only for violations of the Constitution or the laws. Public officers are answerable for the same violations, and also for exceeding their powers or for omissions in the fulfillent of their duties.

Art. 21. In case of manifest violation of a constitutional provision to the detriment of any person, the order of a superior shall not exempt from responsibility the agent who executed it.

Soldiers in actual service are exempted from this provision. With respect to them the responsibility shall devolve exclusively on the superior who gave the order.

Art. 22. There shall be no slaves in Colombia.

Any slave who enters the territory of the Republic shall be free.

Art. 23. No one may be molested in his person or family, or imprisoned or arrested, or have his domicile searched, except upon a warrant issued by competent authority, with all legal formalities and for cause previously defined by law.

In no case shall there be detention, imprisonment, or arrest for debts or purely civil obligations, unless it is to secure the results of a suit.

Art. 24. He who is caught in *flagrante delicto* may be arrested and taken before the judge by any person. If the agents of the authority pursue him and he takes refuge in his own dwelling, they may enter it for the purpose of arresting him; and if he seeks asylum in the dwelling of another person, the consent of the owner or tenant thereof shall be previously obtained.

Art. 25. No one may be compelled in criminal, correctional, or police proceedings to testify against himself or against his relatives within the fourth civil degree of consanguinity or the second degree of affinity.

Art. 26. No one may be tried except in conformity with laws enacted prior to the commission of the offense with which he is charged by courts having competent jurisdiction, and in accordance with all the forms proper for each case.

In criminal matters, the law favorable to the defendant, even if enacted after the commission of the alleged offense, shall be applied in preference to the restrictive or unfavorable law.

Art. 27. The preceding provision shall not prevent the infliction of punishment, without previous trial, in the cases and within the limits established by law, by:

1. Functionaries exercising authority or jurisdiction, who shall have power to punish with fines or imprisonment any person in contempt of their authority while discharging their official duties;
2. Military chiefs, who may inflict instant punishment in order to subdue insubordination or military mutiny, or to maintain discipline in the presence of the enemy;
3. Masters of vessels who have the power, when not in a port, to repress crimes committed on board their ships.

Art. 28. No person may, even in time of war, be punished *ex post facto*. No punishment shall be inflicted if it is not under a law, order, or decree in which the act has been previously prohibited and the punishment for its commission established.

This provision shall not prevent, even in time of peace, if there are serious reasons to fear a disturbance of the public order, the arrest from being made by order of the government, upon previous advice of the ministers, of persons suspected with good reason of attempting to disturb the public peace.

Art. 29. The lawmaker may not impose the penalty of death in any case.

Art. 30. Private property and other rights acquired under just title, according to the civil laws, by natural or juridical persons, are guaranteed and may not be ignored, nor disturbed by subsequent laws. When the

application of a law issued for reasons of public utility or social interest results in a conflict between the rights of individuals and the necessity recognized by the same law, the private interest must yield to the public or social interest.

Property is a social function which implies obligations.

For reasons of public utility or of social interest defined by the lawmaker, there may be expropriation by judicial order and after indemnification.

Nevertheless, the lawmaker, for reasons of equity, may determine the cases in which there shall be no occasion for indemnification, upon the favorable vote of the absolute majority of the members of both houses.

Art. 31. No law which establishes a monopoly may be applied before the full indemnification of the individuals who by virtue thereof are to be deprived of a lawful industry.

No monopoly may be established except as a revenue measure and by virtue of law.

Privileges may be granted only with reference to useful inventions and to ways of communication.

Art. 32. The state may intervene by mandate of law in the development of public and private industries or enterprises, for the purpose of nationalizing the production, distribution, and consumption of the resources or giving the laborer the just protection to which he is entitled.

This function may not be exercised in the use of the powers of Article 76, subparagraph 12, of the Constitution.

Art. 33. In case of war, and solely for the purpose of insuring the restoration of public order, the seizure of private property may be ordered by authorities not vested with judicial power, and without the indemnification being previous.

In the case herein mentioned, real property alone may be temporarily occupied, either to meet the necessities of the war, or to deprive its owners, by way of penalty, in accordance with the laws, of the yield thereof.

The Nation shall always be responsible for the seizures and condemnations made by the government or by its agents.

Art. 34. The penalty of confiscation may not be imposed.

Art. 35. Literary and artistic property shall be protected as transferable property, during the lifetime of the author and for eighty years thereafter; but the formalities prescribed by law for this purpose shall be observed.

The same guaranty shall be extended to the owners of works published in countries where the Spanish language is spoken, provided that the principle of reciprocity is recognized by law in those countries. There shall be no necessity of entering to this effect into any international treaties.

Art. 36. The use of donations, *inter vivos* or testamentary, made in conformity with the law for objects of social interest shall not be changed or modified by the legislative power. The goverment shall audit the management and investment of such donations.

Art. 37. In Colombia no real property shall be inalienable, and no obligations irredeemable.

Art. 38. Correspondence by telegraph and mail is inviolable. Letters

and private papers may not be intercepted or examined, except by the authority, upon order of a competent officer in such cases and with such formalities as the law may establish, and for the sole purpose of securing legal evidence.

For the assessment of taxes and for the cases of intervention by the state, the presentation of books of account and related papers may be required.

The circulation of printed matter through the post office may be burdened with taxes, but it may never be prohibited in time of peace.

Art. 39. Every one is free to choose a profession or occupation. The law may require certificates of fitness and regulate the exercise of the professions.

The authorities shall inspect the practice of all industries or professions in so far as they may affect public morals, safety, and health.

The law may restrict the production and consumption of liquors and fermented beverages.

The law may also order the revision and audit of the tariffs and regulations of transport or conveyance enterprises and other public services.

Art. 40. In future there may be registered as advocates only those who have a professional degree.

No one may litigate in his own or another's case if he is not a registered advocate. However, the law shall establish exceptions.

Art. 41. Liberty of education is guaranteed. The state shall have, however, the supreme inspection and care of institutions of learning, public and private, in order to assure the fulfillment of the social purposes of culture and the best intellectual, moral, and physical development of the students.

Primary education shall be free in the state schools, and compulsory up to the grade determined by law.

Art. 42. The press is free in time of peace, but responsible, under the laws, for attacks on personal honor, the social order, or the public tranquility.

No newspaper enterprise may, without permission of the government, receive subsidy from other governments or from foreign companies.

Art. 43. In time of peace only the Congress, the departmental assemblies and the municipal councils may impose taxes.

Art. 44. It is permitted to form companies, associations, and foundations which are not contrary to morals or to legal order. Associations and foundations may obtain recognition as juridical persons.

Religious associations, in order that they may be under the protection of the laws, must present to the civil authority authorization issued by the respective ecclesiastical superior.

Art. 45. Every one has the right to present respectful petitions to the authorities, on subjects of general or private interest, and to obtain prompt action thereon.

Art. 46. Any number of people may meet or assemble peacefully. The authorities may disperse any assembly that degenerates into disorder or tumult, or that obstructs the public ways.

Art. 47. Popular political assemblies of a permanent character are prohibited.

Art. 48. The government alone shall import, manufacture, and possess arms and munitions of war.

No person shall be permitted to carry arms in a town without permission from the authorities. This permission shall in no case be given to persons attending political meetings or elections or sessions of assemblies or public corporations, whether as members or spectators.

Art. 49. Every new issue of paper money of compulsory circulation is prohibited.

Art. 50. The laws shall regulate the civil status of all persons and define their rights and duties. They may also establish the inalienable and unattachable family patrimony.

Art. 51. The laws shall determine the responsibility to be incurred by public functionaries of all classes who violate the rights guaranteed by this title.

Art. 52. The provisions contained in the present title shall be inserted in the civil code as a preliminary title, and may not be altered except by an amendment to the Constitution.

Title IV

Religion and the Relations between Church and State

Art. 53. The state guarantees the liberty of conscience.

No one shall be molested by reason of his religious opinions or compelled to profess beliefs or observe practices contrary to his conscience.

The liberty of all cults that are not contrary to Christian morality or to the laws is guaranteed. Acts contrary to Christian morality or subversive of public order which may be done on the occasion or under pretext of the exercise of a cult are subject to the common law.

The government may conclude with the Holy See agreements, subject to later approval of the Congress, to regulate, on the bases of reciprocal deference and mutual respect, the relations between the state and the Catholic Church.

Art. 54. Priestly functions are incompatible with the fulfillment of political office. Catholic priests may, nevertheless, be employed in matters of public instruction or charity.

Title V

The Branches of the Public Power and the Public Service

Art. 55. The branches of the public power are the legislative, the executive, and the judicial.

The Congress, the government, and the judges have separate functions, but collaborate harmoniously in the realization of the ends of the state.

Art. 56. The Congress is composed of the Senate and the house of Representatives.

Art. 57. The President of the Republic and the ministers of state or

chiefs of administrative departments, and in each particular case the President and the minister or chief of the respective administrative department, constitute the government.

No act of the President, except that of appointment and removal of ministers and chiefs of administrative departments, shall have validity or legal force until it is authenticated and communicated by the minister of the respective branch or by the chief of the corresponding administrative department, who thereby assumes responsibility.

Art. 58. Justice is administered by the Supreme Court, by superior district tribunals, and by such other tribunals and inferior courts as may be established by law.

The Senate exercises specified judicial functions.

Justice is a public service at the charge of the Nation.

Art. 59. The supervision of the financial management of the administration is entrusted to the general comptrollership of the Republic.

The comptrollership shall be an office of accounting and financial supervision, and shall not exercise administrative functions other than those inherent in the development of its own organization.

The comptroller general of the Republic shall be elected by the House of Representatives for periods of two years.

Art. 60. The functions of the comptroller general shall be determined by law. He shall have, moreover, the following special powers:

1. To keep the general accounts of the Nation, including that of the internal and external debt;
2. To prescribe the methods of keeping accounts of all the national offices the manner of rendering accounts, and the employees responsible;
3. To require reports from the national, departmental, or municipal public employees concerning their financial conduct;
4. To revise and close the accounts of those responsible for the treasury;
5. To provide the employees authorized by the law for his office.

Art. 61. No person or body may, in time of peace, exercise at the same time the political or civil and the judicial or military authority.

Art. 62. The law shall determine the special cases of incompatibility of functions; the cases of responsibility of public functionaries and the manner of enforcing it; the qualifications necessary for the fulfillment of the duties of certain offices, in cases not provided for by the Constitution; the conditions of promotion and retirement on pension; and the series or class of civil or military services giving right to receive pensions from the public treasury.

Art. 63. There shall be no office in Colombia whose duties are not defined by law or regulation.

Art. 64. No person may receive more than one salary from the public treasury or from enterprises or institutions in which the state is the principal participant, except in special cases determined by law. The public treasury means that of the nation, the departments, and the municipalities.

Art. 65. No public officer shall enter upon the discharge of his office without first taking the oath to maintain and defend the Constitution and to perform the duties which are incumbent upon him.

Art. 66. No Colombian in the service of Colombia may, without per-

mission of his government, under penalty of forfeiting his office, accept from a foreign government any position or favor.

Art. 67. No Colombian may accept from a foreign government any employment or commission near the government of Colombia, without having previously obtained from the latter the necessary authorization.

Title VI

The Meeting and Functions of Congress

Art. 68. The legislative houses shall meet in ordinary session, by their own right, on the twentieth of July of each year, in the capital of the Republic.

If for any reason they cannot do so on the date indicated, they shall meet as soon as possible within that year.

The ordinary sessions of the Congress shall last one hundred and twenty days.

The Congress shall meet also, upon summons by the government and during the time thereby specified, in extraordinary sessions. In such case it may be concerned only with the matters which the government submits for its consideration.

Art. 69. The houses shall meet and adjourn publicly, and at the same time.

Art. 70. The houses may not open their sessions or deliberate with less than one-third of their members.

The President of the Republic in person, or through the ministers, shall open and close the chambers.

This ceremony is not essential for Congress legitimately to exercise its functions.

Art. 71. When, on the appointed day for the meeting of the Congress, the act cannot be accomplished for lack of a quorum, the members present, sitting as a preparatory or provisional committee, shall compel the attendance of the absentees, with such penalties as may have been prescribed by the respective regulations, and the sessions shall be opened as soon as the requisite number is present.

Art. 72. The legislature may organize permanent commissions from the membership of the Congress to study, during the congressional recess, the matters pending in the preceding legislative session and to prepare drafts of amendments recommended to them by the executive and legislative organs of the state.

Art. 73. By mutual agreement the two houses may meet in a place different from the capital, and in case of disturbance of the public order, the meeting place may be designated by the president of the Senate.

Art. 74. The Congress shall meet in joint session only for the purpose of inaugurating the President of the Republic and electing designates.

On such occasions the president of the Senate and the president of the House of Representatives shall be respectively president and vice-president of the Congress.

Art. 75. All meetings of members of Congress, held for legislative

purposes, outside of the conditions prescribed by the Constitution, shall be illegal; the acts done in this way shall be null, and the members taking part in said meetings shall be punished according to law.

Art. 76. Congress is vested with the power of making the laws.

By means of these laws it exercises the following functions:

1. To interpret, amend, and repeal previous laws;
2. To issue codes in all branches of the law and to amend their provisions;
3. To prescribe the measures for preparation of the national budget;
4. To fix the plans and programs to which the development of the national economy must conform, and the plans and programs of all the public works which are to be undertaken or continued;
5. To change the general division of the territory in accordance with Article 5 of this Constitution; to establish and amend, when appropriate, the other territorial divisions mentioned in Article 7; and to fix the bases and conditions for the creation of municipalities;
6. To prescribe the regulations of the Congress and of each of the houses;
7. To confer special powers upon the departmental assemblies;
8. To change, under extraordinary circumstances and for grave reasons of public convenience, the present place of residence of the high national powers;
9. To create all the offices required by the public service, and to fix their respective salaries;
10. To regulate the public service, determining the matters referred to in Articles 62 and 132 and the other constitutional prescriptions;
11. To authorize the government to make contracts, negotiate loans, dispose of national property, and exercise other functions within constitutional limits;
12. To vest in the President of the Republic, temporarily, such extraordinary powers as necessity or public good may demand;
13. To establish the national revenues and fix the expenses of the administration;
14. To acknowledge the national debt and provide for its payment;
15. To levy extraordinary taxes when required by necessity;
16. To approve or disapprove the contracts or agreements entered into by the President of the Republic with private persons, companies, or political entities, in which the Nation is interested, if the said contracts were not previously authorized, if the formalities prescribed by Congress have not been complied with, or if any stipulations contained in the contracts are not in harmony with the respective law of authorization;
17. To determine the fineness, weight, type, and denomination of the national coin, and regulate the system of weights and measures;
18. To organize the public credit;
19. To order the execution or continuation of public works, in accordance with the plans and programs fixed by the respective laws;
20. To promote works of utility or beneficence worthy of encouragement and support, with strict subordination to the corresponding plans and programs;
21. To decree public honors to such citizens as may have rendered distinguished services to the country, and to determine the monuments that should be erected;
22. To approve or reject treaties and conventions entered into by the government with foreign powers;
23. To grant, by a vote of two-thirds of the members of each house, and for grave considerations of public good, general amnesties or pardons for political offenses. In case the beneficiaries are relieved from civil responsibility toward private individuals the state shall be bound to pay the indemnities due;
24. To limit or regulate the appropriation or conveyance of public lands.

Art. 77. The law may also regulate matters of police for the purpose of unifying the regulations concerning transit throughout the territory of the Republic.

Art. 78. The Congress and each one of its houses are forbidden:

1. To make suggestions to public functionaries;
2. To interfere by means of laws or resolutions with business exclusively belonging to other departments of the government;
3. To pass resolutions approving or censuring official acts;
4. To require the government to transmit to them the instructions given to diplomatic agents, or give information relative to negotiations of confidential character;
5. To order any person or entity to be paid rewards, indemnities, or pensions, or other allowances of money, unless it is in satisfaction of claims already recognized by laws, subject, however, to the provisions of Article 76, clause 20;
6. To enact laws of proscription or prosecution against persons or corporations.

Title VII

The Enactment of Laws

Art. 79. Laws may originate in either house, on the initiative of its respective members or of the cabinet ministers. But they shall not be brought up for discussion in the respective house until after being considered and approved in the corresponding permanent commission.

Art. 80. Excepted from the provision of the preceding article are:

1. Tax laws and organic laws of the public ministry, which must originate exclusively in the House of Representatives;
2. The laws referred to in sections 2, 3, 4, and 5 of Article 76, which may not be enacted or amended except by virtue of bills adopted by the respective permanent commissions of each house or presented by the cabinet ministers.

In each house, besides the commissions established by the regulation, there shall be permanent commissions with the duty of drafting or adapting the bills referred to in subparagraph 2 of this Article, carrying through the modifications which are introduced in bills of all kinds, and approving the same on first reading.

Each commission shall have the number of members determined by law. The election is to be made by the houses for periods of not less than a year.

Art. 81. No bill shall be law without the following requisites:

1. To have been approved in the corresponding commission of each house, on first reading, by absolute majority of votes;
2. To have been approved in each house, on second reading ,by absolute majority of votes;
3. To have obtained the sanction of the government.

For the issuance of laws which modify, amend, or repeal those mentioned in subparagraphs 2, 3, 4, and 5 of Article 76, there are required the absolute majority of votes of the members of the permanent commission and also the absolute majority of votes of the members of each house.

The adoption of any bill and its approval on first reading by the permanent commissions must occur on different days.

A bill which has been rejected on first reading may be considered by the house at the request of its author, of a member of the commission or of a member of the government. If the decision of the commission is disapproved by absolute majority of votes of the corresponding house, the bill shall pass to the other permanent commission for approval on first reading and report for second reading.

Art. 82. For the approval of any bill on first and second reading, there is required the attendance of the absolute majority of the members of the respective permanent commission or house.

Art. 83. The government may take part in the discussion of the laws through the cabinet ministers.

Art. 84. The magistrates of the Supreme Court of Justice, the councilors of state, the comptroller general of the Republic and the attorney general of the Nation shall be entitled to be heard in the proceedings of the house or of the commissions in the cases prescribed by law.

Art. 85. After a bill has passed both houses, it shall be sent to the government, and if approved by it, shall be promulgated as law. If not approved, it shall be returned with the objections of the executive to the house in which it originated.

Art. 86. The President of the Republic shall be allowed six days to return a bill with objections, if it does not contain more than fifty acticles; he shall be allowed ten days when the bill contains from fifty-one to two hundred articles, and fifteen days when the bili contains more than two hundred articles.

If the President does not return the bill with his objections within the term prescribed therefor, he shall be bound to approve it and promulgate it. But if in the meantime the houses adjourn, the President shall be bound to publish the bill, whether approved or objected to, within ten days after the adjournment of the Congress.

Art. 87. A bill objected to as a whole by the President shall be returned to the houses for second reading. If it has been objected to only in part, it shall be reconsidered in the respective commission for first reading, with the sole object of taking into account the objections of the government.

Art. 88. The President of the Republic shall have no power to present new objections to a bill which has been reconsidered and passed by the absolute majority of the members of each house, and he shall be bound to approve it. However, when the objections relate to any of the bills mentioned in subparagraph 2 of Article 80, the decisions of the commission or of the respective house must be adopted by two-thirds of the votes of the members of each.

Art. 89. If the government fails to approve the bills under the terms and according to the conditions established by this title, the approval and promulgation thereof shall be made by the president of the Congress.

Art. 90. Excepted from the provision of Article 88 is the case in which a bill is objected to on the ground that it is unconstitutional. In that case, if the houses insist, the bill shall be referred to the Supreme Court, which, within six days, shall pass upon its legality. If the decision of the

court is favorable to the bill, the President shall approve it. If the decision is unfavorable, the bill shall be sent to the archives.

Art. 91. The President of the Republic may state the urgency of action on any bill, and in such case the respective house must decide on it within thirty days. The declaration of urgency may be repeated at all the constitutional stages of the bill; but if the President insists on its urgency, the bill shall have precedence over any other matter until the respective house acts on it.

Art. 92. The enacting clause of all laws shall be: "The Congress of Colombia decrees:"

Title VIII

The Senate

Art. 93. The Senate shall be composed of as many members as correspond to the population of the Republic, at the rate of one for each one hundred ninety thousand inhabitants and one more for each fraction not less than ninety-five thousand inhabitants. Whenever a new general census of the Republic is approved, and the increase of population exceeds five hundred thousand inhabitants, the basis of population for the election of each senator shall be automatically increased by forty thousand.

In no case shall there be any department which elects less than three senators, or less than it elects at present.

The absolute or temporary absences of senators shall be supplied by substitutes, according to the orders of their names in the respective electoral list.

Art. 94. To be a senator it is necessary to be a native Colombian in the full enjoyment of his citizenship; to be more than thirty years of age; and also to have held the office of President of the Republic, designate, member of the Congress, cabinet minister, chief of diplomatic mission, governor of department, magistrate of a superior court or tribunal, councilor of state, attorney general of the Nation, comptroller general of the Republic, university professor for at least five years, or to have practiced a liberal profession with a university degree.

Art. 95. Senators shall be elected for four years and are re-eligible indefinitely.

Art. 96. The Senate shall try the cases of impeachment of the public functionaries referred to in Article 102, clause 5, prosecuted by the House of Representatives.

Art. 97. In the trials by the Senate, the following rules shall be observed:

1. As soon as the impeached official is placed on trial, he shall be, *ipso facto*, suspended.
2. If the impeachment is based upon official crimes or misdemeanors or upon unworthiness or misconduct, the power of the Senate shall not extend further than to removal from office, or temporary or permanent deprivation of political rights; but if the facts upon which the impeachment rests deserve other penalties, the impeached official shall be criminally prosecuted before the Supreme Court.
3. If the impeachment is based upon common crimes, the Senate shall confine itself to declaring whether or not there is evidence enough to

proceed against the impeached party, and in case of an affirmative decision it shall remand him to the Supreme Court for trial.

4. The Senate may refer the preparation of each trial to a committee of its own body, reserving to itself to hear and decide the case. The decision shall be pronounced in open session by two-thirds, at least, of the senators present.

Art. 98. The Senate has also the following powers:

1. To accept or reject the resignation of the President of the Republic or the designate;
2. To confirm or reject the appointments made by the government of military officers from lieutenant-colonel to the highest offices in the army or navy;
3. To grant leave to the President of the Republic to resign temporarily, except for reason of sickness;
4. To permit the passage of foreign troops through the territory of the Republic;
5. To appoint the boundary commissioners referred to in Article 5;
6. To authorize the government to declare war against another nation.

Title IX

The House of Representatives

Art. 99. The House of Representatives shall consist of as many members as correspond to the population of the Republic at the rate of one for each ninety thousand inhabitants, and one more for each fraction not less than forty-five thousand inhabitants. Whenever a new general census of the Republic is approved, and the increase of population exceeds five hundred thousand inhabitants, the base of population for the election of each representative shall be automatically raised by twenty thousand inhabitants.

In no case shall there be any department which elects less than three representatives or a number less than that which it elects at present.

The absolute or temporary absence of representatives shall be supplied by the substitutes, following the order of their names in the respective electoral list. The number of substitutes shall be equal to the number of principal representatives.

Art. 100. To be elected a representative it is necessary to be a citizen in the exercise of the rights of citizenship, not to have been convicted of crime punishable corporally, and to be more than twenty-five years of age.

Art. 101. Representatives shall serve two years, and they shall be re-eligible indefinitely.

Art. 102. The House of Representatives has the following special powers:

1. To elect the attorney general of the Nation, from a list of three presented by the President of the Republic;
2. To elect the comptroller general of the Republic;
3. To examine and definitively close the general accounts of the budget and the treasury, presented to it by the comptroller;
4. To originate all laws for the levying of taxes and for the organization of the attorney-general's office;
5. To impeach before the Senate, whenever there may be just cause therefor, the President of the Republic, the ministers of the cabinet, the

attorney general of the Nation, and the magistrates of the Supreme Court of Justice;

6. To examine charges and complaints, presented to it by the attorney general of the Nation or by private persons, against any of the above-named officials and, if found proper, to bring impeachment proceedings before the Senate on the basis thereof.

Title X

Provisions Common to Both Houses and to the Members Thereof

Art. 103. Each house has the following powers:

1. To create and fill the offices necessary for the discharge of its business;
2. To organize, when necessary, its internal police force;
3. To determine whether the credentials which each member shall present on taking possession of his seat are in the form prescribed by the law;
4. To answer or abstain from answering the messages of the government;
5. To call upon the government for written or oral information when necessary for the better discharge of its business, or for becoming acquainted with the acts of the administration, except as provided in Article 78, clause 4.

The summons of the ministers to attend the houses to render oral reports requested of them must state concretely the subject of the report, and the discussion may not extend to matters alien thereto.

Art. 104. The sessions of the houses shall be public, within the limitations prescribed by their rules. There shall be public sessions at least three times a week. The sessions of the commissions shall also be public with the limitations prescribed by the rules of the houses.

Art. 105. The members of both houses represent the whole Nation, and must vote only in the interest of justice and the public good.

Art. 106. Senators and representatives shall not be held responsible for their opinions and votes while in the discharge of their duties. They shall be responsible for their language only to the house to which they belong; they may be called to order by the presiding officer and punished in accordance with the rules for any violation of order.

Art. 107. During the sessions, and for forty days before and twenty days after the same, no proceedings, whether civil or criminal, shall be instituted against any member of Congress without the permission of the house to which he belongs. In case of *flagrante delicto*, the delinquent may be arrested and placed immediately at the disposal of the respective house.

Art. 108. The President of the Republic, the cabinet ministers, the justices of the Supreme Court, the attorney general of the Nation, the chiefs of the administrative departments, the governors and the secretaries of government may not be elected members of Congress until six months after they shall have ceased to perform the duties of their respective offices. Nor may any other officer be senator, representative, or deputy if, three months prior to the election, he has exercised civil, political, or military jurisdiction or authority anywhere in the Republic.

Within the same constitutional period, no one may be elected senator and representative ,or elected to the same office by more than one electoral district. The violation of this provision renders both elections null or produces a vacancy in the house for which the senator or representative was elected in the first place.

Art. 109. The President of the Republic may not appoint senators and representatives, during the period of their exercise of their functions as such, to any office, with the exception of those of cabinet minister, governor, diplomatic agent, and military chief in time of war.

The violation of this provision nullifies the appointment.

The acceptance of any of the aforesaid offices by a member of Congress produces a temporary vacancy for the period in which he fills the office.

Art. 110. Senators and representatives may not enter, either directly or through a third person, into any contract with the government, nor may they accept from any person power of attorney for the transaction of business to which the government of Colombia is a party.

Art. 111. Ineligible as members of Congress are citizens who, at the time of the election or within six months prior thereto, participated in the carrying on of business with the government, in their own interest or in the interest of third persons distinct from official entities or institutions.

The law shall determine the kind of business to which this provision is applicable and the special evidence to prove the fact.

Art. 112. No increase in salaries or in traveling expenses, ordered by the Congress, shall take effect until after the expiration of the time of service of the members who voted for it.

Art. 113. The compensation of the members of Congress shall be fixed and regulated by law.

Title XI

The President of the Republic and the Designate

Art. 114. The President of the Republic shall be elected on a single day by direct vote of the citizens and for a period of four years, in the manner determined by law.

Art. 115. The President of the Republic shall have the same qualifications as a senator.

Art. 116. The President of the Republic shall be inaugurated before the president of the Congress and shall take the following oath: "I swear before God to comply faithfully with the Constitution and laws of Colombia."

Art. 117. If for any reason the President should not be able to take possession of his office before the president of the Congress, he shall do so before the president of the Supreme Court, and, failing in this, before two witnesses.

Art. 118. The powers of the President of the Republic respecting the Congress are:

1. To open and close the ordinary sessions of Congress;
2. To call Congress to convene in extraordinary sessions;

3. To transmit to Congress at the beginning of each session a message on the acts of the administration;

4. To transmit, at the same time, to the House of Representatives the budget of revenues and expenses;

5. To transmit to the houses of Congress the information requested by them concerning matters which are not of confidential character;

6. To furnish efficient aid to the house when they request it, placing at their disposal, if necessary, the public force;

7. To concur in the enactment of the laws, by introducing bills through the cabinet ministers, exercising the right to veto legislative acts, and complying with the duty to approve them in accordance with this Constitution;

8. To issue, in the cases and with the formalities set forth in Article 121, decrees having the force of law until the re-establishment of public order.

Art. 119. The powers of the President of the Republic respecting the administration of justice are:

1. To send to the House of Representatives a list of three persons for the election of attorney general of the Nation, and to appoint the prosecuting officers of the courts from lists presented by the attorney general of the Nation;

2. To watch over the prompt and full administration of justice throughout the Republic, furnishing the judicial officers, in the manner provided by law, such aid as may be necessary for the enforcement of their decisions;

3. To cause, through the respective agent of the public ministry, or a special attorney appointed for the purpose, the governors of departments and any other national or municipal officers exercising administrative or judicial duties, to be impeached before the competent tribunal for any violation of the Constitution or the laws or for other offenses committed by them in the exercise of their functions;

4. To grant pardons for political offenses, in accordance with the laws which regulate the exercise of this power. In no case may the pardons include release from responsibilities incurred with respect to private persons, according to the laws.

Art. 120. It is incumbent upon the President of the Republic, as the chief executive officer:

1. To appoint and remove, at his pleasure, the cabinet ministers and chiefs of the administrative departments;

2. To promulgate the laws, obey them, and see that they are faithfully executed;

3. To issue the orders, decrees, and resolutions necessary for the complete execution of the laws;

4. To appoint and remove, at his pleasure, the governors;

5. To appoint all the employees whose appointment does not belong to other functionaries, or corporations, according to this Constitution or subsequent laws.

In all cases the President has power to appoint and remove his agents at his discretion;

6. To control the public force and make military appointments, under the restrictions imposed in clause 2, Article 98, and with the formalities established by law for regulating the exercise of this power;

7. To preserve public order throughout the whole territory and reestablish it if it should be disturbed;

8. To direct, whenever he may think it proper, as commander-in-chief of the armies of the Republic, the operations of war. If he should personally exercise the military command outside of the limits of the capital, the designate shall then be charged with the other duties of the administration;

9. To provide for the external safety of the Republic, defending the

independence and honor of the Nation and the inviolability of the territory to declare war, with the consent of the Senate, or to make it without such consent, whenever it shall be urgent to repel a foreign invasion; and to conclude and ratify treaties of peace, provided in this case that all papers relating thereto be submitted, with a report, at the next session of Congress;

10. To permit, in the recess of the Senate, and having previously consulted the council of state, the passage of foreign troops across the territory of the Republic;

11. To permit, after consulting the council of state, the stationing of foreign vessels of war within the waters of the Nation;

12. To watch over the proper collection and management of the revenues and public funds, and order their disbursement according to law;

13. To regulate, direct, and inspect the national public instruction;

14. To enter into administrative contracts for the performance of services and the execution of public works in accordance with the fiscal laws, provided that information thereof be given to Congress in ordinary session;

15. To exercise the necessary inspection over the banks of issue and other establishments of credit and over commercial companies in conformity with the laws;

16. To grant permission, when requested, to national employees to accept offices or receive gifts from foreign governments;

17. To issue letters of naturalization, in conformity with the laws;

18. To grant patents of temporary privilege to the authors of useful inventions and improvements, in accordance with the laws;

19. To exercise the right of inspection and supervision over institutions of common utility, in order that their revenues may be properly preserved and applied, and that in all its essentials the will of the founders may be carried out.

20. It is incumbent upon the President of the Republic, as supreme administrative authority, to direct the diplomatic and commercial relations with other powers or sovereigns; to appoint diplomatic agents, receive the respective agents, and conclude with foreign powers treaties and conventions which shall be submitted for the approval of the Congress.

Art. 121. In case of foreign war or domestic commotion the President may, with the signatures of all the ministers, declare the public order to be disturbed, and the whole or a part of the Republic in a state of siege. After such a declaration the government shall have, in addition to the powers conferred by domestic law, such powers as exist during war between nations in accordance with the rules accepted by international law.

The decrees which, within the said limits, the President may issue, shall be binding if bearing the signatures of all the ministers.

The government may not repeal the laws by the said decrees. Its powers are limited to suspension of the laws that are incompatible with the state of siege.

The government shall declare public order to be reestablished as soon as the foreign war has ceased or the uprising has been put down; and the decrees of extraordinary character which may have been issued shall cease to be in effect.

The President and the ministers shall be responsible if they declare the public order to be disturbed in the absence of foreign war or internal commotion; and they shall likewise be responsible, together with other officers, for any abuse that they may have committed in the exercise of the powers granted to them in the present Article.

Upon the re-establishment of the public order, the government shall

convoke the Congress and present to it a statement of the measures taken and of the reasons therefor.

In the case of foreign war, the government, in the decree declaring the public order to be disturbed and the Republic in state of siege, shall summon Congress to meet within the next sixty days; and if it is not summoned, Congress may meet by its own right.

Art. 122. In the cases mentioned in Articles 28 and 121 of the Constitution, the government must hear the council of state before adopting the measures mentioned in the said Articles.

Art. 123. The Senate may grant to the President a temporary leave of absence.

The President may, on account of ill health, retire, for such time as may be necessary, from the exercise of the executive power; but notice thereof shall be given by him in due time to the Senate or, in recess of the Senate, to the Supreme Court.

Art. 124. The Congress shall every two years elect a designate, who shall take the place of the President in default of the latter.

The term of the designate begins the seventh of August of the respective year.

Art. 125. When, for any reason, the Congress may have failed to elect a designate, the designate last elected shall continue to act in that capacity. In the absence of the designate, the executive office shall be filled by the ministers, in the order established by law, and in default thereof by the governors, the latter being called according to the proximity of their respective residences to the capital of the Republic.

Art. 126. The person in charge of the executive office shall have the same privileges and exercise the same powers as the President whose position he fills.

Art. 127. In case of absolute default of the President of the Republic, the person charged with the presidency shall call elections for within the third month following. The President so elected shall serve for the rest of the period.

The person charged with the presidency shall continue exercising it when two years or less of the period remain, without calling new elections.

Art. 128. The President of the Republic or the person filling his place may not leave the territory of the Nation during the exercise of his office and one year thereafter without permission of the Senate. The violation of this provision by any one occupying the office implies abandonment of the post.

Art. 129. The President of the Republic is not reeligible in any case for the immediate period.

The citizen who may hold the presidency upon any title within the year immediately preceding the election may not be elected President of the Republic or designate.

Nor may be elected President of the Republic the citizen who six months before the election may have held the position of cabinet minister, magistrate of the Supreme Court of Justice, councilor of state, attorney general of the Nation or comptroller general of the Republic.

Art. 130. The President of the Republic, or his substitute, shall be responsible for his acts or omissions in violation of the Constitution or the laws.

Art. 131. The President of the Republic, during the period for which he was elected, and the person who may be charged with the executive power, so long as he exercises it, may not be prosecuted or tried for crimes except upon impeachment by the House of Representatives and when the Senate shall have declared that there are grounds for the proceeding.

Title XII

The Cabinet Ministers

Art. 132. The number, titles, and precedence of the several ministries shall be determined by law.

The distribution of the business, according to its nature, among the ministries and administrative departments belongs to the President of the Republic.

The law shall create and organize the administrative departments required by the public service, with a responsible chief, and shall specify their functions.

Art. 133. Cabinet ministers shall have the same qualifications as representatives.

Art. 134. The ministers are organs of communication between government and Congress; they introduce bills in the houses, take part in the debates, and advise the President to approve the legislative acts or object to them.

Each minister and chief of administrative department shall submit to Congress, within the first fifteen days of each session, a report on the condition of the business pertaining to his ministry or department and on the reforms which experience may advise to be introduced.

The houses may require the attendance of the ministers, and the permanent commissions of the houses may require the attendance of the chiefs of administrative departments.

Art. 135. The ministers and the chiefs of administrative departments, as superior chiefs of the administration, and the governors, as agents of the government, may exercise, on their own responsibility, specified functions belonging to the President of the Republic, as superior administrative authority, as may be ordered by the President. The functions that may be delegated shall be specified by the law.

The delegation relieves the President of responsibility, which shall belong exclusively to the delegate, whose acts or resolutions may always be amended or revoked by the President, resuming responsibility thereby.

Title XIII

The Council of State

Art. 136. There shall be a council of state consisting of the number of members to be determined by the law.

The election of councilors of state shall be made by the houses of

Congress from lists of three prepared by the President of the Republic. Each list shall include the name of one of the principal councilors in office.

The councilors of state shall serve four years, and shall be renewed partially every two years. Each member of the council shall have a substitute, elected by the houses in the same manner as the principals. The substitutes shall take the places of the principals in cases of permanent or temporary absences.

The designation of interim councilors belongs to the government. The ministers may speak but have no vote in the council.

Art. 137. The council shall be divided into chambers or sections in order to separate its functions as supreme tribunal of administrative litigation from the other functions assigned to it by the Constitution and the law.

The law shall determine the functions of each of the chambers or sections, the number of councilors who should belong to it, and its internal organization.

It is incumbent upon the government to designate the members of the chambers or sections.

Art. 138. The President of the council shall be elected by the same body and shall serve one year but may be reelected indefinitely.

Art. 139. To be elected a councilor of state and to hold the office the same qualifications are required as for magistrates of the Supreme Court of Justice.

Art. 140. The office of councilor is incompatible with any other active public employment and with the practice of law.

Art. 141. The council of state has the following powers:

1. To act as supreme advisory board for the government in matters relating to administration. It shall necessarily be heard in all the cases set forth by the Constitution and the laws.

The opinions of the council are not binding upon the government except in case of Article 212 of this Constitution;

2. To frame the bills and codes of laws to be submitted to the houses of Congress and to propose such reforms as may be deemed proper in the several branches of legislation;

3. To perform the functions of supreme tribunal in administrative litigation, under the rules specified by the law;

4. To enact its own rules and perform the other functions the law may determine.

Title XIV

The Public Ministry

Art. 142. The public ministry shall be conducted under the supreme direction of the government, by an attorney general of the Nation, by attorneys of superior district tribunals, and by the other attorneys designated by law.

The House of Representatives has certain functions of prosecution.

The officials of the public ministry shall have the same classification, compensation, privileges, and benefits as the magistrates and judges before whom they perform their duties.

Art. 143. It is incumbent upon the officers of the public ministry to defend the interests of the Nation, promote the execution of the laws, judicial decisions, and administrative orders, supervise the official conduct of the public employees, and prosecute those who may be guilty of crimes and misdemeanors disturbing the social order.

Art. 144. The attorney general of the Nation shall be elected by the House of Representatives from a list of three submitted by the President of the Republic, for a period of four years, and must meet the same conditions as magistrates of the Supreme Court of Justice.

The attorneys of the superior courts and of the circuit courts shall be designated for a period of three years by the attorney general of the Nation, from lists presented by the attorneys of the respective superior tribunals, and must meet the same conditions as superior or circuit judges.

The lists referred to in this Article shall include the names of those actually in office, together with as many candidates as there are posts to be filled at the rate of three for each post.

These lists shall be composed of candidates who, in addition to meeting the conditions required by the Constitution have held any of the offices mentioned in Articles 135 and 155 in the respective department, or who are natives of such department.

Art. 145. The special functions of the attorney general of the Nation are the following:

1. To see that all public functionaries in the service of the Nation properly discharge their duties;
2. To arraign before the Supreme Court the functionaries who are to be tried by that body;
3. To see that the other officers of the public ministry faithfully discharge their duties, and cause them to be held responsible for the faults they may commit.
4. To appoint and remove at his pleasure his immediate subordinates;

and all other functions the law may assign to him.

Art. 146. The attorney of the council of state shall be appointed in the manners indicated in the second clause of Article 144. To fill this office the same conditions are required as for councilors of state, and the term of office shall be four years.

In the administrative tribunals the duties of attorney shall be performed in accordance with the rules to be established by law.

Title XV

The Administration of Justice

Art. 147. The Supreme Court of Justice shall be composed of the number of magistrates determined by the law. The same law shall divide the court into chambers, shall specify the matters of which each of the chambers shall take cognizance separately, and shall determine those in which the entire court should participate.

Art. 148. The term of office of the magistrates of the Supreme Court of Justice shall be five years, and they may be re-elected indefinitely.

The president of the court shall be elected each year by the court itself.

Art. 149. The magistrates of the Supreme Court of Justice shall be elected by the legislative houses from lists of three presented to them by the President of the Republic. The Senate and the House shall each elect one half of the magistrates of the court; but if the number be unequal, the house shall elect one more.

The substitutes shall be personal and shall be elected in the same manner as the principals.

The government shall appoint the interim magistrates of the Supreme Court, and the respective governors shall appoint those of the superior tribunals when the absences of principals cannot be supplied by substitutes.

When there is permanent absence of anyone, by reason of death, accepted resignation, constitutional vacancy, or judicial removal, there shall be a new appointment.

Art. 150. To be a magistrate of the Supreme Court of Justice, it is necessary to be Colombian by birth and in the exercise of the rights of citizenship, to be more than thirty-five years of age and to be a licensed advocate; and, also, to have been a principal magistrate of the Supreme Court of Justice, or a magistrate of any of the superior district tribunals for a period not less than four years; or an attorney of superior court for the same time; or attorney general of the Nation for three years, or delegate attorney for four, or councilor of state for the same period.

Art. 151. The Supreme Court has the following special functions:

1. To try the cases of high national functionaries impeached before the Senate and charged with offenses under Article 97;
2. To take cognizance of all cases brought for reasons of responsibility, for violation of the Constitution or laws, or for malfeasance in office against chiefs of administrative departments, the comptroller general of the Republic, consular and diplomatic agents of the Nation, governors, magistrates of the district tribunals, commanding generals, and superior chiefs of the principal treasury offices of the Nation;
3. To take cognizance of all cases of litigation of, or with, diplomatic agents accredited to the government of the Nation, when so provided by international law.

Art. 152. The national territory shall be divided into judicial districts, and in each district there shall be a superior tribunal, the organization and functions of which shall be determined by law.

Art. 153. The law may not in any case establish classifications among the tribunals of the country.

Art. 154. In each department there shall be an administrative tribunal whose functions shall be specified by the law.

The number of magistrates comprising each tribunal, the qualifications that they must have to hold the office, and the manner of their election and removal shall be established by the law.

The term of these magistrates shall be two years.

Art. 155. To be a magistrate of the superior tribunals, it is necessary to be a Colombian by birth, a citizen in the enjoyment of his rights as such, a licensed advocate, to be more than thirty years of age, and to have filled as principal for not less than four years the office of magistrate of a district tribunal, superior or circuit judge, specialized judge of equal or superior

grade, attorney of superior tribunal or court, or magistrate of administrative tribunal.

Art. 156. The magistrates of the superior district tribunals shall be elected by the Supreme Court of Justice from among the citizens who meet the conditions of the preceding Article and who have filled any of the offices there enumerated in the respective department or who are natives of such department.

Art. 157. To be superior judge, circuit judge, judge of minors, or specialized judge, or judge of criminal examination, of rank equal or superior to those indicated, it is necessary to be Colombian by birth, a citizen in the full enjoyment of his rights as such, to be a licensed advocate and to have held for at least a year the post of circuit judge or municipal judge. The judges mentioned in this Article shall be elected by the superior tribunal of the respective judicial district in full court, for a period of two years.

Art. 158. To be a municipal judge it is necessary to be Colombian by birth, citizen in exercise of rights, and licensed advocate.

The judges mentioned in this Article shall be elected for periods of two years by the superior tribunal of the respective district.

The law shall specify the competence of these officers and their jurisdiction, ordering the grouping of various towns when it is considered necessary.

Art. 159. The qualifications required of the officers of the judicial order, of the public ministry and of the administrative litigation jurisdiction shall be evidenced in the manner determined by the law.

The conditions required for the holding of any of these posts qualify for the holding of those of inferior rank.

Art. 160. Magistrates and judges may not be suspended from the exercise of their functions except in the cases and with the formalities prescribed by law, nor shall they be removed for penal violations without a judicial decision by the respective superior.

Magistrates and judges shall be subject to disciplinary sanctions imposed by the respective superior, which may consist in fines, suspension or removal, in the manner determined by the law.

Magistrates and judges may not be transferred to other offices of a different branch without leaving their posts vacant.

The salaries of magistrates and judges shall not be abolished or diminished to the prejudice of those who at the time are holding the offices. The offices of the jurisdictional branch are not cumulative and are incompatible with the holding of any other paid office and with all participation in the practice of law. Exclusively excepted from this provision are the teaching posts.

Art. 161. The subordinate personnel in the jurisdictional and the administrative litigation organs and in the public ministry shall be designated in conformity with the laws.

Art. 162. The law shall establish the judicial career and shall regulate the systems of competition for the selection of the candidates who are to hold the judicial posts and those in the public ministry, the retirement pay

or pensions provided by the state for those who have completed a specified period of service or who are compulsorily retired. Also must retire, with the right to the social security benefits determined by law, the officer whose work suffers notorious diminution for reasons of health or who has reached the maximum age specified in the law for each post.

Art. 163. Every decision shall state the reasons on which it is based.

Art. 164. The law shall establish and organize the jurisdiction of labor and may create tribunals of commerce.

The law may institute juries for criminal cases.

Title XVI

The Public Force

Art. 165. All Colombians are bound to bear arms when public necessity may demand it, to defend the national independence and the institutions of the country. The conditions which exempt from military service at any time shall be determined by law.

Art. 166. The Nation shall keep a standing army for its defense. The law shall determine the manner of maintaining the strength of the army and regulate the promotion, as well as the rights and duties of military men.

Art. 167. The law may establish a national milita and shall organize the national police corps.

Art. 168. The armed force is not a deliberative body.

It may not assemble except by order of the legitimate authority; nor may it address petitions, except on subjects which relate to the good service and morals of the army, and in accordance with its laws.

The members of the army, the national police, and the armed corps of permanent character may not exercise the function of voting while they remain in active service, nor may they participate in political debates.

Art. 169. Military men may not be deprived of their ranks, honors, and pensions, except in the cases and in the manner which the law shall determine.

Art. 170. Courts-martial or military tribunals shall take cognizance, under the military penal code, of all offenses committed by military men in active service, and in relation to the same service.

Title XVII

The Elections

Art. 171. All male citizens elect directly municipal councilors, deputies to the departmental assemblies, representatives, senators and the President of the Republic.

Art. 172. When more than two individuals are voted for in a popular election or in a public body, there shall be used the system of electoral quotient or some other system which assures the proportional representation of parties. The law shall determine the manner of making this right effective.

Art. 173. For the purposes of Article 172 of the Constitution, the Supreme Court, in electing magistrates of tribunals, the President in appointing attorneys of tribunals, and the attorney general in appointing attorneys of the courts shall take as a basis the proportion in which the parties are represented in the respective departmental assembly. The law shall regulate the manner of making the election.

Art. 174. In no election or appointment made by judicial officers or by officers of the public ministry may persons be designated who are related within the fourth civil degree of consanguinity or the second of affinity to any of the magistrates or judges who participate in the election or appointment or to those who have participated in the election or appointment of the persons who are to make the designation.

Art. 175. For the election of deputies to the assemblies, each department shal form a separate district.

Art. 176. Each department shall constitute a district for the election of senators.

Art. 177. Each department shall constitute a district for the election of representatives.

Art. 178. The officers of the jurisdictional branch and the subordinate employees of the same, as well as those of the public ministry, may not be active members of political parties or participate in debates of electoral character, with the exception of the exercise of the suffrage. Disobedience of this injunction constitutes bad conduct, which occasions loss of employment.

Art. 179. The suffrage is exercised as a constitutional function. The person who votes or elects does not impose any obligation or confer any representation on the candidate or functionary elected.

Art. 180. The law shall determine everything else concerning the elections and the counting of the votes, insuring the independence of both functions; it shall define the crimes which may impair the purity or freedom of the suffrage, and shall prescribe the proper penalties.

Title XVIII

Departmental and Municipal Administration

Art. 181. In each of the departments there shall be a governor, who shall be at the same time agent of the government and chief of the sectional administration.

Art. 182. The departments shall have independence for the administration of sectional matters, with the limitations established by the Constitution.

Art. 183. The property and income of the departments, as well as those of the municipalities, are the exclusive property, respectively, of each of them, and enjoy the same guarantees as the property and income of individuals. These properties may not be seized except on the same terms as private property. The national government may not grant exemptions from departmental or from municipal rights.

Art. 184. The property, rights, securities, and stocks which by laws or decrees of the national government, or by any other title, belonged to

the former sovereign states shall continue to be the property of the respective departments. There is excepted the real property specified in Article 202 of the Constitution.

Art. 185. There shall be in each department an administrative body called departmental assembly, which shall meet ordinarily each year in the capital of the department for a period of two months.

The governor may summon if for extraordinary sessions.

The law shall fix the time of sessions.

Art. 186. The departmental assemblies are of popular election and shall be composed of as many deputies as correspond to the population of the respective department at the rate of one deputy for every forty thousand inhabitants, and one more for a fraction equal to or greater than half of the said figure. When on the basis of population there is an even number of deputies for a department, such department shall automatically have the right to elect an additional deputy in order that there may always be an odd number of deputies elected.[1] In no case shall there be elected a number of deputies less than that elected at present. The number of substitutes shall be the same as that of principal deputies, and they shall take the places of the latter in the event of permanent or temporary absence, according to their order in the respective electoral list.

To be a deputy, the same qualifications are required as for a representative.

Art. 187. The assemblies have the following functions:

1. To regulate, by ordinances and in conformity with the constitutional and legal precepts, the establishments of primary and secondary education and of charity when they are maintained by funds of the department;
2. To direct and encourage, by ordinances and with the resources belonging to the department, the industries established, and the introduction of new industries, the importation of foreign capital, the colonization of land belonging to the department, the opening of highways and navigable canals, the construction of railways, the development of forests belonging to the department, the canalization of rivers, matters relating to the local police in so far as they may not have been regulated by law, the supervision of the revenues and expenses of the districts, and all that relates to sectional interests and internal progress;
3. To organize the departmental comptrollership and elect the comptroller for a period of two years;
4. To create and abolish municipalities, to set apart or coalesce municipal wards and fix boundaries between districts, complying strictly with the requirements established by law;
5. To fix the number of departmental employees, their duties and salaries;
6. To perform the other functions specified by the Constitution and the laws.

Art. 188. The law may create and abolish districts of notarization and registration and may organize and regulate the public service rendered by notaries and registrars.

Art. 189. The assemblies shall vote annually the budget of revenues and expenses of the respective department, in accordance with the standards established by the law.

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[1] This sentence was inserted by constitutional amendment of December 23, 1946.

Art. 190. The law may limit the departmental appropriations for allowances to the deputies, the operating expenses of the assemblies, and the departmental comptrollerships.

Art. 191. The departmental assemblies, in order to meet their expenses of administration, may establish taxes upon the conditions and within the limits fixed by the law.

Art. 192. The ordinances of the assemblies and the orders of the municipal councils are binding until annulled or suspended by the administrative litigation jurisdiction.

Art. 193. The administrative litigation jurisdiction may provisionally suspend the acts of the administration for the reasons and subject to the requirements established by the law.

Art. 194. The functions of the governor are:

1. To obey the orders of the government and cause them to be obeyed in the department;
2. To direct the administrative action in the department, appointing and removing its agents, reforming or revoking the acts of the latter, and providing all that may be necessary in the branches of the administration;
3. To be the organ of the department and represent it in administrative and judicial matters, being able to delegate this representation in accordance with the law;
4. To assist the administration of justice as prescribed by law;
5. To exercise the right of supervision and protection over official bodies and public establishments;
6. To object, on grounds of unconstitutionality, illegality, or unsuitability, to drafts of ordinances and to approve and promulgate ordinances in the legal form;
7. To revise the acts of the municipal councils and of the mayors, on grounds of unconstitutionality or illegality, to repeal the latter, and submit the former to the competent tribunal for decision as to its enforceability;
8. The other functions assigned to him by the law.

Art. 195. The governor may request the aid of the armed forces, and the military chief shall obey his instructions, unless special orders on the subject are given by the government.

Art. 196. In each municipal district there shall be a popularly elected body to be designated by the name of municipal council.

Art. 197. The functions of the councils, which they shall perform in accordance with the law, are the following:

1. To order, by resolutions, whatever may be suitable for the administration of the district;
2. To vote, in conformity with the Constitution, the law, and the ordinances, the local taxes and expenses;
3. To elect municipal agents and treasurers and other officers or employees determined by the law;
4. To perform the other functions specified by the law.

Art. 198. The law may establish different classes of municipalities, in accordance with their population, financial resources, and economic importance, and may specify different systems for this administration.

Art. 199. The city of Bogotá, capital of the Republic, shall be organized as a special district, without subjection to the ordinary municipal system, under the conditions fixed by the law. The law may add one or more

other adjacent municipalities to the territory of the capital of the Republic, provided the annexation is requested by three-fourths of the councilors of the respective municipality.

Art. 200. The law shall determine the share of the capital of the Republic in the departmental revenues produced in Bogotá.

Art. 201. In every municipality there shall be a mayor, who shall perform the functions of agent of the governor and shall be chief of the municipal administration in conformity with the standards prescribed by the law.

Title XIX

Finance

Art. 202. The following belong to the Republic of Colombia:

1. The estates, revenues, lands, valuables, rights, and actions which belonged to the Colombian Union on the fifteenth day of April, eighteen hundred and eighty-six.
2. The vacant lands, mines, and salt work which belonged to the states, the ownership of which is now vested in the Nation, without prejudice to the rights acquired by third parties from the said states, or by the states from the Nation on the ground of indemnification.
3. The mines of gold, silver, platinum, and precious stones to be found in the national territory, without prejudice to the rights vested in discoverers and developers under previous laws.

Art. 203. The Republic shall be responsible for the foreign and domestic debts already recognized, or which may be hereafter recognized, and for the expenses of the national public service.

The law shall determine the order and manner of meeting these obligations.

Art. 204. No indirect tax or increase of a tax of this kind shall begin to be collected until six months after the promulgation of the law establishing the tax or the increase.

Art. 205. Every change in the customs tariff which is designed to lower the import duties shall take effect ninety days after the approval of the law establishing it, and the reduction shall be made by tenths in the ten subsequent months.

If the change is designed to raise the duties, the increase shall be made by thirds in the three months following the approval of the law.

This provision and that of Article 204 of the Constitution do not limit the extraordinary powers of the government in any case in which it may be clothed therewith.

Art. 206. In time of peace, no tax nor impost may be established which does not appear in the budget of revenues, nor may any expenditure be made from the treasury which is not included in the budget of expenses.

Art. 207. No public expenditure shall be made which has not been decreed by the Congress, by the departmental assemblies, or by the municipalities, nor may any credit be transferred to an object not provided for in the respective budget.

Art. 208. The executive shall annually prepare the budget of revenues and shall present it to the Congress, together with the appropriations bill, during the first ten days of the ordinary sessions of July.

Art. 209. When the Congress does not vote the budget law for the corresponding fiscal year, the budget of the preceding year shall continue in force, but the government may reduce the expenditures and accordingly abolish or rearrange positions when made advisable by calculations of revenues of the new period.

Art. 210. The Congress shall establish the national revenues and fix the expenditures of the administration. At each legislative session and strictly in accordance with the provisions of the respective law, the general budget of revenues and law of appropriations shall be issued. The budget may not appropriate any item which has not been proposed to the respective permanent commission and which does not correspond to an expenditure ordered by the former law or to a credit judicially recognized.

Art. 211. Neither the Congress nor the government may propose an increase or the inclusion of a new expenditure in the bill presented to the Congress if the balance between the budget of expenditures and that of revenues is thereby altered. The Congress may eliminate or reduce an item of expenditure proposed by the government, with the exception of items that are needed for the service of the public debt, for other contractual obligations of the state, or the complete upkeep of the ordinary services of the administration. If in the discussion of the law of appropriations, any item of the respective bill is eliminated or reduced, it may be replaced by another authorized by pre-existing law in an amount not exceeding that which is eliminated or reduced.

Art. 212. Whenever, in the judgment of the government, the necessity arises for an indispensable expenditure, the houses not being in session, and no appropriation having been made, or the one granted being inadequate, a supplemental or extraordinary appropriation may be made.

These appropriations shall be granted by the council of ministers, upon proof of their necessity and after favorable report from the council of state.

The legalization of these credits belongs to Congress.

The government may petition Congress for appropriations additional to the budget of expenses.

Art. 213. The executive power may not open the supplemental and extraordinary credits mentioned in Article 212 of the Constitution or make transfers within the budget except under the conditions and by the steps prescribed by law.

Title XX

The Constitutional Jurisdiction

Art. 214. To the Supreme Court of Justice is entrusted the guardianship of the integrity of the Constitution. Accordingly, in addition to the powers conferred on it by the Constitution and the laws, the court shall have the following:

To decide definitively on the legality of bills which have been vetoed by the government as unconstitutional, or on all the laws or decrees issued by the government in the exercises of the functions mentioned in clauses 11 and 12 of Article 76 and in Article 121 of the Constitution when they are brought before the court by any citizen upon allegation of unconstitutionality.

The attorney general of the Nation must always appear in proceedings of illegality.

Art. 215. In every case of incompatibility between the Constitution and the law, the constitutional provisions shall be applied by preference.

Art. 216. The administrative litigation courts have jurisdiction of charges of unconstitutionality of decrees of the government other than those issued in the exercise of the powers mentioned in clauses 11 and 12 of Article 76 and in Article 121 of this Constitution.

Art. 217. The law shall establish and organize a tribunal of conflicts, charged with removing the cases of contest between the common and the administrative jurisdiction.

Title XXI

The Amendment of This Constitution

Art. 218. The Constitution may be amended only by a legislative act first discussed and approved by the Congress in its ordinary sessions; published by the government, for its definitive consideration in the following ordinary legislature; debated again by the said legislature; and ultimately approved by the absolute majority of the individuals comprising each house. If the government does not publish the bill in due course, the president of the Congress shall do so.

Title XXII

Transitory Provisions

(Legislative Act No. 1 of 1945)

Article (a). Until the issuance by the Congress of the organic law of the council of states and the administrative litigation tribunals, those bodies shall continue functioning as at present. The law may provide for new councilors of state who shall be elected in the course of this amendment for periods less than those specified therein, in order that it may be possible to effect a partial renewal of the body.

Article (b). For the first two partial elections of councilors of state, there may be named, in addition to the citizens who meet the requirements of Article 150, licensed advocates who have exercised their profession for not less than ten years.

For the first election of magistrates of superior tribunals and judges, there may be named in addition to the citizens who meet the requirements of Articles 155 and 157, advocates who have exercised their profession for not less than five years.

Article (c). The second designate to the presidency of the Republic shall continue in office until the seventh of August of 1946.

Article (d). The term of office of the designate to the presidency of the Republic shall commence the seventh of August of 1946.

Article (e). After advice from the council of state, the government shall make the codification of the constitutional provisions in force. The new numbering shall commence with one, and the Titles shall be arranged in the light of the distribution of materials.

Article (f). The last clause of Article 108, in which reference is made to substitutes of senators, shall become effective on January 1, 1946.

Article (g). Articles 53, 54, 84, 92, 107, 135, 136, 137, 140, 151, 167, 174, 175, 191, 196, 197 and 207 of the Constitution are repealed and those which are contrary to the present Legislative Act are replaced or amended.

Article (h). The present Act amending the Constitution shall take effect upon its approval.[1]

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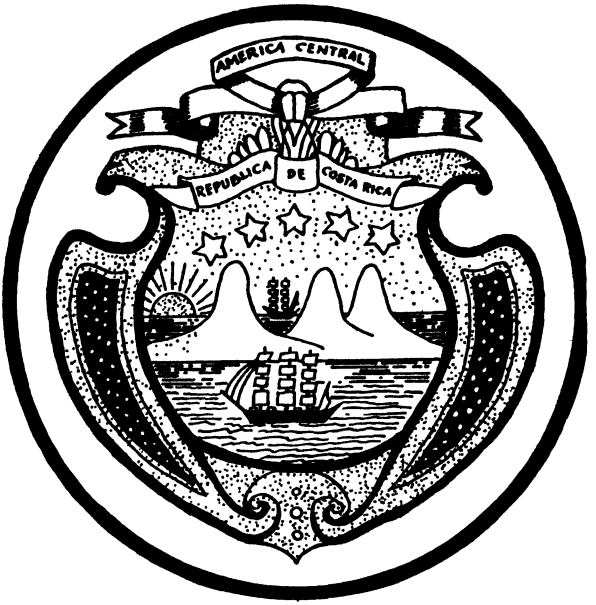
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[1] It was approved February 16, 1945.



COSTA RICA

SUMMARY

International Status

Costa Rica is a member of the United Nations. It signed the Charter of that organization in San Francisco and ratified it on August 11, 1945. By virtue of its membership in the United Nations, it is a party to the Statute of the International Court of Justice of 1945.[1] It was a member of the League of Nations. It signed but did not ratify the Statute of the Permanent Court of International Justice of 1921.

It is a member of the Organization of the American States, the Postal

[1] It is not, as of the time of our going to press, subject to the compulsory jurisdiction of that Court under Article 36 of its Statute. See Yearbook of the Court, 1951–52, pp. 35–43.

Union, the Telecommunications Union, the International Labor Organization, and numerous other international organizations.[1]

It was a part of the federal union of the Central American States from 1824 to 1829, and also at various other times until 1871.

Its northwestern boundary is defined by the Cañas-Jerez Treaty of April 15, 1858, and the award of Grover Cleveland as President of the United States on March 22, 1888.[2] Its southeastern boundary is determined by the Echanai Montero-Fernández Jaén Treaty of May 1, 1941.[3]

Form of National Government

Costa Rica's Constitution of 1871 was partially suspended by the provisional government which assumed power in 1948 under the title of the Junta Fundadora de la Segunda República (Founding Committee of the Second Republic). A Constituent Assembly first met on January 15, 1949 to draft a new constitution. The present Constitution of Costa Rica entered into force on November 8, 1949.

Under this Constitution, Costa Rica is a republic.[4] Its government is "popular, representative, alternative, and responsible," and "is exercised by three distinct and independent Powers — legislative, executive, and judicial".[5]

Source of Sovereign Powers

Under the Constitution of 1949 "Sovereignty resides exclusively in the Nation."[6]

Rights of the People

The Constitution of 1949 guarantees equality before the law,[7] freedom from slavery,[8] freedom of movement,[9] inviolability of property,[10] inviolability of the domicile [11] and of private papers,[12] secrecy of written and telegraphic correspondence,[13] the rights of assembly and association,[14] and of petition,[15] freedom of political opinions without propaganda,[16] freedom of the press with responsibility,[17] habeas corpus,[18] freedom from *ex post facto* laws,[19] from being required to testify against oneself,[20] and from imprisonment for debt.[21] Torture and consfiscation are prohibited.[22] The family and labor are under the special protection of the law, and social guarantees and rights, including minimum salaries, maximum hours, the right to strike, special protection for women and minors, are set out.[23] The Catholic

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[1] See Table I.
[2] See Const. of 1949, Art. 5.
[3] Id.
[4] Id., Art. 1.
[5] Id., Art. 9.
[6] Id., Art. 2.
[7] Id., Art. 33.
[8] Id., Art. 20.
[9] Id., Art. 22.
[10] Id., Art. 45.
[11] Id., Art. 23.
[12] Id., Art. 24.
[13] Id., Art. 24.
[14] Id., Art. 25, 26.
[15] Id., Art. 27.
[16] Id., Art. 28.
[17] Id., Art. 29.
[18] Id., Art. 48.
[19] Id., Art. 34.
[20] Id., Art. 36.
[21] Id., Art. 38.
[22] Id., Art. 40.
[23] Id., Arts. 50–75.

religion is the religion of the state but the free exercise of other religions is permitted.[1] Education is free and primary education is compulsory.[2]

Legislative Department

Legislative power under the Constitution of 1949 is exercised by the Legislative Assembly, composed of deputies elected by the people.[3] Deputies hold office for four years and may not be immediately reelected.[4]

Executive Department

Executive power under the 1949 Constitution is vested in the president and Ministers of the Government.[5] The president is elected for a term of four years and is not eligible for two successive terms.[6] The Ministers are appointed and removed without restriction by the President.[7] The President and Ministers constitute a Council of Government.[8] Ministers may attend and participate in the debates of the Congress, but without vote.[9]

Judicial Department

Judicial power under the Constitution of 1949 is vested in the Supreme Court of Justice and in other courts established by law.[10] The Supreme Court is composed of seventeen judges, elected by the Legislative Assembly for a term of eight years, tacitly renewable.[11] It may declare unconstitutional acts of the legislative or executive power.[12]

Area, Population, Language

The area of Costa Rica is approximately 23,000 square miles. Its population (1950 census) is 800,875. The language is Spanish.

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[1] Const. of 1949, Art. 76. [2] Id., Arts. 77, 78. [3] Id,. Art. 105.
[4] Id., Art. 107. [5] Id., Art. 130. [6] Id., Arts. 132–134.
[7] Id., Art. 139. [8] Id., Art. 147. [9] Id., Art. 145.
[10] Id., Art. 152. [11] Id., Arts. 157, 158. [12] Id., Art. 10.

CONSTITUTION OF THE REPUBLIC OF COSTA RICA

November 8, 1949

We, the Representatives of the people of Costa Rica, freely elected Deputies to the National Constituent Assembly, invoking the name of God and reaffirming our faith in Democracy, decree and enact the following:

CONSTITUTION OF THE REPUBLIC OF COSTA RICA

TITLE I

THE REPUBLIC

Sole Chapter

Art. 1. Costa Rica is a free and independent democratic Republic.

Art. 2. Sovereignty resides exclusively in the Nation.

Art. 3. No one may usurp this sovereignty; anyone who does so commits the crime of treason to the country.

Art. 4. No person or group of persons may assume representation of the people, usurp their rights, or make petitions in their name. Violation of this article is sedition.

Art. 5. The national territory is bounded by the Caribbean Sea, the Pacific Ocean, and the Republics of Nicaragua and Panama.

The boundaries of the Republic are those fixed by the Cañas-Jerez Treaty of April 15, 1858, confirmed by the Cleveland Award of March 22, 1888 with respect to Nicaragua, and by the Echandi Montero-Fernández Jaén Treaty of May 1, 1941 in regard to Panama.

Coco Island, located in the Pacific Ocean, forms a part of the national territory.

Art. 6. The State exercises complete and exclusive sovereignty over the air space above its territory and over its territorial waters and continental shelf, in accordance with principles of International Law and with treaties in effect.

Art. 7. No authority may make pacts, treaties or agreements which are opposed to the sovereignty and independence of the Republic. Anyone who does so shall be tried for treason to the country.

Any treaty or convention negotiated by the Executive Power, in reference to the territorial integrity of the political organization of the country, shall require the approval of the National Assembly by a vote of not less than three fourths of its full membership and a vote of two thirds of a Constituent Assembly called for the purpose.

Art. 8. Foreign states may only acquire within the territory of the Republic, on the basis of reciprocity, real property necessary for the

headquarters of their diplomatic representations, without prejudice to the terms of international agreements.

Art. 9. The Government of the Republic is popular, representative, alternative and responsible. It is exercised by three distinct and independent Powers: Legislative, Executive and Judicial.

None of these Powers may delegate the exercise of their proper functions.

Art. 10. Provisions enacted by the Legislative Power or the Executive Power which are contrary to the Constitution shall be absolutely void, as well as the acts of anyone usurping public functions, and appointments made without fulfilling the legal requirements.

The Supreme Court of Justice, by a vote of not less than two thirds of its members, has the power to declare the unconstitutionality of provisions of the Legislative Power and decrees of the Executive Power.

The law shall designate which courts are to decide upon the constitutionality of other provisions of the Executive Power.

Art. 11. Public officials are mere depositaries of authority and cannot usurp powers which the law does not grant them. They must take an oath to observe and comply with this Constitution and the laws. Action to demand penal responsibility for their acts is public.

Art. 12. The Army as a permanent institution is proscribed.

For vigilance and the preservation of the public order, there will be the necessary police forces.

Only through continental agreement or for the national defense may military forces be organized; in either case they shall always be subordinate to the civil power; they may not deliberate, nor make manifestations or declarations in indivudual or collective form.

Title II

COSTA RICANS

Sole Chapter

Art. 13. The following are Costa Ricans by birth:

(1) A child born in the territory of the republic of a Costa Rican father or mother;

(2) A child born in a foreign country of a native-born Costa Rican father or mother, who is registered as such in the Civil Register by wish of the Costa Rican parent during its minority, or by its own wish up to the age of twenty-five years;

(3) A child born in Costa Rica of foreign parents, who is registered as a Costa Rican by wish of either of its parents during minority or by its own wish up to twenty-five years of age;

(4) An infant, of unknown parents, found in Costa Rica.*

Art. 14. The following are Costa Ricans by naturalization:

(1) Those who have acquired this status by virtue of former laws;

(2) Nationals of the other countries of Central America, who are of good conduct, who have resided at least one year in the Republic, and who declare before the Civil Registrar their intention to be Costa Ricans;

(3) Native-born Spaniards and Ibero-Americans who obtain the appro-

* See transitory articles. This footnote refers to all articles so marked.

priate certificate from the Civil Registrar, provided they have been domiciled in the country during the two years prior to application;

(4) Central Americans, Spaniards and Ibero-Americans who are not native-born, and other foreigners who have been domiciled in Costa Rica for a minimum period of five years immediately preceding their application for naturalization, in accordance with the requirements of the law;

(5) A foreign woman who by marriage to a Costa Rican loses her nationality or who indicates her desire to become a Costa Rican;

(6) Anyone who receives honorary nationality from the Legislative Assembly.

Art. 15. Anyone who applies for naturalization must give evidence in advance of good conduct, must show that he has an occupation or known means of livelihood, and must promise to reside in the Republic regularly.

For purposes of naturalization, domicile implies residence and stable and effective connection with the national community, in accordance with regulations established by law.

Art. 16. Costa Rican nationality is lost:

(1) By adoption of another nationality;

(2) Whenever a naturalized Costa Rican is voluntarily absent from the country for more than six years consecutively, unless he shows that he has retained permanent ties therein.

Art. 17. Loss of Costa Rican nationality does not extend to the spouse or children. Acquisition of nationality includes minor children in accordance with regulations established by law.

Art. 18. Costa Ricans must observe the Constitution and the laws, must serve and defend their country, and contribute to the public expenses.

Title III

FOREIGNERS

Sole Chapter

Art. 19. Foreigners have the same individual and social rights and duties as Costa Ricans, with such exceptions and limitations as this Constitution and the laws establish.

They may not intervene in the political affairs of the country, and are subject to the jurisdiction of the courts of justice and the authorities of the Republic, and may not resort to diplomatic intervention except as provided in international conventions.

Title IV

INDIVIDUAL RIGHTS AND GUARANTEES

Sole Chapter

Art. 20. All men are free within the Republic; no one under the protection of its laws can be a slave.

Art. 21. Human life is inviolable.

Art. 22. Every Costa Rican may move about and remain in any part of the Republic or elsewhere, provided he is free from liability, and return when convenient to him. No requirements may be demanded of Costa Ricans which may impede their entry into the country.

Art. 23. The domicile and any other private premises of the inhabitants

are inviolable. However, they may be entered by written order of a competent court either to prevent the commission of or escape from crimes or to prevent serious damage to persons or property, subject to the provisions of law.

Art. 24. The private documents and written or oral communications of the inhabitants of the Republic are inviolable. However, the law shall determine those cases in which the courts may order the seizure, search, or examination of private papers whenever this is absolutely necessary to clarify matters submitted to their cognizance.

The law shall also determine in what instances competent officials may examine account books and papers pertaining thereto, for necessary fiscal purposes.

Correspondence that is seized, regardless of its kind, shall have no legal effect.

Art. 25. Inhabitants of the Republic have the right to associate together for lawful purposes. No one may be compelled to form a part of any association whatever.

Art. 26. Everyone has the right to meet peacefully and unarmed, whether it be for private business or to discuss political affairs and consider the public conduct of officials.

Meetings on private premises need no prior authorization. Those which are held in public places shall be regulated by law.

Art. 27. The right to petition any public official or official body, either individually or collectively, is guaranteed, as is also the right to receive prompt redress.

Art. 28. No one may be disturbed or molested for an expression of his opinions nor for any act which does not infringe the law.

Private actions which do not harm public morals or order or which do no injury to others are outside the scope of the law.

However, no political propaganda may be carried on in any way by clerical or secular persons invoking religious motives or making use of religious beliefs.

Art. 29. Everyone may communicate his thoughts by word of mouth or in writing and publish them without previous censorship; but they shall be responsible for abuses committed in the exercise of this right, in such cases and in the manner established by law.

Art. 30. Free access to administrative departments is guaranteed, for purposes of information on matters of public interest.

State secrets are excluded from this provision.

Art. 31. The territory of Costa Rica shall be an asylum for all who are persecuted for political reasons. If their expulsion is decreed on legal grounds, they shall never be sent back to the country where they were persecuted.

Extradition shall be regulated by law or by international treaties and shall never be granted for political offenses or any connected therewith, as defined by Costa Rica.

Art. 32. No Costa Rican may be compelled to abandon the national territory.

Art. 33. All men are equal before the law.

Art. 34. No law shall have retroactive effect to the detriment of any person whatever, or to acquired property rights or to established legal situations.

Art. 35. No one may be tried by a commission, court, or judge specially appointed for the case, but exclusively by the courts established in accordance with this Constitution.

Art. 36. In criminal matters no one is obliged to testify against himself or against a spouse, ascendants, descendants or collateral relatives within the third degree inclusive of consanguinity or affinity.

Art. 37. No one may be detained without substantiated evidence of having committed an offense and without a written order from the judge or authority charged with the maintenance of public order, unless the person concerned is a fugitive from justice or is caught in the act; but in all cases he shall be placed at the disposition of a competent court within a peremptory period of twenty-four hours.

Art. 38. No person may be imprisoned for debt.

Art. 39. No one shall be made to suffer a penalty except for a crime, wrong, or misdemeanor punishable by pre-existing law, and in consequence of a final sentence imposed by competent authority, after opportunity has been given to the accused to plead his defense, and upon the necessary proof of guilt.

Judical compulsion in civil or labor matters or detentions ordered in cases of insolvency, bankruptcy or receivership do not constitute violations of this article or of the two preceding articles.

Art. 40. No one may be subjected to cruel or degrading treatment or to life imprisonment, nor to the penalty of confiscation. Any statement obtained by means of force is null and void.

Art. 41. Everyone shall receive reparation for injuries or damage to their persons, property, or moral interests through recourse to the laws. Justice must be prompt, thorough, without denial, and in strict accordance with the laws.

Art. 42. The same judge may not serve in various stages of a case if the decision deals with the same point. No one may be tried more than once for the same punishable offense.

The reopening of decided criminal cases and judgments which are *res judicata* is prohibited, except for review.

Art. 43. Everyone has the right to settle his differences in civil matters by means of arbitrators, even after a lawsuit has been initiated.

Art. 44. A court order is necessary for a person to be held incommunicado for more than forty-eight hours; it may be extended only for ten consecutive days, and in no case shall it prevent judicial inspection.

Art. 45. Property is inviolable; no one may be deprived of what is his except for legally proven public interest after compensation in accordance with the law. In case of war or internal disorder, it is not necessary that compensation be made in advance. However, payment shall be made not later than two years after termination of the state of emergency.

For reasons of public necessity, the National Assembly, by a vote of

two-thirds of its full membership, may impose limitations on property, in the social interest.

Art. 46. Private monopolies are prohibited, as well as any act, even if it originates by virtue of a law, which threatens or restricts the freedom of commerce, agriculture or industry.

Action by the State directed toward impeding any monopolistic practice or tendency is in the public interest.

Enterprises organized as *de facto* monopolies must be subject to special legislation.

Establishment of new monopolies by the State or municipalities requires the approval of two-thirds of the full membership of the National Assembly.

Art. 47. Every author, inventor, producer, or merchant shall temporarily enjoy exclusive ownership of his work, invention, trademark or commercial name, in accordance with the law.

Art. 48. Every person has the right of *habeas corpus* if he believes himself illegally deprived of his liberty.

This writ is exclusively within the jurisdiction of the Supreme Court, which determines whether to order appearance of the accused, and due obedience or any other pretext may not be alleged to prevent it.

To maintain or re-establish the enjoyment of other rights conferred by this Constitution, everyone also has the right of *amparo* in such courts as the law may determine.

Art. 49. A contentious-administrative jurisdiction is established as a function of the Judicial Power for the purpose of protecting anyone in the exercise of his administrative rights when these are violated by definitive measures of any kind taken by the Executive Power or its agents, by the Municipalities or any autonomous or semi-autonomous institutions of the State acting as public officials and using regulated powers.

Title V

SOCIAL RIGHTS AND GUARANTEES

Sole Chapter

Art. 50. The State shall work for the greatest well-being of all the inhabitants of the country, by organizing and stimulating production and the most adequate distribution of wealth.

Art. 51. The family, as the natural element and basis of society, is entitled to the special protection of the State. Mothers, children, the aged, and the destitute infirm are also entitled to such protection.

Art. 52. Marriage is the essential basis of the family and rests on equality of rights of the spouses.

Art. 53. Parents have the same obligations toward children born our of wedlock as those born within it.

Everyone is entitled to know who his parents are, according to law.

Art. 54. Any personal limitation based on the nature of filiation is prohibited.

Art. 55. The special protection of women and children shall be

entrusted to an autonomous institution known as the Patronato Nacional de la Infancia, in collaboration with other State institutions.

Art. 56. Labor is a right of the individual and an obligation to society. The State should endeavor to see that everyone has lawful and useful employment, duly remunerated, and to prevent the establishment on that account of conditions which may in any way curtail a man's freedom or dignity or degrade his labor to the status of mere merchandise. The State guarantees the right to free choice of work.

Art. 57. Every workingman is entitled to a minimum wage, fixed periodically, for a normal working day, which will provide for his well-being and a decent living. Wages shall always be equal for equal work under identical conditions of efficiency.

All matters relating to the fixing of minimum wages shall be entrusted to a technical organization established by law.

Art. 58. A regular working day for daytime work may not exceed eight hours a day or forty-eight hours a week. The regular working day for night work may not exceed six hours a day or thirty-six hours a week. Overtime work shall be paid at fifty percent above the stipulated wage or salary. However, these provisions are not applicable in certain well-defined exceptional cases, as determined by law.

Art. 59. All workers are entitled to one day of rest after six consecutive days of work and to annual paid vacations, the duration and time of which shall be regulated by law, but they shall in no case be less than two weeks for every fifty weeks of continuous service; all without prejudice to well-defined exceptions established by legislation.

Art. 60. Both employers and workers may organize freely, for the exclusive purpose of obtaining and preserving economic, social, or occupational benefits.

Foreigners are prohibited from exercising direction or authority in unions.

Art. 61. The right of employers to the lockout and of workers to strike is recognized except in public services, in accordance with provisions of law and regulations on the subject, which must prohibit any act of coercion or violence.

Art. 62. Collective labor agreements shall have the force of law, if entered into in accordance with the law by employers or employers' unions and legally organized trade unions.

Art. 63. Workers discharged without due cause are entitled to compensation unless they are covered by unemployment insurance.

Art. 64. The State shall promote the creation of cooperatives as a means of obtaining better living conditions for workers.

Art. 65. The State shall promote the construction of low-cost housing and create a "family patrimony" for workers.

Art. 66. Every employer must adopt measures necessary for the health and safety of workers in his enterprises.

Art. 67. The State shall sponsor technical and cultural training for workers.

Art. 68. No discrimination shall be made in regard to wages, advan-

tages, or working conditions, as between Costa Ricans and foreigners, or with respect to any group of workers.

Under equal conditions, Costa Rican workers should receive preference.

Art. 69. Rural "share cropper" contracts shall be regulated in order to assure a rational exploitation of the land and an equitable distribution of its produce between proprietors and tenants.

Art. 70. A jurisdiction for labor shall be established under the Judicial Power.

Art. 71. The laws shall give special protection to women and minors in their work.

Art. 72. Until such time as unemployment insurance exists, the State shall maintain a permanent, technical system of protection for those involuntarily unemployed and shall strive to restore them to employment.

Art. 73. Social security is established for manual and intellectual workers, regulated by a system of compulsory contribution by the State, employers, and workers to protect them against the risks of illness, disability, maternity, old age, death, and other contingencies determined by law.

The administration and regulation of social security shall be entrusted to an autonomous institution.

The social security funds and reserves may not be transferred or used for purposes other than those for which they were created.

Insurance against occupational risks shall be exclusively at the expense of employers and shall be governed by special provisions.

Art. 74. The rights and benefits to which this chapter refers may not be renounced. Their enumeration does not exclude others which may be derived from the Christian principle of social justice or which the law may indicate; they shall be equally applicable to all the concurrent factors in the process of production and regulated by social and labor legislation so as to achieve a permanent policy of national solidarity.

Art. 75. The legislature may establish exceptions to the provisions of this chapter in behalf of institutions devoted exclusively to charitable purposes and social welfare. This provision does not extend to the principle of freedom to join unions.

Title VI

RELIGION

Sole Chapter

Art. 76. The Apostolic Roman Catholic Religion is that of the State, which contributes to its maintenance, without impeding the free exercise in the Republic of other worship that is not opposed to universal morality or good custom.

Title VII

EDUCATION AND CULTURE

Sole Chapter

Art. 77. Public education shall be organized as an integral process correlated in its various phases, from the pre-school period to the university.

Art. 78. Primary education is compulsory; this, the pre-school stage, and secondary education are free and supported by the Nation.

The State shall facilitate the pursuit of higher studies by persons lacking their own resources. The awarding of appropriate scholarships and assistance shall be a function of the Ministry of Education through such organizations as the law may specify.

Art. 79. Freedom in teaching is guaranteed. However, all private educational centers shall be under the supervision of the State.

Art. 80. Private initiative in educational matters is to be stimulated by the State, in such form as the law may provide.

Art. 81. The public education administration shall be in the hands of a superior board comprised as the law may provide, presided over by the Minister of Education.

Art. 82. The State shall provide food and clothing for indigent pupils, according to law.

Art. 83. The State shall organize and support adult education, designed to combat illiteracy and to provide cultural opportunities for those who desire to improve their intellectual, social and economic position.

Art. 84. The University of Costa Rica is an institution of higher learning which is independent in the performance of its functions and has full juridical capacity to acquire rights and contract obligations, as well as to determine its own organization and form of government.

Art. 85. The State shall endow the University of Costa Rica with its own funds; will create the necessary revenues and will contribute to its maintenance by an amount not less than ten percent of the annual budget of the Ministry of Public Education, to be paid in monthly installments.*

Art. 86. The State shall train a teaching staff in special institutions and the University of Costa Rica.

Art. 87. Freedom in teaching is a fundamental principle of university instruction.

Art. 88. In the discussion and enactment of bills relating to matters under the jurisdiction of the University of Costa Rica, or directly related thereto, the Legislative Assembly must previously obtain the advice of the University Council.

Art. 89. Among the cultural aims of the Republic are: to protect its natural beauty, to preserve and develop the historical and artistic patrimony of the Nation, and to support private initiative in scientific and artistic progress.

Title VIII

POLITICAL RIGHTS AND DUTIES

Chapter I

Citizens

Art. 90. Citizenship is the aggregate of political rights and duties which pertain to Costa Ricans of either sex, over twenty years of age.

Art. 91. Citizenship is suspended only on the following grounds:

(1) By judicially declared interdiction;
(2) By a judgment which imposes the penalty of suspension of the exercise of political rights.

Art. 92. Citizenship is restored in such cases and by such means as the law may provide.

Chapter II

Suffrage

Art. 93. Suffrage is a primary civic function and is exercised by direct and secret voting before election boards, by citizens inscribed in the Civil Registry.

Art. 94. A naturalized Costa Rican citizen may not vote until twelve months after obtaining naturalization.

Art. 95. The law shall regulate the exercise of suffrage, in accordance with the following basic principles:

(1) Autonomy in the electoral function;
(2) Effective guarantees of freedom, order, honesty, and impartiality on the part of government officials;
(3) Identification of the voter by means of a certificate (cedula) and photograph;
(4) Prohibition against a citizen voting elsewhere than at his residence;
(5) Guarantees for representation of minorities.

Art. 96. The State may not make any deduction whatever from the salaries of public officials for the payment of political debts.

Art. 97. In discussing and enacting bills relating to electoral matters the Legislative Assembly must consult the Supreme Electoral Tribunal; if its opinion is not followed, a vote of two thirds of the total membership is required.

Within six months prior to and four months after a popular election, the Legislative Assembly, however, may not enact into law any bills on the subject of which the Supreme Electoral Tribunal has indicated disapproval.

Art. 98. All citizens have the right to join parties in order to participate in national politics.

However, the formation or functioning of parties which by their ideological programs, methods of action, or international connections, are intended to destroy the bases of the democratic organization of Costa Rica or threaten the sovereignty of the country, is prohibited, when so determined by the Legislative Assembly by a vote of two thirds of its members on the advice of the Supreme Electoral Tribunal.*

Chapter III

The Supreme Electoral Tribunal

Art. 99. The organization, direction, and supervision of acts pertaining to suffrage are exclusively the function of the Supreme Electoral Tribunal which has complete independence in carrying out its functions. All other electoral organs are subordinate to the Tribunal.

Art. 100. The Supreme Electoral Tribunal shall consist of three Magistrates and three alternates, appointed by the Supreme Court of Justice

by a vote of not less than two thirds of its members; they must have the same qualifications as to be a member of that Court and shall be subject to the same responsibilities as those established for members of that body.

Art. 101. The Magistrates of the Supreme Electoral Tribunal shall hold office for six years. One principal and one alternate shall be renewed every two years, but they may be reelected.

The Magistrates of the Supreme Electoral Tribunal enjoy the same immunities and prerogatives as members of the Supreme Powers.*

Art. 102. The Supreme Electoral Tribunal has the following functions:

(1) To convoke popular elections;

(2) To appoint the members of the Electoral Boards, according to law;

(3) To interpret, with exclusive and compulsory effect, all constitutional and legal provisions relating to elections;

(4) To hear appeals from decisions rendered by the Civil Registrar and the Election Boards;

(5) To investigate, on its own or through delegates, and to render decisions on any claim made by parties as to political partiality of State officials in the exercise of their functions or of political activities by officials who are prohibited from engaging therein. A verdict of guilty rendered by the Tribunal shall be compulsory grounds for removal and shall incapacitate the guilty party from holding a public office for a period of not less than two years, without prejudice to any penal liability that may be demanded. However, if the investigation includes charges against the President of the Republic, Ministers of Government, Diplomatic Ministers, the Comptroller or Assistant Comptroller General of the Republic, or Magistrates of the Supreme Court, the Tribunal shall report the findings of its investigation to the Legislative Assembly;

(6) To adopt, with respect to the public force, pertinent measures to assure that elections are carried out under conditions of unrestricted freedom and guarantees. In case military recruitment is ordered the Tribunal likewise may adopt suitable measures to assure that the electoral process is not disturbed, in order that all citizens may freely cast their votes. The Tribunal may enforce these measures itself or through delegates;

(7) To conduct the official count of the votes cast in elections for President and Vice Presidents of the Republic, Deputies to the Legislative Assembly, members of Municipalities and Representatives to Constituent Assemblies;

(8) To issue the official declaration of the election of the President and Vice Presidents of the Republic, within thirty days after the voting, and for other officials cited in the preceding paragraph, within a period specified by law;

(9) Any other functions entrusted to it by this Constitution or by law.

Art. 103. There is no appeal from the decisions of the Supreme Electoral Tribunal, except for betrayal of trust.

Art. 104. Exclusively subordinate to the Supreme Electoral Tribunal is the Civil Registrar, whose functions are:

(1) To keep the Central Registry of Civil Status and draw up the lists of voters;

(2) To decide on applications to acquire or recover Costa Rican citizenship, as well as cases of loss of nationality; to carry out judicial sentences which suspend citizenship and to pass upon steps taken to recover it. The decisions rendered by the Civil Registrar, in accordance with the powers granted herein, may be appealed to the Supreme Electoral Tribunal;

(3) To issue certificates of identity;

(4) Any other powers indicated in this Constitution or the laws.*

TITLE IX

THE LEGISLATIVE POWER

Chapter I

Organization of the Legislative Assembly

Art. 105. The power to legislate resides in the people, who delegate this power, by means of suffrage, to the Legislative Assembly.

Art. 106. The Deputies have this character for the Nation and shall be elected by provinces.

The Assembly consists of forty-five Deputies; however, whenever the population exceeds one million three hundred and fifty thousand inhabitants, a new Deputy shall be elected for each thirty thousand or fraction over fifteen thousand in each province. One alternate shall be named for every three titular Deputies. If two titular Deputies are elected, one alternate shall also be elected.

Vacancies shall be filled by the respective alternates. Every time a general census of the population is taken, the Supreme Electoral Tribunal shall assign the number of deputies to each province in accordance with the population of each.*

Art. 107. Deputies shall hold office for four years and may not be reelected to a succeeding term.

Art. 108. The requirements to be a Deputy are:

(1) To be a citizen in the exercise of his rights;
(2) To be a Costa Rican by birth, or by naturalization with ten years' residence in the country after naturalization;
(3) To have attained twenty-one years of age.

Art. 109. The following may not be elected Deputies nor listed as candidates for that office:

(1) The President of the Republic or anyone who is acting in that office at the time of the election;
(2) Ministers of Government;
(3) Magistrates of the Supreme Court of Justice;
(4) Magistrates and alternates of the Supreme Electoral Tribunal, and the Director of the Civil Register;
(5) The military in active service;
(6) Those exercising jursidiction and civil or police power over an entire province;
(7) Managers of the autonomous institutions;
(8) Relatives of whoever occupies the Presidency of the Republic, to the second degree of consanguinity or affinity, inclusive.

These disqualifications affect anyone occupying the aforementioned positions within six months prior to the date of the election.

Art. 110. A Deputy is not liable for opinions expressed in the Assembly. During its sessions he cannot be arrested on civil grounds, except by authorization of the Assembly or if the Deputy consents thereto.

From the time he is declared elected as titular Deputy or alternate, until his legal term expires, he may not be deprived of his liberty on penal grounds unless he has been previously suspended by the Assembly. Such

immunity does not apply in case of *flagrante delicto* or if the Deputy waives it. Nevertheless, a Deputy who has been taken in *flagrante delicto* will be freed if the Assembly so orders.

Art. 111. No Deputy may accept a position of employment with the other Powers of the State or the autonomous institutions, under penalty of losing his credentials, except as a Minister of Government. In the latter event, he will be reinstated in the Assembly when the position terminates. This provision does not affect those holding positions in charitable institutions or professorships in the University of Costa Rica.

Art. 112. The legislative function is also incompatible with the holding of any other elective public office.

Deputies may not enter into any contract with the State or its autonomous institutions, directly or indirectly or through representation, or obtain a concession of public property that involves a privilege, or serve as directors, administrators, or managers of enterprises which make contracts with the State for public works, furnishing of suplies, or the operation of public services.

Violations of the prohibitions contained in this or the preceding article shall result in loss of credentials as Deputy. The same provision applies to a Deputy who violates any of these provisions while serving as Minister of Government.

Art. 113. The law shall fix the remuneration of Deputies. Increases which may be granted shall not take effect until after the expiration of the terms of members of the Assembly in which the increases were approved.

Art. 114. The Assembly shall meet in the capital of the Republic and a two-thirds vote of the whole membership shall be required to transfer its seat to some other place or to suspend its sessions for a specified period.

Art. 115. The Assembly shall elect its officers at the beginning of each legislative period.

The President and Vice President must fulfill the same conditions required to be President of the Republic. The President of the Assembly shall take an oath before it and the Deputies before their President.

Art. 116. The Legislative Assembly shall meet each year on the first day of May, even if it has not been convoked, and its regular sessions shall last six months, divided into two periods: from the first of May to the thirty-first of July and from the first of September to the thirtieth of November.*

One legislative period includes all regular and special sessions held between the first of May and the April thirtieth following.

Art. 117. The Assembly may not hold its sessions unless two thirds of the total membership are present.

If it is impossible to begin a session on the day indicated, or if after opening it cannot continue due to lack of a quorum, the members present shall demand that absent members attend, under penalty of sanctions established by regulations, and the Assembly shall open or continue its sessions when the required number are present.

Meetings shall be public except for very special reasons in the general

welfare, and to be made secret must attain the approval of not less than two thirds of the Deputies present.

Art. 118. The Executive Power may convoke the Legislative Assembly in special sessions. At such meetings no matters other than those stated in the decree of convocation may be taken up except the appointment of officials when incumbent upon the Assembly or amendments to laws that may be necessary in acting upon matters submitted to its consideration.

Art. 119. Decisions of the Assembly shall be made by absolute majority of the members present, except in those cases in which this Constitution requires a larger majority.

Art. 120. The Executive Power shall place at the disposal of the Legislative Assembly such police force as the President of that body may request.

Chapter II

Powers of the Legislative Assembly

Art. 121. In addition to other powers conferred by this Constitution, the Legislative Assembly has exclusive power to:

(1) Enact, amend, repeal, and give authentic interpretation to the laws, except as stated in the chapter referring to the Supreme Electora Tribunal;

(2) Designate the premises to be used for its sessions, to open and close them, to suspend or continue them when so agreed;

(3) Appoint the titular and alternate Magistrates of the Supreme Court of Justice;

(4) Approve or disapprove international conventions, public treaties and concordats;

(5) Give or withhold its consent to the entry of foreign troops in the national territory and for the stay of warships in its ports or airfields;

(6) Authorize the Executive Power to declare a state of national defense and to make peace;

(7) Suspend, by a vote of not less than two thirds of its members, in case of clear public necessity, the rights and guarantees conferred by Articles 22, 23, 24, 26, 28, 29, 30 and 37 of this Constitution. Such suspension may include all or certain of these rights and guarantees, throughout the territory or only a part of it, and for not more than thirty days; during the suspension and with respect to persons, the Executive Power may order their detention only in establishments not used for common criminals, or may order their confinement to inhabited places. He must also report to the Legislative Assembly, at its next meeting, on the measures taken to safeguard the public order or maintain the security of the State.

In no case may individual rights and guarantees not listed in this section be suspended;

(8) Receive the legal oath and the resignation of members of the Supreme Powers, with the exception of Ministers of Government; settle questions which may arise as to the physical or mental capacity of the person exercising the Presidency of the Republic and to decide whether to call in his legal replacement;

(9) Accept or refuse impeachments made against the occupant of the Presidency, the Vice Presidents, members of the Supreme Powers and Diplomatic Ministers, declaring by a two-thirds vote of the entire Assembly whether or not there are grounds for legal action against them, and if

the decision is affirmative, to place them at the disposition of the Supreme Court of Justice for trial;

(10) Order the suspension of any officials mentioned in the preceding section, if they are to be prosecuted for common crimes;

(11) Fix the regular and special budgets of the Republic;

(12) Appoint the Comptroller and Assistant Comptroller General of the Republic;

(13) Impose taxes and national contributions and authorize those of municipalities;

(14) Order the sale or application to public use of property belonging to the Nation;

The following may not be permanently removed from ownership by the State:

(a) Power that may be obtained from waters of the public domain within the national territory;

(b) Beds of coal, wells and deposits of petroleum, and any other hydrocarbons, as well as any radioactive minerals existing in the country;

(c) Wireless services.

Property mentioned in (a), (b) and (c) above may be exploited only under public administration or by private parties, in accordance with the law or by a special concession granted for a limited time and on the basis of conditions and stipulations established by the Legislative Assembly.

National railroads, docks, and airports—the latter while in use—may not be sold, leased, or encumbered, directly or indirectly, nor be withdrawn in any way from the ownership and control of the State;

(15) Authorize the Executive to negotiate loans or to conclude similar agreements that affect the public credit, and also to approve or disapprove those already concluded.

In order to negotiate loans abroad, or those which although concluded within the country must be financed by foreign capital, it is necessary that the respective plan be approved by a two-thirds vote of the entire membership of the Legislative Assembly;

(16) Bestow honorary citizenship for noteworthy services to the Republic and decree honors to the memory of persons whose eminent activities deserve such distinction;

(17) Fix the content of the unit of the currency and enact laws on coinage, credit, weights and measures. In fixing the fineness of the currency unit, the Assembly must previously obtain the advice of the technical organ in charge of currency regulation;

(18) Promote the progress of the arts and sciences and to ensure to authors and inventors, for a limited time, ownership of their respective writings or inventions;

(19) Create establishments for the teaching and advancement of the arts and sciences, granting them subventions for their support and endeavoring particularly to make primary education general;

(20) Create courts of justice and other entities for the national service;

(21) Grant general amnesties and pardons, by a vote of not less than two thirds of the entire membership, for political crimes, except those connected with elections, concerning which there shall be no pardon.

(22) Adopt regulations for its own functioning, which after being adopted may not be amended except by a vote of not less than two thirds of the entire membership;

(23) Appoint committees from within its membership to investigate any matter entrusted to them by the Assembly and submit the corresponding report.

Such committees shall have free access to all official agencies in conducting their investigations and may request any data deemed necessary. They may receive any kind of evidence and call before them any person for purposes of interrogation.

(24) Conduct interpellations of Ministers of Government, and in ad-

dition, by a two-thirds vote of those present, censure such officials if, in the opinion of the Assembly, they are guilty of illegal or unconstitutional acts or serious errors which have resulted in or might result in clear injury to the public interest.

Matters under diplomatic negotiation or which refer to pending military operations are excepted in both cases.

Art. 122. The Assembly is prohibited from adopting votes of applause for official acts, or of recognizing as a charge on the Public Treasury obligations which have not been previously so declared by the Judicial Power or accepted by the Executive Power; or from granting scholarships, pensions, retirement allotments or rewards.

Chapter III

Enactment of Laws

Art. 123. During regular sessions, legislation may be initiated by any member of the Legislative Assembly, or by the Executive Power through the Ministers of Government.

Art. 124. To become a law, every bill must be the subject of three debates, each on a different day, must obtain the approval of the Assembly and the sanction of the Executive Power, and be published in the Diario Oficial, without prejudice to requirements established by this Constitution in special cases. Action taken in use of the powers enumerated in sections 2), 3), 5), 6), 7), 8), 9), 10), 12), 16), 21), 22), 23), and 24) of Article 121 do not have the status of laws and hence do not require the above procedure; they may be voted upon at a single session and must be published in the Diario Oficial.

Art. 125. If the Executive Power does not approve a bill passed by the Assembly, he shall veto it and return it with pertinent objections. A veto may not be used against the Regular Budget of the Republic.

Art. 126. Within ten working days from the date on which a bill passed by the Legislative Assembly is received, the Executive Power may object to it as inappropriate or in need of amendments; in the latter case, he shall propose such amendments in returning the bill. If the Executive Power does not object to a bill within the period indicated, he must approve and publish it.

Art. 127. When a bill is reconsidered by the Assembly, with the observations of the Executive Power, and if the Assembly rejects them and the bill is again passed by a two-thirds vote of the total membership, it is thereby sanctioned and must be enforced as a law of the Republic. If the proposed amendments are adopted, the bill shall be returned to the Executive Power, who may not refuse his sanction. If they are rejected, and the bill is not approved by a two-thirds vote, it is to be filed and may not be considered until the next legislative period.

Art. 128. If the veto is based on grounds of unconstitutionality not accepted by the Assembly, that body shall submit the bill to the Supreme Court of Justice to decide upon the issue within the following ten days. If the Court, by a vote of not less than two thirds of its full membership, rules that the bill contains unconstitutional provisions, that portion

containing them shall be considered rejected. The remaining portion is submitted to the Assembly for action, as is the entire bill if the Court rules that it does not contain provisions contrary to the Constitution.

Art. 129. The laws are compulsory and take effect from the day designated therein; or if this is lacking, ten days after their publication in the Diario Oficial.

No one may claim ignorance of the law, except when the law itself so authorizes.

Renunciation of the laws in general, or of those in the public interest in particular, is without effect.

Acts and agreements contrary to prohibitive laws shall be null and void, unless the law itself provides otherwise.

A law does not become abrogated or repealed except by a subsequent law; and disuse, custom, or contrary practice cannot be claimed against its enforcement.

Title X

THE EXECUTIVE POWER

Chapter I

The President and Vice Presidents of the Republic

Art. 130. The Executive Power is exercised, in the name of the people, by the President of the Republic and the Ministers of Government in the capacity of subordinate collaborators.

Art. 131. To be President or Vice President of the Republic a person must be:

(1) A Costa Rican by birth and a citizen in the exercise of his rights;
(2) A layman;
(3) Over thirty years of age.

Art. 132. The following may not be elected President or Vice President:

(1) Anyone who has served as President for any period during the eight years preceding the term for which the election is held, or a Vice President or person who may have replaced him who has served during the major portion of any term included in the aforementioned eight years;

(2) A Vice President who has held such status during the twelve months preceding the election, and who as such may have occupied the Presidency for any period during such time;

(3) Any ascendant or descendant relative by consanguinity or affinity, or brother of the person occupying the Presidency of the Republic at the time of the election, or of a person who has held the office for any period during the six months preceding that date;

(4) Anyone who has been a Minister of Government during the twelve months prior to the date of the election;

(5) The titular Magistrates of the Supreme Court of Justice, the titular and alternate Magistrates of the Supreme Electoral Tribunal, the Director of the Civil Register, directors or managers of the autonomous institutions, the Comptroller and Assistant Comptroller General of the Republic.

This disqualification includes persons who have held the positions indicated within twelve months prior to the date of the elections.*

Art. 133. The election for President and the Vice Presidents shall be held on the first Sunday in February of the year in which these officials are to be elected.

Art. 134. The presidential term shall be four years.

Acts of public officials and of private individuals which violate the principle of alternation in the office of the Presidency or of the free presidential succession, as set forth in this Constitution, will imply treason to the Republic. The liability derived from such acts shall be imprescriptible.

Art. 135. There shall be two Vice Presidents of the Republic who shall replace the President during his complete absence, in the order of their nomination. During his temporary absence, the President may call upon either Vice President to replace him.

If neither Vice President can fill the temporary or permanent absence of the President, the position shall be held by the President of the Legislative Assembly.

Art. 136. The President and Vice Presidents of the Republic shall assume office on May 8; and upon completion of the constitutional term of office, their functions shall cease ipso facto.

Art. 137. The President and Vice Presidents shall take an oath before the Legislative Assembly; but if it cannot be taken before that body, they shall do so before the Supreme Court of Justice.

Art. 138. The President and Vice Presidents shall be elected simultaneously and by a plurality of votes that exceeds forty percent of the total number of valid votes cast.

The candidates for President and Vice Presidents of one party must appear on a single list, to the exclusion of any other official to be elected.

If none of the lists attain the plurality indicated, a second popular election will be held on the first Sunday in April of the same year between the two lists that have received the most votes, and the one obtaining the greater number of votes is elected.

If at any election two lists obtain an equal number of sufficient votes, the candidate of greater age shall be considered elected as President, and for Vice Presidents the candidates of the same list.

Citizens included on a list already inscribed according to law may not withdraw their candidacy for President or Vice President nor may candidates of the lists that received the greatest number of votes in a first election abstain from running in the second election.*

Chapter II

Powers and Duties of the Executive Power

Art. 139. The following are exclusive powers and duties of the occupant of the Presidency of the Republic:

(1) Freely to appoint and remove the Ministers of Government;
(2) To represent the Nation in acts of an official character;
(3) To hold supreme command of the public (armed) forces;
(4) To present to the Legislative Assembly, at the beginning of each annual period of sessions, a written message relating to the various matters of administration and the political state of the Republic, in which he must also propose measures which he deems important to the proper conduct of the Government and the progress and well-being of the Nation;

(5) To request permission from the Legislative Assembly when necessary to leave the country, while holding office and for one year thereafter.

Art. 140. The following are powers and duties jointly of the President and the respective Ministers of Government:

(1) Freely to appoint and remove members of the public forces, employees and officials who hold positions of trust, and others as determined, in well defined cases, by the Civil Service Law;

(2) To appoint and remove, subject to the prior requirements of the Civil Service Law, all other employees of their offices;

(3) To sanction and promulgate the laws, regulate and execute them and see to their strict enforcement;

(4) During adjournment of the Legislative Assembly, to order the suspension of rights and guarantees referred to in section 7 of Article 121, in the same instances and with the same limitations as are established therein, and to report immediately to the Assembly. A decree of suspension of guarantees is equivalent, *ipso facto*, to a convocation of the Assembly, which must meet within the next forty-eight hours. If the Assembly does not confirm the measure by a two-thirds vote of its entire membership, the guarantees shall be considered as reestablished.

If the Assembly is unable to meet due to lack of a quorum, it shall do so the following day with any number of Deputies. In this event, the decree of the Executive Power requires approval by a vote of not less than two thirds of those present;

(5) To exercise initiative in the enactment of laws and the right of veto;

(6) To maintain order and tranquillity in the Nation; to take such steps as may be necessary to safeguard public liberties;

(7) To provide for the collection and expenditure of the national revenues according to law;

(8) To supervise the proper functioning of administrative services and agencies;

(9) To execute and enforce all decisions and provisions covering matters within the jurisdiction of the courts of justice and electoral organizations, at their request;

(10) To make agreements, public treaties ,and concordats, to promulgate and execute them following their approval and ratification by the Legislative Assembly, according to the provisions of this Constitution;

(11) To submit to the Legislative Assembly such reports as it may request under the powers granted to it;

(12) To direct the international relations of the Republic;

(13) To receive Heads of State and diplomatic representatives and to admit consuls of other nations;

(14) To convoke the Legislative Assembly in regular and special sessions;

(15) To send to the Legislative Assembly the proposed National Budget at the time and in accordance with requirements specified in this Constitution;

(16) To dispose of the public forces to preserve the order, defense, and security of the country;

(17) To issue navigation permits (licenses);

(18) To establish suitable regulations for the operation of his office and issue other regulations and ordinances required for prompt execution of the laws;

(19) To sign administrative contracts not included in section 14 of Article 121 of this Constitution but with the requirement of submitting them to the approval of the Legislative Assembly if they stipulate an exemption from taxes or duties, or are for the purpose of exploiting public services, or the natural wealth or resources of the State. Cases governed by special laws are excepted;

(20) To comply with any other duties and exercise any other powers conferred by this Constitution and the laws.*

Chapter III

Ministers of Government

Art. 141. For the conduct of business pertaining to the Executive Power there shall be such Ministers of Government as the law may provide. One Minister may be in charge of two or more departments.*

Art. 142. In order to be a Minister one is required to:

(1) Be a citizen in the exercise of his rights;
(2) Be a Costa Rican by birth, or by naturalization with ten years' residence in the country after naturalization;
(3) Be a layman;
(4) Have attained twenty-five years of age.

Art. 143. The position of Minister is incompatible with the exercise of any other public charge, elective or otherwise, except where special laws confer functions upon them. The rules, prohibitions, and sanctions set forth in Articles 110, 111, and 112 of this Constitution are applicable to Ministers wherever relevant.

The Vice Presidents of the Republic may hold the position of Minister.

Art. 144. The Ministers of Government shall submit each year to the Legislative Assembly, within the first fifteen days of the first period of regular sessions, a report on matters within their departments.

Art. 145. The Ministers of Government may attend sessions of the Legislative Assembly at any time, with the right to speak but not to vote, and they must do so when the Assembly so orders.

Art. 146. The decrees, resolutions, and orders of the Executive Power require the signatures of the President of the Republic and the appropriate Minister in order to be valid, and in addition, in those cases provided by this Constitution, the approval of the Council of the Government.

The signature of the President of the Republic shall be sufficient for the appointment and removal of Ministers.

Chapter IV

The Council of Government

Art. 147. The President of the Republic and the Ministers form the Council of Government, presided over by the former, to perform the following functions:

(1) Request from the National Assembly a declaration of a state of national defense and authorization to order military recruitment, organize the army and negotiate peace;
(2) Exercise the right of pardon in the manner specified by law;
(3) Appoint and remove the diplomatic representatives of the Republic;
(4) Appoint the directors of the autonomous institutions when such appointments are a function of the Executive Power;
(5) Pass upon other business submitted by the President of the Republic who, if the gravity of any matter so requires ,may invite other persons to participate in the deliberations of the Council as advisers.

Chapter V

Responsibility of the Person Exercising the Executive Power

Art. 148. The President of the Republic shall be responsible for the use he may make of those powers which pertain exclusively to him under this Constitution. Each Minister of Government shall be jointly responsible with the President, with respect to the exercise of powers which this Constitution grants to both. Responsibility for acts of the Council of Government shall extend to all who voted to issue the order in question.

Art. 149. A President of the Republic and Minister of Government who participate in any of the acts indicated below, shall also be jointly responsible:

(1) If they in any way compromise the freedom, political independence, or territorial integrity of the Republic;

(2) If they directly or indirectly impede or obstruct popular elections or violate the principles of alternation in the office of the Presidency or of the free presidential succession, or the freedom, order, or honesty of the suffrage;

(3) If they impede or obstruct the functions pertaining to the Legislative Assembly or restrict its freedom and independence;

(4) If they refuse to publish or execute the laws or other legislative acts;

(5) If they impede or obstruct the functions pertaining to the Judicial Power, or restrict the freedom of the courts to judge cases submitted to their decision, or if they in any way obstruct the functions pertaining to the electoral organs or the municipalities;

(6) In any other case in which by action or omission the Executive Power violates a specific law.

Art. 150. The responsibility of the occupant of the Presidency of the Republic and of the Ministers of Government for acts not involving a crime may be claimed only while they are in office and for one year after their functions cease.

Art. 151. The President, Vice Presidents, or whoever occupies the Presidency of the Republic, may not be prosecuted or tried except when, after impeachment proceedings have been entered, the Legislative Assembly finds that there are grounds for initiating a penal trial.

Title XI

THE JUDICIAL POWER

Sole Chapter

Art. 152. The Judicial Power is exercised by the Supreme Court of Justice and by other courts established by law.

Art. 153. In addition to the functions indicated in this Constitution, the Judicial Power shall hear civil, penal, commercial, labor, and contentious-administrative cases, as well as any others which the law may provide, regardless of their nature or the status of persons involved; shall render final decisions thereon and execute the judgments pronounced, with the assistance of the public force if necessary.

Art. 154. The Judicial Power is subject only to the Constitution and the law, and the decisions rendered by it on matters within its competence

impose no responsibilities other than those specifically set forth in legislation.

Art. 155. No court may take cognizance of cases pending in another court. Only courts of the Judicial Power may request proceedings *ad effectum videndi.*

Art. 156. The Supreme Court of Justice is the highest court of the Judicial Power and all courts, officials, and employees of the judicial branch are subordinate to it, without prejudice to the provisions of the Constitution concerning civil service.*

Art. 157. The Supreme Court of Justice shall consist of seventeen Magistrates elected by the Legislative Assembly, who shall make up the several divisions (Salas) indicated by law.

Art. 158. The Magistrates of the Supreme Court of Justice shall be elected for eight years and shall be regarded as reelected for like periods, unless the Legislative Assembly decides otherwise by a vote of two thirds of its entire membership.

Vacancies will be filled for full eight-year terms.*

Art. 159. To be a Magistrate it is necessary to be:

(1) A Costa Rican by birth, or by naturalization with residence in the country of not less than ten years after naturalization. However, the President of the Supreme Court must be a Costa Rican by birth;
(2) A citizen in the exercise of his rights;
(3) A layman;
(4) Over thirty-five years of age;
(5) Holder of a lawyer's degree issued or legally recognized in Costa Rica and have engaged in the profession for at least ten years.

Before taking office, Magistrates must give bond as provided by law.*

Art. 160. No person may be elected Magistrate who is related by consanguinity or affinity to the third degree inclusive, to a member of the Supreme Court of Justice.

Art. 161. The position of Magistrate is incompatible with that of an official of the other Supreme Powers.

Art. 162. The Supreme Court of Justice shall appoint the Presidents of the several divisions (Salas) in the manner and for the term provided by law. The President of its highest division shall also be President of the Court.*

Art. 163. The election of Magistrates of the Supreme Court of Justice shall be held at one of the ten sessions prior to completion of the respective period; replacements shall be made at any of the eight sessions subsequent to the one in which notice of a vacancy is received.

Art. 164. The Legislative Assembly shall appoint not less than twenty-five alternate Magistrates, chosen from a list of fifty candidates presented by the Supreme Court of Justice. Temporary absences of Magistrates will be filled by lot by the Supreme Court from the list of alternates. If there is a vacancy among the alternate Magistrates, one of two candidates proposed by the Supreme Court shall be elected at the first regular or special session of the Legislative Assembly after receipt of the notice. The law shall specify the term of office and the conditions, restrictions, and prohibitions imposed on titular Magistrates, which are not applicable to alternates.

Art. 165. Magistrates of the Supreme Court of Justice may not be suspended except following a declaration that there is reason for the institution of proceedings or for other reasons stated in the law in the section relating to disciplinary measures. In the latter case, the order must come from the Supreme Court of Justice by secret vote of not less than two thirds of its full membership.

Art. 166. Where not provided for in this Constitution, the law shall specify the jurisdiction, number, and duration of the courts, as well as their powers, the principles on which they must base their acts and the manner in which they may be held responsible.

Art. 167. In the discussion and passage of bills relating to the organization or functioning of the Judicial Power, the Legislative Assembly must confer with the Supreme Court of Justice; if it departs from the views of that body, a vote of two thirds of the entire membership of the Assembly is required.

Title XII

MUNICIPAL GOVERNMENT

Sole Chapter

Art. 168. For purposes of public administration, the national territory is divided into provinces; these are divided into cantons and the cantons into districts. The law may establish special circumscriptions.

The Legislative Assembly, by observing the requirements for the partial amendment of this Constitution, may create new provinces, provided that the respective proposal is previously approved by a plebiscite which the Assembly shall order to be held in the province or provinces which are to be dismembered.

The creation of new cantons must be approved by the Legislative Assembly by a vote of not less than two thirds of the entire membership.

Art. 169. The administration of local interests and services in each canton shall be entrusted to a Municipal Government, consisting of a deliberative body composed of municipal *regidores* selected by popular election and such executive official as the law may determine.

Art. 170. Municipal corporations are autonomous.

Art. 171. Municipal *regidores* shall be elected for a term of four years and the position shall be gratuitous and compulsory.

The law shall specify specify the number of *regidores* and the manner in which they shall serve. However, the municipalities of the central cantons of provinces shall consist of not less than five titular *regidores* and a like number of alternates.

The municipal officials shall be installed on July first of the corresponding year.*

Art. 172. Each district shall be represented in the Municipality of the respective canton by a titular *Síndico* and alternate, with the right to speak but no vote.

Art. 173. Municipal ordinances may be:

(1) Objected to by the official whom the law designates, by a veto with explanation;

(2) Appealed by any interested party.

In either case, if the Municipality does not revoke or amend the ordinance objected to or appealed, the case shall be referred to such court of the Judicial Power as the law may specify, for final decision.*

Art. 174. The law shall specify those cases in which the Municipalities require legislative authorization to contract loans, encumber their properties or revenues, or alienate movable or immovable property.

Art. 175. The Municipalities shall fix their ordinary and extraordinary budgets which, in order to take effect, must be approved by the Comptroller General, who shall supervise their execution.

Title XIII

THE PUBLIC REVENUES

Chapter I

The Budget of the Republic

Art. 176. The ordinary budget of the Republic includes all probable revenues and all authorized expenditures of the public administration during the fiscal year. In no case may budgetary expenditures exceed the probable revenues.

The Municipalities and autonomous institutions shall observe the preceding rules in issuing their budgets.

The budget of the Republic is to be issued for a period of one year, from January first to December thirty-first.

Art. 177. Preparation of the ordinary budget is the duty of the Executive Power, to be carried out through a specialized department, the head of which shall be appointed by the President of the Republic for a term of six years. This department shall have authority to reduce or suppress any items in the proposed budgets drawn up by the Ministers of Government, Legislative Assembly, Supreme Court of Justice and the Supreme Electoral Tribunal. In the event of a dispute, the President of the Republic shall make the final decision.

The Executive Power shall prepare, for each fiscal year, the proposed extraordinary budgets, for the expenditure of revenues derived from the use of public credit or from any other extraordinary source.

Art. 178. The proposed ordinary budget shall be submitted to the Legislative Assembly by the Executive Power not later than September first of each year and the Budget Law must be finally enacted before November thirtieth of the same year.*

Art. 179. The Assembly may not increase the expenditures in the budget submitted by the Executive Power unless it also provides for new revenues to be collected, based on advice from the Comptroller General of the Republic as to the fiscal effectiveness thereof.

Art. 180. The ordinary and extraordinary budgets constitute the limit of action by the Public Powers in the use and disposition of State funds, and they may be amended only by laws initiated by the Executive Power.

Any proposed amendment that implies an increase or creation of expenditures must be subject to the terms of the preceding article.

However, when the Assembly is in recess, the Executive Power may alter the use to be made of an authorized item, or open additional credits, but only to meet urgent or unforeseen necessities in the event of war, internal disorder or public calamity. In such cases, the Comptroller may not withhold approval of expenditures ordered and the respective decree implies convocation of the Legislative Assembly into special session to act upon it.

Art. 181. The Executive Power shall transmit to the Comptroller the liquidation of the ordinary and any extraordinary budgets, not later than March first following expiration of the year in question; the Comptroller must submit this to the Assembly, together with his opinion, not later than the next May first. Final approval or disapproval of the items rests with the Legislative Assembly.

Art. 182. Contracts for the execution of public works made by the State Powers, the Municipalities, or the autonomous institutions, purchases made from funds of these entities, and sales or leases of property belonging thereto, must be through bids, in accordance with the provisions of law governing the amount involved.

Chapter II

The Comptroller General of the Republic

Art. 183. The office of the Comptroller General of the Republic is an auxiliary institution of the Legislative Assembly in its supervision of the Public Revenues; but it has absolute functional and administrative independence in the performance of its duties.

The office is in charge of a Comptroller and an Assistant Comptroller. Both officials shall be appointed by the Legislative Assembly, two years after the commencement of a presidential term, for a term of eight years; they may be reappointed indefinitely, and shall enjoy the immunities and prerogatives of members of the Supreme Powers.

The Comptroller and Assistant Comptroller are responsible to the Assembly for the fulfillment of their functions and may be removed by it by a vote of not less than two thirds of the entire membership, if the proceedings show unfitness or improper conduct.*

Art. 184. The powers and duties of the Comptroller's office are:

(1) To supervise the execution and liquidation of the ordinary and extraordinary budgets of the Republic;

No order shall be issued for payment from State funds unless the respective expenditure has been countersigned by the Comptroller's office; and no obligation of the State becomes effective unless so countersigned;

(2) To examine and approve or disapprove the budgets of the Municipalities and autonomous institutions, and supervise their execution and liquidation;

(3) To submit a report annually to the Legislative Assembly, at its first regular session, covering the preceding fiscal year, including details on the work of the Comptroller's office and any opinions or suggestions deemed necessary for a better handling of public funds;

(4) To examine, audit, and close the accounts of State institutions and public officials;
(5) Others conferred by this Constitution or the laws.

Chapter III

The National Treasury

Art. 185. The National Treasury is the center of operations for all national revenue offices; this is the only organ which has the legal power to pay out funds in the name of the State and to receive sums of money which, as revenue or for any other reason, should enter the nation's vaults.

Art. 186. The treasury is in charge of a National Treasurer and Assistant Treasurer. Both officials are independent in the exercise of their functions, which shall be regulated by law. They are appointed by the Council of Government, for a term of four years, and may be removed only for due cause.

Art. 187. Any expenditure by the National Treasury, not relating to the salaries of the permanent personnel of the Public Administration included in the budget, must be published in the Diario Oficial.

Excepted from this formality are those expenditures which for very special reasons the Council of Government believes should not be published, but in this event the Legislative Assembly and the Comptroller's office shall be notified immediately and confidentially.

Title XIV

THE AUTONOMOUS INSTITUTIONS

Sole Chapter

Art. 188. The autonomous institutions of the State enjoy independence in matters of government and administration, and their directors are responsible for their management.

Art. 189. The autonomous institutions are:

(1) The State banks;
(2) The State insurance institutions;
(3) Those established by this Constitution and new agencies that may be created by the Legislative Assembly by a vote of not less than two thirds of its entire membership.

Art. 190. In the discussion and passage of bills relating to an autonomous institution, the Legislative Assembly shall first hear the opinion of that entity.

Title XV

THE CIVIL SERVICE

Sole Chapter

Art. 191. A civil-service statute shall regulate the relations between the State and public employees for the purpose of guaranteeing efficiency in administration.

Art. 192. With the exceptions that are specified in this Constitution

and the civil-service statute, public employees shall be appointed on the basis of proven ability, and may be removed only on grounds for justifiable discharge as provided in labor legislation; or in case of a forced reduction in services, either because of lack of funds or for better organization of such services.

Art. 193. The President of the Republic, the Ministers of Government, and officials who handle public funds are required to declare their property, which must be appraised, in accordance with the law.

Title XVI

THE CONSTITUTIONAL OATH

Sole Chapter

Art. 194. The oath which must be taken by public officials as provided in Article 11 of this Constitution, is as follows:

> "Do you swear before God and promise the fatherland to observe and defend the Constitution and laws of the Republic and faithfully to fulfill the duties of your office? — Yes, I swear. — If you so do, may God help you, and if you do not, may He and the fatherland call you to account".

Title XVII

AMENDMENTS TO THE CONSTITUTION

Sole Chapter

Art. 195. The Legislative Assembly may partially amend this Constitution by adhering strictly to the following provisions:

(1) A proposal in which the amendment of one or more articles is sought must be presented to the Assembly at regular sessions, signed by at least ten deputies;

(2) The proposal shall be read three times at intervals of six days, to determine whether or not it shall be admitted for discussion;

(3) If such action is affirmative, it shall be sent to a committee appointed by absolute majority of the Assembly, which is to submit its report within a period of eight days;

(4) When this report is submitted, it is debated in accordance with procedure for the enactment of laws; the amendment must be approved by a vote of not less than two thirds of the entire membership of the Assembly;

(5) After the amendment is agreed to, the Assembly shall prepare the corresponding bill, through a committee, an absolute majority for approval being sufficient in this case;

(6) The bill is then sent to the Executive Power, and the latter shall send it to the Assembly with the Presidential Message at the next regular legislative period, with his observations or recommendations;

(7) The Legislative Assembly, at the first sessions, shall discuss the bill in three debates, and if it is approved by a vote of not less than two thirds of the entire membership, it shall become a part of the Constitution and communicated to the Executive Power for publication and observance.

Art. 196. The general amendment of this Constitution, after approval of a bill in accordance with the procedure outlined in the preceding article, can be effected only by a Constituent Assembly called for the purpose.

Title XVIII

FINAL PROVISIONS

Sole Chapter

Article 197. This Constitution shall take effect on November 8, 1949 and repeals all others. It maintains in force the existing juridical order, unless this is amended or repealed by the competent organs of the Public Power or is not expressly or implicitly repealed by the present Constitution.

TRANSITORY PROVISIONS

Art. 13. I. Persons who are in the status mentioned in the second and third sections of Article 13 and who at the time this Constitution is promulgated have attained twenty-five years of age and have not opted for Costa Rican nationality, may do so within a period of five years from the date of promulgation.

Art. 85. II. The minimum percentage to which this article refers is obtained as follows: six percent for the year 1950, and one percent more annually in 1951, 1952, 1953 and 1954.

Art. 98. III. For the elections to be held in the present year, application of the rule contained in this article shall be entrusted to the Supreme Electoral Tribunal.

Art. 101. IV. The first election of Magistrates of the Supreme Electoral Tribunal shall be held on May 8, 1951 and the Supreme Court of Justice shall at the same time determine by lot which titular and alternate Magistrates shall serve for two or four years in office. Until the date indicated, the present members of the Tribunal shall continue in office and the Court shall have the power to fill vacancies that may occur during the interval.

Art. 104. V. Within a period of three months following the elections of 1949, the Supreme Electoral Tribunal shall establish, by reorganization of the Registry of Civil Status (Registro de Estado Civil) and the Electoral Registry (Registro Electoral), the single organization provided by Art. 104 of this Constitution, to be known as the Civil Registry (Registro Civil).

Art. 106. VI. Until a general census of the population is taken, the deputies' seats shall be apportioned among the provinces in the same manner as for the Constitutional Congress of 1945.

Art. 116. VII. The Legislative Assembly which is to be chosen at the elections to be held in October 1949, according to call for that purpose made by the Supreme Electoral Tribunal, shall be installed on November eight of that year and shall terminate its functions on October 31, 1953.

The President of the Republic, the Vice Presidents, and the Deputies to the Legislative Assembly who are elected at the polls in 1953, the date of which shall be fixed in due course by the Supreme Electoral Tribunal, shall hold office for four and a half years, that is: the President and Vice Presidents from November 8 of that year to May 8, 1958 and the Deputies from November 1, 1953 to April 30, 1958, in order that thereafter the presidential term may begin on May 8, the Legislative Assembly may be installed on the first of that month, and the elections for President and Deputies may be held in February of the same year.

Art. 132. VIII. For the presidential elections of 1953 the provisions of section (1) of this article do not apply to the President of the present Government Junta.

Art. 138. IX. The Vice Presidents who are to serve for the four-year term included between November 8, 1949 and November 8, 1953 shall be elected simultaneously with the Deputies to the Legislative Assembly at the elections to be held in October 1949.

Art. 140. X. The Civil Service Law shall not enter into force before November 8, 1950 nor after June, 1 1953, as determined by the Legislative Assembly. That body may likewise provide that its rules be applied gradually to the various departments of the Public Administration; in any case, the law must protect all public employees included in section 2 of Article 140 not later than November 8, 1959. Until the Civil Serivce Law is in effect, the President of the Republic and the respective Ministers of Government may freely appoint and remove all officials of their departments, including the directors and managers of the autonomous institutions and members of official boards and organizations whose appointments were made prior to the date this Constitution takes effect, even if such appointments were for fixed terms.

Art. 141. XI. The Ministers of Government who are appointed at the beginning of the next presidential term shall have the functions specified in existing laws concerning the Secretaries of State, until a new law is enacted on the subject.

Art. 156. XII. Judicial matters for the cognizance of administrative officials shall be referred to the courts of the Judicial Power, as designated by law, not later than January 1, 1952 in the capital cities of provinces and on a date to be fixed by the Legislative Assembly for other places in the Republic.

But in all cases, one year after this Constitution takes effect, appeals from orders issued by such officials shall be the exclusive jurisdiction of such courts as the Supreme Court of Justice may name or designate.

Art. 158. XIII. The Supreme Court of Justice to be elected by the next Legislative Assembly at one of its first ten regular sessions shall hold office until May 15, 1955 and shall be installed eight days after its election.

Until the Court thus elected is installed, the present Supreme Court of Justice shall continue to function and the provisions of Article 158 of the Constitution shall not apply.

Art. 159. XVI. The present titular Magistrates may be nominated for the first Supreme Court of Justice to be elected in accordance with this Constitution even though they do not meet the requirements as to age and professional practice imposed by the fourth and fifth sections of Art. 159.

Art. 162. XV. The Supreme Court of Justice to be elected when this Constitution takes effect shall, upon its installation and by secret ballot and majority vote, select its President and the presidents of its several divisions, who shall hold these positions until the Legislative Assembly enacts other legal provisions to regulate Article 162.

Art. 171. XVI. For the elections to be held during the current year, each canton shall elect the same number of titular *regidores* as comprised the Municipal Administrative Councils, and one alternate for each titular position.

The *regidores* who are elected on this occasion shall assume office on December 1, 1949 and shall hold office until November 8, 1953.

Those elected in that year shall hold office until June 30, 1958. The present Municipal Administrative Councils shall continue in office until November 30, 1949.

Art. 173. XVII. Until a law is enacted covering this article, cognizance of appeals from municipal rulings shall continue to be in charge of the Ministry of Government (Interior). The said law must be enacted not later than November 8, 1951.

Art. 178. XVIII. The time limit indicated in Article 178 for approval by the Legislative Assembly shall not govern the budget bill for the fiscal year 1950.

Art. 183. XIX. The appointment of the first Comptroller and Assistant Comptroller shall be made not later than in the year 1950, as soon as the Organic Law of the Comptroller General's Office is promulgated, and shall be for a term expiring May 8, 1956.

Done in the Hall of Sessions of the National Constitutent Assembly —National Palace—San José, on the seventh day of November, nineteen hundred and forty-nine.

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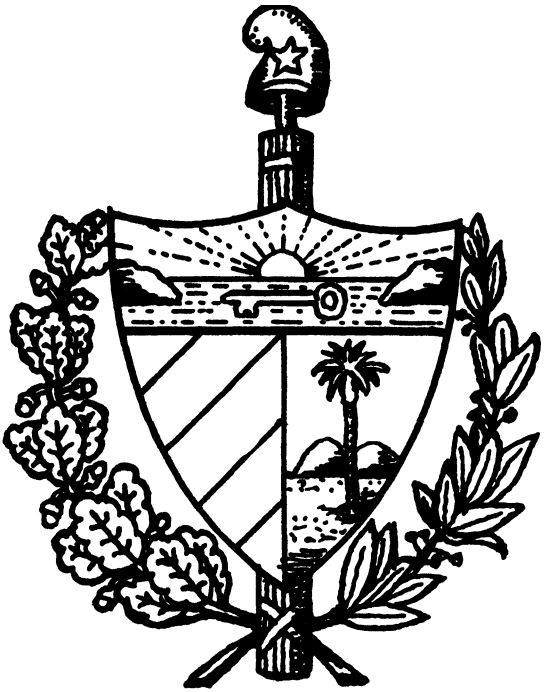
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CUBA

SUMMARY

International Status

Cuba is a member of the United Nations. It signed the Charter of that organization on June 26, 1945, and deposited its ratification on October 15, 1946. It also signed the Declaration of the United Nations of January 1, 1942. As a member of the United Nations, it is automatically a party to the Statute of the International Court of Justice of 1945.[1]

It is a member of the Organization of the American States, the Postal Union, the Telecommunications Union, the International Labor Organ-

[1] Cuba is not, as of the time of our going to press, subject to obligatory jurisdiction of the Court under Article 36 of its Statute. See Yearbook of the Court, 1951–52 pp. 35–43.

ization, and other international organizations.[1] It was a party to the Paris Pact of 1928. It was a member of the League of Nations and a party to the Statute of the Permanent Court of International Justice of 1921.

In the Treaty of Paris of December 10, 1898, effective April, 1899, Cuba was ceded by Spain to the United States. American military rule began on January 1, 1899. The American military authorities transferred the government to the Cuban Congress on May 20, 1902, subject to certain provisions, commonly known as the Platt Amendment, defining the future relationship between Cuba and the United States. A revolution which began in July, 1906, resulted in the resignation of the President, the dispersion of the Congress, and the establishment of a provisional government, under United States military occupation, on September 29, 1906. The American occupation ended and the Republic was reinaugurated on January 28, 1909. The Platt Amendment was "abrogated" by a treaty of May 29, 1934, between Cuba and the United States, and Cuba has since that date been fully independent.

Form of National Government

Cuba until early 1955 was operating under a Constitutional Law promulgated on April 4, 1952.[2] That law provided for the holding of general elections and charged the Council of Ministers with considering whether the Constitution of 1940 should be amended or reinstated in its original form. The general elections were held on November 1, 1954 and the officials elected were sworn in on February 24, 1955, at which time Congress reinstated the Constitution of 1940. The interim Constitutional Law was promulgated after the coup d'etat of March 10, 1952, whereby President Carlos Prio Socarras was ousted by former President Fulgencio Batista. The preliminary declaration included in the interim Constitutional Law declared that it was promulgated in order to maintain the spirit of the 1940 Constitution and to create the conditions in which its purposes could be realized throughout Cuban life in order to accomplish the purposes of the Cuban Revolution.

The Constitution of July 5, 1940, now in force, states that "Cuba is an independent and sovereign nation organized as a unitary and democratic republic, for the enjoyment of political liberty, social justice, individual and collective welfare, and human solidarity." [3]

Source of Sovereign Power

"Sovereignty rests in the people, and from the people all public powers emanate." [4]

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[1] See Table I.

[2] The editor is indebted to the Cuban Embassy in Washington for the information contained in the Summary regarding the present status of the Cuban Constitution.

[3] Const., Art. 1. [4] Id., Art. 2.

Rights of the People

All Cubans are declared to be equal before the law.[1] There are constitutional guarantees against retroactive effect of penal laws;[2] confiscation of property;[3] imposition of the death penalty except for military crimes, treason, and espionage;[4] isolation of prisoners;[5] arbitrary detention;[6] and violence or coercion for compulsion of testimony.[7] The right of presentation in habeas corpus proceedings, freedom of movement, secrecy of mail and other private documents, freedom of expression, inviolability of domicile, freedom of religion, the right of petition, and the rights of assembly and association are also guaranteed.[8] The family, education, and labor are the subjects of detailed protective provisions.[9]

The interim Constitutional Law of 1952 reinstated the death penalty, except for political offenses other than treason and espionage, and provided that all of the rights set out in the 1940 Constitution should be subject to suspension by the President or the Council of Ministers.

Legislative Power

The legislative power is vested in a House of Representatives and a Senate which are jointly called the Congress.[10]

The Senate is composed of nine senators for each of the six provinces, elected for terms of four years by universal, equal, direct, and secret suffrage.[11] The House of Representatives is composed of one member for each thirty-five thousand inhabitants, or fraction in excess of seventeen thousand five hundred, elected in the same manner and for the same terms.[12]

Bills passed by both houses are presented to the President for approval. They become law, notwithstanding his objections, if passed again by vote of two-thirds of the total membership of each house.[13]

The interim Constitutional Law vested the legislative power in the Council of Ministers and the Consultative Council, the latter being a purely consultative body.

Executive Department

The executive power is exercised by the President of the Republic, with a cabinet composed of ministers freely appointed by him.[14] The ministers may appear before Congress, on their own initiative or at the instance of either house, to make reports, answer questions, take part in the debates, or raise questions of confidence.[15] A minister who is a member of the Congress may vote in the body to which he belongs. The ministers,

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[1] Const., Art. 20. [2] Id., Art. 21. [3] Id., Art. 24.
[4] Id., Art. 25. [5] Id., Art. 26. [6] Id., Art. 27.
[7] Id., Art. 28. [8] Id., Arts. 29, 30, 32–37. [9] Id., Arts. 43–46, 47–59, 60–86.
[10] Id., Art. 119. [11] Id., Art. 120. [12] Id., Art. 123.
[13] Id., Art. 137 [14] Id., Arts. 151, 142. [15] Id., Art. 163.

individually and collectively, are subject to removal by the Congress upon questions of confidence.[1]

The interim Constitutional Law provides for the President to be appointed by the Council of Ministers and the Council of Ministers to be appointed by the President and responsible to him.

Judicial Department

The judicial power is exercised by the Supreme Court, the superior Electoral Court, and the other tribunals established by law.[2]

The members of the Supreme Court are appointed by the President with the approval of the Senate.[3] This court is composed of sections determined by law. When sitting as the court of constitutional and social guarantees, it cannot be composed of less than fifteen members.[4]

The Superior electoral court is composed of three members of the Supreme Court and two members of the court of appeals of Havana.[5]

The interim Constitutional law provided that the members of the Supreme Court should be appointed by the President from a list of candidates proposed by an electoral college of nine members.

Area, Population, Language

The area of Cuba, including the Isle of Pines and surrounding keys, is 44,164 square miles. Its population, estimated as of 1951, is 5,469,000. The language is Spanish.

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[1] Const., Arts. 164, 165. [2] Id., Art. 171. [3] Id., Arts. 142, 180.
[4] Id., Art. 172. [5] Id., Art. 184.

CONSTITUTION of the REPUBLIC OF CUBA

July 5, 1940 [1]

WE, the delegates of the people of Cuba, assembled in a constitutional convention for the purpose of providing the people with a new fundamental law which will consolidate its organization as an independent and sovereign nation, suitable, for insuring liberty and justice, maintaining order and promoting the general welfare, resolve, after invoking the favor of God, upon the following Constitution:

TITLE FIRST

THE NATION, ITS TERRITORY AND FORM OF GOVERNMENT

Art. 1. Cuba is an independent and sovereign Nation organized as a unitary and democratic republic, for the enjoyment of political liberty, social justice, individual and collective welfare, and human solidarity.

Art. 2. Sovereignty rests in the people and from the people all public powers emanate.

Art. 3. The territory of the Republic is composed of the Islands of Cuba, the Isle of Pines, and the other adjacent islands and keys which with them were under the sovereignty of Spain until the ratification of the Treaty of Paris of December 10, 1898.

The Republic shall not conclude or ratify any pacts or treaties which in any manner limit or lessen national sovereignty or territorial integrity.

Art. 4. The territory of the Republic is divided into provinces and these latter into municipal districts. The present provinces shall be named: Pinar del Río, La Habana, Matanzas, Las Villas, Camagüey and Oriente.

Art. 5. The flag of the Republic is that of Narciso López, which was raised on Morro Fort at Havana on May 20, 1902, when the public powers were transmitted to the people of Cuba. The national coat of arms is the one established as such by law. The Republic shall not recognize or consecrate, as having a national character, any flag, anthem, or coat of arms other than those to which this Article refers.

On buildings, forts, and public dependencies, and at official acts, no flag shall be raised other than the national one, except foreign flags in those cases and in the manner permitted by protocol and by international usages, treaties, and the laws. As an exception, the flag of Carlos Manuel de Céspedes may be raised in the City of Bayamo, which is declared a national monument.

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[1] Originally put into force October 10, 1940. For Spanish text see Official Gazette No. 484 of July 8, 1940. This translation furnished by Lewis Publications, Presidente Zayas 307, La Habana, Cuba, revised by the editor.

The national anthem is the Hymn of Bayamo composed by Pedro Figueredo, and it shall be the only one played in all government dependencies, barracks, and official acts. Foreign anthems can be played in the cases previously specified in connection with foreign flags.

Notwithstanding what is specified in the second paragraph of this Article, flags pertaining to the armed forces can be raised on forts and barracks. In like manner, societies, organizations, or associations of any kind can raise their flags or insignia on their buildings, but the national flag shall always occupy a preferential place.

Art. 6. The official language of the Republic is Spanish.

Art. 7. Cuba condemns wars of aggression; it aspires to live in peace with other nations and to maintain with them cultural and commercial relations and ties.

The Cuban Nation adopts the principles and practices of international law that favor human solidarity, respect for the sovereignty of peoples, reciprocity between nations, and universal peace and civilization.

Title Second

NATIONALITY

Art. 8. Citizenship involves duties and rights, the adequate exercise of which shall be regulated by law.

Art. 9. Every Cuban is obligated:

(a) To serve the country with arms, in the cases and in the manner established by law;

(b) To contribute to the public expenses in the manner and amount directed by law;

(c) To comply with the Constitution and the laws of the Republic and to conduct himself in a civic manner, inculcating this practice in his own children and those under his care, instilling in them the purest national conscience.

Art. 10. A citizen is entitled:

(a) To reside in his country without being subjected to any discrimination or extortion of any kind, no matter what his race, class, political opinions ,or religious beliefs;

(b) To vote as the law directs in elections and referenda that are called in the Republic;

(c) To receive the benefits of social assistance and public co-operation, after evidencing in the first case the fact that he is a pauper;

(d) To perform public functions and hold public offices;

(e) To the preference directed by the Constitution and the law, with respect to labor.

Art. 11. Cuban citizenship is acquired by birth or by naturalization.

Art. 12. Cubans by birth are:

(a) All persons born in the territory of the Republic, excepting the children of foreigners in the service of their government;

(b) Those born in foreign territory, of a Cuban father or mother, by the mere fact of such children taking up residence in Cuba;

(c) Those who, having been born outside of the territory of the Republic of a father or mother who is a native of Cuba but who lost that nationality, claim Cuban citizenship in the manner and subject to the conditions fixed by law;

(d) Foreigners who rendered service for a year or more in the army of liberation, remaining in it until the termination of the War for Independence, provided they evidence this status by a legally sufficient document issued by the national archives.

Art. 13. Cubans by naturalization are:

(a) Foreigners who, after five years of continuous residence in the territory of the Republic and not less than one year after having declared their intention to acquire Cuban nationality, obtain citizenship papers in accordance with law, provided they are familiar with the Spanish language;

(b) Foreign men who marry Cuban women, and foreign women who marry Cuban men, when children are born of that union or they reside in the country continuously for two years after being married, and provided that they first renounce their original nationality.

Art. 14. Citizenship papers and certificates of Cuban nationality shall be exempt from taxation.

Art. 15. Cuban citizenship is lost by:

(a) Those who acquire foreign citizenship;

(b) Those who, without permission from the Senate, enter the military service of another nation, or perform functions which carry with them their own authority or jurisdiction.

(c) Naturalized Cubans who reside for three consecutive years in their country of birth, unless each three years they state before the corresponding consular authority their will to retain Cuban citizenship.

Crimes and reasons of unworthiness producing loss of citizenship by naturalizations, by means of a final sentence of the competent courts, can be determined by law;

(d) Naturalized citizens who accept a double citizenship.

The loss of citizenship for the reasons specified in Sections (b) and (c) of this Article shall be made effective only by a final decision in proceedings in which the interested person is heard, before a court of justice, as provided by law.

Art. 16. Neither marriage nor its dissolution affects the nationality of the spouses or their children.

A Cuban woman married to a foreign man shall retain Cuban nationality.

A foreign woman married to a Cuban man and a foreign man married to a Cuban woman shall retain their original nationality or shall acquire Cuban nationality, by a choice regulated by the Constitution, the law, or international treaties.

Art. 17. Cuban citizenship can be recovered in the manner prescribed by law.

Art. 18. No Cuban by naturalization can perform, in the name of Cuba, official functions in his country of origin.

Title Third

ALIENAGE

Art. 19. Aliens residing in the territory of the Republic shall have the same status as Cubans:

(a) With respect to the protection of their persons and property;

(b) With respect to the enjoyment of the rights recognized in this Constitution, except as to those exclusively granted to natives.

The government, nevertheless, has the power to compel an alien to leave the national territory in the cases and manner specified by law.

In the case of aliens with a Cuban family established in Cuba, a judicial decision shall be necessary to accomplish the expulsion, as prescribed by laws on the subject.

The organization of associations of aliens shall be regulated by law, without permitting discrimination against the rights of Cubans who form part of such associations;

(c) In the obligation to abide by the social economic-régime of the Republic;

(d) In the obligation to observe the Constitution and the law;

(e) In the obligation to contribute toward public expenses in the manner and amount directed by law;

(f) In submission to the jurisdiction and resolutions of the courts and authorities of the Republic;

(g) With respect to the enjoyment of civil rights, under the conditions and with the limitations prescribed by law.

Title Fourth

FUNDAMENTAL RIGHTS

Section First

Individual Rights

Art. 20. All Cubans are equal before the law. The Republic recognizes neither personal exemptions nor privileges.

All discrimination by reason of sex, race, color, class, or any other that detracts from human dignity, is declared unlawful and punishable.

The sanctions incurred by those who violate this precept shall be established by law.

Art. 21. Penal laws shall have retroactive effect when they are favorable to the delinquent. There are excluded from this benefit, in cases where fraud was involved, public officers or employees who commit a crime in the exercise of their office, and those responsible for electoral crimes and crimes against the individual rights guaranteed by this Constitution. Those who commit these crimes shall have applied to them the penalties and qualifications according to the law in force at the time the crime is committed.

Art. 22. No other laws shall have retroactive effect, unless the law itself so determines for reasons of public order, of social utility, or national necessity, expressly specified in the law, which must have a favorable vote of two-thirds of the total number of members of each co-legislative body. If the grounds for retroactivity are impugned in unconstitutionality proceedings, it shall be the court of constitutional and social guarantees that shall decide thereon, and it cannot, for technical reasons or any other motive whatever, refrain from doing so.

In every case the law itself must establish the degree, manner, and form in which indemnity will be paid for the damages, if any, which the retroactivity causes to rights legitimately acquired in accordance with prior legislation.

A law approved in accordance with this Article shall not be valid if it produces effects contrary to the provisions of Article 24 of this Constitution.

Art. 23. Obligations of a civil character arising from contracts or from other acts or omissions producing them cannot be annulled or altered by either the legislative or the executive branch, and laws can consequently not have retroactive effect with respect to the said obligations. The exercise of the rights of action derived from them can be suspended in a case of serious national crisis, for such time as is reasonably necessary, by virtue of the same requisites and subject to the impugnability referred to in paragraph first of the preceding Article.

Art. 24. Confiscation of property is prohibited. No one can be deprived of his property by competent judicial authority and for a justified cause of public utility or social, and always after payment of the corresponding indemnity in cash, judicially fixed. No-compliance with these requisites shall determine the right of the person whose property has been expropriated, to be protected by the courts, and, if the case calls for it, to have his property restored to him.

The reality of the cause of public utility or social interest, and the need for the expropriation, shall be decided by the courts in case of impugnation.

Art. 25. The death penalty cannot be imposed. Exception is made as to members of the Armed Forces, for crimes of a military character, and as to persons guilty of treason, or of espionage in favor of the enemy at a time of war with a foreign nation.

Art. 26. The law of criminal procedure shall establish the guarantees that are necessary in order that every crime may be proved independently of the testimony of the accused, the spouse, and also the relatives thereof to the fourth degree of consanguinity and second degree of affinity. The accused shall be considered innocent until a condemnatory sentence is issued against him.

In all cases, the authorities and their agents shall make a record of the arrest, which shall be signed by the person arrested, who shall be informed, by the authority who ordered it, of the reason for it and the place to which he is going to be taken, all of these details being entered on the record.

Registers of arrested persons and prisoners are public.

Every act against the personal integrity, safety, or honor of an arrested person shall be imputable to those who apprehend or guard him, in the absence of proof to the contrary. A subordinate can refuse to comply with orders which violate this guarantee. A guard who uses arms against an arrested person or a prisoner who attempts flight shall be necessarily blamed and responsible, according to law, for the crime that he commits.

Persons arrested or imprisoned for political or social reasons shall be confined in separate quarters from common criminals and shall not be required to do any labor whatever or subjected to the prison regulations for common prisoners.

No arrested person or prisoner shall be kept isolated.

Violations of this precept shall be tried by only the regular courts, whatever the place, the circumstances, and the persons participating in the arrest.

Art. 27. Every arrested person shall be placed at liberty, or delivered to the competent judicial authority, within twenty-four hours following his arrest.

Every arrest shall be set aside or shall be converted into imprisonment, by a judicial decision stating the reasons for it, within seventy-two hours after the arrested person is placed at the disposition of the competent judge. The interested person shall within the same period be notified of the decision rendered.

Persons imprisoned but not yet convicted shall be kept in places distinct and completely separate from those utilized for serving sentences, and those so imprisoned cannot be compelled to do any work whatever or be subjected to the prison regulations for those serving sentences.

Art. 28. No one shall be indicted or condemned except by a competent judge or court, by virtue of laws antedating the crime and with the formalities and guarantees established by them. No sentence shall be pronounced against an indicted person in default nor shall anyone be condemned in a criminal cause without being heard. Neither shall anyone be compelled to testify against himself, or against his or her spouse or relatives within the fourth degree of consanguinity or second degree of affinity.

No violence or coercion of any kind shall be exercised on persons to compel them to testify. All testimony obtained in violation of this precept shall be null, and those responsible shall be subject to the penalties fixed by law.

Art. 29. Everyone who is arrested or imprisoned outside of the cases or without the formalities and guarantees specified by the Constitution and the law shall be placed at liberty, on his own request or that of any other person, without the necessity of a power of attorney or the services of a lawyer, by means of summary habeas corpus proceedings before the regular courts.

The court cannot decline its jurisdiction, or consider questions of competency in any case or for any reason, or defer its decision, which shall have preference over any other matter.

Presentation, before the court which issued the writ of habeas corpus, of every arrested or imprisoned person, regardless of the authority or officer, person, or entity holding him, is absolutely obligatory, and no allegation of due obedience can be made.

All provisions that impede or retard the presentation of the person deprived of liberty, as well as those causing any delay in the habeas corpus proceedings, shall be null, and the judicial authority shall so declare on its own initiative.

When the arrested or imprisoned person is not presented before the court hearing the habeas corpus proceedings, that court shall order the arrest of the violator, who shall be judged as provided by law.

Judges or justices who refuse to admit an application for a writ of habeas corpus, or who do not comply with the other provisions of this Article, shall be removed from their respective offices by the government section of the Supreme Court.

Art. 30. Any person can enter and remain in the national territory, leave it, remove from one place to another, and change his residence, without necessity for a letter of safe-conduct, passport, or other similar requisite, except what is provided by the immigration laws and the powers of the authorities in case of criminal liability.

No one shall be compelled to change his domicile or residence, except by mandate of a judicial authority and in the cases and with the requisites specified by law.

No Cuban can be expatriated nor shall his entry into the territory of the Republic be prohibited.

Art. 31. The Republic of Cuba offers and recognizes the right of asylum for political refugees, provided that those who avail themselves of it respect the national sovereignty and laws.

The Nation will not authorize extradition of those guilty of political crimes nor will it attempt to obtain extradition of Cubans guilty of those crimes who take refuge in foreign territory.

When expulsion of an alien from the national territory is proper in accordance with the Constitution and the law, the expulsion shall not be effected, in the case of a political exile, to the territory of the nation that may claim him.

Art. 32. Secrecy of mail and other private documents is inviolable, and neither the former nor the latter can be seized or examined except by official agents or officers, by virtue of a decree, stating its reasons, issued by a competent judge. In every case secrecy shall be maintained with respect to details alien to the matter that led to the seizure or examination. Secrecy of telegraphic, telephonic, and cablegraphic communication is declared inviolable on the same terms.

Art. 33. Every person can, without subjection to prior censorship, freely express his thoughts orally, in writing, or by any other graphic or oral means of expression, utilizing for the purpose any or all of the available means of diffusion.

Editions of books, booklets, phonograph records, films, newspapers, or publications of any kind can be seized only when they attack the honor of persons, the social order or the public peace, and as the result of a resolution, stating its reasons, issued by a competent judicial authority and without prejudice to the responsibilities resulting from the criminal act committed.

In the cases to which this Article refers, there can be no seizure of or interference with the use and enjoyment of the premises, equipment, or instruments used by the organ of publicity in question, for liability.

Art. 34. Domiciles are inviolable, and consequently no one can enter at night the domicile of another without the consent of its occupant, unless it be to rescue the victims of a crime or disaster; nor by day, except in the cases and in the manner determined by law.

In case of the suspension of this guarantee, it shall be an indispensable requisite, for entering a person's domicile, that it be done by the proper, competent authority, under a written order or resolution, an authentic

copy of which shall be left with the occupant, his relatives, or the nearest neighbor, according to circumstances. When the authorities delegate any of their agents for the purpose, the same procedure shall be followed.

Art. 35. The profession of all religions, as well as the exercise of all cults, is unrestricted, without other limitation than respect for Christian morality and public order.

The Church shall be separate from the State, which cannot subsidize any cult.

Art. 36. Every person is entitled to address petitions to the authorities and to have them attended to and decided in periods not greater than forty-five days, with notice of the decision made.

On lapse of the period fixed by law, or, if there is none, of the period above specified, the interested party can appeal in the manner authorized by law, as if his petition had been denied.

Art. 37. The inhabitants of the Republic are entitled to assemble peacefully and without arms, to parade and associate themselves for all lawful purposes of life, in accordance with the corresponding legal norms, without other limitation than that indispensable to insure public order.

The formation and existence of political organizations contrary to the régime of the democratic representative government of the Republic, or which attack the completeness of the national sovereignty, are unlawful.

Art. 38. Every act which prohibits or limits the participation of citizens in the political life of the Nation is declared punishable.

Art. 39. Only Cuban citizens can exercise public functions which involve jurisdiction.

Art. 40. Legal or administrative provisions, or those of any other kind, which regulate the exercise of the rights which this Constitution guarantees, shall be null if they diminish, restrict, or impair them.

Adequate resistance for the protection of the individual rights above guaranteed is legitimate.

The right of action to prosecute infractions of this Title is public, without surety or formality of any kind, and by a simple denunciation.

The enumeration of the rights guaranteed in this Title does not exclude the others that this Constitution establishes, or others of analogous nature or that are derived from the principle of the sovereignty of the people and from the republican form of government.

Section Second

Constitutional Guarantees

Art. 41. The guarantees of the rights recognized in Articles 26, 27 28, 29, 30 (paragraphs first and second), 32, 33, 36, and 37 (paragraph first) of this Constitution can be suspended, in all or a part of the national territory, for a period not to exceed forty-five calendar days, when the safety of the Nation requires it, or in case of war or of invasion of the national territory, serious disturbance of order, or other which deeply disturb public tranquility.

Suspension of constitutional guarantees can be ordered only by means

of a special law passed by Congress or by a decree of the chief executive; but in the latter case, Congress must be called in the same decree of suspension, to meet within a period of forty-eight hours, to the end that, sitting as a single body, it may ratify or not ratify the suspension by a rollcall majority vote. If Congress thus assembled votes against the suspension, the guarantees shall be automatically re-established.

Art. 42. The territory in which the guarantees referred to in the preceding Article are supended shall be governed by the public order law previously enacted; but neither the said law nor any other can direct the suspension of guarantees other than those mentioned. Neither can new crimes be declared or other penalties be imposed beyond those established by law when the suspension is ordered.

Those arrested for the reasons which led to the suspension must be incarcerated in special places intended for persons indicted or penalized for political or social crimes.

The executive branch is prohibited from detaining any person whatever for more than ten days without delivering him to the judicial authorities.

Title Fifth

THE FAMILY AND CULTURE

Section First

The Family

Art. 43. The family, maternity, and marriage have the protection of the Nation.

Marriage shall be valid only when performed by officers with legal capacity to do so. Judicial matrimony is gratis and shall be maintained by law.

Matrimony is the legal basis of the family and shall rest on an absolute equality of rights for both spouses; its economic régime shall be organized in accordance with this principle.

A married woman has full civil capacity, and does not require permission or authorization from her husband to control her property, freely engage in commerce or industry, or exercise any profession, trade, or art, and to dispose of the proceeds of her labor.

Marriage can be dissolved by agreement of the spouses or on petition of either of the two for the reasons and in the manner established by law.

The courts shall determine those cases in which, for reasons of equity, a union between persons with legal capacity to marry shall, because of their stability and exceptional nature, be given the same status as civil marriage.

Living allowances for the woman and the children shall enjoy preference over every other obligation, and against that preference no plea can be made of exemption of property, salary, pension, or economic income of any kind.

Unless the woman has proven means of subsistence, or is declared guilty, an allowance shall be fixed for her in proportion to the financial position of the husband, and also taking into account the needs of social

life. This allowance shall be paid and guaranteed by the divorced husband and shall continue until his ex-spouse again marries, without detriment to the allowance that will be fixed for each child, which must also be guaranteed.

Adequate penalties shall be imposed by law on those who, in case of divorce or separation, or for any reason, seek to escape or elude that responsibility.

Art. 44. Parents are obligated to support, aid, train, and educate their children, and the latter to respect and aid their parents. The law shall see to the fulfillment of these duties by adequate guarantees and sanctions.

Children born out of wedlock to a person who at the time of conception was competent to marry have the same rights and duties as specified in the preceding paragraph, except as to what the law prescribes with respect to inheritance. To this end, the same rights shall pertain to those born out of wedlock to a married person, when such person acknowledges them, or the relationship is declared by a court decision. Investigation of paternity shall be regulated by law.

All qualifications as to the nature of the relationship are abolished. No statement whatever shall be entered differentiating births, or as to the marital status of the parents, in the birth records, or in any certification, record of christening, or certificate referring to the relationship.

Art. 45. The fiscal régime, insurance, and social aid shall be applied in accordance with the standards of protection for the family, established in this Constitution.

Childhood and youth are protected against exploitation and moral and material abandonment. The Nation, provinces, and municipalities shall organize adequate institutions for the purpose.

Art. 46. Subject to the restrictions specified in this Constitution, Cubans shall be at liberty to bequeath one-half of the estate.

Section Second

Culture

Art. 47. Culture in all of its manifestations is a primordial interest of the Nation. Scientific investigation, artistic expression, and the publication of the results thereof are unrestricted; as is teaching, without prejudice, with respect to the last-named, to the inspection and regulation to which the Nation is entitled, and which is established by law.

Art. 48. Primary instruction is obligatory for minors of school age, and it shall be furnished by the Nation, without prejudice to the co-operation entrusted to municipal initiative.

Both this instruction and pre-primary and vocational instruction shall be gratis when given by the Nation, province, or municipality. The necessary school supplies shall also be gratis.

Lower secondary instruction and all higher instruction furnished by the Nation or the municipalities shall be gratis, excluding specialized pre-university and university study.

At the institutes now created or which may be created in future, having a pre-university status, there can be maintained or established by law the

payment of a modest matriculation fee by way of co-operation, which shall be devoted to the requirements of each establishment.

As far as possible, the Republic shall offer scholarships for the enjoyment of official instruction that is not gratis to youths who, having shown outstanding vocation and aptitude, are prevented by insufficient resources from taking such studies at their own expense.

Art. 49. The Nation shall maintain a system of schools for adults, devoted particularly to the elimination and prevention of illiteracy; predominatly practical rural schools, organized with a view to the interests of the small agricultural, maritime, or other communities, and schools of arts and trades and of agricultural, industrial, and commercial technique, so oriented that they will meet the needs of the national economy. All of this instruction shall be gratis, and the provinces and municipalities, to the extent of their abilities, shall collaborate in their maintenance.

Art. 50. The Nation shall maintain the normal schools indispensable for the technical preparation of the teachers charged with the primary instruction in the public schools. No other institution can issue titles to primary teachers, with the exception of the schools of pedagogy of the universities.

The foregoing provisions are no bar to the right of schools created by law to issue teaching titles in connection with the special matters which they teach.

The teaching titles of special capacity shall carry the right to preferential appointment to positions that are vacant or are created in the respective schools and specialties.

In order to teach domestic science, cutting and fitting, and industries for women, it is necessary to possess the title of teacher of economy, arts, domestic sciences, and industries, issued by the domestic science school.

Art. 51. Public instruction shall be established in an organic form, so that there will be an adequate articulation and continuity all its grades, including the higher ones. The official system shall provide for vocational stimulation and development, bearing in mind the multiplicity of professions and taking into account the cultural and practical needs of the Nation

All instruction, public or private, shall be inspired by a spirit of Cubanism and human solidarity, tending to form in the conscience of students a love for country, for its democratic institutions, and for all those who fought for the former and the latter.

Art. 52. Financial provision for all public instruction shall be made in the budgets of the Nation, the province, or the municipality, and it shall be under the technical and administrative direction of the ministry of education, except such teaching as by its special nature is dependent on other ministries.

The budget of the ministry of education shall not be less than the ordinary budget of any other ministry, except in case of an emergency declared by law.

The monthly salary of a primary teacher must not in any case be less than one-millionth of the total budget of the Nation.

The official teaching staff has the rights and duties of public officers.

The designation, promotions, transfers, and removal of public teachers and professors, inspectors, technicians, and other school officers shall be so regulated that they shall be influenced by no considerations other than strictly technical ones, without detriment to vigilance as to the morals of such officers. All positions in the direction and supervision of official primary instruction shall be filled by technical graduates of the corresponding university course.

Art. 53. The University of Havana is autonomous and shall be governed in accordance with its statutes and with the law, to which the statutes must conform.

The Nation shall contribute to create the university patrimony and to the maintenance of the said university, allotting for this purpose, in its national budgets, the amount fixed by law.

Art. 54. Official or private universities can be created, and any other institutions and centers of higher learning. The conditions by which they will be regulated shall be determined by law.

Art. 55. Official instruction shall be lay. Centers of private instruction shall be subject to regulation and inspection by the Nation; but in every case shall retain the right to give, separately from the technical instruction, the religious education which they desire.

Art. 56. In all teaching centers, public or private, the teaching of the literature, history, and geography of Cuba, as well as of civics and the Constitution, must be done by teachers who are Cubans by birth and with textbooks of authors having the same character.

Art. 57. To engage in teaching, it is necessary to evidence the capacity to do so, in the manner fixed by law.

The non-teaching professions, arts, or trades that require degrees for their exercise, and the manner in which they shall be obtained, shall be determined by law. The Nation shall insure preference, in the furnishing of public services, to citizens officially prepared for the respective specialty.

Art. 58. The Nation shall regulate by law the conservation of the cultural treasures of the Nation, its artistic and historic wealth, and shall especially protect national monuments and places notable for their natural beauty or their acknowledged artistic or historic value.

Art. 59. A national council on education and culture shall be created, which under the chairmanship of the minister of education and culture shall be charged with developing, technically orienting, or inspecting the educational, scientific, and artistic activities of the Nation.

Its opinion shall be heard by Congress on every bill relating to matters of its competency.

Positions on the national council on education and culture shall be honorary and gratuitous.

Title Sixth

LABOR AND PROPERTY

Section First

Labor

Art. 60. Labor is an inalienable right of the individual. The Nation shall employ the resources within its reach to furnish employment to every one who lacks it and shall assure to every manual or intellectual worker the economic conditions necessary to a fitting existence.

Art. 61. Every manual or intellectual worker of public or private enterprises, or of the Nation, provinces, or municipalities, shall be guaranteed a minimum wage or salary, which shall be determined in accordance with the conditions of each region and the normal needs of the worker, from a material, moral, and cultural standpoint, and considering him as the head of a family.

The method of periodically, regulating minimum wages or salaries, by means of commissions on which employers and workers shall be equally represented, for each branch of labor, in accordance with the standard of living and the peculiarities of each region and each industrial, commercial, or agricultural activity, shall be determined by law.

In piece work, work for an agreed price or a lump sum, it shall be obligatory that the minimum wage for a working day be reasonably assured.

The minimum of every wage or salary is non-attachable, except for liabilities for living allowances in the manner established by law. Instruments of labor of the workers are also non-attachable.

Art. 62. A like wage shall always paid for like work under identical conditions, regardless of the persons who perform it.

Art. 63. No deduction not established by law can be made from the salary or wages of manual and intellectual workers.

Claims in favor of workers for pay and day wages earned in the last year shall have preference over all others.

Art. 64. Payment in promissory notes, tokens, merchandise, or any other symbols which it is sought to substitute for legal tender money is totally prohibitied. Violation shall be penalized by law.

Day workers shall receive their wages in a period of not greater than one week.

Art. 65. Social security is established as an irrenounceable and non-prescribable right of workers, with the equitable co-operation of the Nation, employers, and the workers themselves, in order to protect the last-named in an efficacious manner against disability, old age, unemployment, and other contingencies of labor, in the manner determined by law. The right of retirement for long service and that of pension by reason of death are also established.

The administration and government of the institutions referred to in the first paragraph of this Article shall be in charge of bodies chosen by employers and workers, on which they shall be equally represented, and with the participation of a representative of the Nation, in the manner determined by law, except in case the Nation creates a social security bank.

Insurance against labor accidents and occupational diseases is likewise declared obilgatory, exclusively at the expense of employers and under supervision of the Nation.

Social security funds or reserves cannot be subjected to transfer, nor can they be disposed of for purposes other than those for which they were created.

Art. 66. A maximum day's work cannot exceed eight hours. This maximum can be reduced to six hours daily for those over fourteen and less than eighteen years of age.

The maximum working week shall be forty four hours, equivalent to forty-eight in wages, excepting the industries which, because of their nature, must produce uninterruptedly during a certain part of the year. until the definitive regulation of this exception is determined by law.

Work and apprenticeship of minors of less than fourteen years are prohibited.

Art. 67. The right to a paid vacation of one month for each eleven months of work in each calendar year is established for all manual and intellectual workers. Those who, because of the nature of their work or other circumstances, have not worked the eleven months, are entitled to a paid vacation in proportion to the time worked.

When on a national day of mourning or holiday the workmen do not work, employers must pay them the corresponding wages.

There shall be only four national days of mourning and holidays on which it shall be obligatory to close industrial or commercial establishments or public spectacles, as the case may be. The others shall be official days of mourning or holidays and shall be celebrated without suspending the economic activities of the Nation.

Art. 68. No difference can be established between married and unmarried women with respect to their work.

Protection for maternity among working women shall be regulated by law, which shall extend it to women employees.

A pregnant woman cannot be discharged from her work, nor shall she be required, in the three months prior to childbirth, to do work requiring considerable physical effort.

During the six weeks immediately preceding childbirth, and the six that follow it, she shall enjoy compulsory rest, with compensation equal to what she was paid for working, retaining her position and all the rights attached to it and covered by her labor contract. In the nursing period she shall be allowed two special rest periods a day, of one-half hour each, to nurse her child.

Art. 69. The right of syndicalization is acknowledged to employers, private employees, and workers, for the exclusive purposes of their economic-social-activities.

The competent authority shall have a period of thirty days to admit or reject the recording of a labor or employer syndicate. The record shall determine the juridical capacity of the labor or employer syndicate. The recognition of the syndicate by employers and workers, respectively, shall be regulated by la

Syndicates cannot be definitively dissolved without a final decision of the courts.

Boards of directors of these associations shall be composed exclusively of Cubans by birth.

Art. 70. Obligatory official association is established for the exercise of professions requiring university degrees. The manner of constitution and functioning, in such entities, of a superior body of a national character and of the necessary local bodies, so that they will be governed by the majority of the persons associated, with full authority, shall be determined by law.

Obligatory association of the other professions officially recognized by the Nation shall also be regulated by law.

Art. 71. The right of workers to strike, and of employers to stop work, is recognized, in conformity with regulations which will be established by law for the exercise of both rights.

Art. 72. The system of collective labor contracts, which shall be of obligatory fulfillment by employers and workers, shall be regulated by law.

Stipulations implying renunciation, diminution, impairment, or waiver of any right recognized in favor of the worker, in this Constitution or by law, shall be null and shall not be binding on the contracting parties, even though they are expressed in a labor contract or any other pact whatever.

Art. 73. Cubans by birth shall be given a preponderating participation in labor, both in the total amount of wages and salaries, and in the different categories of work, in the manner determined by law.

Protection shall also be given to naturalized Cubans with a family born in the national territory, in preference to naturalized Cubans who do not meet those requirements, and in preference to foreigners.

In the holding of indispensable technical posts, foreigners shall be excepted from the provisions in the foregoing paragraphs, subject to the formalities specified by law and always on the condition of teaching native apprentices the technical work in question.

Art. 74. The minister of labor shall see, as an essential part among others of his permanent social policy, that in the distribution of opportunities to work in industry and commerce, no discriminatory practices of any kind prevail. In removals of personnel and in the creation of new positions, as well as in new factories, industries, or businesses that are established, it shall be obligatory to distribute the opportunities for work without distinction as to race or color, provided the requisite qualifications as to ability are met. It shall be provided by law that every other practice shall be punishable and prosecutable on official initiative or at the instance of an affected party.

Art. 75. The formation of co-operative enterprises, whether commercial, agricultural, industrial, of consumption, or of any other character, shall be favored by law; but the definition, constitution, and functioning of such enterprises shall be so regulated by law that they shall not serve to elude or impair the provisions which this Constitution established for the labor regimen.

Art. 76. Immigration shall be regulated by law, taking into considera-

tion the national economic system and social needs. Importation of contract laborers is prohibited, as is all immigration that tends to reduce working conditions to a low level.

Art. 77. No enterprise can discharge a worker without due proceedings and the other formalities established by law, which shall determine the just causes for discharge.

Art. 78. An employer shall be responsible for compliance with social laws, even when he contracts the work through an intermediary.

In all industries and kinds of work in which technical knowledge is required, apprenticeship in the form established by law shall be obligatory.

Art. 79. The Nation shall promote the building of cheap dwellings for workers.

The law shall determine the enterprises which, because they employ workers away from populated places, shall be required to furnish to the workers suitable dwellings, schools, infirmaries, and other services and attentions favorable to the physical and moral welfare of the worker and his family.

The conditions that must be met by shops, factories, and working premises of all kinds shall in like manner be regulated by law.

Art. 80. A social welfare service shall be established under the direction of the ministry of health and social welfare, organizing it by means of the pertinent legislation and providing the necessary reserves through funds determined by law.

The hospital, sanitary, forensic, and other careers are established that are necessary to organize in an adequate manner the corresponding official services.

Beneficent institutions of the Nation, provinces, and municipalities shall furnish their services gratuitously only to paupers.

Art. 81. Mutuality is recognized as a social principle and practice.

Its functioning shall be regulated by law in such manner that persons of modest resources shall enjoy its benefits, and it will serve, at the same time, as a just and adequate protection to professional men.

Art. 82. Professions which require an official title, with the exception of what is provided in Article 57 of this Constitution, can be practiced only by Cubans by birth and the naturalized ones who were naturalized five years or more prior to the date on which they apply for authorization to practice. Congress can, nevertheless, by a special law, provide for the temporary suspension of this precept when, for reasons of public utility, the co-operation of foreign professional men or technicians is necessary or advisable in carrying out public or private initiatives of national interest. The law which so provides shall fix the scope and term of the authorization.

In the fulfillment of this precept, and in the cases in which a law or regulation governs the exercise of any new profession, art, or trade, the right to work acquired by persons who up to that time had practiced the profession, art, or trade in question, shall be respected and the principles of international reciprocity shall be observed.

Art. 83. The manner in which factories and shops can be moved from

one place to another shall be regulated by law, for the purpose of preventing the lowering of working conditions.

Art. 84. Problems deriving from the relations between capital and labor shall be submitted to conciliation commissions, composed of an equal number of representatives of employers and workers. The judicial officer who will preside over the said commissions and the national court to which their resolutions shall be appealable shall be specified by law.

Art. 85. In order to insure execution of social legislation, the Nation shall provide for vigilance over and inspection of enterprises.

Art. 86. The enumeration of the rights and benefits to which this Section refers does not exclude others that are derived from the principle of social justice, and they shall be equally applicable to all factors concurrent in the process of production.

Section Second

Property

Art. 87. The Cuban Nation recognizes the existence and legitimacy of private property in its broadest concept as a social function and without other limitations than those which, for reasons of public necessity or social interest, are established by law.

Art. 88. The subsoil pertains to the Nation, which can grant concessions for its exploitation, as established by law. Mining rights granted and not exploited within the period fixed by law shall be declared null and restored to the Nation.

The land, the forests, and concessions for exploitation of the subsoil, utilization of waters, means of transportation, and every other public service enterprise must be exploited in a manner that tends to social well-being.

Art. 89. The Nation shall have the right, at every adjudication or forced sale of real estate, and of securities representing real estate, to bid it or them in by meeting the most favorable terms offered by any other bidder.

Art. 90. Large landholdings are proscribed, and to do away with them the maximum amount of land that each person or entity can have, for each kind of exploitation to which land is devoted, and bearing in mind the respective peculiarities, shall be specified by law.

The acquisition and possession of land by foreign persons and companies shall be restrictively limited by law, which shall provide measures tending to restore the land to Cubans.

Art. 91. The head of a family who inhabits, cultivates, and directly exploits a rural property owned by him, provided the value of it is not more than two thousand dollars, can irrevocably declare it to be family property, to the extent that this is indispensable for his residence and subsistence, and it shall be exempt from taxes and shall be unattachable and inalienable except for liabilities prior to this Constitution. Improvements which exceed the aforesaid amount shall pay the corresponding taxes in the manner established by law. In order that the said property

may be exploited, its owner can encumber or pledge crops, plantings, produce, and products thereof.

Art. 92. Every author or inventor shall enjoy the exclusive ownership of his work or invention, with the limitations as to time and manner specified by law.

Concessions for industrial and commercial marks and other recognitions of commercial reputation with indications of Cuban origin shall be null if they are used in any manner to protect or cover articles manufactured outside of the national territory.

Art. 93. No perpetual encumbrances can be imposed on property, in the form of *censos* and others of analogous nature, and their establishment is therefore prohibited. Congress shall, within a period of three sessions, approve a law regulating the liquidation of existing ones.

Censos or encumbrances established or that may be established for the benefit of the Nation, the province, or the municipality, or in favor of public institutions of any kind or of private beneficent institutions, are excepted from the provisions of the foregoing paragraph.

Art. 94. It is an obligation of the Nation to take a census of the population each ten years, that will reflect all economic and social activities of the country, and also to publish regularly a statistical annual.

Art. 95. Property of beneficent institutions is declared non-prescribable.

Art. 96. Parcels of land that were donated by persons of the old Spanish nobility for the foundation of a town or city and were actually used for that purpose, acquiring the character of a municipality, but were subsequently occupied or recorded by the heirs or successors of the donor, are declared of public utility and consequently subject to expropriation by the Nation, province, or municipality.

Residents of the said town or city who possess buildings or occupy lots in the urbanized part can obtain from the expropriating entity the conveyance of the ownership and possession of the lots or parcels they occupy, by means of payment of the corresponding proportional price.

Title Seventh

Suffrage and Public Office

Section First

Suffrage

Art. 97. Universal, equal, and secret suffrage is established for all Cuban citizens, as a right, duty, and function.

This function shall be obligatory; and every one who fails to vote at an election or referendum, except for an impediment admitted by law, shall be subject to the penalties imposed on him by law and shall be ineligible to hold any magistracy or public office of any kind for two years from the date of the infraction.

Art. 98. Through the medium of a referendum the people shall express its opinion on the questions submitted to it.

At every election or referendum, decision shall be by majority of validly cast ballots, with the exceptions established in this Constitution. The result shall be made public in an official manner as soon as it is known to the competent body.

Votes shall be counted solely and exclusively for the person in whose favor they were cast, and cannot be accumulated with those of another candidate. In addition, in cases of proportional representation, the votes cast in favor of a candidate shall be counted to determine the party factor.

Art. 99. All Cubans of both sexes, over twenty years of age, are voters, with the exeception of the following:

(a) Occupants of asylums;
(b) Those who are mentally incompetent, after judicial declaration of their incompetency;
(c) Those who are judicially disqualified because of crime;
(d) Individuals pertaining to the armed forces or the police who are in active service.

Art. 100. The electoral code shall provide for an identity certificate with the photograph of the voter, his signature and fingerprints, and the other requisites necessary for best identification.

Art. 101. Every form of coercion to compel a citizen to join a party, vote, or state his will at any electoral operation is punishable.

This infraction shall be punished, and when the coercion is exercised, personally or through an intermediary, by an authority or his agent, officer or employee, a double penalty shall be applied, in addition to imposing that of permanent disqualification to hold public office.

Art. 102. The organization or political parties and associations is unrestricted. Political groups based on race, sex, or class cannot, however, be formed.

For the organization of new political parties, it is indispensable to present, with the corresponding application, a number of memberships equal to or greater than two per centum of the corresponding electoral census, according to whether they are national, provincial, or municipal parties. A political party which at a general or special election does not obtain a number of votes representing the said percentage shall cease to be such and shall be automatically removed from the register of political parties. A ticket can be presented only by the political parties which, having a number of members not less than that fixed in this Article, have been organized or reorganized, as the case may be, prior to the election.

Political parties shall be reorganized in a single day, six months prior to each presidential election, or election for governors and for mayors or councilmen, or for delegates to a constitutional convention. The superior electoral court shall, on its own initiative, remove from the register of political parties those which are not reorganized at that time.

The party assemblies shall retain all of their faculties and cannot be dissolved except by lawful reorganization. In every case they shall be the sole bodies charged with making nominations, which faculty cannot be delegated in any case.

Art. 103. Rules and procedures guaranteeing the participation of minorities in the preparation of the census of voters, in the organization

and reorganization of political associations and parties, and in the other electoral operations shall be established by law, which shall ensure their representation on the electoral bodies of the Nation, provinces, and municipalities.

Art. 104. All provisions modifying electoral legislation which are issued after election or referendum has been called, or prior to the time those elected take possession, or the definitive result of the referendum is known, are null.

Modifications expressly requested by the superior electoral court and passed by two-thirds of Congress are excepted from this prohibition.

From the calling of elections until the taking of possession of those elected, the superior electoral court shall have jurisdiction over the armed forces and over the police forces, for the sole purpose of guaranteeing the purity of the electoral function.

Section Second

Public Offices

Art. 105. Public officers, employees, and workers are those who, after a demonstration of capacity and fulfillment of the other requisites and formalities established by law, are designated by competent authority to perform public functions or services, whether receiving or not receiving a salary or wage as a charge on the budgets of the Nation, a province, or a municipality, or from autonomous entities.

Art. 106. Civil public officers, employees, and workers of all branches of the Nation, those of the provinces, the municipalities, and the autonomous entities, or corporations, are servants exclusively of the general interests of the Republic and their non-removability is guaranteed by this Constitution, with the exception of those who hold political offices and positions of confidence.

Art. 107. Political offices and positions of confidence are:

(a) Ministers and assistant secretaries of departments; ambassadors, envoys extraordinary and ministers plenipotentiary, and, in the cases in which they are not declared by law to be technicians, directors general;

(b) All personnel attached to the immediate private office of ministers and assistant secretaries of departments;

(c) Private secretaries of officers;

(d) Secretaries of provincial and municipal administrations, heads of departments of these bodies, and the personnel attached to the immediate private offices of governors and mayors;

(e) Civil public officers, employees and workers appointed temporarily as a charge on contingent allotments, the duration of which is not for a full fiscal year.

Art. 108. Entry into and promotion in public offices not excepted in the preceding Article can be obtained only after the applicants have met the requisites and undergone, in competition as to their merits, the tests of ability and capacity that shall be established by law, except in those cases in which, because of the nature of the functions in question, they are declared by law to be exempt.

Art. 109. No administrative penalties can be imposed on public offi-

cers, employees, and workers without prior proceedings, in which the interested party shall be heard, and subject to the appeals that shall be established by law. The proceedings shall always be summary ones.

Art. 110. A public officer, employee, or worker who substitutes for one removed from his position shall be considered to be temporary substitute until the situation of the one substituted is definitively resolved, and can invoke, in case of need, only the rights to which he is entitled in the position from which he comes.

Art. 111. Compulsory furloughs can be declared only by consolidation or elimination of positions, respecting the seniority of those cocupying them. Those furloughed shall have a preferential right, based on seniority, to occupy positions of equal or analogous functions that are established or become vacant in the same category, or in the immediately lower one.

Art. 112. No one can simultaneously hold more than one office that is compensated, directly or indirectly, by the Nation, a province, a municipality, or autonomous entities or corporations. with the exception of the cases specified by this Constitution.

Pensions or retirement allowances of the Nation, provinces, and municipalities are dependent on the needs of their beneficiaries. Those who have property of their own can receive only the part of the pension or retirement allowance that is necessary in order that, when added to their own income, it may not exceed the maximum pension that shall be fixed by law. The same criterion shall be applied to the receipt of more than one pension.

No one can effectively receive, for any reason whatever, a pension or retirement allowance of more than $ 2,400 per annum, and the scale for their payment shall be unified and extended to all pensions or retirement allowances.

Persons now enjoying pensions or retirement allowances greater than $ 2,400 per annum shall not effectively receive a greater annual amount.

Members of the army of liberation of Cuba, their widows, and children entitled to a pension, are excepted from the provisions of the foregoing paragraphs, as an act of homage of the Republic to its liberators.

Art. 113. Monthly payment of retirement allowances and pensions for services rendered to the Nation, the provinces, and the municipalities, in the proportion permitted by the condition of the public treasury, which shall in no case be less than fifty per cent of the lawful basic amount, shall be an obligation of the Nation.

The amounts for retirement allowances and pensions shall be included each year in the general budget of the Nation.

No pension or retirement allowance shall be less than the minimum daily wage in force by virtue of what is established in Article 61 of the Constitution.

Retirement allowances and pensions of officers and employees of the Nation, the provinces, and the municipalities, comprised in the general pension law in force, shall be paid at the same time that officers and employees in active service receive their pay, the Nation, provinces, and

municipalities, as the case may be, being obligated to raise the necessary resources to meet this obligation.

Payment of pensions to veterans of the War for Independence, and to their families, shall be considered preferential to every other obligation of the Nation.

Art. 114. Entry into the notarial career and into the body of registrars of property shall in future be by competitive examination regulated by law.

Art. 115. The accumulation and management of social retirement funds can be independent, in the manner determined by law; but within four sessions following the promulgation of this Constitution, Congress shall enact a law establishing the norms of a general character by which all existing retirement allowances and pensions, or any that are created in future, shall be governed, with reference to benefits, contributions, minimum requisites, and guarantees.

Art. 116. To resolve questions relative to public services, a body of an autonomous character is created, which shall be denominated board of public offices and shall be composed of seven members, designated in the following manner:

One, by the full bench of the Supreme Court, who must have the same qualifications required to be a member of the said court;

One, designated by the President of the Republic, on resolution of the cabinet, who must be of recognized experience in administrative questions;

One, designated by Congress, who must hold an academic degree issued by an official entity;

One, designated by the university council, from a list of three names submitted for the purpose by the faculty of social sciences, of which he must be a graduate;

One, by the employees of the Nation;

One, by provincial employees, and

One, by municipal employees.

The last three members must have acknowledged experience in their respective branches.

A resolution issued by the board of public offices shall be final from an administrative standpoint, and shall be immediately enforceable, without prejudice to the appeals established by law.

Art. 117. The corresponding penalties for those who infringe the precepts contained in this Section shall be established by law.

Title Eighth

BRANCHES OF THE NATION

Art. 118. The Nation exercises its functions through the medium of the legislative, executive, and judicial branches and the bodies recognized in the Constitution, or which in accordance therewith are established by law.

The provinces and municipalities, in addition to performing their own functions, shall aid in the accomplishment of the purposes of the Nation.

Title Ninth

The Legislative Branch

Section First

The Co-legislative Bodies

Art. 119. The legislative power shall be exercised by two bodies denominated respectively House of Representatives and Senate, which jointly shall be called the Congress.

Section Second

The Senate, Its Composition and Attributes

Art. 120. The Senate is composed of nine senators for each province, elected in each one for a period of four years, by universal, equal, direct, secret suffrage, on a single day and in the manner determined by law.

Art. 121. To be senator it is required:

(a) To be a Cuban by birth;
(b) To be at least thirty years of age;
(c) To have the full enjoyment of civil and political rights;
(d) not to have belonged to the armed forces of the Republic, in active service, during the two years immediately prior to the date of his designation as a candidate.

Art. 122. Attributes proper to the Senate are:

(a) Sitting as a court, to try the President of the Republic when he is accused by the House of Representatives of a crime against the external safety of the Nation, against the unrestricted functioning of the legislative or judicial branches, or infraction of constitutional precepts.

To act in this capacity, it shall be indispensable that the accusation formulated by the House of Representatives have been resolved upon by two-thirds of its members.

For the purposes of this Article, the court shall be composed of the members of the Senate and all members of the Supreme Court, presided over by the person who is chief justice of the Supreme Court at the time;

(b) Sitting as a court, to try members of the cabinet when they are accused by the House of Representatives of a crime against the external safety of the Nation, against the unrestricted functioning of the legislative or judicial branches ,of infraction of constitutional precepts, or any other crime of a political character determined by law;

(c) Sitting as a court, to try provincial governors, when they are accused by the provincial council or by the President of the Republic on resolution of the cabinet, of any of the crimes specified in the preceding paragraph;

In all cases in which the Senate sits as a court it shall be presided over by the chief justice of the Supreme Court. It cannot impose on the accused any penalty other than that of removal from office or removal from and disqualification to hold public office, without prejudice to the imposition on them, by the regular courts, of any other penalty that they have incurred;

(d) To approve the appointments made, with the advice of the cabinet by the President of the Republic, of heads of permanent diplomatic missions and other officers whose appointment requires its approval, according to law;

(e) To approve the appointments of members of the tribunal of account of the Nation;

(f) To designate investigating committees. These shall have the number of members resolved upon by the Senate, the right to summon both private individuals and public officers and authorities to appear before them and testify, and to solicit the data and documents they deem necessary for the purposes of the investigation.

It is the duty of the courts, administrative authorities, and private individuals to furnish to the investigating committees all the data and documents they request. To authorize these committees, a favorable vote of two-thirds of the members of the Senate shall be required when the investigation is of government activities. In any other case, the favorable vote of one more than half shall be sufficient;

(g) To authorize Cubans to enter the military service of a foreign country or to accept from another government an employment or honor that carries with it authority or jurisdiction of its own;

(h) To approve the treaties negotiated by the President of the Republic with other nations;

(i) To request the attendance of members of the cabinet to answer interpellations addressed to them, in accordance with the Constitution;

(j) The other faculties emanating from this Constitution.

Section Third

The House of Representatives, Its Composition and Attributes

Art. 123. The House of Representatives shall be composed of one Representative for each 35,000 inhabitants or fraction in excess of 17,500. Representatives shall be elected by provinces, for a period of four years, by universal, equal, direct, and secret suffrage, on a single day and in the manner prescribed by law. The numerical basis of representation in each province shall be determined by law, in accordance with the latest official national census of population.

One-half of the House of Representatives shall be renewed each two years.

Art. 124. To be representative it is required:

(a) To be a Cuban by birth or by naturalization, and in the latter case to have resided continuously ten years in the Republic, counted from the date of naturalization;

(b) To be at least twenty-one years of age;

(c) To have the full enjoyment of civil and political rights;

(d) Not to have belonged to the armed forces of the Republic, in active service, during the two years immediately prior to the date of his designation as a candidate.

Art. 125. Functions of the House of Representatives are:

(a) To accuse the President of the Republic and the members of the cabinet, before the Senate, in the cases determined in Sections (a) and (b) of Article 122, when two-thirds of the total number of representatives resolve on the accusation at a secret session;

(b) To have priority in the discussion and approval of the general budget of the nation;

(c) All other faculties granted it by this Constitution.

Section Fourth

Provisions Common to the Co-legislative Bodies

Art. 126. The offices of senator and representative are incompatible with any other that is compensated at the charge of the Nation, the

provinces, or the municipalities, or of bodies maintained wholly or partly by public funds, excepting that of minister of the government and that of professor in an official establishment, obtained prior to the election. Appointment as a member of the cabinet can be given to members of the legislative branch, but in no case can the two positions be held by more than half of the members of the cabinet.

Senators and representatives shall receive from the Nation a compensation which shall be the same for both offices. The amount of this compensation can be changed at any time, but the change shall not be effective until the co-legislative bodies have been renewed.

Art. 127. Senators and representatives shall be immune with respect to the opinions they express and the votes they cast in the exercise of their office.

Senators and representatives can be arrested or indicted only by authorization of the body to which they belong. If the Senate or the House of Representatives does not decide on an authorization applied for, within forty consecutive days when it is in session, and following receipt of the petition from the judge or court, the authorization to institute the proceeding and to subject the senator or representative thereto shall be understood as granted. The cause shall not be prosecuted if the body to which the legislator belongs denies the authorization to continue the proceedings.

A legislator can be arrested without the authorization of the body to which he belongs if he is caught in the act of committing a crime. In this case, and if he is arrested or indicted when Congress is not in session, report shall be made immediately to the presiding officer of the respective body, for the proper resolution, and he must immediately call a special session of the co-legislative body in question, to decide exclusively on the authorization requested by the judge or court. If it is not refused within twenty regular meetings held after that notification, it shall be understood that authorization is granted.

Every resolution granting or denying a request for authorization to indict or arrest a member of Congress must be preceded by the reading of the facts that are to serve as a basis for the resolution that is adopted by the respective co-legislative body.

Art. 128. The Senate and the House of Representatives shall open and close their sessions on the same day, shall sit in the same place, and cannot remove to another place, or suspend their sessions for more than three days, except by a joint resolution.

The session cannot be opened nor can meetings be held without the presence of one more than half of the total number of the members of each body. The presence of a quorum shall be determined by a roll call.

Parliamentary immunity shall not comprise or protect acts connected with the veracity and legitimacy of the minutes or with the formalities prescribed for the approval of laws.

Bills must in every case be submitted to a prior roll-call vote on the bill as a whole.

No bill can be voted on in a co-legislative body, without there first being a reasoned report thereon by at least one committee of that body.

Art. 129. Each co-legislative body shall resolve as to the validity of the election of its respective members and as to resignations presented by them. No senator or representative can be expelled from the body to which he belongs except by virtue of a cause previously determined and by resolution of at least two-thirds of the total number of its members.

Each legislative body shall draw up its own rules and shall elect from among its members its president, vice presidents, and secretaries. The president of the Senate shall preside over meetings only when the vice-president of the Republic is absent.

Art. 130. No senator or representative can hold property of the Nation under lease, directly or indirectly, or obtain contracts or concessions of any kind from the Nation.

Nor can he hold the position of counsel, or director, or any office whatever involving jurisdiction in a foreign enterprise or one the business of which is bound up in any manner with an entity having that status.

Art. 131. The relations between the Senate and the House of Representatives not provided for in this Constitution shall be governed by the law of relations between the two co-legislative bodies. An unconstitutionality appeal shall lie against any resolution that violates the said law.

Section Fifth

Congress and Its Attributes

Art. 132. Congress shall assemble in its own right and without necessity for a call, twice a year. It shall not function less than sixty business days, in each one of the sessions, or more than one hundred and forty days in both together. One session shall begin the third Monday in September and the other the third Monday in March.

The Senate and the House of Representatives shall meet in special session in the cases and in the manner determined by their rules or established by the Constitution or by law, and when the President of the Republic calls them in accordance with this Constitution. In the said cases only the matter or matters giving rise to the special session shall be treated.

Art. 133. The Senate and the House of Representatives shall sit as a single body:

(a) To proclaim the President and Vice President of the Republic, on the strength of the respective election certificate submitted by the superior electoral court.

If this certificate shows a tie between two or more candidates, Congress shall proceed to elect the President from among the candidates who received the tie vote in the general election.

If there is a tie in Congress also, another ballot shall be taken, and if this is likewise a tie, the President shall cast the deciding vote.

The procedure established in the preceding paragraphs shall be applicable to the Vice President of the Republic;

(b) In the other cases established by the law of relations between the two co-legislative bodies.

When the Senate and the House of Representatives sit as a single body, the president of the Senate, in his character of president of the Congress,

shall preside, and, in his absence, the speaker of the House of Representatives, as vice president of the Congress.

Art. 184. The following are non-delegable faculties of Congress:

(a) To draw up codes and laws of a general character; to determine the regimen of elections; to enact provisions relative to the national, the provincial, and the municipal administrations, and to pass all other laws and resolutions that it deems advisable on any other matters of public interest or that are necessary for the effectiveness of this Constitution;

(b) To establish the taxes and imposts of a national character that are necessary for the needs of the Nation;

(c) To discuss and approve the budget of expenditures and revenues of the Nation;

(d) To resolve as to the annual reports presented by the tribunal of accounts with respect to the liquidation of the budgets, the state of the public debt, and the national money;

(e) To resolve on loans, but with the obligation to vote at the same time the permanent revenues necessary for payment of interest and amortization;

(f) To resolve what is pertinent with respect to the minting of money determining its standard, fineness, value, and denomination, and to resolve what it deems necessary as to the issuance of fiduciary symbols and as to the banking and financial régime;

(g) To regulate the system of weights and measures;

(h) To enact provisions for the regimen and development of domestic and foreign trade; of agriculture and industry, insurance covering labor and old age, maternity and unemployment;

(i) To regulate the services of communications, taking care of the regimen of railroads, roads, canals, and ports, and land, air, and water traffic, creating those which public convenience requires;

(j) To fix the rules and procedures for obtaining naturalization and regulating the regimen of foreigners;

(k) To grant amnesties in accordance with this Constitution.

Amnesties of common crimes can be resolved upon only by a favorable vote of two-thirds of the total membership of each one of the co-legislative bodies, ratified by a like number of votes in the following session.

Amnesties of political crimes require a like special vote if homicide or murder was committed in connection with them;

(l) To fix the strength of the armed forces and resolve on their organization;

(ll) To give or deny the cabinet or any of its members a vote of confidence, in the manner and at the time determined by this Constitution;

(m) To summon the cabinet or any of its members to reply to interpellations addressed to them. The summons must be issued by each co-legislative body, by notice to the President of the Republic and to the Prime Minister, ten days in advance, specifying the matter to which the interpellation applies.

The minister summoned can be accompanied, when he is to reply to an interpellation or report on a bill, by the advisers whom he designates, but these advisers shall limit themselves to giving the technical reports indicated by the minister who has been interpellated or is reporting;

(n) To declare war and approve peace treaties negotiated by the President;

(ñ) To resolve on all laws directed by this Constitution and those which carry out the principles contained in its norms.

Section Sixth

The Initiation and Preparation of Laws, their Sanction and Promulgation

Art. 135. Initiative as to laws pertains to:

(a) Senators and representatives, in accordance with the regulatory provisions of each body;
(b) To the government;
(c) To the Supreme Court, in matters relative to the administration of justice;
(d) To the superior electoral court in matters within its competency;
(e) To the tribunal of accounts in matters within its competency and jurisdiction;
(f) To citizens. In this case it shall be an indispensable requirement that the initiative be exercised by at least ten thousand citizens qualified to vote.

Every legislative initiative shall be prepared as a bill and shall be submitted to one of the co-legislative bodies.

Art. 136. Laws are classified as regular and special.

Special laws are those which the Constitution indicates as such, organic laws, and any others to which Congress gives that character. All others are regular laws.

Special laws require for their approval the favorable vote of one more than half of the members of each co-legislative body. Regular laws require only the favorable vote of a majority of those present at the meeting at which they are approved.

Art. 137. A bill that obtains the approval of both co-legislative bodies shall necessarily be presented to the President of the Republic by the presiding officer of the body which gave final approval to it, within ten days following the said approval. The President of the Republic, within ten days after receiving the bill and after a resolution of the cabinet, shall sanction and promulgate the law, or shall return it with the objections that he deems proper to the co-legislative body from which it came. When the said body has received the bill, it shall enter the objections integrally on the minutes and shall proceed to discuss the bill again.

If, after this discussion, two-thirds of the total number of members of the co-legislative body vote in favor of the bill, it shall be sent, with the President's objections, to the other body, which shall likewise discuss it, and if it approves the bill by a like majority, it shall be a law.

In all of these cases, ballot shall be by roll-call.

If, within the ten business days following the sending of the bill to the President, he does not return it, it shall be considerd as sanctioned and shall be a law.

If within the last ten days of a session, a bill is presented to the President of the Republic, and he intends to utilize the full period with respect to approval granted him in the preceding paragraph, he shall make his intention known to Congress within a period of forty-eight hours, in order that it may remain in session, if it wishes, until the expiration of the said period. If the President does not do so, the bill shall be considered approved and shall be a law.

No bill which is totally rejected by either of the co-legislative bodies can again be discussed during the same session.

A bill approved by one of the co-legislative bodies shall be preferentially discussed and resolved on by the other. This precept does not apply to special laws.

Every law shall be promulgated within ten days following its approval.

Title Tenth

THE EXECUTIVE POWER

Section First

The Exercise of the Executive Power

Art. 138. The President of the Republic is the chief of the Nation and represents it. The executive power is exercised by the President of the Republic with the cabinet, in accordance with what is established in this Constitution.

The President of the Republic acts as the directing and moderating power and the personification of national solidarity.

Section Second

The President of the Republic, His Attributes and Duties

Art. 139. To be President of the Republic it is required:

(a) To be a Cuban by birth, but if this status is a result of the provisions of Section (d) of Article 12 of this Constitution, it shall be necessary to have borne arms for Cuba, in its wars for independence, for at least ten years;

(b) To be at least thirty-five years of age;

(c) To have the full enjoyment of civil and political rights;

(d) Not to have belonged to the armed forces of the Republic, in active service during the year immediately prior to the date of his designation as a Presidential candidate.

Art. 140. The President of the Republic shall be elected by universal, equal, direct ,and secret suffrage, on a single day, for a period of four years, in accordance with the procedure to be established by law.

The count of ballots shall be made by provinces. The candidate who obtains the greatest number of votes in each one of them shall be credited with a number of provincial votes equal to the total of senators and representatives to be elected, according to law, by the voters of the respective province, and the one who has the greatest number of provincial votes in the entire Republic shall be considered elected.

Anyone who has once held the office cannot again occupy it until eight years after he ceased to hold it.

Art. 141. The President of the Republic, on taking possession of his office, shall swear or promise, before the Supreme Court, to exercise it faithfully, fulfilling and seeing to the fulfillment of the Constitution and the law.

Art. 142. It is the function of the President of the Republic, with the assistance of the cabinet:

(a) To sanction and promulgate the laws, to execute them and see to their execution; to issue, when Congress has not done so, regulations for their best execution; and to issue the decrees and orders which are advisable for this purpose and for whatever is pertinent to the government and administration of the Nation, without in any case contravening what is established by law;

(b) To call special sessions of Congress, or of the Senate only, in the cases which this Constitution specifies, or when necessary;

(c) To suspend sessions of Congress when no agreement is reached for the purpose between the co-legislative bodies;

(d) To present to Congress, at the beginning of each session and whenever opportune, a message referring to the acts of administration, showing the general state of the Republic; and to recommend or initiate the adoption of the laws and resolutions that he considers necessary or useful;

(e) To present the proposed annual budget to the House of Representatives, sixty days prior to the date on which it should become effective;

(f) To furnish to Congress the information that it requests directly or by means of interpellations addressed to the government, as to all kinds of matters which do not require secrecy;

(g) To direct diplomatic negotiations and to make treaties with other nations, which he must submit for the approval of the Senate, without which requisite they will not be valid or binding on the Republic;

(h) With the approval of the Senate, to appoint the chief justice, presiding justices of sections, and associate justices of the Supreme Court, in the manner provided in this Constitution, as well as the heads of diplomatic missions;

(i) To appoint the corresponding officers to fill the other offices established by law, if their appointment is not an attribute of other authorities;

(j) To suspend the exercise of the rights enumerated in Article 41 of this Constitution, in the cases and in the manner which it establishes;

(k) To grant pardons in accordance with what is precribed by the Constitution and by law, except in the case of fraudulent electoral crimes. To pardon public officers and employees penalized for crimes committed in the exercise of their functions, it shall be necessary that they have served at least one-third of the penalty imposed on them by the courts;

(l) To receive diplomatic representatives and accept consular agents of other nations;

(ll) As their supreme head, to direct the armed forces of the Republic;

(m) To provide for the defense of the national territory and the preservation of internal order, making report to Congress. Whenever there is any danger of invasion, or when any rebellion seriously threatens the public security, and Congress is not in session, the President shall call it without delay for such resolution as may be proper;

(n) To execute and see to the execution of all rules, orders, and provisions resolved upon and issued by the superior electoral court;

(ñ) Freely to appoint and remove members of the cabinet, making report to Congress; to replace them when proper in accordance with this Constitution, and to subscribe those resolutions of the cabinet that require it;

(o) To exercise the other attributes expressly conferred on him by the Constitution and by law.

Art. 143. All decrees, orders, and resolutions of the President of the Republic must be countersigned by the corresponding minister, without which requisite they shall lack binding force. In the case of appointment of members of the cabinet, this countersignature shall not be necessary.

Art. 144. The President cannot leave the territory of the Republic without authorization from Congress.

Art. 145. The President shall be responsible, before the full bench of the Supreme Court, for any common crimes that he commits during the exercise of his office, but he cannot be indicted without prior authorization from the Senate, resolved on by affirmative vote of two-thirds of its members. In this case, the court shall decide whether it is proper to suspend him until sentence is pronounced.

Art. 146. The President shall receive from the Nation a compensation that can be changed at any time; but this change shall be effective only in the presidential periods following that in which it is resolved on.

Title Eleventh

THE VICE PRESIDENT OF THE REPUBLIC

Art. 147. There shall be a Vice President of the Republic, who shall be elected in the same manner and for the same period of time as the President and jointly with him. To be Vice President, the same qualifications are required as are prescribed by this Constitution in order to be President.

Art. 148. The Vice President of the Republic shall substitute for the President in cases of absence, incapacity, or death. If the vacancy is definitive, the substitution, shall continue until the end of the presidential term. In case of absence, incapacity, or death of both, the president of Congress shall substitute for them for the rest of the term.

Art. 149. In any case in which the presidential substitutes established by this Constitution are lacking, the presidency of the Republic shall be temporarily occupied by the oldest justice of the Supreme Court, who shall call a national election to be held within a period of not more than ninety days.

When the vacancy occurs in the last year of the presidential term, the substitute justice shall hold office until the term ends.

The person occupying the presidency by reason of any of the substitutions referred to in the preceding Articles cannot be a presidential candidate at the following election.

Art. 150. The Vice President of the Republic is the presiding officer of the Senate and shall have a vote only in case of tie.

The Vice President shall receive from the Nation a compensation that can be changed at any time, but the change shall not be effective until the presidential term following that in which it is resolved upon.

Title Twelfth

THE CABINET

Art. 151. For the exercise of the executive power, the President of the Republic shall be assisted by a cabinet, composed of the number of members determined by law.

One of these ministers shall have the category of Prime Minister, by designation of the President of the Republic, and can act as such with or without portfolio.

Art. 152. To be a minister it is required:

(a) To be a Cuban by birth;
(b) To be at least thirty years of age;
(c) To have full enjoyment of civil and political rights;
(d) To have no business with the Nation, the provinces, or the municipalities.

Art. 153. Each minister shall have one or more assistant secretaries who shall substitute for him in cases of temporary absence or non-attendance.

Art. 154. The Cabinet shall be presided over by the President of the Republic. When the President does not attend meetings of the cabinet, the Prime Minister shall preside. The Prime Minister shall represent the general policy of the government, and the government itself before Congress.

Art. 155. The cabinet shall have a secretary, charged with keeping the minutes of the cabinet, certifying its resolutions, and attending to the despatching of the affairs of the presidency of the Republic and of the cabinet.

Art. 156. The ministers shall be charged with despatching the business of their respective ministries, and shall deliberate and resolve on all questions of general interest that are not attributed to other dependencies or authorities, and shall exercise the faculties pertaining to them in accordance with the Constitution and the law.

Art. 157. Resolutions of the cabinet shall be passed by a majority vote at sessions at which one more than half of the ministers are present.

Art. 158. Ministers shall be personally liable for instruments they countersign, and shall be jointly and severally responsible for those which they jointly resolve upon or authorize.

Art. 159. The Prime Minister and the minister are criminally liable before the Supreme Court for any common crimes they commit in the exercise of their offices.

Art. 160. The ministries of education, health and social welfare, agriculture, and public works shall act exclusively as technical bodies.

Art. 161. The Prime Minister and the ministers shall take oath or promise before the President of the Republic faithfully to fulfil the duties inherent in their offices, as well as to observe and see to the fulfillment of the Constitution and the law.

Art. 162. It shall be the function of the Prime Minister to dispatch with the President of the Republic matters of general policy of the government, and, accompanied by the ministers, the matters of the respective departments.

Art. 168. Attributes of the ministers are:

(a) To fulfill and see to the fulfillment of the Constitution, laws, decree-laws, decrees, regulations, and other resolutions and provisions;
(b) To draw up bills, regulations, decrees, and any other resolutions and present them for consideration of the government;
(c) To countersign, jointly with the Prime Minister, the laws and other documents authenticated by the signature of the President of the Republic, except decrees appointing or removing ministers;
(d) To appear before Congress, on their own initiative or at the instance of either of its bodies, to report before them, reply to interpellations, take

part in their debates, and individually or collectively raise questions of confidence.

A minister who is a member of Congress shall be entitled to vote only in the body to which he belongs.

Title Thirteenth

Sole Section

Relations between Congress and the Government

Art. 164. The Prime Minister and the cabinet are responsible for their acts of government, before the House and the Senate. These bodies can grant confidence to or withold it from the Prime Minister, a minister, or the cabinet as a whole, in the manner specified in this Constitution.

Art. 165. Each co-legislative body can determine the total or partial removal of the cabinet, raising a question of confidence, which shall be presented by means of a motion, stating its grounds, in writing, and with the signature of at least one-third of its members. This motion shall be reported immediately to the other members of the respective body and shall be discussed and voted on one week after its presentation. If not resolved on within two weeks after said presentation, it shall be considered rejected.

In order that these motions may be validly approved, an affirmative majority vote, always by roll call, of one more than half of the total membership of the House of Representatives or of the Senate, respectively, shall be necessary.

The fact that a bill presented by the government or by a minister is voted down, or that a bill returned by the President of the Republic is passed over his veto, shall in no way compel the Prime Minister or the ministers to resign.

If a question of confidence arises simultaneously in both co-legislative bodies, that raised in the House of Representatives shall have preference.

Art. 166. There shall be total and partial crises. A total crisis shall be considered to be that raised with respect to the Prime Minister or that which refers to more than three ministers. The others shall be considered partial.

Art. 167. The faculty of refusing confidence to the entire government, to the Prime Minister, or to any of the ministers forming part of the cabinet, can be exercised only after lapse of at least six months from the original appointment of the cabinet, or from the subsequent production of a total crisis by the approval of a motion of no confidence by the respective co-legislative body, according to the rules established in this Constitution. Ministers who have been named because of removal of their predecessors in a partial crisis can be subjected to a vote of no confidence only after six months from their designation, unless it is a case of a total crisis.

When either of the co-legislative bodies has resolved favorably on a motion of no confidence, it cannot again raise one until a year has elapsed, during which the said faculty shall pertain to the other co-legislative body, which in any case cannot exercise it until at least six months have

elapsed from the appointment of the cabinet or ministers to whom the said question refers.

Two partial crises shall be equivalent to a total crisis, for the purpose of the six months' restriction to which this Article refers.

In no case can questions of confidence be raised in the last six months of each presidential term.

The cabinet can of itself raise a question of confidence with respect to the entirety of its members, or with respect to any of the ministers. In this case it shall be immediately discussed and resolved.

The fact that a motion of confidence raised by the government has previously been decided, does not prevent or restrict Congress from freely exercising its right to raise questions of confidence.

Art. 168. In any case in which confidence is refused to the government or to any of its members, the full government or the members thereof affected by the refusal of confidence shall resign within forty-eight hours following the parliamentary resolution, and if they do not do so they shall be deemed to be removed, and the President of the Republic shall so declare.

The outgoing minister shall temporarily continue in charge following his resignation until delivery to his successor.

Art. 169. A refusal of confidence to the full cabinet or to any of its members means only the non-conformity of the co-legislative body that raised the question with the policy of the minister or of the government as a whole.

A refusal of confidence implies that in the cabinet that is formed or reorganized immediately after the crisis, the ministers whose policy was the subject of the refusal of confidence cannot be named for the same portfolios.

Title Fourteenth

The Judiciary

Section First

General Provisions

Art. 170. Justice is administered in the name of the people, and its dispensation shall be gratis throughout the national territory.

Judges and public prosecutors are independent in the exercise of their functions, and owe obedience only to the law.

Justice can be administered only by those who belong permanently to the judiciary. No member of this branch can exercise any other profession.

Civil registers shall be in charge of members of the judiciary.

Art. 171. The judicial power is exercised by the Supreme Court, the superior electoral court, and the other tribunals and judges established by law. The organization of the tribunals, their faculties, the method of exercising them, and the qualifications of the officers composing them shall be regulated by law.

Section Second

The Supreme Court

Art. 172. The Supreme Court is composed of the sections determined by law.

One of these sections shall constitute the court of constitutional and social guarantees. When trying constitutional matters, it shall necessarily be presided over by the chief justice of the Supreme Court, and cannot be composed of less than fifteen justices. When dealing with social matters, it cannot be composed of less than nine justices.

Art. 173. To be chief justice or associate justice of the Supreme Court it is required:

(a) To be a Cuban by birth;
(b) To be at least forty years of age;
(c) To have full enjoyment of civil and political rights, and not to have been condemned to a major penalty for a common crime;
(d) Also to have one of the following qualifications:

To have practiced law in Cuba during at least ten years; or to have performed for a like period judicial functions or functions of the public prosecutor's office; or to have held, during the same number of years, a chair of law in an official educational establishment.

For the purposes of the preceding paragraph, the periods of exercise of judicial functions, exercise of functions of the public prosecutor's office, and the practice of law can be added together.

Art. 174. In addition to the other attributes which this Constitution and the law specify for it, the Supreme Court shall have the following:

(a) To try appeals for cassation;
(b) To decide questions of jurisdiction between courts immediately inferior to it, or which have no common superior, and those arising between judicial authorities and authorities of other branches of the Nation, the provinces, and the municipalities;
(c) To try suits in which the Nation, the provinces, and the municipalities litigate among themselves;
(d) To decide on the constitutionality of laws, decree-laws, decrees, regulations, resolutions, orders, provisions, and other acts of any body, authority, or officer;
(e) To decide, in the last instance, on the suspension or removal of local and provincial governing officials, in accordance with the provisions of this Constitution and the law.

Art. 175. The judicial career is instituted. Entry therein shall be by competition, with the exception of the justices of the Supreme Court.

Art. 176. Appointments of justices of the courts of appeals shall be made in three forms, taken in order: the first, by promotion, by strict seniority in the lower category; the second, by choice among those who occupy the immediately lower category; and the third, by means of competitive tests—theory and practice—which can be taken by judicial officers, officers of the public prosecutor's office, and lawyers, not over sixty years of age. Practicing lawyers must meet the other requisites fixed for appointment as a justice of the Supreme Court.

Art. 177. Appointments of judges shall be made in two forms, taken in order: one by strict seniority in the lower category, and the other by choice among officers of the same or the lower category, who make applica-

tion. In the first form of this and the preceding Article, the vacancy shall be filled by transfer if there is an officer of like category who requests it, the appointment on promotion being made to the position which finally becomes available in that category.

Art. 178. The government section of the Supreme Court shall determine, classify and publish any merits that may be awarded to judicial officers of each category, for purposes of promotion.

Art. 179. In cases of contest, the transfers and promotions must necessarily be given to the best qualified officer of the same or immediately lower category who applies for it. The Supreme Court shall keep a record of the qualifications of each one, by categories, rectifying it semi-annually, on the sole basis of capacity, services, merits, and juridical output of each officer.

Art. 180. Justices of the Supreme Court shall be appointed by the President of the Republic from a list of three names proposed by an electoral college of nine members. These members shall be designated: four by the full bench of the Supreme Court from its own membership; three by the President of the Republic; and two by the law faculty of the University of Havana. The last five must have the qualifications required to be a justice of the Supreme Court, and those designated by the faculty of law cannot belong thereto.

The college shall be named for each designation, and its members who are not justices cannot again form part of an electoral college until after the lapse of four years.

The chief justices of the Supreme Court and the presiding justice of its sections shall be appointed by the President of the Republic on proposal of the full bench of the Supreme Court. These appointments and those of justices of the Supreme Court must receive the approval of the Senate.

The list of three referred to in the first paragraph of this Article shall comprise, if there are any, at least one judicial officer in active service who has performed those functions during at least ten years.

Art. 181. Appointments, promotions, transfers, exchanges, suspensions, disciplinary steps, retirements, leaves of absence, and eliminations of positions shall be effected by a special government section composed of the chief justice of the Supreme Court and six members thereof chosen annually among the presiding justices of sections and the justices of the said court.

No one can be a member of this government section two consecutive years.

All newly created positions shall be filled in accordance with the provisions of this Constitution.

Regulatory authority, so far as it affects the internal order of the courts, shall be exercised by the government section of the Supreme Court, in accordance with the provisions of the organic law of the judicial branch.

Section Third

The Court of Constitutional and Social Guarantees

Art. 182. The court of constitutional and social guarantees is competent to take cognizance of the following matters:

(a) Unconstitutionality appeals against laws, decree-laws, decrees, resolutions, or acts that deny, diminish, restrict, or impair the rights and guarantees specified in this Constitution or that impede the unrestricted functioning of government bodies;

(b) Opinions of judges and courts as to the constitutionality of laws, decree-laws, and other provisions that they have to apply in lawsuits;

(c) Habeas corpus proceedings, on appeal, or when a claim made against other authorities or tribunals is inefficacious;

(d) The validity of constitutional modification and procedure;

(e) Juridico-political questions and those of social legislation which the Constitution and the law submit to its consideration;

(f) Appeals against abuse of power.

Art. 188. The following can apply to the court of constitutional and social guarantees, without the necessity for furnishing surety:

(a) The President of the Republic, the Prime Minister and each one of the members of the cabinet, the presiding officer of the Senate, the House of Representatives, and the tribunal of accounts, governors, mayors, and councilmen;

(b) Judges and courts;

(c) The public prosecution service;

(d) Universities;

(e) Autonomous bodies authorized by the Constitution or the law;

(f) Every individual or collective person affected by an act or provision that he deems unconstitutional.

Persons not comprised in any of the foregoing paragraphs can also apply to the court of constitutional and social guarantees, provided they furnish the surety fixed by law.

The mode of functioning of the court of constitutional and social guarantees and the procedure for hearing the appeals presented before it shall be established by law.

Section Fourth

The Superior Electoral Court

Art. 184. The superior electoral court shall be composed of three justices from the Supreme Court and two from the Havana court of appeals, named for a period of four years by the full bench of their respective courts.

The presidency of the superior electoral court shall belong to that one of the three Supreme Court justices with the longest service. Each one of the members of the court shall have two alternates, named by the body from which they come.

Art. 185. In addition to the attributes which the electoral laws confer on it, the superior electoral court is vested with full faculties to guarantee the purity of the ballot, and to check and supervise, when it deems this necessary, all censuses, elections, and other electoral acts, the formation and organization of new parties, reorganization of the existing ones, nomination of candidates and proclamation of those elected.

It shall also:

(a) Decide electoral claims subjected by law to its jurisdiction and competency;

(b) Issue the general and special instructions necessary for fulfillment of electoral legislation;

(c) Resolve, on appeal, proceedings with reference to the validity or nullity of an election and the proclamation of candidates;

(d) Issue to the armed forces and police instructions and orders, of obligatory fulfillment, for the maintenance of order and electoral freedom during the period of preparation of the census, that of organization and reorganization of the parties, and that comprised between the calling of elections and the completing of the count of ballots.

In case of a serious public disturbance, or when the court deems that sufficient guarantees do not exist, it can suspend or declare null all electoral acts and operations in the affected territory; even though the constitutional guarantees are not suspended.

Art. 186. Electoral courts shall be organized by law. To form them, officers of the judiciary can be utilized.

Hearing of electoral claims is reserved to the electoral jurisdiction. Nevertheless, the matters in which, as an exception, appeals from resolutions of the superior electoral court can be taken to the court of constitutional and social guarantees shall be determined by law.

Art. 87. An administrative career is created for electoral employees and officers, subordinated to the supreme jurisdiction of the superior electoral court; and the permanent employees of electoral boards are declared non-removable.

The compensation fixed by the electoral code for these permanent officers and employees can be changed only under the conditions and circumstances established for judicial officers and employees. Different compensations cannot be allotted by law for positions of like grade, category, and functions.

Section Fifth

The Public Prosecution Service

Art. 188. The public prosecution service represents the people before the courts and its principal object is to see to the fulfillment of the Constitution and the law. Officers of the public prosecution service shall be non-removable and independent in their functions, excepting the public prosecutor of the Supreme Court, who shall be freely appointed and removed by the President of the Republic.

Art. 189. Entry in the career of public prosecution shall be by competitive examination, and promotion shall be made in the manner which this Constitution establishes for judges. Appointments, including those to newly created offices, promotions, transfers, suspensions, disciplinary steps, leaves of absence, removals, and retirements of officers of the public prosecution service, and the acceptance of their exchanges and resignations, shall be effected in accordance with what is determined by law.

Art. 190. The public prosecutor of the Supreme Court shall have the qualifications required to be a justice of the Supreme Court; assistant public prosecutors of the said court and the public prosecutors of the other courts must be Cubans by birth, at least thirty years of age, and have full enjoyment of civil and political rights. The other officers of the public prosecution service shall have the qualifications specified by law.

Art. 191. When the government litigates, or must be a party to any proceedings, it shall do so through the medium of government attorneys, who shall form a body whose organization and functions shall be regulated by law.

Section Sixth

The Superior Council of Social Defense and Juvenile Courts

Art. 192. There shall be a superior council of social defense which shall be charged with seeing to the execution of the sanctions and the measures of security that imply deprivation or limitation of individual liberty as well as with the organization, direction, and administration of all establishments or institutions required for the most efficacious prevention and repression of criminality.

This body, which shall be autonomous in the exercise of its technical and administrative functions, shall also have charge of the granting and revocation of conditional liberty, in accordance with law.

Art. 193. Juvenile courts are created.

Their organization and functioning shall be regulated by law.

Section Seventh

Unconstitutionality

Art. 194. A declaration of unconstitutionality can be requested:

(a) By those interested in lawsuits, causes, or matters tried before the regular and special courts;

(b) By twenty-five citizens who evidence their status as such;

(c) By any person who is affected by the provision that is deemed unconstitutional.

Judges and courts are obligated to settle conflicts between laws in force and the Constitution, adjusting themselves to the principle that the latter shall always prevail over the former.

When a judge or court considers any law ,decree-law, decree, or provision inapplicable, because he deems that it violates the Constitution, he shall suspend the proceedings and forward the matter to the court of constitutional and social guarantees, in order that it may declare or deny the constitutionality of the precept in question and return the matter to the one who forwarded it, so that he may continue the proceedings, issuing the safety measures that are pertinent.

In administrative proceedings, an unconstitutionality appeal may be filed when contentious-administrative proceedings are resorted to. If this course is not authorized by law, the unconstitutionality appeal can be filed directly against the administrative resolution.

Unconstitutionality appeals, in the cases enumerated in Article 131, 174, 182, and 186 of this Constitution, shall be filed directly with the court of constitutional and social guarantees.

In every unconstitutionality appeal, the courts shall always decide on the merit of the claim. If the appeal has any technical defect, they shall grant the appellant a period within which to correct it. .

No law, decree-law, decree, regulation, order, provision, or measure that has been declared unconstitutional can be applied in any case or manner, under penalty of disqualification to hold public office.

A decision declaring unconstitutional a legal precept or an administrative measure or resolution shall obligate the body, authority, or officer who issued the annulled provision to repeal it immediately.

In every case the legislative or regulatory provision or administrative measure declared unconsitutional shall be considered null and without any value or effect from the date that the decision is made public in court.

Art. 195. The Supreme Court and the court of constitutional and social guarantees are obligated to publish their decisions without delay in the corresponding official periodical.

The budget of the judicial branch shall annually contain an allotment for the payment of these requirements.

Section Eighth

Jurisdiction and Non-Removability

Art. 196. The regular courts shall take cognizance of all suits, causes, or matters, whatever be the jurisdiction to which they pertain, with the sole exception of those resulting from military crimes or acts which occur in the armed service, which are subject to the military jurisdiction.

When these crimes are committed jointly by members of the armed forces and persons who are not members thereof, or when the victim of the crime is not a member thereof, they shall pertain to the jurisdiction of the regular courts.

Art. 197. There cannot be created in any case courts, commissions, or bodies of any kind to which special jurisdiction is granted to take cognizance of acts, suits, causes, proceedings, questions, or matters within the jurisdictions attributed to the regular courts.

Art. 198. Courts of the sea and land forces shall be governed by a special organic law, and shall take cognizance solely of strictly military crimes and misdemeanors committed by their members. In case of war or serious disturbance of the public order, the military jurisdiction shall take cognizance of all crimes and misdemeanors committed by soldiers in the territory where the state of war really exists, in accordance with law.

Art. 199. The civil and criminal liability incurred, by judges, justices, and public prosecutors in the exercise of their functions, or by reason of them, shall be enforceable before the Supreme Court.

Art. 200. Judicial and public prosecution officers, government attorneys, and their assistants and subordinates are non-removable. By virtue thereof, they cannot be suspended or removed except for crime or other serious cause duly evidenced and always after hearing the accused. These officers can be suspended at any stage of the proceedings.

When a judge, justice, public prosecutor, or government attorney is indicted in a criminal cause, he shall immediately be suspended.

The transfer of judges, justices, public prosecutors, or government attorneys cannot be ordered, except after corrective disciplinary proceed-

ings or for the reasons of public convenience established by law. Nevertheless, officers of the public prosecution service can be transferred, in case of vacancies, if they request it.

Art. 201. Positions of court clerks and assistants of the administration of justice shall be filled alternately by transfers and promotions based on length of service and merits, the last-named being determined by examination in the manner specified by law and in accordance with the seniority list which shall be prepared and published by the government section of the Supreme Court.

Art. 202. The grounds for correction, transfer, and removal, as well as the handling of the respective proceedings, shall be established by law.

Art. 203. Compliance with judicial resolutions is compulsory. The guarantees necessary to make these resolutions effective, if resisted by authorities, officers or employees of the Nation, provinces, or municipalities, or members of the armed forces, shall be established by law.

Art. 204. Sentences pronounced by correctional judges, in cases of crime, shall be appealable to the court determined by law, which shall regulate the procedure.

Art. 205. The government has no power to declare harmful a final resolution of the courts. In case it cannot comply therewith, it shall indemnify the injured party in the corresponding manner, provided this is proper, requesting from Congress the necessary funds if it has none.

Art. 206. The compensation of officers and employees of the administration of justice and of the public prosecution service and of the permanent officers and employees of electoral bodies cannot be altered except by a vote of two-thirds of each one of the co-legislative bodies and in periods of not less than five years. Different compensations cannot be allotted to offices of like grade, category, and functions.

The compensation allotted to justices of the Supreme Court and other officers of the judicial branch must in every case be suited to the importance and outstanding nature of their functions.

Art. 207. No member of the judicial branch can be a minister of the government, or exercise any function whatever attached to the legislative or executive branches, except in case of forming part of commissions designated by the Senate or the House of Representatives for revision of laws. Nor can they be candidates for any elective office.

Art. 208. The penal responsibility and causes for removal that may be incurred by the chief justice, presiding justices of sections, and associate justices of the Supreme Court shall be enforced in accordance with the following procedure:

> The Senate of the Republic shall be the body competent to take cognizance of denunciation against said officers. When a denunciation is received, the Senate shall name a committee to study it, and the committee shall submit its report to the Senate. If by a vote of two-thirds of its members, cast at a secret session, the Senate considers there is a basis for the denunciation, the corresponding proceedings shall be opened before a body which shall be called the grand jury, which shall be composed of fifteen members, designated in the following manner:
>
> The Chief Justice of the Supreme Court shall forward to the

president of the Senate a complete list of the members of the said body who are not affected by the accusation.

The speaker of the House of Representatives shall forward to the president of the Senate a list of the members composing the House.

The rector of the University of Havana shall send to the president of the Senate a complete list of the full professors of its law faculty.

The President of the Republic shall send to the president of the Senate a list of fifty lawyers who have the qualifications required to be justice of the Supreme Court, freely designated by him.

When these lists have been received by the president of the Senate, he shall proceed, at a public meeting of said body, to determine by lot the members of the grand jury:

Six from the Supreme Court. If there are none, or the number is insufficient, it shall be completed by the same procedure from a list composed of the chief justice and the associate justices of the Havana court of appeals, sent to the president of the Senate by the chief justice of the said court of appeals;

Three members of the House of Representatives;

Three members of the law faculty of Havana University; and

Three members from the list of fifty lawyers.

This body shall be presided over by the judicial officer of highest category, and in lieu thereof by the one of greatest seniority among those composing it.

When the grand jury is named, the Senate shall submit the denunciation to it for the proper handling. When a decision has been rendered, the grand jury shall dissolve.

Title Fifteenth

The Municipal Régime

Section First

General Provisions

Art. 209. A municipality is the local society politically organized by authorization of the legislative branch in a territorial area determined by necessary relations of population, on a basis of economic capacity to satisfy the expenses of its own government, and with juridical personality for all lawful purposes.

The territory, the name of each municipality, and the seal of its government shall be determined by law.

Art. 210. Municipalities can associate for intermunicipal purposes by resolution of their respective municipal councils or commissions. Municipalities can also incorporate one with another, or can divide in order to constitute other new ones, or alter their boundaries by populair initiative and with the approval of Congress, after hearing the opinion of the respective municipal councils or commissions.

To resolve on the separation of part of a municipal district and its addition to another or other adjacent ones, it shall be necessary that this be requested by at least ten per cent of the residents of the portion of territory that it is sought to separate, and that, at a referendum election, sixty per cent of the voters of the said part express their conformity with the separation.

If the result of the referendum is favorable to the application presented, the matter shall be referred to Congress for its definitive resolution.

When the new territorial bounds are fixed, and the division of properties is made, the right of private ownership of the assignor municipality shall be respected as to any properties acquired or constructed by it on the portion separated, without prejudice to recognizing, in favor of the municipality receiving it, the proportional part to which it is entitled for whatever it contributed for the acquisition or construction of said properties.

Whenever it is a case of the formation of a new municipality, it shall be the function of the tribunal of accounts to report as to its economic capacity for the maintenance of its own government.

Art. 211. The municipal government is an entity with powers to satisfy the peculiar collective needs of the local society and it is also an auxiliary body of the central power which the Nation exercises throughout all of the national territory.

Art. 212. A municipality is autonomous. The municipal government is vested with all of the powers necessary to resolve without restriction the affairs of the local society.

The faculties which are not vested in the municipal government by this Constitution are reserved to the national government.

The Nation can act for the municipality, when the latter's action is inadequate, in case of epidemic, serious public disturbance, or other motives of general interest, in the manner determined by law.

Art. 213. The Municipal Government shall especially:

(a) Furnish all local public services; purchase, construct, and operate public service enterprises, or render said services by means of a concession or contract, with all guarantees established by law; and acquire, by expropriation or by purchase, the properties necessary for the purposes indicated. It can also operate enterprises of an economic character;

(b) Effect local public improvements, and acquire by purchase, in agreement with its owners, or by expropriation, the properties directly necessary for the proposed work, and those that are advisable to reimburse itself for the cost thereof;

(c) Create and manage public schools, museums, and libraries, physical training and recreation grounds, without prejudice to what is established by law as to education; and adopt and execute, within the limits of the municipality, sanitary and local police regulations and other similar provisions that are not contrary to law, as well as promote the establishment of production and consumption co-operatives and expositions and botanical and zoological gardens, all having the character of public service;

(d) Appoint municipal employees in accordance with what is established by this Constitution and the law;

(e) Prepare its budgets of expenditures and revenues and establish the taxes necessary to cover them, provided they are compatible with the tax system of the Nation.

Municipalities cannot reduce or suppress revenues of a permanent character without at the same time establishing others to take their place, unless the reduction or suppression results from the reduction or supression of equivalent permanent expenses.

Allotments appearing in the budget for expenditures shall be divided into twelfth parts, and no need of the current month shall be paid if all those of the previous month have not been liquidated;

(f) Resolve to borrow money, at the same time voting the permanent revenues necessary for the payment of the interest and amortization thereof.

No municipality can contract obligations of this kind without a prior favorable report of the tribunal of accounts.

In case new taxes are resolved on for the payment of the obligations to which the foregoing paragraph refers, it will require, in addition,the favorable vote, at a referendum election, of one more than half of the votes cast by voters of the municipal district, and the vote cannot be less than thirty per cent thereof;

(g) Contract economic obligations for future payment, to cover the cost of public works, with the duty of including in successive annual budgets the allotments necessary to meet them, and provided that their payment does not absorb the economic capacity of the municipality to render the other services in its charge. No municipality can contract obligations of this kind without a favorable prior report from the tribunal of accounts and also a favorable vote of two-thirds of the members composing the municipal council or commission.

(h) The enumeration of these faculties, as well as any other that is made by law, does not imply a limitation or restriction of the general faculties granted by the Constitution to municipalities, being only the expression of a part thereof, without prejudice to the provisions of Article 212 of this Constitution.

Intermunicipal trade, communications and transit cannot be taxed by municipalities. Speculation or unfair competition that might result from measures adopted by municipalities is prohibited. Municipal taxes on articles of prime necessity shall be adjusted to the bases established by law.

Art. 214. The government of each municipality is obligated to meet the following minimum local needs:

(a) The punctual payment of salaries and wages to municipal officers and employees, in accordance with the standard of living of the locality;

(b) The maintenance of an asylum and local welfare building, a workshop, and an agricultural school;

(c) The maintenance of a police force and a fire department;

(d) The functioning, at least in the seat of government, of a school, a library, a center of popular culture, and a first-aid station.

Art. 215. In each municipality there shall be a commission of urbanization which shall be obligated to lay out the plan of extension and embellishment of the city, and to see to its execution, bearing in mind present and future needs of public transit, hygiene, beauty, and the common well-being.

The said commission shall attend to everything relating to living quarters for workers and shall propose plans of erection of houses for workers and farmers, which can be acquired by payment over a long term of a modest rental which will return to the municipality the principal invested. Municipalities shall proceed to execute the plan which they approve, obligatorily including in their budgets, out of regular revenues, the amounts necessary for that purpose, which cannot be less than the cost of one house in each fiscal period, or resorting to the means offered them by the Constitution to effect works of this nature, in case their regular revenues are not sufficient for the purpose.

There shall likewise be a commission on local roads, which shall be obligated to plan, construct, and maintain those which, according to a plan and regimen previously resolved upon, favor the exploitation, transportation, and distribution of products.

Art. 216. The urbanization of hamlets or inhabited sections contiguous to the bateys of sugar mills or any other agricultural or industrial exploitation of analogous nature shall be determined by law.

Section Second

Guarantees of Municipal Autonomy

Art. 217. As guarantee of municipal autonomy, the following is established:

(a) No local government official can be suspended or removed by the President of the Republic, the governor of the province, or any other governmental authority.

Only the courts can resolve on the suspension or removal from office of local government officials, by means of summary proceedings handled in accordance with law, without prejudice to what it directs as to recall.

Neither can any of the functions proper to their offices be interfered with by other officers or authorities, except as to the faculties granted by the Constitution to the tribunal of accounts.

(b) Resolutions of the municipal council or commission or decrees of the mayor or any other municipal authority cannot be suspended by the President of the Republic, the governor of the province, or any other governmental authority.

The said resolutions or decrees can be impugned by the governmental authorities, when they deem them unlawful, only before the courts, which shall be the only ones competent to declare, by means of the summary proceedings established by law, whether or not the municipal bodies or authorities issued them within the limits of their jurisdiction, in accordance with the faculties granted to them by the Constitution.

(c) No law can obtain for the Nation, the provinces, or other bodies or institutions, all or a part of the amounts collected by municipalities in the form of contributions, taxes, and other means of raising municipal revenues.

(d) No law can declare national in character any municipal tax or tribute constituting one of the sources of revenue of the municipality, without at the same time guaranteeing it revenues equivalent to those which are nationalized.

(e) No law can compel municipalities to exercise collecting functions for taxes of a national or provincial character, unless the bodies interested in the collection appoint the assistants necessary for that purpose.

(f) A municipality shall not be obligated to pay for any service which is not administered by it, unless it has expressly agreed otherwise with the Nation, private parties, or other municipalities.

Art. 218. The mayor or any other authority representative of the local government may, on his own initiative or in compliance with a resolution of the municipal council or commission, file before the full bench of the Supreme Court an appeal, alleging abuse of power, against every resolution of the national or provisional government which, in his judgment, attacks the régime of municipal autonomy established by the Constitution, even though the resolution was issued in the use of discretionary faculties.

Art. 219. As guarantee to the inhabitants of a municipal district, with respect to their local government officials, the following is provided:

(a) In case the resolutions or decrees of the municipal authorities or bodies injure some private or social interest, the injured party, or any inhabitant of the municipality who consideres that the resolution or

decree injures a public interest, can request its nullification and the reparation of the damage, before the courts, by means of summary proceedings established by law. The municipality shall be subsidiarily liable, and when it is condemned to make payment, shall be entitled to bring action against the officer guilty of causing the injury, on the terms specified by law.

(b) A referendum shall be required in the contracting of loans, issuance of bonds, and other operations of mobilization of municipal credit which by their amount compel the municipality effecting them to create new taxes to cover the amortizations or payments of said contracts.

(c) The right of initiative is granted to a percentage that will be fixed by law of the electorate of the municipality, to propose resolutions to the municipal council or commission. If these latter reject the initiative or fail to decide on it, they must submit it to popular vote by means of a referendum, in the manner determined by law.

(d) Recall of local government officers can be requested by a percentage of the electorate of the municipality, in the manner determined by law.

(e) What is requested of municipal authorities and bodies shall be considered decided in the negative when the petition or claim is not favorably decided within the period fixed by law. Everything relative to the impugnation of such tacit denials, and the responsibility of those liable for the delay, shall be regulated by law.

Penalties for unjustified delay in the handling of petitions which inhabitants of a municipal district present to the municipal authorities and bodies shall be fixed by law.

Art. 220. The penal liability incurred by mayors, members of the municipal council or commission and other municipal authorities shall be enforceable before the courts, either on their own initiative, at the instance of the public prosecutor, or by private action. This private action shall be by the people and can be utilized by not less than twenty-five residents of the municipal district, without furnishing surety and without prejudice to any liability that is proper because of false or calumnious accusations.

Art. 221. Responsibility for municipal resolutions shall rest upon those who vote in favor of them and those who, although not on official leave of absence at the time, did not attend the meeting at which they were approved and do not within the two following meetings put themselves on record as opposed to the resolution. Such action shall in no case affect the efficacy of definitively adopted resolutions.

Section Third

Municipal Government

Art. 222. Municipal districts shall be governed in the manner established by law, which shall recognize the right of municipalities to adopt their own municipal charters in accordance with this Constitution.

The municipal organization shall be democratic and shall respond in a simple and efficacious manner to the essentially administrative character of the local government.

Art. 223. Municipalities can adopt their own municipal charters in accordance with the following procedure, which shall be regulated by law. The municipal council or commission, on petition of ten per cent of the

voters of the municipality and with the favorable vote of two-thirds of its members, shall consult the electorate of the municipality,' through the medium of the corresponding electoral bodies, as to whether it desires to elect a commission of fifteen members to prepare a municipal charter.

The names of the candidates to form part of the commission shall be placed on the respective ballots, and if the majority of the electors vote favorable on the question raised, the fifteen candidates who receive the highest vote, in accordance with the system of proportional representation, shall be elected to form the commission. The latter shall draw up the municipal charter and submit it for the approval of the voters of the municipality not earlier than thirty days after it has been completed and distributed and not more than one year after the commission is elected.

Municipalities shall adopt one of these systems of government: that of a commission; that of a municipal council and manager; and that of a mayor and municipal council.

Art. 224. In the system of government by commission, the number of commissioners, including among them the mayor as presiding officer, shall be five in municipalities having up to 20,000 inhabitants; seven in those having from 20,000 to 100,000; and nine in those of more than 100,000 inhabitants.

All commissioners shall be directly elected by the people, for a period of four years. Each commissioner shall be the head of a department of the municipal administration, for which he shall be responsible, and he shall be charged with fulfilling, and seeing to the fulfillment, with respect to his department, of the resolutions adopted by the commission. The requisites to be required of a commissioner, according to the department in question, shall be fixed by law.

The commissioners together shall form the deliberative body of the municipality.

Art. 225. In the system of municipal council and manager there shall also be mayor who shall preside over the municipal council and shall be the respresentative of the people in all acts of an official or social character.

The manager shall be a technician or person of recognized capacity in municipal matters, and shall act as the head of the municipal administration, with faculties to appoint and remove the officers and employees of the municipality in accordance with what is established in this Constitution.

The position shall be filled by the municipal council, for a period of six years, through the medium of competitive examination, before a board composed of the following members: a professor of municipal government; a professor of administrative law; a public accountant; and two representatives of the municipality. The professor of administrative law and the professor of municipal government shall be named by a university faculty of social sciences; the public accountant, by the school of commerce of the province to which the municipality pertains: and the representatives of the municipality, by the municipal council of the municipal district in question.

When the manager has been named by the municipal council, on pro-

posal of the examining board, he cannot be removed except by a decision of the competent judicial authority or by popular will, always for the reasons and with the formalities to be established by law.

The municipal council, in this form of government, shall be composed of six councilmen, when the population of the municipality does not exceed 20,000 inhabitants; of fourteen, when it is more than 20,000 but does not exceed 100,000; and of twenty-eight, when it exceeds 100,000 inhabitants; all directly elected by the people for a term of four years.

Art. 226. In the system of mayor and municipal council presided over by the mayor, both the latter and the councilmen shall be directly elected by the people for a term of four years. The composition of the municipal council shall be determined by law, which shall fix the rules in accordance with which the political parties shall always nominate for the said body representatives of the various interests and activities of the locality.

Art. 227. The mayor, the manager, and the commissioners shall receive from the municipal treasury a compensation that can be changed at any time, but the change shall not be effective until there has been a new election for mayor, for the council, or for the commission. Any increase in the compensation of the mayor shall depend on an effective increase in the municipal revenues during the last two years preceding the date it is to be effective. The office of councilman can be compensated when the financial situation of the municipality permits it and the public services are duly financed and taken care of.

Art. 228. In case of temporary or definitive absence of the mayor in any of the three systems heretofore specified, he shall be substituted by the councilman or commissioner who shall have been elected for that purpose at the first session held by the municipal council or commission.

If it is the manager who is absent, the municipal council shall proceed to fill the vacancy in the same manner directed for filling the office.

Art. 229. To be mayor, manager, commissioner, or councilman, it is necessary to be a Cuban citizen, twenty-one years of age, and to meet the other requisites specified by law. In the case of the mayor it shall also be required that he was not a member of the armed forces of the Republic in active service, during the two years immediately preceding the date of his designation as a candidate.

Domicile or residence in the municipality shall not be required in the case of the manager.

Art. 230. A metropolitan district of Havana can be created by law, federating with the capital city the municipalities that surround it, in the number that the law shall determine.

The federated municipalities shall have direct representation in the government of the metropolitan district, conserving their democratic and popular organization.

Art. 231. Municipal budgets shall allot for the needs of rural boroughs, the amounts corresponding in accordance with the following gradual scale:

In rural boroughs contributing from $ 100 to $ 1,000, thirty-five per cent

In rural boroughs contributing from $ 1,001 to $ 5,000, thirty per cent

In rural boroughs contributing from $ 5,001 to $10,000, twenty-five per cent

In rural boroughs contributing $10,001 or more, twenty per cent

Art. 232. Municipal elections shall be held on a different date from general elections.

Title Sixteenth

Sole Section

The Provincial Régime

Art. 233. A province comprises the municipalities situated within its territory. Each province shall be governed by a governor and a provincial council.

The governor shall be the representative of the province. The provincial council is the body for orientation and co-ordination of the interests of the province.

Art. 234. Provinces can consolidate or divide to form new provinces, or modify their bounds, by means of a resolution of the respective provincial councils and the approval of Congress.

Art. 235. The governor shall be elected for a period of four years, by direct and secret suffrage, in the manner determined by law.

To be governor it is necessary:

(a) To be a Cuban by birth or naturalization, and in the latter case, to have resided ten years in the Republic, counted from the date of naturalization;

(b) To be at least twenty-five years of age;

(c) To have full enjoyment of civil and political rights;

(d) Not to have belonged to the armed forces of the Republic, in active service, during the two years immediately prior to the date of his designation as a candidate.

Art. 236. The governor shall receive from the provincial treasury a compensation that can be changed at any time, but the change shall not be effective until after a new election for governor has been held.

The increase in the compensation of the governor shall be dependent on an effective increase of provincial revenues during the last two years preceding the date on which it is to be effective.

Art. 237. In the temporary or definitive absence of the governor, he shall be substituted in office by the oldest mayor.

Art. 238. It is the function of the governor of the province:

(a) To fulfill and see to the fulfillment of the laws, decrees, and regulations of the Nation, so far as they concern him;

(b) To publish the resolutions of the provincial council that have binding force, executing them and seeing to their execution, determining the penalties corresponding to infractions when the council has not fixed them;

(c) To issue orders and also to issue the instructions and regulations for the best execution of resolutions of the council, when the latter has not done so.

Art. 239. The provincial council shall be composed of the mayors of the province. Mayors can attend sessions of the council accompanied by

experts in each one of the fundamental services of the community, such as administration, health and social welfare, education and public works, who shall have the character of consulting technicians of the council and can be heard by it, but shall have no vote. The position of technical adviser shall be honorary and gratuitous.

Art. 240. The governor shall have his seat at the capital of the province, but meetings of the provincial council can be held indiscriminately at the seat of any municipal district thereof, by resolution of the council.

Art. 241. Provincial councils shall meet at least once each two months, without prejudice to any special sessions that can be held when called by the governor, on his own initiative, or at the instance of three or more members of the provincial council.

Art. 242. It is the function of the provincial council:

(a) To draw up its regular budget of revenues and expenditures and determine the quota which must obligatorily be contributed by each municipality in a like proportion—based on its revenues—to meet the expenses of the province;

(b) To render public services and execute works of provincial interest, especially in the branches of health and social welfare, education and communications, without contravening the laws of the Nation;

(c) To resolve on loans for effecting public works, or provincial plans of a social or economic character, and at the same time to vote the permanent revenues necessary for the payment of their interest and amortization. No loan can be resolved on without a prior favorable report of the tribunal of accounts and a resolution of two-thirds of the members of the provincial council.

In case new taxes are resolved on for the payment of the obligation to which the preceding paragraph refers, it shall also be necessary that there be a favorable vote, at a referendum election, of one more than half of the votes cast by the voters of the province, and the number of votes cannot be less than thirty per cent thereof;

(d) To appoint and remove provincial employees in accordance with this Constitution and the law.

Art. 243. For the purposes of the provisions of the preceding Article, the average effective revenues of the preceding five years shall be taken as a basis for calculating the revenues.

Art. 244. When the works resolved upon by the council are not of a provincial character, but in the interest of the municipalities, the latter shall receive in benefits a minimum allotment in proportion to their contributory quotas.

Art. 245. No member of the provincial council can be suspended or removed by governmental authority. Nor can the said authority suspend or annul resolutions and decisions of the council, which can be impugned before the courts by means of special summary proceedings, that shall be regulated by law, by municipal or national governmental authorities, by any resident who is injured by the resolution or decree or who deems that they injure a public interest.

Resolutions of provincial councils shall be passed at public sessions.

Only the courts of appeal are empowered to suspend or remove provincial councilors by reason of crime, in summary proceedings held in accordance with law, or by a final decision which involves disqualification. In

case of suspension or removal of a provincial councilor, the sanction shall be extended to his functions as mayor.

Art. 246. A governor, after a resolution of the provincial council, can file before the full bench of the Supreme Court, in the manner determined by law, an appeal alleging abuse of power against resolutions of the national government which, in his judgment, attack the provincial autonomous régime established by the Constitution, even though the resolution was issued in the use of discretionary powers.

Art. 247. The provincial council and the governor owe respect to the tribunal of accounts of the Nation in accounting matters, and are obligated to furnish it all of the data and reports that it requests, especially those relative to the preparation and liquidation of the budgets.

At the time indicated to him by the tribunal of accounts, the governor shall designate an expert acquainted with the provincial finances to assist the tribunal in the examination of the provincial accounts.

Art. 248. The provisions regarding public finances contained in the corresponding Title of this Constitution shall be applicable to the province, as far they are compatible with the régime thereof.

Art. 249. Provincial councilors and the governor shall be responsible before the courts, in the manner prescribed by law, for acts which they perform in the exercise of their functions. The position of provincial councilor is honorary, gratuitous, and obligatory.

Art. 250. The principles of provincial government and administration that are established in this Constitution shall be so developed by law that they will respond to the administrative character of the provincial government.

Title Seventeenth

NATIONAL FINANCES

Section First

Property and Finances of the Nation

Art. 251. In addition to the property of the public domain and its own property, the Nation is the owner of all property existing in the territory of the Republic which does not pertain to the provinces or the municipalities, or individually or collectively to private owners.

Art. 252. Property owned by the Nation can be alienated or encumbered only under the following conditions:

(a) That Congress so resolve by a special law, for a reason of social necessity or convenience; and always by a vote of two-thirds of each colegislative body.

(b) That the sale be made in response to public bidding. In the case of a lease, the procedure shall be as directed by law.

(c) That the proceeds be destined to create work, attend to services, or satisfy public needs.

The alienation or encumbrance can, nevertheless, be resolved upon in a regular law and effected without the requisite of public bidding, when it is done to carry out a national economic plan approved in a special law.

Art. 253. The Nation shall not contract loans except by virtue of a law approved by two-thirds of the total number of members of each co-legislative body, in which at the same time the permanent revenues necessary for the payment of interest and amortization are voted.

Art. 254. The Nation guarantees the public debt, and, in general, every operation which implies economic liability for the national treasury, provided it was contracted in accordance with the provisions of the Constitution and the law.

Section Second

The Budget

Art. 255. All revenues and expenditures of the Nation, with the exception of those mentioned later, shall be provided for and fixed in annual budgets, and shall be in force only during the year for which they were approved.

The monies, special funds, or private patrimonies of bodies authorized by the Constitution or by law, and devoted to social security, public works, development of agriculture, and regulation of industrial, stock-raising, commercial, or professional activities, and in general to the development of the national wealth, are excepted from the provisions of the preceding paragraph. These funds or their taxes shall be delivered to the autonomous body and administered by it, in accordance with the law which created them, subject to audit by the tribunal of accounts.

Expenses of the legislative and judicial branches, those of the tribunal of accounts, and those of the interest and amortizations of loans, and the revenues by which they are to be covered, shall be permanent in character and shall be included in the fixed budget that shall be effective until revised by special laws.

Art. 256. For the purposes of protection of the general and national interests, in any line of production, as well as of the professions, obligatory associations of producers can be established by law, which shall determine the manner of constitution and functioning of the national bodies and of the regional ones that are necessary, so that at all times they shall be governed by a majority of their members, with full authority; likewise granting them the right to meet the needs of their organized action by dues that will be imposed by operation of the said law.

The budgets of these bodies or co-operatives shall be audited by the tribunal of accounts.

Art. 257. Congress cannot include in budget laws any provisions introducing changes of a legislative or administrative or other nature, nor can it reduce or suppress revenues of a permanent character without at the same time establishing others to take their place, unless the reduction or suppression is the result of a reduction of permanent expenses of like amount; nor can it allot to any of the services that are to be provided for in the annual budget an amount greater than that indicated in the government's project. It can create new services or amplify existing ones through the medium of laws.

Every law which creates expenses outside of the budget or which in-

volves expenses of that kind in future, must establish, under penalty of nullity, the means of covering them by one of these methods:

(a) Creation of new revenues;
(b) Suppression of prior expenditures;
(c) Definite verification of the surplus by the tribunal of accounts.

Art. 258. The study and preparation of the annual budgets of the Nation are functions of the executive branch; their approval or modification being a function of Congress, within the limits established in the Constitution. In case of peremptory necessity, Congress can resolve on a special budget by means of a law.

The executive branch shall submit the proposed annual budget to Congress, through the House of Representatives, sixty days prior to the date on which it is to become effective. The President of the Republic and particularly the minister of the treasury shall be subject to the liability determined by law if the budget reaches Congress after the date above fixed. The House of Representatives must forward the proposed budget to the Senate, with its resolution, thirty days prior to the date on which it is to become effective.

If the general budget is not passed prior to the first days of the fiscal year in which it is to be effective, the one that has been in force shall be understood to be extended, together with the law of bases, by quarters. In this case, the executive branch can make no other modifications than those derived from expenses already paid, or services or expenses that are not necessary in the new fiscal period.

The needs of the regular budget shall necessarily be covered by the regular revenues which it provides, and in no case can they be covered by special revenues, unless this is authorized by a special law.

The regular budget shall become effective by the sole approval of Congress, which shall cause it to be published immediately.

Art. 259. In the part relating to expenses, the budgets shall contain sections which shall specify:

(a) The exact amount of the legitimate liabilities of the Nation liquidated but not paid, pertaining to previous budgets;
(b) The proportion of that amount that will be paid from regular revenues of the new budget.

The law of bases shall establish, with respect to the foregoing sections, the rules relative to the manner in which the amount or amounts fixed for payments during the life of the budget shall be prorated among creditors with liquidated claims.

Art. 260. Allotments specified in the statement of expenses of the budget shall fix the maximum amounts destined to each service, which cannot be increased or transferred by the executive branch without prior authorization from Congress.

The executive branch can, however, on its responsibility and when Congress is not in session, grant allotments or supplements of allotments in the following cases:

(a) War or imminent danger of war;
(b) Serious disturbance of the public order;
(c) Public calamities.

The handling of these allotments shall be determined by law.

Art. 261. The executive branch is obligated to render the accounts of the Nation annually. For that purpose, the minister of the treasury shall liquidate the annual budget within three months following its expiration and, after approval by the cabinet, shall send his report with the necessary data and vouchers to the tribunal of accounts. The latter shall pass on the report within the following three months and in that period, and without prejudice to the effectiveness of its resolutions, shall report to Congress and to the executive branch the infractions or liabilities which in its judgment have been incurred. The definitive approval or rejection of the accounts rests with Congress.

Allotments included in the budget for contingent expenses of the administration can be spent, when contingencies arise, only by a resolution of the cabinet.

The executive branch shall forward to Congress monthly the balance sheets showing the revenues and expenses of the Nation.

Art. 262. The executive branch shall avoid duplication of services and a multiplicity of official or semi-official agencies, totally or partially compensated by the Nation, for the accomplishment of its purposes.

Art. 263. No one shall be compelled to pay any tax, toll, or contribution whatever that has not been expressly established by law or by the municipalities, in the manner established by this Constitution, and the amount of which is not going to form part of the revenues of the budget of the Nation, a province, or a municipality, except as otherwise provided in the Constitution or by law.

The foregoing provision shall not be considered to comprise contributions or quotas imposed by law, in an obligatory manner, on persons or entities composing an industry, commercial business, or profession, in favor of their bodies recognized by law.

Art. 264. The Nation, without prejudice to the other means within its power, shall regulate the development of the national wealth by means of the execution of public works to be paid for in whole or in part by those directly benefited. The adequate manner and procedure whereby the Nation, the province, or the municipality, on its own initiative or having recourse to private initiative, shall promote the execution of such works, grant the pertinent concessions, authorize the fixing, the assessment, and the collection of taxes for those purposes, shall be determined by law.

Art. 265. The liquidation of each appropriation of government funds for the execution of any public work or service shall be published integrally in the official gazette of the Republic, as soon as it has received the approval of the corresponding minister.

The instrument of approval, whether partial, total, provisional, or definitive, of every public work executed in whole or in part with funds furnished by the Nation, shall be published in the official gazette of the Republic, as soon as it has received the approval of the corresponding minister.

Both the liquidation of appropriations of government funds and the definitive approvals of works executed by contract or by the administra-

tion, paid in whole or in part with funds furnished by the Nation, shall be submitted for approval of the superior officer within sixty calendar days after termination of the works, without prejudice to the partial liquidations and approvals that are deemed proper by the administration during the process of execution of the works.

Section Third

The Tribunal of Accounts

Art. 266. The tribunal of accounts is the body which audits the revenues and expenses of the Nation, the provinces, and the municipalities, and of the autonomous organizations, created by law, which receive their revenues directly or indirectly through the medium of the Nation. The tribunal of accounts is subject only to law, and its conflicts with other bodies shall be submitted for the decision of the Supreme Court.

Art. 267. The tribunal of accounts shall be composed of seven members, four of whom shall be attorneys and three public accountants or mercantile professors. Any person comprised in paragraph (d) of the following Article can also be designated, even though he is not a lawyer or public accountant. The attorneys must have the same qualifications that are required to be a member of the Supreme Court. The public accountants or mercantile professors must be over thirty-five years of age, Cubans by birth, and have practiced their profession not less than ten years.

The full bench of the Supreme Court shall designate two of the attorneys, who shall be the president and the secretary of the tribunal.

The President of the Republic shall designate one attorney member and one public accountant or mercantile professor member.

The Senate shall designate one attorney member and one public accountant or mercantile professor member.

The university council shall designate one public accountant or mercantile professor member.

The members of the tribunal of accounts shall hold office for a period of eight years, and can be removed within this period only by the court of constitutional and social guarantees of the Supreme Court of the Republic, after due proceedings and by a resolution specifying its reasons.

Members of the tribunal of accounts cannot form part of any other official or autonomous body which is directly or indirectly subordinate to the Nation ,a province, or a municipality, nor can they practice any profession or engage in industry or trade.

Art. 268. To be a member of the tribunal of accounts it is required:

(a) To be a Cuban by birth;

(b) To be over thirty-five years of age;

(c) To have full enjoyment of civil and political rights and have no penal antecedents;

(d) To be an attorney with ten years of practice; to have been minister, or secretary, or assistant secretary of the treasury, auditor general of the Republic; treasurer or chief accountant of the ministry of the treasury; professor of economics, finance, auditing and checking, or of accountancy in an official educational establishment; or hold a degree as public accountant or mercantile professor, with ten years of practice.

Members of the tribunal of accounts cannot have any direct or indirect material interest in any agricultural, industrial, commercial, or financial enterprise connected with the Nation, the province, or the municipalities.

Art. 269. The tribunal of accounts shall name auditors, officers, employees, and assistants, upon evidence accrediting their capacity.

Art. 270. Attributes of the tribunal of accounts are:

(a) To see to the application of the budgets of the Nation, the provinces, and the municipalities, and of the autonomous bodies that directly or indirectly receive their revenues through the Nation, examining and checking the accounts of all of them;

(b) To take cognizance of the orders of the Nation for advancement of money, in order to approve the placing of funds in accordance with the budget, in such a manner that the provisions of the law of bases are complied with, and that the orders are handled without preferences or subordination of one to another;

(c) Generally to inspect the expenses and disbursements of the Nation, the provinces, and the municipalities, both for the execution of works and for supplies and payment of personnel, and calls for public bids for that purpose. To this end, proceedings can be opened to determine whether payments made actually correspond to the service performed by the official institutions under its supervision, verification being made by means of the corresponding proceedings to fix the unit cost of works, and the average value of supplies that the Nation is to receive, in accordance with the market. It can likewise handle all denunciations filed for this reason, and make an annual report to the President of the Republic in connection with the manner in which the expenditures of the institutions subject to its check have been made, so that the latter may send it, with his respective remarks, to Congress;

(d) To request reports from all bodies and dependencies subject to its check, and to name a special delegate to make the corresponding investigations when the data are not furnished to it, or when they are deemed deficient;

The tribunal shall be obligated to render a detailed report to the executive branch and to Congress, when it is called upon to do so, particularly as to all details referring to its acts;

(e) To render annually a report with respect to the state and administration of the public treasury, the national money, the public debt, and the budget and its liquidation;

(f) To receive the oath or promise of every citizen designated to perform a public function, before taking possession and when ceasing to hold the position, with respect to the property that he possesses, and to make the investigations that it deems proper for the purpose.

The time and manner of exercising this function shall be regulated and determined by law;

(g) To make report to the courts, with respect to the degree of blame shown by any inspection and checking made by it in the exercise of the faculties granted to it by the preceding paragraphs, and to give the opportune instructions in cases of infractions in which there is no penal responsibility, for the best fulfillment of the accounting laws by all bodies subject to its check;

(h) To publish its reports for general information;

(i) To fulfill the other duties specified for it by law and the regulations.

Section Fourth

The National Economy

Art. 271. The Nation shall orient the national economy for the benefit of the people, in order to insure to each individual a decorous existence.

The development of the national agriculture and industry shall be a primordial function of the Nation, which shall seek the diverisfication thereof as sources of public wealth and collective benefit.

Art. 272. The ownership and possession of real estate and the exploitation of agricultural, industrial commercial, banking and any other kind of enterprises or business by foreigners located in Cuba, or who carry on their operations in Cuba although located outside thereof, are subject in an obligatory manner to the same conditions which the law establishes with respect to Cubans, which conditions must, in every case, accord with the social-economic interests of the Nation.

Art. 273. The increment in the value of land of real estate, produced without effort in the form of labor or private capital, and solely as a result of the action of the Nation, a province, or a municipality, shall accrue to the benefit of these latter in the proportional part determined by law.

Art. 274. Stipulations of lease, cane-planting, or share-cropping contracts of rural properties that impose the renunciation of rights recognized in the Constitution or in the law, and also any other pacts which the law or the courts declare abusive shall be null.

In regulating the said contracts, the adequate norms shall be established to govern the rentals, which shall be flexible, with a maximum and a minimum depending on the use, productiveness, location, and other circumstances of the leased property; to fix the minimum of duration of the said contracts, according to the said elements, and to guarantee to the lessee, planter, or share-cropper a reasonable compensation for the value of the improvements and betterments that he delivers in good order and that he has effected at his expense with the express or tacit consent of the owner, or because they were required by the exploitation of the realty in view of its object.

The lessee shall not be entitled to the said compensation if the contract is terminated ahead of time because of his fault, or when he refuses an extension offered him under the same conditions in force when the contract expires.

Crop lien and cane-grinding contracts, as well as the delivery of other products by those who produce them, shall also be regulated by law, granting the former due protection.

Art. 275. The planting and grinding of administration cane shall be regulated by law, being reduced to the minimum limit imposed by the social-economic need for maintaining the sugar industry on a basis of separation of the two large factors which concur in its development: industrialists or producers of sugar, and farmers or planters, producers of cane.

Art. 276. Laws and provisions which create private monopolies, or which regulate commerce, industry, and agriculture in such a manner as to produce that result, shall be null and void. The law shall especially provide that commercial activities in centers of agricultural and industrial labor cannot be monopolized for private benefit.

Art. 277. Public services, whether national or local, shall be considered of social interest. In consequence, the Nation, the provinces, and the

municipalities, in their respective cases, shall be entitled to supervise them, issuing the necessary measures for the purpose.

Art. 278. No consumption tax shall be imposed on any domestic raw material which, whether or not it is a product of agriculture, is destined for manufacturing or exportation.

Nor shall any consumption tax be imposed on the products of domestic industry, if the same or similar products or substitutes imported from abroad cannot be taxed in like manner.

Art. 279. The Nation shall maintain the indepence of the private institutions of social welfare and co-operation that are normally maintained without the aid of public funds, and shall contribute to their development by means of adequate legislation.

Art. 280. Money and banking shall be subject to regulation and check by the Nation.

The Nation shall ,through the medium of autonomous entities, organize a banking system for the best development of its economy, and shall found a national bank of Cuba, which shall be a bank of issue and rediscount. On establishing the said bank, the Nation can require that its capital be subscribed by the banks existing in the national territory. Those which fulfill these requisites shall be represented on the board of directors.

Title Eighteenth

STATE OF EMERGENCY

Art. 281. Congress, by means of a special law, on request of the cabinet, can declare a state of national emergency and authorize the cabinet to exercise exceptional faculties in any case when the external safety or the internal order of the Nation is in danger or is attacked, by reason of war, catastrophe, epidemic, serious economic disturbance, or other cause of like nature.

In each case the special law shall determine the concrete matter to which the exceptional faculties are to be applied, as well as the period during which they will govern, which shall never exceed forty-five days.

Art. 282. During the state of national emergency the cabinet can exercise the functions that Congress expressly delegates to it. In like manner it can alter the criminal procedure. In every case, the legislative provisions adopted by the cabinet must be ratified by Congress, in order to continue to be effective after the state of national emergency ends. Judicial acts that modify the normal regimen can be reviewed at the instance of an interested party, when the state of emergency is over. In this event the case shall be reopenened if a condemnatory sentence has been rendered, and the said sentence shall be considered merely as the act of indictment of the accused.

Art. 283. The law which declares the state of national emergency shall necessarily contain a call for a special session of Congress on the day on which the emergency period ends. In the meantime a permanent commission of Congress must meet to watch over the use of the exceptional

facilities granted to the cabinet, and can call Congress even before expiration of said period, in order to terminate the state of emergency.

The permanent commission shall be elected from the membership of Congress and shall be composed of twenty-four members, an equal number coming from each co-legislative body and all political parties being also necessarily represented in its composition. The commission shall be presided over by the president of Congress and shall function when Congress, is in recess and during the state of national emergency.

The permanent commission shall have competency:

(a) To watch over the use of the exceptional attributes that are granted to the cabinet in cases of emergency;

(b) Over the immunity of senators and representatives;

(c) Over the other matters attributed to it by the law of relations between the co-legislative bodies.

Art. 284. The cabinet must give an account of the use of the exceptional faculties, before the permanent commission of Congress, at any time that the commission so resolves, and before Congress when the state of national emergency ends.

The state of national emergency shall be regulated by a special law.

Title Nineteenth

Revision of the Constitution

Art. 285. The Constitution can be revised only:

(a) By initiative of the people, by means of presentation to Congress of the corresponding proposition, signed, before the electoral bodies, by not less than one hundred thousand voters who know how to read and write and in accordance with what is established by law. When this has been done, Congress shall assemble as a single body and within the following thirty days shall without discussion vote the proper law to call an election of delegates or a referendum;

(b) By initiative of Congress, by means of the corresponding proposition signed by not less than one-fourth of the members of the co-legislative body to which the proponents belong.

Art. 286. Constitutional revision shall be specific, partial or complete.

In case of a specific or partial revision, proposed by popular initiative, it shall be submitted to a referendum at the first election that is held, provided that the new precept that it is sought to incorporate, or the existing one that it is sought to revise, is susceptible of being proposed in such a manner that the people can approve or reject it by answering "yes" or "no."

In case of a specific or partial renewal by initiative of Congress, its approval shall be necessary by a favorable vote of two-thirds of the total number of members of both co-legislative bodies, jointly assembled, and the said revision shall not be effective if it is not ratified in like manner within the following two regular sessions.

In case the revision is complete, or relates to the national sovereignty, or to Articles 22, 23, 24, and 87 of this Constitution or to the form of the government, after the aforesaid requisites have been complied with, according to whether the initiative comes from the people or from Con-

gress, an election shall be called for delegates to a plebiscitary assembly, which shall be held six months after it is resolved on and which shall limit itself exclusively to approving or rejecting the revisions proposed.

This assembly shall fulfill its duties entirely independently of Congress, within the thirty days following its definitive constitution. The delegates to the said convention shall be elected by provinces, in the proportion of one for each 50,000 inhabitants or fraction in excess of 25,000 and in the manner established by law, and no congressman can be elected to the position of delegate.

In case it is sought to accomplish a re-election constitutionally prohibited or the continuance in office of any officer for a period longer than that for which he was elected, the proposal for revision must be approved by three-fourths of the total number of the Congress, sitting as a single body, and ratified at a referendum by the favorable vote of two-thirds of the total number of voters of each province.

TRANSITORY PROVISIONS

To Title Second

First: Foreigners comprised in Sections 1, 2, 4, and 5 of Article 6 of the Constitution of 1901 shall retain the rights therein recognized, provided they meet the corresponding requisites.

Second: The register of Spaniards opened in the department of state by virtue of the provisions of the Constitution of 1901 and subsequent ones shall be definitively closed on April 11, 1950, and shall be sent to the national archives. Certificates of the registry of Spaniards issued up to that date of closing shall be valid at any time. After April 11, 1950, the procedure established in this Constitution shall be generalized for all foreigners.

To Title Third

Sole: Within three sessions following the promulgation of this Constitution, the law must establish penalties applying to violations of Article 20 of this Constitution.

Until this legislation is in force, every act which violates the right established in that Article and those concordant with it shall be considered as included and penalized in Article 218 of the code of social defense.

To Title Fourth

First: In the case of laws that are effective with respect to obligations of a civil character, Articles 22 and 23 shall be observed only with respect to those promulgated after this Contitution becomes effective.

Second: With respect to the civil obligations that were subject to Decree-Laws 412, 423, and 594 of 1934, as modified by the Law of September 3, 1937, regardless of their present legal or contractual status and whether or not they have the benefit of the moratorium, and also with respect to those subsequent to August 14, 1934, and prior to September 4, 1937, but only when these latter refer to the payment of amounts proceeding or derived from the deferred price of cane plantations, sugar mills, or

shares of stock representing the ownership of property of either of the two kinds, or it is so deduced from the aggregate of the contracts, pacts, or agreements between creditor and debtor, whatever the nature and form of the guarantees, the fulfillment of the said obligations shall be governed by the following rules:

First: Principal which does not exceed $1,000 must be amortized on June 30, 1960.

Principal comprised between $1,000 and $50,000 must be amortized on June 30, 1965, and, if it is greater than $50,000, on the same day of 1970. If the obligation is represented by bonds, certificates, obligations, or notes, the principal, for all the purposes of this transitory provision, shall be considered to be the total amount of the par values represented by those that were in circulation on August 14, 1934, or on September 3, 1937, according to the obligation involved, and the amortization payments shall be credited to them in the order of their respective annual maturities, according to the original contract, or pro rata if they have the same maturity. The amortizations shall be exactable in annual installments, the first being payable on June 30, 1942, but if on that date the period agreed upon by the parties has not lapsed,the said first annual installment shall be payable on June 30 following the maturity of the said installment. In all cases, the principal due must be distributed among the corresponding annual installments of amortization in a progressive manner, so that when combined with the amount due for interest, it will make the total of the annual payments for both items approximately equal, and in such a manner that the creditor shall be paid in full at the end of the period determined by the amount of the debt, as heretofore established.

The principal amounts of *censos* are excepted from the provisions of this rule.

Second: All interest in arrears that is due when this transitory provision becomes effective, as well as any amounts due for commissions, costs, fines or other penalties, and similar items, even though said interest or amounts have been capitalized, shall be uncollectible; but from its effective date, the obligations in question shall bear interest according to the amount of principal, payable as determined by Decree-Laws 412 and 594 of 1934, and in accordance with the rate resulting for each one from application of the following scale: when the principal due does not exceed $15,000, the obligation shall bear interest at three per cent per annum; if it exceeds $15,000 but not $50,000 the obligation in question shall bear interest at two and one-half per cent per annum; when it exceeds $50,000, but not $200,000, it shall bear interest at two per cent; if it is in excess of $200,000 but not of $400,000, at one and three-fourths per cent; if it exceeds $400,000 but not $600,000, at one and one-half; when it exceeds $600,000 but not $800,000, at one and one-fourth per cent; and, finally, when it exceeds $800,000, the obligation in question shall bear interest at one per cent per annum. The provisions of the present rule shall be applied to the obligations referred to in the initial paragraph of this transitory provision, whether or not they bear interest, whether the interest is agreed or legal, and regardless of what the agreed rate is, if there is one.

In every cumulative loan, the principal shall be considered to be the amount actually received by the debtor at the time of execution of the document covering the obligation, and it shall be considered reduced by the amount of the payments made, after deductions have been made therefrom of the amount of the interest accumulated on each one.

This principal thus reduced shall be amortized in the installment specified by rule first, or in a single amount at any time at the will of the debtor.

All interest that has been accumulated on mortgage loans shall be eliminated and shall be null and uncollectible, so that in this manner inter-

est shall be earned and be collectible only on the unpaid part of the principal.

This provision shall also be applicable to the principal of *censos* and other perpetual liens specified in Moratorium Decree-Laws 412, 123, and 594 of 1934, as modified by the Law of September 3, 1937.

Third: The obligations to which the initial paragraph of this transitory provision refers, as far as they affect natural or juridical persons who are owners of sugar mills, as debtors or guarantors, shall also be subject to what is established in rules first and second, provided that such obligations secure debts specifically contracted with direct or indirect guarantee of sugar mills or cane plantations or result from supplies, financing, rentals, or services owed by said mills; but the amount of the annual payments that can be exacted of them as a credit, first, to the interest, and thereafter to the amortization of the principal, shall be limited according to the following bases:

(a) When a pound of centrifugal raw sugar in warehouse at port is quoted at less than 1.40 cents per Cuban pound on an average during the crop, no payment can be exacted of them on account of the annual installment to become due on the following June 30, and the amounts representing amortization and interest of the said annual installment shall be covered by the payments that are found to be exactable in future.

(b) If the average price of sugar exceeds the limit specified, there must be destined to the said payments, whether they represent the current annual installment or any that have been left unpaid in accordance with the preceding base, three per cent of the gross value of the raw sugar manufactured in the crop in which this occurs, as long as the price does not exceed 1.50 cents per pound; from 1.50 cents to 2 cents, there shall be an increase of four-hundredths of one per cent for each one-hundredth of a centavo of increase in the average price of a pound of sugar.

(c) The amounts applicable to interest, or to principal, when there are any applicable to principal, shall be prorated among the various creditors, if necessary, in accordance with the amounts which they are respectively entitled to receive in compliance with the present transitory provision.

(d) When in any crop the official average price reaches 2 cents or more per pound, five per cent of the value of the sugar produced in that crop and pertaining to the mill, that is, excluding the sugar necessary to pay the price of the cane ground, shall be applied as a special amortization for the year in question, and ten per cent additional instead of the five per cent when the price exceeds 2.50 cents, without such special amortizations, eliminating the obligation of the exactable amortizations that the debtor must pay.

(e) On expiration of the period determined by rule first, the creditor shall be entitled to claim all that is due him for principal and interest exactable in accordance with this transitory provision.

Fourth: With respect to the obligations proceeding or derived from the deferred price of lots bought on installments, prior to August 15, 1934, regardless of the principal amount due, the amortization shall be effected in thirty years, as an exception to what is provided on these points in rules first and second, which shall be applicable thereto in all else, and in no case will interest be paid.

This rule shall be applied only to lots the deferred price of which does not exceed $3,000.

In the case of judicial sale of a lot sold on installments, because of a failure to pay the price, the value of the buildings constructed thereon by the buyer or his successors shall be appraised in the judicial proceedings, deducting from the amount fixed the value that reasonably represents the use and enjoyment of said buildings. The net amount resulting from

the appraisal thus made shall be paid to the debtor by the one who purchases the property at the sale, or by the creditor, as the case may be, as indemnity, before the ownership of the property is conveyed to him.

The exception to which paragraph second of this rule refers shall not govern with respect to the obligations to which it refers, if the lot thus acquired is situated in places of not less than twenty thousand inhabitants.

Fifth: As a supplement to what is established in the foregoing four rules, the provisions of Decree-Laws 412 and 594 of 1934, as modified by the sugar co-ordination Law of September 3, 1937, shall be applied, but without altering what is established in the said rules and without prejudice to the provisions of the law of July 10, 1939.

Sixth: With reference to the obligations granted a moratorium by Decree-Law 423 of 1934, as modified by the law of September 3, 1937, and also with respect to the debts for the deferred price of cane plantations, subsequent to August 14, 1934, and prior to September 4, 1937, the provisions of the said legal texts shall be observed instead of applying the foregoing rules; but the moratorium which the said texts establish shall be understood as extended until June 30, 1960, on the same terms as at present in force. Like treatment shall be applied to the mortgages of rural properties devoted to the cultivation of sugar cane, comprised in the initial paragraph of this transitory provision, to the extent that the natural or juridical person who was the owner, lessee, or usufructuary of the sugar mill, to which the cane plantation or plantations established on the land in question is or are bound, was on September 3, 1937, a creditor by reason of the said mortgages, but the provisions of the preceding rule second shall also be observed with respect to the said mortgages.

Seventh: In the case of pignorative claims comprised in this transitory provision, when the pledgee has reserved to himself, or limited with respect to the owner of the shares, the right to vote the shares pignorated, these rules shall be observed:

(a) The creditor cannot vote the said shares in any manner that will produce, directly or indirectly, to the detriment of the company or of the owner of the shares, the loss or diminution of any of the benefits which this transitory provision grants them, or compel the owners thereof to vote in a manner that would produce those results.

(b) The shareholder can vote, in the manner directed by the statutes of the company, to make contracts of sale, lease, or any other operations relative to its properties, as well as to borrow money on the security of the said properties, provided that the rights of the pledgee, as regulated in this transitory provision, are guaranteed; and to that end it will not be necessary that the owner of the shares pignorated physically exhibit the shares at any meeting or meetings where those resolutions are adopted, provided that he accredits his character as such and the amount of the stock possessed, by the books of the company or by means of documents which he presents.

Eight: The provisions of the preceding rules shall not be applied with respect to those obligations which, in virtue of judicial or extrajudicial proceedings intended to collect them or to exact their fulfillment, have, prior to the date of promulgation of this transitory provision, resulted in the award of all of the encumbered property to the creditor or a third person, except in case that by a final decision of the courts the award has been or is declared null. If award of only part of the property has been made, this rule shall be observed with reference to the property awarded, and the other rules shall be observed with respect to the part of the obligation which is still legally exactable, which, for the purposes of this transitory provision, shall be considered to be divided into as many obligations as there are mortgagors, or properties individually encumbered.

In the case of mortgages on urban properties comprised in title third of Decree-Law No. 412, of August 14, 1934, with respect to which the

creditor and debtor have made agreements subsequent to the promulgation thereof, such obligations shall be excluded from this transitory provision, provided there is evidence in writing and the debtor continues to enjoy the full benefits granted him by the said agreements.

Any amount paid in excess of what was required to be paid in accordance with Decree-Laws 412 and 594 of 1934 shall be applied to the payments that are to be made in accordance with this provision, provided the debtor has not received any benefit in compensation for the said payment in excess.

Ninth: Obligations secured by pledge prior to September 4, 1937, can be collected only from the property specifically encumbered in the contract, the right of personal action against the debtors or their guarantors being consequently extinguished.

Tenth: Notwithstanding what is provided in the initial paragraph of this transitory provision, in the case of debts contracted by reason of the deferred price of sale of sugar mills or cane plantations purchased between August 15, 1934, and September 3, 1937, the period for amortization shall be reduced by one-fourth, but the reduction cannot exceed five years; but in all else the foregoing rules shall also be applied to the said debts.

Eleventh: In the cases in which any creditor takes charge of a sugar mill in order to obtain reimbursement of any claim comprised in this moratorium, or of any other debt, it shall be an indispensable requisite therefor that he previously obligate himself to continue to operate it in each sugar crop, if the said mill was operated in the two crops prior to the date on which it was taken over. The chief executive shall issue the proper measures to insure compliance with this obligation.

Twelfth: The provisions of this transitory provision shall also be applied to the obligations contracted prior to August 14, 1934, as debtors, by natural or juridical persons who on the promulgation hereof are at the same time creditors by reason of claims subjected to the foregoing rules, provided they are comprised in title fourth of Decree-Law No. 412 of 1934 or guarantee the fulfillment of such obligations by encumbering as security therefor mortgages which are subject to liquidation in accordance with the said rules, in an amount at least equal to that necessary so that the security thus given will cover what is exactable from them for principal and interest, in accordance with this transitory provision and by virtue of the present rule.

Thirteenth: There are excluded from the benefits of these moratoria:

(a) The obligations excepted in article 59 of Decree-Law No. 412, of August 14, 1934;

(b) Mortgages constituted to secure deposits, administrative or judicial bonds, executorships, and usufructs;

(c) Obligations in which the Nation, the provinces, and the municipalities are debtors;

(d) Those contracted by underwriters or employers by reason of pensions or indemnities arising from the workmen's compensation law;

(e) Obligations contracted by public service companies the functions of which are to furnish electricity, gas, water, or telephone service, even though as organizations affiliated with or dependent on them they have ownership rights over sugar mills or cane plantations.

The provisions of Section (e) of this Rule, with respect to public service companies, shall not be applicable to companies that have a capital of less than one hundred thousand dollars and are not dependent on, affiliated with, or subsidiary to other enterprises.

This transitory provision of the Constitution, while the constitutional law of June 11, 1935, is in force, shall also form part thereof; its application shall not be subject to the restrictions or limitations established or that may be established with respect to the retroactivity of laws and to their

efficacy to annul or modify civil obligations arising from the contracts, acts, or omissions producing them; it shall be effective from its promulgation, which shall be made when it is read aloud by the chairman of the constitutional convention, and for the purposes of its publication a certified copy of it shall be sent to the official gazette of the Republic.

To Title Fifth

SECTION SECOND

First: All personalty and realty that were allotted to the University of Havana when it was granted autonomy by Decree No. 2059, of October 6, 1933, published in the official gazette of the ninth of that month, as well as the other property and rights that pertain to it by reason of legacy, donation, inheritance, or any other title of acquisition, shall form its patrimony as a juridical person and shall be recorded in the corresponding registers free of all payment of fees.

So long as the university patrimony does not furnish annual resources sufficient for the expenses of the University of Havana, the amount that the Nation shall contribute to its maintenance, in accordance with Article 53 of this Constitution, shall be two and one-fourth per cent of the total amount of expenses included in the said budgets, with the exception of the amounts destined to payment of the foreign debt.

This amount shall be distributed proportionally among the several faculties of the university, taking as a basis the number of students seeking the titles granted by each faculty and the needs of their respective courses.

Second: The Nation must, within three years following the promulgation of this Constitution, construct a national hospital with capacity for one thousand patients. On the expiration of the said term, the first paragraph of the first transitory provision of this Title of the Constitution shall enter into full force. During those three years the directors of the hospitals comprised in article VII of Decree No. 2059, of October 6, 1933, published in the official gazette of the ninth of said month, shall be named by the President of the Republic, and shall be chosen from a list of three names that will be submitted by the university council, on proposal of the faculty of the school of medicine.

When those hospitals pass integrally to the Univeristy of Havana, and likewise during the three years mentioned in the preceding paragraph, their budget allotment cannot be less than that which is in force at present and shall be fixed in the budget of the ministry of health and social welfare.

Third: In a period of not more than three sessions, Congress shall proceed to enact a law of general revision of education.

The beneficiaries of official chairs at present occupied without their having accredited teaching capacity in accordance with the law in force must do so within three years, except as provided in the law referred to in the preceding paragraph of this transitory provision. In the meantime no chair of offficial teaching can be filled without the due degrees and certificates of specific capacity.

To Title Sixth

SECTION FIRST

First: The preponderant participation of Cubans by birth in work, established by the Constitution, cannot be less than that guaranteed by the Law of November 8, 1933.

Second: The rights acquired by workers who are Cubans by birth, prior to the promulgation of this Constitution, on the strength of the laws for Cubanization of labor, promulgated under date of November 8, 1933, are irrevocable.

Third: The government of the Republic shall proceed to regulate, in a period of not less than one year, the manner of expulsion of all foreigners who entered the national territory in violation of present immigration and labor laws.

Fourth: For the purposes of compliance with Article 80 of this Constitution, the public beneficence existing on promulgation of this Constitution shall be converted into the social welfare service specified in the said Article.

Fifth: For the purposes of Article 75 of this Constitution, in each municipal district of the Republic there shall be founded by the municipal government a co-operative for distribution of lands and houses, denominated "José Martí," for the purpose of acquiring arable lands and constructing cheap houses for poor farmers, workmen, and employees who do not already own them.

These co-operatives shall be under the supervision of the government of the Republic and shall be governed and administered by their co-operators, with representation of the municipality, the province, and the Nation, and under the chairmanship of the representative of the last-named; but these representatives cannot of themselves decide any ballot.

The funds of these co-operatives shall be constituted principally by the amount contributed by the Nation, the province, the municipality and the small quotas of the co-operators fixed by law; by the reimbursement of the capital invested in agricultural implements, seeds, houses and lots awarded; by the other contributions that the co-operative resolves upon; and by any donations made to it.

Cuban farmers, workers, and employees who meet the requisites fixed by law can be co-operators.

The arable lands acquired shall be awarded to the farmer co-operators, by means of drawings, in lots of not more than three caballerías [1] in the provinces of Las Villas, Camagüey, and Oriente; of two in the provinces of Pinar del Río and Matanzas; and of one in the province of Havana. The awards shall be made by virtue of payment of the amounts, at their cost price, without interest, of the seeds, agricultural implements, and lots, in a period of not more than twenty-five years, the interested party ceasing to pay his co-operative quota as soon as he cancels his indebtedness and acquires his title of ownership. The houses shall be awarded to workers

[1] *A caballería* is about 33 1/3 acres.

and employees of the cities in the same manner and under the same conditions as the lots are awarded to the farmers.

The period of functioning of these co-operatives shall be twenty-five years, but if experience shows that it is advisable for the interests of the Nation, Congress can modify their structure, suppress them in whole or in part, or extend the period; and in the case of definitive cessation of a co-operative, its holdings shall be proportionally returned to the bodies which furnished them.

Congress shall, within the shortest possible time, enact the complementary law regulating the foundation and functioning of these co-operatives.

SECTION SECOND

First: Congress shall proceed, in a period of three sessions from the promulgation of this Constitution, to enact the laws and provisions necessary for the formation of a national property census, the exact measurement of the national territory, and the effecting of the complementary topographic studies.

Second: The Nation shall distribute the lands owned by it, which it does not need for its own purposes, in an equitable and proportional manner, based on the status of father or head of a family, and giving preference to the one who is directly working the land under any title.

In no case can the Nation give to a single family lands which have a value in excess of $ 2,000, or an area greater than two caballerías.

Third: Eviction suits brought against the possessors, under a precarious title, of rural properties on which not less than twenty-five families live, are suspended during two years from the publication of this Constitution, at whatever stage they have reached.

Eviction suits filed against the occupants of rural properties who hold them under contracts of lease or share cropping, provided the property does not exceed five caballerías in area and the suit was filed prior to the promulgation of this Constitution, are likewise suspended for that period of two years, at whatever stage they have reached.

During the said period of two years, Congress shall enact a law regulating lease and share-cropping contracts.

To Title Seventh

SECTION FIRST

Sole: The provisions of Article 97 of this Constitution shall be effective from the first general election held following its promulgation.

SECTION SECOND

First: Within the three sessions that immediately follow the promulgation of this Constitution, the laws necessary for the establishment of the administrative career shall be approved and placed in force, adjusting them to the norms contained in the corresponding Articles of the section of public offices and in these transitory provisions, and to whatever others

are deemed advisable, provided they do not modify, restrict, or impair those established in the Constitution.

Second: The non-removability recognized by legislation in force shall be respected until Congress approves and the government sanctions and promulgates the complementary legislation regulating the administrative career. The non-removability which this Constitution guarantees shall become effective on fulfillment of the requisites and conditions established in the law to be enacted by Congress, which shall comprise all civil officers, employees, and workers of the Nation, the provinces, and the municipalities, with the sole exception of those officers, employees, and workers who show that they have been in the public administration more than twenty years.

Third: The non-removability guaranteed by the preceding transitory provision also comprises civil officers, employees, and workers of the autonomous entities or corporate bodies.

Fourth: The right is recognized of members of the dissolved national army, the national navy, and the national police, who being in active service on September 4, 1933, did not continue in the ranks, to a retirement pension that shall be granted to them and to their heirs whose right is recognized by law, in the manner and amount that the law shall determine and which can at not time be less in amount than that established at present. This right is also recognized to those who, having been receiving retirement pay, lost it, provided this was not by resolution of the courts. This provision shall be regulated by law.

To Title Ninth

SECTION SECOND

Sole: A vacancy arising in the senatorial representation of any province, chosen at the general elections of January 10, 1936, shall be covered, without an alternate, at the first election held, and shall pertain to the political party or associated political parties, as the case may be, which shall obtain a majority of the votes, in accordance with the provisions in force at the said election.

SECTION FOURTH

First: The exception established in Article 126 of this Constitution shall comprise those persons who, having been elected to the office of a senator or representative in Congress, responded to the call to fill a chair in an official establishment prior to the promulgation of this Constitution and obtained the professorship subsequently to their election.

Second: Paragraph second of Article 130 shall become effective six years after this Constitution is promulgated.

SECTION FIFTH

Sole: The Congress of the Republic is authorized to enact, within two sessions and without complying with the requisites specified in paragraph (k) of Article 134 of this Constitution, an amnesty law that shall comprise

the electoral crimes committed by reason of the elections held on November 15, 1939.

Congress is likewise authorized to enact, within the same period and in the same exceptional manner, an amnesty law that shall comprise crimes of a fraudulent character committed prior to the assembling of the constitutional convention of 1940, by public officers and employees in connection with the exercise of their offices, provided it is their first offense.

At its first session following the approval of this Constitution, Congress shall enact an amnesty law that will totally pardon veterans of the War of Independence who are more than sixty years old, and their co-defendants, who are serving time in the penal institutions of the Republic.

To Title Fourteenth

SECTION SECOND

Sole: Pending creation of the section of constitutional and social guarantees to which Article 172 of this Constitution refers, and the appointment of its justices, the full bench of the Supreme Court shall continue to take cognizance of unconstitutionality appeals as regulated in the constitutional law of June 11, 1935.

SECTION FOURTH

Sole: The first renovation of the superior electoral court shall be made one year from the date on which this Constitution becomes effective.

SECTION EIGHT

First: Judicial officers and those of the public prosecution service, their assistants, subordinates, government attorneys, those of the electoral courts who are permanent and are in possession of their offices at the time of promulgation of this Constitution are ratified and comprised in the non-removability referred to in the corresponding Articles.

Second: Alternate municipal judges of the first class are incorporated in the ninth category of the judicial seniority list, and alternate municipal judges of the second class and first alternates of the third class, in the tenth category of the said list; all with the same rights and prohibitions as the law specifies for the respective members of those categories.

To Title Fifteenth

SECTION SECOND

Sole: Present municipal mayors and those who are elected at the first elections held subsequent to the promulgation of this Constitution can impugn resolutions of municipal councils in accordance with the provisions of paragraph (b) of Article 217 of this Constitution, before the competent court of appeals, by the procedure of an incidental civil action, until Congress enacts the corresponding legislation.

SECTION THIRD

First: For the purpose of the provisions of Article 232 of this Constitution, mayors, councilmen, or commissioners elected in 1944 shall cease in 1946.

Second: The national budget that becomes effective on January 1, 1942, shall specify the manner in which the expenses now covered in whole or in part by municipal funds shall be transferred to the Nation.

Third: Notwithstanding the provisions of Article 19 of the Law of July 15, 1925, and its regulations, its provisions shall continue in force until they are repealed or modified by Congress; but they shall be null and void as soon as full payment has been made of the principal and interest of the foreign debt; to the payment of which the taxes referred to in the said Law of July 15, 1925, and its modifications are destined.

To Title Sixteenth

SOLE SECTION

First: For the period of government which shall begin on September 15, 1940, the provisions of the present organic provincial law shall govern, with the exception of the precepts of the said law or of any others that grant the governor or the president of the Republic the faculty of suspending or removing local governing officers, or that of suspending resolutions of the municipal council, or decrees of the mayor or any other municipal authority, which shall not be applicable, in accordance with the provisions of paragraphs (a) and (b) of Article 217 of this Constitution, which shall become effective to the fullest extent during the said period of government.

The governor shall have the faculty of impugning resolutions or decrees of municipalities or the commission referred to in paragraph (b) of Article 217. Until the procedure is established by law, the impugnation shall be effected before the corresponding section of the respective court of appeals, by the steps of incidental civil actions.

The governor shall also have the faculty of inspecting municipal finances and filing complaints with the tribunal of accounts.

Second: The proportional quota referred to in paragraph (a) of Article 242 of this Title Sixteenth shall not be applicable in the period of government to which the preceding transitory provision refers, during which time Article 63 of the present organic provincial law shall govern for that purpose, without prejudice to the provisions of paragraphs (c) and (e) of Article 217 of this Constitution.

To Title Seventeenth

SECTION THIRD

First: The Congress of the Republic, in a period of three sessions, shall enact an organic law of the tribunal of accounts and a general law of accounting of the Nation, the provinces, and the municipalities; as well as of the autonomous bodies subject to check by the tribunal of accounts. The said general law of accounting shall fix the guarantees that must be

given by persons who participate in the collection of the revenues and payments of the said entity.

Second: Notwithstanding the provisions of Article 268 of this Constitution, when the tribunal of accounts is organized for the first time, public accountants can be named who have exercised their profession for at least five years.

Third: For the purpose of compliance with Article 259 of this Constitution, the tribunal of accounts, once it has been constituted, shall proceed to clean up the floating debt and determine its true amount, in a period of not more than two years and shall forward it to the President of the Republic so that he, with such remarks as he deems opportune, may send it to Congress for its approval.

SECTION FOURTH

First: The law which organizes the national banking system can establish as a condition for the operation of other banking institutions in the Republic that they subscribe for part of the capital of the national bank, in which case they shall also have a participation in its board of directors.

Pending promulgation of the law organizing the national banking system, the Nation shall protect existing Cuban banking institutions and shall be obligated to grant them the same treatment that is shown to foreign ones.

Second: The Nation shall grant a certificate of industrial ownership, under the name of industrial introduction patent, to every natural or juridical person who during the first two years following the date of promulgation of this Constitution, requests it of the ministry of commerce, offering to establish a new industry, whether principal or accessory, or to manufacture, process, or prepare, making them suitable for consumption or exportation, articles which at that time are not produced or prepared in the national territory, or the average production whereof in the last five years was less than fifteen per cent of domestic consumption in that time, specifying the article or product, with a statement of the item of the customs tariff in force under which it is classified or comprised; and provided that the applicant obligates himself, subject to force majeure, to construct one or more factories within a period of eighteen months from the granting of the patent, or to open and amplify existing ones capable of producing the article in question, in an amount sufficient, within one year from the said period, to cover a minimum of eighty per cent of the domestic consumption thereof, and guarantees these obligations by a cash bond equivalent to three per cent of the amount declared in the customs as the value of all imports of said article in the twelve months prior to the promulgation of this Constitution, the maximum limit of the said bond being fifty thousand dollars.

Only one industrial introduction patent can be granted for each class of articles and those analogous to it classified or comprised in each item of the customs tariff in force, the right of priority being determined by strict chronological order in the filing of the applications, which at the time of presentation shall be entered in a register in the ministry of commerce,

and the interested party shall be given, in addition to the corresponding certificate of entry, a duplicate of his application, the minister certifying at the foot thereof the day, hour, and minute of presentation, serial number, bond furnished, and whether or not any other application covering the same article has been presented earlier. If none has, and it is proved that the article which it is proposed to produce is not manufactured at that time in the national territory, or is manufactured in an amount less than fifteen per cent of the average consumption in the last five years, and the applicant gives the corresponding surety bond, the industrial introduction patent, valid or effective for fifteen years, shall be issued without further steps, by a final resolution of the ministry of commerce, within a week from filing of the application, the corresponding record being made, and it being published in the official gazette of the Republic, and in case any of the specified requisites are not met, the minister shall deny the application and return the surety bond. Against this denial, an appeal can be taken to the competent courts, after exhaustion of administrative proceedings.

Manufacturers of articles that are being produced at present in the territory of the Republic in an amount which in total is less than fifteen per cent of its consumption, who do not take advantage of the benefits referred to in the first paragraph of this transitory provision, shall each be entitled to continue producing, as an annual quota, the same amount of the said article that they produced during 1939, with an increase or reduction proportional to the increase or reduction occurring in future in domestic consumption, as compared to the said year.

Third: When the patent has been granted, has been placed in effect, and a productive capacity in excess of eighty per cent of domestic consumption of the articles which it covers has been proved, from that time and for the full life of the patent no other person can manufacture, process, or prepare the said articles or those similar to them for consumption in the national territory, violators being subject to the civil and criminal liabilities established by the laws in force, and all of the said articles, without exception, which are imported from abroad for whatever time or purpose in the said period, shall be subject to a duty or tax, as a surcharge, and without changing the present ones, equivalent to fifty per cent ad valorem, which shall be definitively collected by custom houses as a protective tariff margin, the government also taking whatever measures are necessary to prevent dumping and other illegitimate practices. In the application of the customs surtaxes established in this paragraph, the text of international treaties now existing shall be respected as long as they are in force.

The owner of an industrial introduction patent shall be entitled, during all the time that it is in force, to import without limitations or restrictions the machinery and materials intended for establishing the industry, as well as all raw materials employed or utilized for the production, processing, or preparation of the article in question, if they are not duty free, with a reduction of eighty per cent in the taxes and customs duties applicable to them in accordance with the customs tariff in force on the date the patent is granted; and during the life of the patent no change whatever

shall be made in the said exemptions or taxes and duties, or in the fees, taxes, charges, or contirbutions of an internal character that are applicable to such importations on the said date, after their entry into the national territory, or to the industries covered by the patent; the articles produced by these industries being exempt from internal taxes, fees, charges, or exactions or those of any other kind, of the Nation, the provinces, and the municipalities, different from or greater than those payable on analogous articles of domestic origin or from another foreign country; and in no case can any provision whatever be issued that is detrimental to the rights covered by the patent; nor can the patent be altered, suspended, or lapsed, except by completion of its term or by default, after a decision rendered in every case by the corresponding courts.

Fourth: Owners of industrial introduction patents must utilize in their industries the raw materials produced in the national territory, in preference, when quality and price are the same, to those produced abroad, and wholesale sales for domestic consumption of articles manufactured under those patents cannot be made by the producer, in any case, at a price greater than ten per cent as a maximum over the average price for domestic consumption in the half month prior to the sale, in quotations in the New York market, for articles of the same kind, plus ordinary expenses up to their delivery free on board in the port of Havana.

Fifth: The present patent and trade-mark law, contained in Decree-Law No. 805, of April 4, 1936, shall supplementarily govern with respect to what is not particularly specified in the foregoing transitory provisions.

FINAL TRANSITORY PROVISION

Congress shall enact the organic laws and laws complementary to this Constitution, within a period of three sessions, except when this Constitution fixes some other period.

FINAL PROVISION

This Constitution shall be effective in its entirety on October 10, 1940.

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CZECHOSLOVAKIA

SUMMARY

International Status

Czechoslovakia is a member of the United Nations. It signed the Charter at San Francisco on June 26, 1945, and deposited its ratification on October 19, 1945. It also signed the United Nations Declaration of January 1, 1942. As a member of the United Nations it is automatically a party to the Statute of the International Court of Justice of 1945.[1] It is a member of the Postal Union and other international organizations.[2] It signed the Paris Pact of 1928, and was a member of the League of Na-

[1] It is not, as of the time of our going to press, subject to the compulsory jurisdiction of the Court. See Yearbook of the Court, 1951–52, pp. 35–43.

[2] See Table I.

tions and a party to the Statute of the Permanent Court of International Justice.

The independence of Czechoslovakia was formally declared on October 18, 1918, by a provisional government, headed by Thomas G. Masaryk, with its temporary seat at Paris. A provisional constitution was adopted on November 18, 1918. The Republic was proclaimed, with Masaryk as President, and a definitive constitution was adopted on February 29, 1920. The existence of Czechoslovakia, dating from October 20, 1918, had meanwhile been recognized in the Treaties of Versailles, Saint-Germain, and Trianon. The boundaries of the new state, as established in the treaties, included the old kingdom of Bohemia, the former margraviate of Moravia, the former duchy of Silesia, some cantons of Prussian Upper Silesia, and parts of the former kingdom of Hungary inhabited by Slovaks. The treaties also assigned to Czechoslovakia, as an autonomous province, the territory of the Ruthenians to the south of the Carpathian mountains.

In September, 1938, Czechoslovakia yielded to Hitler's demands for surrender of the strategically important Sudeten lands, in the Bohemian mountains. German troops began the occupancy of Bohemia and Moravia, and the Czechoslovak Republic was dissolved in March, 1939. Other portions of the national territory were seized by Hungary and Poland. A Czechoslovakian National Committee established by former President Benes in Paris in September, 1939, and later transferred to London, was recognized by the British Government in July, 1940, as the provisional government of Czechoslovakia. It was recognized by Great Britain, the United States and the USSR, in July, 1941, and subsequently by other countries, as the government of Czechoslovakia. On December 14, 1941, it declared war on all nations at war with the United States, Great Britain, and Russia. Russian troops, with the assistance of Czechoslovak forces, expelled the Germans from the greater part of the country early in 1945. The Russian military occupation, which gradually replaced German military occupation, was officially terminated during that year, but Russian influence became increasingly important again in 1948.

Form of National Government

A new constitution was adopted on May 9, 1948, replacing the one of 1920, and designed to ensure "a peaceful road to socialism." [1] The new 1948 Constitution denounces the "capitalistic economic order with all its attendant evils." [1] The Czecho-Slovak State, according to Article I of the Constitution, is "a People's democratic Republic." It is "a unitary State of two Slav nations possessing equal rights." [2] Provision is

[1] Const. of 1948, Declaration.
[2] Id., Art. II.

made for a supreme legislative organ of the Republic,[1] for a President and a Government of the Republic,[2] and for courts having jurisdiction through out the Republic.[3] There is provision also for the establishment of "Slovak National Organs" for the exercise in Slovakia of legislative powers with reference to exclusively Slovakian matters and governmental and executive powers with reference to all matters except foreign affairs, national defense and foreign trade.[4] The Slovak National Organs are designed to "ensure, in the spirit of the People's democracy, the equality of the Czechs and Slovaks." [5] The powers of the Government of the Republic are effectuated, as a rule, "by intermediary of a body of Plenipotentiaries of the Slovak National Council, these forming a second degree Government in Slovakia." [6]

The economic system of the Czechoslovak Republic is the subject of special constitutional clauses with provision for the nationalization of mineral wealth, industry, wholesale trade and finance; the ownership of the land by those who till it; the protection of small and medium-size enterprise; and the inviolability of personal property. The State directs all economic activity by a Uniform Economic Plan.[7]

The means and instruments of production are "either national property, or the property of People's Cooperatives, or in the private ownership of individual producers." [8] The national property is administered by the State either directly or through autonomous National Enterprises.[9] "The largest area of land which may be held in private ownership by individual or joint owners or by a family working together shall be 50 hectares." [10] Private monopolies, operating for profit in cartels, trusts and syndicates, are prohibited.[11]

Source of Sovereign Power

"The People are the sole source of all power in the State." [12]

Rights of the People [13]

The Constitution guarantees equality of all citizens before the law; [14] personal freedom; [15] observance of law with respect to arrest and prosecu-

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[1] Const., Art. V. [2] Id., Arts. VI, VII. [3] Id., Part. VII, Sec. 137.
[4] Id., Arts. VIII, IX: Part. V, Secs. 93–96. [5] Id., Art. VIII.
[6] Observation of Dr. Outrata, the Czechoslovak Ambassador in Washington, in a memorandum kindly prepared by him for the editor.
[7] Const., Part VIII, Secs. 146–164. [8] Id., Part VIII, Sec. 146.r
[9] Id., Secs. 148, 150, 155. [10] Id., Sec. 159.
[11] Id., Sec. 161. [12] Id., Art. I.
[13] Part I of the Constitution, entitled "Rights and Duties of Citizens," is composed of thirty-eight sections, numbered 1 to 38. The remainder of the Constitution is also divided into parts and sections. The "fundamental" provisions which precede Part I are embodied in twelve articles.
[14] Const., Part I, Sec. 1; see also Art. III. [15] Id., Sec. 2; see also Art. III.

tion;[1] inviolability of domicile;[2] privacy of mail and of communicated news;[3] freedom of residence;[4] the right of property;[5] protection of the family and of youth;[6] the right to education;[7] freedom of conscience and of religious denomination;[8] freedom of expression and protection of cultural assets;[9] the right of petition;[10] the right to assemble and to form associations;[11] the right of all citizens to work, the right of all working members of the population to just remuneration and to leisure, and the right of everyone to the protection of health.[12] "The franchise to the representative bodies is universal, equal, direct, and secret. Every citizen has the right to vote on reaching the age of eighteen. Every citizen may be elected on reaching the age of twenty-one." [13]

Legislative Department

"The supreme organ of legislative power is the National Assembly of one Chamber. It has three hundred members (deputies), elected for a term of six years." [14] Details with respect to the election of deputies are to be prescribed by law.[15] The National Assembly annually elects a Presidium of twenty-four deputies, including the chairman and vice-chairmen of the Assembly.[16] The Presidium has authority when the issue is "controversial," to "give a binding interpretation of Acts and decide exclusively whether an Act (of the Assembly) or an Act of the Slovak National Council is contrary to the Constitution or whether an Order is contrary to an Act." [17] It has authority, when the National Assembly is not in session, to "deal with all matters appertaining to the competence of the National Assembly," except as provided in the Constitution.[18]

Executive Department

"At the head of the State is the President of the Republic, elected by the National Assembly for a term of seven years." [19] No one may be elected President more than twice in succession.[20] Upon a finding by the Government that the President "has been prevented or ailing for a period exceeding six months," the National Assembly elects a Vice-President to serve "until the impediment passes." [21]

"The supreme organ of governmental and executive power is the Government. It is accountable to the National Assembly. It is ap-

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[1] Const., Sec. 3.
[2] Id., Secs. 4, 5.
[3] Id., Sec. 6.
[4] Id., Sec. 7.
[5] Id., Secs. 8, 9.
[6] Id., Secs. 10, 11.
[7] Id., Secs. 12–14.
[8] Id., Secs. 15–17.
[9] Id., Secs. 18–22.
[10] Id., Sec. 23.
[11] Id., Secs. 24, 25.
[12] Id., Secs. 26–29; see also Art. III.
[13] Id., Art. IV.
[14] Id., Art. V.
[15] Id., Part II, Sec. 40.
[16] Id., Secs. 63, 64.
[17] Id., Sec. 65.
[18] Id., Sec. 66.
[19] Id., Part III, Secs. 67–69.
[20] Id., Part III, Sec. 70.
[21] Id., Sec. 73.

pointed and recalled by the President of the Republic." [1] The Government is obliged, upon its appointment, to present its program to the National Assembly and ask for a vote of confidence.[2] If the National Assembly rejects a Government motion of confidence or if it passes a vote of no-confidence, the Government is bound to resign.[3] The Prime Minister and the other members of the Government may be interrogated by the National Assembly and they are entitled to take part in the sittings of the Assembly or of any of its committees.[4]

Provision is made for the establishment of National Committees throughout the Republic.[5] The functions of these Committees, "being the organs of the Uniform People's Administration," include the protection and strengthening of the People's Democratic Order and participation in the preparation and implementation of the "Uniform Economic Plan." [6]

Judicial Department

The courts "established for the whole territory of the Czechoslovak Republic" are the Supreme Court, the Supreme Military Court, and the Administrative Court. Their composition, organization, competence and rules of procedure are regulated by law.[7] Provision is made for the appointment of lay judges.[8] The function of deciding whether statutes conflict with the constitution and whether orders conflict with statutes rests chiefly in the legislative, not the judicial, department of the government.[9]

Area, Population, Language

The area of Czechoslovakia, excluding Carpathian Russia, which was transferred to the USSR under the Treaty of Moscow of July 29, 1945, is 49,358 square miles. Its population (1948 census) is 12,513,000. The language is Czechoslovak.

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[1] Const. Art. VII. [2] Id., Part IV, Sec. 82. [3] Id., Sec. 84.
[4] Id., Part II, Secs. 55–56. [5] Id., Part VI, Secs. 123–133. [6] Id., Sec. 125.
[7] Id., Part VII, Sec. 137. [8] Id., Sec. 142. [9] Id., Art. 65.

CONSTITUTION of the CZECHOSLOVAK REPUBLIC

June 9, 1948 [1]

DECLARATION

We, the Czechoslovak People, declare that we are firmly resolved to build up our liberated State as a People's democracy which will ensure to us a peaceful road to socialism.

We are determined to defend with all our strength the achievements of our national and democratic revolution against all the endeavors of domestic and foreign reaction, as we have proved afresh before the whole world by the action we took in defense of the People's Democratic Order in February 1948.

We mutually pledge ourselves that our two nations shall labor at this great task together, hand in hand, thus continuing the progressive and humanitarian traditions of our history.

The Czechs and Slovaks, two brotherly nations,[2] members of the great Slav family of nations, lived already a thousand years ago jointly in a single State, and jointly accepted from the East the highest achievement of the culture of that era—Christianity. As the first in Europe they raised on their standards, during the Hussite revolution, the ideas of liberty of thought, government of the people, and social justice.

For centuries on the Czech and Slovak people fought the feudal exploiters and the German Hapsburg Dynasty for social and national liberation. The thoughts of freedom, progress and humanity were the guiding ideas of our two nations when in the 19th century, they entered, by the joint effort of Slovak and Czech intellectual pioneers who had sprung from the people, upon the era of national revival. Under this flag also both our nations began their joint struggle against German imperialism during the first World War, and, inspired by the Great October Revolution, they created after centuries of subjection, on October 28th, 1918, their common State—the democratic Republic of Czechoslovakia.

Already then, during the first resistance movement, our people, inspired

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[1] Adopted by the Constituent National Assembly of the Czechoslovak Republic May 9, 1948; promulgated June 9, 1948, as No. 150 of the Collection of Acts and Orders of the Czechoslovak Republic; translation, by the Czechoslovak Ministry of Information, received by the editor from the Czechoslovak Embassy in Washington.

[2] The term "nation" (národ) denotes throughout the linguistically and culturally distinct Czech and Slovak ethnic groups respectively; the term "*People*" (lid) denotes the entire population as a political unit. Hence "national" (národní) means "pertaining to the Czech (or Slovak) nation".

by the great example of the revolutionary struggle of the Russian workers and peasants, longed for a better social order, for socialism. But this progressive endeavor, true to our best traditions, was shortly brought to nought, when, upon the split of the workers' movement in December 1920, the numerically weak section of capitalists and landowners succeeded in turning back, in spite of the democratic Constitution, the progressive development of our Republic, and in establishing the capitalist economic order with all its attendant evils, above all the nightmare of unemployment.

When before long a new imperialist expansion, in the foul likeness of German nazism, threatened both our nations with destruction, then once again, as the nobility had betrayed the people in the Hussite Wars, now the latter-day ruling class, the bourgeoisie, allied itself in the time of greatest peril with the enemy against the people and thus enabled world imperialism to settle its differences, albeit temporarily, at the expense of both our nations, by the shameful Munich Pact.

Thus the road was cleared for the rape of our peace-loving country by the ancient enemy, with the zealous assistance of the descendants of alien colonists settled in our midst and enjoying, equally with us, full democratic rights in accordance with our Constitution. The dreadful events of the second World War saw our two nations again united in the common struggle for liberation, a struggle which, at the cost of the lives of countless of our best sons and with the aid of the Allies, above all the great Slav Power, the Union of Soviet Socialist Republics, reached its climax through the Slovak and Czech risings of 1944 and 1945 with the national and democratic revolution of our people, and was brought to a victorious conclusion in the liberation of Prague by the Red Army, May 9th, 1945.

We have decided now that our liberated State shall be a national State, rid of all hostile elements, living in brotherly harmony with the family of Slav States and in friendship with all peace-loving nations of the world. We wish it to be a People's democratic State where the People not only make the laws through their representatives, but also carry them into effect through their representatives. We wish it to be a State in which the entire economy shall serve the people and be so directed that general prosperity should grow, that there should be no economic crises and that the national income should be justly distributed. Along this road we wish to attain to a social order in which exploitation of man by man shall be completely abolished—to socialism.

In this spirit we have laid down in the second part of this Constitution its Fundamental Articles, and in the third we have expounded them in detail, whereby we propose to give a firm foundation to the Legal Order of our People's democracy.

FUNDAMENTAL ARTICLES OF THE CONSTITUTION

Art. 1. 1. The Czechoslovak State is a People's democratic Republic.

2. The People are the sole source of all power in the State.

Art. II. 1. The Czechoslovak Republic is a unitary State of two Slav nations possessing equal rights, the Czechs and the Slovaks.

2. The territory of the State forms a single and indivisible whole.

Art. III. 1. The People's democratic Republic recognizes no privileges; work for the benefit of the community and participation in the defense of the State is the duty of all.

2. The State guarantees to all its citizens, men and women alike, freedom of the person and its expression and takes care that every citizen receive the same possibilities and the same opportunities.

3. All citizens have the right to education, the right to work, to a just reward for work done, and to leisure after work. National Insurance shall provide for all citizens in cases of incapacity for work.

Art. IV. 1. The sovereign People discharge the State power through representative bodies which are elected by the People, controlled by the People and accountable to the People.

2. The franchise to the representative bodies is universal, equal, direct, and secret. Every citizen has the right to vote on reaching the age of eighteen. Every citizen may be elected on reaching the age of twenty-one.

3. To deal with public matters and to exercise their democratic rights the people form voluntary associations, in particular political, trade union, cooperative, cultural, women's, youth, and gymnastic associations.

Art. V. The supreme organ of legislative power is the National Assembly of one Chamber. It has three hundred members (deputies), elected for a term of six years.

Art. VI. At the head of the State is the President of the Republic, elected by the National Assembly for a term of seven years.

Art. VII. The supreme organ of governmental and executive power is the Government. It is accountable to the National Assembly. It is appointed and recalled by the President of the Republic.

Art. VIII. 1. The State power in Slovakia is vested in and carried into effect and the national individuality of the Slovak nation is represented by the Slovak National Organs.

2. The Slovak National Organs ensure, in the spirit of the People's democracy, the equality of the Czechs and Slovaks. All organs of the Republic shall endeavor, in harmony with the Slovak National Organs, to ensure that equally favorable conditions be created for the economic, cultural and social life of both nations.

Art. IX. 1. The national organ of legislative power in Slovakia is the Slovak National Council. It has one hundred members (deputies), elected in Slovakia for a term of six years.

2. The national organ of governmental and executive power in Slovakia is the Board of Commissioners. It is accountable to the Slovak National Council and to the Government of the Republic. It is appointed and recalled by the Government of the Republic.

Art. X. The State power in parishes, districts, and regions [1] is vested

[1] "*Parish*" (obec)—the basic local government and administrative unit, i.e. any town or village, irrespective of size (e.g. Pražská obec—the Parish of Prague). The term implies no reference to the organization of the church.—"*District*" (okres)—second local Government and administrative unit, consisting of a district town and surrounding

in and carried into effect and the rights and liberties of the People are safeguarded by the National Committees.

Art. XI. 1. The judicial power is exercised by independent courts.

2. The judges are both judges by profession and lay judges; they are both equal in any decision.

3. The judges discharge their office independently, being bound solely by the Legal Order of the People's democracy.

Art. XII. 1. The economic system of the Czechoslovak Republic rests

On the nationalization of mineral wealth, industry, the wholesale trade and of finance;

On the ownership of the land in accordance with the principle "The land belongs to those who till it";

On the protection of small and medium-sized enterprise, and on the inviolability of personal property.

2. The entire national economy of the Czechoslovak Republic shall serve the People. In this public interest the State directs all economic activity by a Uniform Economic Plan.

DETAILED PROVISIONS OF THE CONSTITUTION

PART I

RIGHTS AND DUTIES OF CITIZENS

Equality

Section 1

1. All citizens are equal before the law.

2. Men and women shall hold equal position in the family and in the community and shall have equal access to education, and to all professions, offices and honors.

Personal Freedom

Section 2

Personal freedom is guaranteed. It may be restricted or witheld only on the basis of the law.

Section 3

1. No one shall be prosecuted, except in cases permitted under the law, and then only by a court or authority competent by law, and in the manner prescribed by law.

2. No one shall be arrested, unless he be caught in the act itself, except on a written circumstantiated warrant granted by a judge. This warrant shall be served at the time of the arrest, or, if this is not possible, within 48 hours thereafter.

3. No one shall be taken into custody by a public functionary, except

area.—"*Region*" (kraj): Instead of the present three "Provinces" (země), Bohemia, Moravia-Silesia, Slovakia, there will be approx. 15 regions. At the same time, Slovakia will continue to represent a distinct unit by virtue of its national organs.—Tr.

in such cases as are prescribed by law, whereupon he shall either be released within 48 hours or brought before a court or such authority as may be competent, according to the nature of the case, to deal with it further.

Inviolability of Domicile

Section 4

The inviolability of the domicile is guaranteed. It may be restricted only on the basis of the law.

Section 5

1. The premises of no one may be searched, except in cases permitted under the law, and then only by a court or public functionary competent by law, and in the manner prescribed by law.

2. A search may be carried out, unless the law directs otherwise, only on the strength of a written circumstantiated warrant granted by a judge or competent authority. This warrant shall be served at the time of the search, or, if this is not possible, within 48 hours thereafter.

3. The functionary carrying out the search shall produce his authority, and furnish the person whose premises he has searched, at the request of that person, at the time of the search, or, if this is not possible, within 48 hours thereafter, with a written statement giving the reasons for the search, and the result thereof, and a list of all articles seized.

Privacy of Mails and Privacy of Communicated News

Section 6

No one shall violate the privacy of letters under cover or other written matter, whether they be kept in a private place or despatched by mail or other means of transport, except in cases authorized by law and in the manner prescribed by law. The privacy of news communicated by telephone, telegraph, or other similar public means of communications, is likewise protected.

Freedom of Residence

Section 7

1. Every citizen may take up domicile or sojourn anywhere within the territory of the Czechoslovak Republic. This right may be restricted only in the public interest on the basis of the law.

2. The right to emigrate abroad may be restricted only on the basis of the law.

Right of Property

Section 8

Within general statutory limits every citizen may anywhere within the territory of the Czechoslovak Republic acquire real and other property and carry on gainful activity there.

Section 9

1. Private ownership may be restricted only by law.
2. Expropriation shall be possible only on the basis of the law and on payment of compensation except in such cases as it is or shall be prescribed by law that no compensation be given.
3. No one shall misuse the right of property to the detriment of the community.

Protection of the Family and of Youth

Section 10

1. The institution of marriage, the family and motherhood are under the protection of the State.
2. The state shall ensure that the family be the sound foundation of the development of the nation. Large families shall be granted special relief and assistance.

Section 11

1. To children the State shall ensure special care and protection. In particular the State shall take systematic measures in the interest of the increase of the population within the nation.
2. The rights of a child shall not be prejudiced by virtue of its origin. Details shall be prescribed by Act.
3. To youth the State shall ensure all opportunities for full physical and mental development.

Right to education

Section 12

1. All citizens have the right to education.
2. The State shall ensure that every one receives education and training in accordance with his natural abilities and with a view towards the needs of the community.

Section 13

1. All schools shall be State schools.
2. Basic education shall be uniform, compulsory and free.
3. Details and exceptions shall be prescribed by Act.

Section 14

1. All education and all instruction shall be so provided as to be in accordance with the results of scientific research, and so as not to be inconsistent with the People's Democratic Order.
2. The supreme direction of all education and of all instructions, as well as the supervision thereof, shall be the competence of the State.

Freedom of Conscience and of Religious Denomination

Section 15

1. Freedom of conscience is guaranteed.
2. No one shall suffer prejudice by virtue of his views, philosophy, faith or convictions; neither may any such views, philosophy, faith or convictions be a ground for anyone to refuse to fulfil the civil duties laid upon him by law.

Section 16

1. Every one shall be entitled to profess privately and publicly any religious creed or to be without denomination.
2. All religious denominations as well as the absence thereof shall be equal before the law.

Section 17

1. Every one shall be at liberty to carry out the acts connected with any religious denomination or absence thereof. The exercise of this right shall not, however, be inconsistent with public order and morality. This right shall not be misused for non-religious ends.
2. No pressure, direct or indirect, shall be put upon anyone to take part in such acts.

Freedom of Expression and Protection of Cultural Assets

Section 18

1. Freedom of expression is guaranteed.
2. Every one may, within the limits of the law, express his opinion by word of mouth, in writing, print, pictorially, or in any other manner whatsoever. No one shall suffer prejudice by virtue of the exercise of this right.

Section 19

1. Freedom of creative mental work is guaranteed. Scientific research and the promulgation of the results thereof, as well as art and its expressions, are free provided they do not violate the penal law.
2. Cultural assets are under the protection of the State. The State shall ensure that these assets be available to all, and support science and the arts in the interest of the development of the national culture, of progress, and of the general welfare; in particular the State shall ensure to creative workers favorable conditions for their work.

Section 20

1. Every one shall have the right to bring his views and the fruits of his creative mental work to the general notice, and to distribute and perform them in any manner whatever.
2. This right may be restricted by law only with a view to the public interest and to the cultural needs of the people.

Section 21

1. Freedom of the press is guaranteed. It shall therefore not be permitted, as a rule, to subject the press to preliminary censorship.

2. Who shall be entitled, and on what conditions, to publish periodical journals ,in particular with regard to the principle that profit should not be the aim of such publication, shall be prescribed by Act.

3. The manner of the planned direction of the issue and distribution of non-periodical publications, in particular books, musical scores, and reproductions of works of art, while maintaining the freedom of science and the arts and with a view to the protection of valuable works, shall be prescribed by Act.

Section 22

1. The right to produce, distribute, publicly exhibit, as well as to import and export motion pictures shall be reserved to the State.

2. Broadcasting and television shall be the exclusive right of the State.

3. The exercise of these rights shall be regulated and exceptions prescribed by Acts.

Right of Petition

Section 23

Every one shall be entitled to petition with any public authority whatsoever.

Right to Assemble and to Form Associations

Section 24

1. The right to assemble and to form associations is guaranteed provided that the People's Democratic Order, or public law and order are not threatened thereby.

2. The exercise of these rights shall be regulated by Acts.

Section 25

1. In order to protect their rights, employed persons may associate together in a United Trade Union Organization and be entitled to defend their interests through the instrumentality thereof.

2. The United Trade Union Organization shall be ensured a wide participation in the control of the economy and in dealing with all matters relating to the interests of the working population.

3. The interests of the employed persons in individual works and offices shall be represented by the United Trade Union Organization and its bodies.

Social Rights

Section 26

1. All citizens shall have the right to work.

2. This right shall be secured especially by the organization of work directed by the State in pursuance of the planned economy.

3. Women shall be entitled to special regulation of conditions of work, in view of the circumstances of pregnancy, maternity and child care.

4. Special conditions of work in respect of young persons, in consideration of the requirements of their physical and mental development, shall be prescribed by Act.

Section 27

1. All working members of the population shall be entitled to a just remuneration for work done.

2. This right shall be secured by the wage policy of the State, pursued in concurrence with the United Trade Union Organization and directed towards the constant raising of the standard of living of the working population.

3. In assessing the remuneration for work done the decisive factors shall be the quality and quantity of the work done as well as its benefit to the community.

4. On the same conditions of work, men and women shall be entitled to equal remuneration for equal work.

Section 28

1. All working members of the population shall have the right to leisure.

2. This right shall be secured by the regulation of hours of work and of holidays with pay by Act, as well as by the care of the recreation of working members of the population.

Section 29

1. Every one shall be entitled to the protection of health. All citizens shall be entitled to medical care and to provisions in old age, incapacity for work and loss of livelihood.

2. Women shall be entitled to special care in the events of pregnancy and maternity, children and young persons shall be entitled to all facilities for a full physical and mental development.

3. These rights shall be secured by the Acts relating to national insurance, as well as by the public health and social welfare services.

4. The protection of life and health at work shall be ensured in particular by State supervision and by regulations issued in respect of safety precautions in places of work.

Fundamental Duties of the Citizen Towards the State and the Community

Section 30

1. It is the duty of every citizen to be loyal to the Czechoslovak Republic, to uphold the Constitution and the laws and in all his actions to be sensible of the interests of the State.

2. In particular it is the patriotic duty of every citizen to assist in the maintenance and furtherance of the national property and to guard against its being diminished or damaged.

Section 31

It is the duty of citizens to discharge all public functions to which they have been called by the People conscientiously and honestly in the spirit of the People's Democratic Order.

Section 32

It is the duty of every citizen to work in accordance with his abilities and to contribute by his work to the common weal.

Section 33

Taxes and public duties may be levied only on the basis of the law. Likewise the public authority may demand personal services only on the basis of the law.

Section 34

1. The defense of the State and of the People's Democratic Order is the supreme duty of every citizen. Service in the people's democratic army of the Czechoslovak Republic is the supreme honor for every citizen.
2. It is the duty of every citizen to undergo military training, to take part in military service, and to obey any call to the defense of the State.
3. For the purpose of the defense of the State and for the preparation of such defense, cooperation and material contributions may be demanded from, and restrictions and material services imposed upon, every one.
4. Public authorities and executive officers shall in the exercise of their official function, by virtue of their authority, take care also of the interests of the defense of the State.
5. Details shall be prescribed by Act.

General Provisions

Section 35

Penalties may be threatened or imposed only on the basis of the law.

Section 36

1. It is the duty of all public authorities to act in the discharge of their office or duty in accordance with the law and with the principles of the People's Democratic Order.
2. If any public functionary offends against this duty he shall be liable to punishment according to law.

Section 37

1. Statements and acts that constitute a threat to the independence, integrity and unity of the State, the Constitution, the Republican form of government and the People's Democratic Order, are punishable according to law.

2. The misuse of civil rights and liberties to such ends is inadmissible. In particular it is forbidden to spread, in any manner and in any form whatever, nazism and facism, racial and religious intolerance, or chauvinism.

Section 38

What restrictions may be imposed upon the rights and liberties of citizens in time of war, or when events occur that threaten in increased measure the independence, integrity and unity of the State, the Constitution, the Republican form of government and the People's Democratic Order, or public law and order, shall be prescribed by Act.

Part II

THE NATIONAL ASSEMBLY

Section 39

1. The seat of the National Assembly shall be Prague.
2. Temporarily the National Assembly may be summoned to another place.

Section 40

1. Details in respect of the conditions of the franchise, of the exercise thereof and of the carrying out of the election of deputies of the National Assembly, shall be prescribed by Act.
2. What activity and which public functions are incompatible with the function of deputy, shall be prescribed by Act.

Section 41

1. The National Assembly shall verify the validity of the election of the individual deputies and decide upon the incompatibility of the function of deputy with another function.
2. Verification shall be carried out within six months after the Chamber has been constituted, or within three months after the day on which a substitute member, replacing a deputy, has taken the pledge.

Section 42

1. At his first sitting in the National Assembly a deputy shall take the following pledge: "I pledge myself that I will be loyal to the Czechoslovak Republic and her People's Democratic Order. I will uphold her laws and discharge my mandate according to the best of my knowledge and conscience, to the benefit of the People and of the State."
2. Refusal to take the pledge or a pledge taken with reservations shall involve the direct loss of the mandate.

Section 43

The deputies shall discharge their mandate personally. They may resign at any time.

Section 44

The deputies may not be prosecuted at all for voting in the National Assembly or in the Committees of the Chamber. For statements made there in the exercise of the mandate they shall be amenable only to the disciplinary power of the National Assembly.

Section 45

1. In order that criminal or diciplinary proceedings might be taken against a deputy in respect of any other offense or omission, the assent of the National Assembly shall first be obtained. If the National Assembly refuses this assent, no proceedings shall be taken in respect of that offense or omission then or ever after.
2. This provision does not apply to the penal liability incurred by a deputy as the responsible editor of a journal.

Section 46

1. If a deputy be apprehended and arrested in the criminal act itself, the court or other competent authority shall be liable to notify the Chairman of the National Assembly at once of the arrest.
2. Unless the National Assembly make known within 14 days its assent to further custody, the deputy shall be released.
3. If the Chamber is not in session at the time of the arrest, the consent of the Presidium of the National Assembly shall be required. If the Presidium assents to further custody, the National Assembly shall decide in respect of the matter within 14 days after the date of its next sitting. This decision shall be final.

Section 47

Deputies shall have the right to refuse testimony in respect of matters confided to them in their capacity as members of the National Assembly, and shall be so entitled even after they have ceased to be such members. Excepted shall be cases relating to inducement to a misuse of the mandate.

Section 48

1. A deputy in public or private employment shall be entitled to leave-of-absence from the day on which he takes the pledge throughout the duration of the mandate.
2. The deputies shall be entitled during the exercise of the mandate to compensation, the amount whereof shall be prescribed by Act.
3. Further details in respect of the position of deputies, in particular in respect of their claim to salary (if in public or private employment), shall be prescribed by Act.

Section 49

1. It shall be the duty of the President of the Republic to summon the National Assembly for two ordinary sessions in each year, being the Spring Session and the Autumn Session. The Spring Session shall begin in March and the Autumn Session shall begin in October.

2. The President of the Republic shall prorogue the National Assembly at the end of each session. He may adjourn it for not longer than one month and not more often than once a year.

3. The President of the Republic shall summon the National Assembly for extraordinary sessions, if necessary. If an absolute majority of all the deputies apply to the Prime Minister that the National Assembly be recalled, making known to him at the time the subject of proceedings, the President of the Republic shall summon the National Assembly so that it may convene within a fortnight after the application has been lodged. Should the President of the Republic fail to do so, the National Assembly shall convene within the following fortnight at the summons of its Presidium.

Section 50

1. The President of the Republic shall have the right to dissolve the National Assembly. He shall not be entitled to exercise this right during the last six months of his term of office.

2. New elections to the National Assembly shall be carried out within 60 days after the expiry of the election term of the National Assembly or after it has been dissolved by the President.

3. By virtue of a dissolution of the National Assembly criminal proceedings initiated under section 78 or 91 shall not be discontinued.

Section 51

The fundamental rules relating to the proceedings of the National Assembly, its relations with the Government and with the outside world in general shall be laid down in the National Assembly Standing Orders Act. Subject to the provisions of this Act the National Assembly may regulate its internal affairs and lay down additional rules of procedure by autonomous resolution.

Section 52

1. The sittings of the National Assembly shall be presided over by the Chairman of the National Assembly.

2. The Presidium of the National Assembly may appoint additional officers for the carrying out of specific parliamentary tasks.

Section 53

1. The sittings of the National Assembly shall as a rule be public.

2. Non-public sittings may take place only in cases provided for in the Standing Orders.

Section 54

1. The quorum of the National Assembly shall consist of not less than one-third of the deputies. The enactments of the National Assembly shall be valid if adopted by a simple majority of votes.

2. Enactments whereby the Constitution is amended, a Constitutional Act is adopted, or a decision in respect of a declaration of war is taken, shall be valid if adopted by a three-fifths majority of all the deputies. The same majority shall be required for the validity of an enactment whereby a conviction is brought in a criminal action against the President of the Republic or against members of the Government.

Section 55

1. The Prime Minister and the other members of the Government shall be entitled at any time to take part in the sittings of the National Assembly or of any of its Committees. They shall be permitted to speak whenever they so request.

2. A member of the Government shall appear before the Chamber in person at the request of the National Assembly, its Presidium or any of its Committees.

3. At other times a member of the Government may be respresented by officials of his department.

Section 56

1. The National Assembly shall be entitled to interpellate the Prime Minister and the other members of the Government in respect of matters of their competence. It shall be the duty of the Prime Minister and the other members of the Government to reply to the interpellations of deputies.

2. The National Assembly may adopt addresses and resolutions.

Section 57

1. Bills may be moved on the conditions laid down in the Standing Orders, either by the Government or by deputies.

2. Every bill moved by deputies shall be accompanied by an estimate of the financial import of the bill and by a proposal for revenue to cover the expenditure involved.

Section 58

The President of the Republic shall have the right to return enactments of the National Assembly with his comments within one month after the day on which the enactment was submitted to the Prime Minister.

Section 59

1. If the National Assembly in a ballot taken by roll-call re-enact a returned enactment by an absolute majority of votes, it shall be promulgated as an Act.

2. Where the enactment is such that its adoption is subject to the affirmative vote of a three-fifths majority of all the deputies, the re-enactment (after having been returned by the President), shall be subject to that same majority.

3. If the election term of the National Assembly expires or if the

National Assembly is dissolved before being able to decide in respect of the returned enactment, this decision may be taken by the newly elected National Assembly.

Section 60

1. There shall be set out in every Act which member of the Government is to be charged with its implementation.
2. An Act shall be signed by the President of the Republic, the Chairman of the National Assembly, the Prime Minister, and the Minister charged with its implementation. If the President is prevented or ailing and if there is no Vice-President (section 72, subsection 2), the Prime Minister shall sign for the President.
3. Members of the Government may for the purpose of signing Acts be represented by other members of the Government.

Section 61

1. In order to be valid, an Act shall be promulgated in the manner prescribed by Act.
2. Acts shall be promulgated by means of the following introductory clause: "The National Assembly of the Czechoslovak Republic has enacted the following Act."
3. An Act shall be promulgated within 8 days after having been signed by the President of the Republic, or after lapse of the period set out in section 58. If, however, the President makes use of his right as there set out, the Act shall be promulgated within 8 days after its re-enactment by the National Assembly (section 59) has been notified to the Prime Minister.

Section 62

1. The National Assembly shall be competent to enact the State Bugdet Act and to audit the final State accounts. The estimates bill and the final accounts shall be laid before the National Assembly by the Government. The State budget shall be uniform. Further provision shall be made by Act.
2. The control of the public finances shall be regulated uniformly by Act for the entire territory of the State.

The Presidium of the National Assembly

Section 63

1. The National Assembly shall elect a Presidium of 24 from among the deputies.
2. The Presidium of the National Assembly shall consist of the Chairman of the National Assembly, the Vice-Chairmen, and the other members.
3. The Chairman of the National Assembly may be represented by one of the Vice-Chairmen, subject to the provisions of the Standing Orders.

Section 64

1. The Presidium of the National Assembly shall always be elected for a term of one year. The Chairman of the National Assembly and the Vice-Chairmen shall be elected by separate vote.

2. The first election shall take place as soon as the newly elected National Assembly is constituted. At subsequent elections the members of the Presidium shall remain in office until the new Presidium has been elected. If the election term of the National Assembly has expired or if the National Assembly has been dissolved, the members of the Presidium shall remain in office until such time as the new National Assembly elects its Presidium, and the provisions of sections 43 to 48 shall continue to apply to them.

3. If for any reason the seat of any member of the Presidium falls vacant prior to the expiry of the term of office of the Presidium, a by-election shall be held for the remainder of the term.

4. The National Assembly may recall its Presidium or the individual members thereof at any time.

Section 65

1. The Presidium of the National Assembly shall, where a matter at issue is controversial, give a binding interpretation of Acts and decide exclusively whether an Act or an Act of the Slovak National Council is contrary to the Constitution or whether an Order is contrary to an Act.

2. The implementation of the foregoing provision shall be regulated by Act.

Section 66

1. At a time when the National Assembly is not in session, because
   (1) It has been prorogued or adjourned, or
   (2) Its election term has expired, or
   (3) It has been dissolved, or
   (4) Its convening is made impossible by exceptional circumstances, the Presidium of the National Assembly shall remain in office (section 64, subsection 2). The provisions of section 55 shall at such a time apply to the sittings of the Presidium, mutatis mutandis.

2. The Presidium of the National Assembly shall during this time take urgent measures, including such measures as would otherwise require an Act. The Presidium shall at such a time be competent to deal with all matters appertaining to the competence of the National Assembly, with the exception of the matters set out in subsections 3 and 4 below.

3. If the National Assembly is not in session because its convening has been made impossible by exceptional circumstances (subsection 1, paragraph 4), the Presidium of the National Assembly shall not be entitled
   (a) To elect the President of the Republic or the Vice-President;
   (b) To amend the Constitution or Constitutional Acts.

4. If the National Assembly is not in session for any of the reasons set out in subsection 1, paragraph 1 to 3, the Presidium of the National Assembly shall not be entitled

(a) To elect the President of the Republic or the Vice-President;
(b) To amend the Constitution or Constitutional Acts;
(c) To extend military service, or to impose permanent charges upon the State finances;
(d) To take decision in respect of a declaration of war.

5. In respect of measures which would otherwise require an Act, or in order to sanction expenditure or revenue not provided for in the budget, the agreement of the absolute majority of all members of the Presidium shall be necessary. In respect of other matters the presence of one-half of the members of the Presidium and the assent of a simple majority of present members shall be sufficient.

6. Urgent measures which would otherwise require an Act may be proposed only by the Government. Such measures shall possess the temporary validity of an Act and shall be promulgated with reference to section 66 of the Constitution in accordance with section 61, mutatis mutandis. They shall be signed by the President of the Republic, the Chairman of the National Assembly, the Prime Minister, and not less than one-half of the members of the Government. Measures which the President of the Republic or the Prime Minister refuses to sanction shall not be promulgated.

7. As soon as the National Assembly is again in session the Chairman shall report to the National Assembly on the proceedings of the Presidium. If a new National Assembly has in the meantime been elected, this report shall be made during the inaugurating session by the Chairman of the former National Assembly or by one of its Vice-Chairmen, even if they are not members of the newly elected National Assembly.

8. Measures not ratified by the National Assembly within two months of its convening shall cease to be valid.

Part III

THE PRESIDENT OF THE REPUBLIC

Section 67

1. Any citizen of the State who is eligible to the National Assembly and who has reached the age of 35 may be elected President of the Republic.

2. The chief seat of the President shall be Prague.

Section 68

1. The President of the Republic shall be elected by the National Assembly.

2. The election of the President of the Republic shall be valid if an absolute majority of deputies is present at the sitting. A candidate shall be elected if he secures a three-fifths majority of the votes of those present.

3. Should no decision be reached after two votes, a final ballot shall decide between those candidates who secure the greatest number of votes in the second ballot. The candidate who secures the greatest number of

votes shall be elected. In the event of an even vote, decision shall be made by lot.

4. Details shall be prescribed by Act.

Section 69

1. The term of office shall be seven years, and shall begin on the day on which the newly elected President takes the pledge.

2. Where the newly elected President takes the pledge before the acting President's term of office expires, and provided that this is not a case under section 72, subsection 1, the newly elected President's term of office shall be deemed to run from the day on which the former President's term of office expires.

3. The election shall take place within the last four weeks of the acting President's term of office.

Section 70

1. No one may be elected more than twice in succession. One who has been President of the Republic for two successive terms of office shall not again be eligible until seven years have elapsed since the end of his second term of office.

2. These provisions shall not apply to the second President of the Czechoslovak Republic.

Section 71

1. The President of the Republic shall not at the same time be a member of the National Assembly, or a member of the Government.

2. If a deputy or a member of the Government is elected President of the Republic, he shall cease to discharge that function from the day of the election. His mandate, or membership in the Government, shall lapse on the day on which he takes the pledge.

Section 72

1. If the President of the Republic dies, or resigns during the term of office, or loses his office under section 78, a new President shall be elected for a full term of office. The National Assembly shall to this end be summoned within 14 days.

2. Until such time as a new President is elected and has taken the pledge, or where the President is prevented or ailing so as to be unable to discharge his office, the discharge of his function shall appertain to the Government, which may delegate certain specific acts to the Prime Minister; the supreme command of the armed forces shall during this time be held by the Prime Minister.

Section 73

1. If the President has been prevented or ailing for a period exceeding six months (section 72, subsection 2), and provided that the Government

so decides, the National Assembly shall elect a Vice-President, who shall remain in office until the impediment passes.

2. A member of the National Assembly who has been elected Vice-President may not discharge his mandate while he is Vice-President.

Section 74

1. The President of the Republic

(1) Shall represent the State externally. He shall negotiate and ratify international treaties. Political treaties, and economic treaties of a general character, as well as such treaties as require an Act to be carried into effect, shall require enactment by the National Assembly prior to ratification. Treaties involving alteration of the State boundaries shall be enacted by the National Assembly in the form of a Constitutional Act (section 166). The negotiation of international treaties and agreements which do not require enactment by the National Assembly and where ratification is not a condition, may be delegated by the President to the Government and, with the consent of the Government, to individual members thereof. On what conditions economic treaties of a general character may be carried into effect even prior to the sanction of the National Assembly being expressed, shall be prescribed by Act;

(2) Shall receive and appoint envoys;

(3) Shall summon, adjourn and dissolve the National Assembly and prorogue it at the end of a session;

(4) Shall sign the Acts of the National Assembly and the measures taken by the Presidium of the National Assembly under section 66, and shall have the right to return enactments with his comments;

(5) May submit to the National Assembly oral or written reports regarding the condition of the Republic, and recommend to the Assembly such measures as he considers necessary and expedient;

(6) Shall appoint the Prime Minister and the other members of the Government, prescribe the number of members of the Government and determine which of them shall direct a certain Ministry, recall the Government if it resigns ,as well as its individual resigning members;

(7) Shall have the right to be present and to take the chair at meetings of the Government, to invite the Government or individual members thereof to conferences, and to request reports from the Government and individual members thereof, on all matters within their sphere of competence. He may give notice of a report thus obtained to the Prime Minister and suggest to him that the Government consider taking appropriate measures;

(8) Shall appoint all university professors, further judges by profession from the fifth grade of functional salary upwards, and officers of the armed forces, as well as other civil servants from the third grade upwards;

(9) Shall award decorations, unless he empowers another organ to do so, and grant permission to Czechoslovak citizens to accept foreign decorations and titles of honor;

(10) Shall award, on recommendation of the Government, honorary gifts and allowances, as well as charitable gifts and allowances;

(11) Shall have the right to proclaim an amnesty, to grant a pardon or to mitigate a sentence or the legal consequences of a criminal conviction and to order the abolition or suspension of criminal proceedings save in the case of acts suable by private persons. These rights shall not be exercised by a President against whom proceedings are about to be initiated under section 78, or in respect of a President charged or convicted under section 78, or of members of the Government charged or convicted under section 91;

(12) Shall hold the supreme command of the armed forces, and proclaim

in pursuance of a Government decision, a state of war, and declare war in pursuance of a decision of the National Assembly.

2. All governmental and executive power, in so far as it is not or shall not be by the Constitution or other Acts explicitly reserved to the President of the Republic, shall be vested in the Government.

Section 75

The President of the Republic shall take the following pledge before the National Assembly: "I pledge myself upon my faith and honor that I shall discharge my duties in the spirit of the People's Democratic Order in pursuance of the will of the People and in the interest of the People, that I shall cherish the welfare of the Republic and abide by the Constitution and the other laws."

Section 76

The President of the Republic shall not be accountable in respect of the exercise of his office. For any pronouncements made by him in connection with the office of President of the Republic the Government shall be accountable.

Section 77

Any act of governmental or executive power performed by the President of the Republic, in order to be valid, shall be countersigned by a responsible member of the Government.

Section 78

1. The President may be proceeded against only on a charge of treason. The indictment against the President shall be brought by the Presidium of the National Assembly, and he shall be tried by the National Assembly. No penalty may be awarded save the loss of the presidential office and of the fitness to regain it thereafter.
2. Details shall be prescribed by Act.

Section 79

The provisions relating to the President of the Republic shall also apply to a Vice-President.

Part IV

THE GOVERNMENT

Section 80

1. The Government shall consist of the Prime Minister, the Deputy Prime Ministers and the other members of the Government (Ministers and State Secretaries).
2. What functions are incompatible with the function of member of the Government shall be prescribed by Act.
3. The regular seat of the Government shall be Prague.

Section 81

The members of the Government shall deliver the following pledge into the hands of the President of the Republic: "I pledge myself upon my faith and honor that I shall be loyal to the Czechoslovak Republic and her People's Democratic Order. I will carry out my duties conscientiously and impartially in accordance with the will of the People and in the interest of the People. I will abide by the Constitution and the other laws."

Section 82

Having been appointed by the President of the Republic, it shall be the duty of the Government to come before and present its program to the National Assembly and to ask for a vote of confidence.

Section 83

1. The Government shall be accountable to the National Assembly throughout its term of office. The National Assembly may pass a vote of no-confidence in the Government.
2. A motion of no-confidence shall be signed by not less than a hundred deputies and shall be submitted to the Presidium of the National Assembly, which shall report upon it within 8 days. The vote shall be valid if an absolute majority of all the deputies is present, and if a majority of votes be obtained in a ballot taken by roll-call.
3. The Government may at any time move a vote of confidence in the National Assembly. The motion shall be dealt with without being submitted to the Presidium.

Section 84

1. The Government may resign and shall in that case tender its resignation into the hands of the President of the Republic.
2. If the National Assembly passes a vote of no-confidence in the Government, or rejects a Government motion of confidence, the Government shall be bound to tender its resignation into the hands of the President of the Republic.
3. If the resignation of the Government takes place at a time when the Government discharges the office of the President of the Republic (section 72, subsection 2), the resignation shall be accepted by the Presidium of the National Assembly.

Section 85

A Government that has resigned shall continue to discharge the function of government transitionally until such time as the National Assembly expresses its confidence in a newly appointed Government.

Section 86

1. A member of the Government may resign and shall in that case tender his resignation into the hands of the President of the Republic.

2. The National Assembly may also pass a vote of no-confidence upon an individual member of the Government. In that event, that member of the Government shall be bound to tender his resignation into the hands of the President of the Republic.

3. The provisions of section 83, subsection 3, shall apply, mutatis mutandis, to the motion of a vote of no-confidence and the manner of voting thereupon.

Section 87

1. Where an individual member of the Government resigns, the President of the Republic shall prescribe which of the remaining members of the Government shall provisionally discharge the functions of the resigning member, until such time as the Government is brought up to strength.

2. If the resignation of a member of the Government takes place at a time when the Government discharges the office of the President of the Republic (section 72, subsection 2), the Presidium of the National Assembly shall accept the resignation and make temporary provision.

Section 88

1. The Prime Minister shall direct the work of the Government, summon and preside over its sittings and determine the order of business. He shall coordinate the activity of all central departments and supervise the implementation of the Government program.

2. The Prime Minister may appoint one of the Deputy Prime Ministers or another member of the Government to represent him.

Section 89

1. The Government shall decide in council, which shall be deemed to form a quorum provided that not less than one-half of the total number of members is present.

2. The Government shall decide in council regarding in particular:

(1) All more important matters of a political character;

(2) The appointment of judges, civil servants and officers of the armed forces from the fifth grade of salary upwards, provided that such appointment appertains to the central authorities, and in respect of proposals for the appointment of functionaries the appointment of whom appertains to the President of the Republic;

(3) The appointment and recall of the Chairman of the Board of Commissioners and individual Commissioners;

(4) Government bills to be moved in the National Assembly;

(5) Proposals that the President of the Republic use his right to return enactments with this comments (section 58);

(6) Acts of the Slovak National Council, submitted to the Government by the Prime Minister under section 110, subsection 2;

(7) Government Orders.

Section 90

1. The Government may issue Orders for the implementation of a certain Act and within the limits of that Act. Orders may also be issued by

individual Ministers provided that they are empowered thereto by that Act.

2. A Government Order shall be signed by the Prime Minister or the acting Deputy Prime Minister and the members of the Government charged with carrying the said Order into effect. An Order issued by a Minister shall, in order to be valid, require to be countersigned by the Prime Minister or the acting Deputy Prime Minister. Ministers may, for the purpose of signing Orders, be represented by other members of the Government.

3. An Act and a Government Order within the limits of that Act may delegate detailed provision to be made by the general statutory regulations of individual Ministries and National Committees, as well as other authorities.

Section 91

1. If a member of the Government, whether with intent or from gross negligence, violates the Constitution or other laws in the exercise of his function, he shall be held criminally liable.

2. The indictment shall be brought by the Presidium of the National Assembly; the case shall be tried before the House.

Section 92

1. Ministries shall be created by Act, which may delegate detailed regulation, in particular in respect of their competence, to a Government Order.

2. Other authorities competent to perform the public administration shall likewise be created (section 124, subsection 2) and their competence regulated by Act, which may delegate detailed regulation to a Government Order.

3. The power to issue orders shall include the power to set up and regulate the function of public bodies not vested with sovereign power.

Part V

SLOVAK NATIONAL ORGANS

Section 93

The Slovak National Organs shall under the Constitution discharge the legislative, governmental and executive power within the territory of Slovakia.

Section 94

The Slovak National Council shall discharge the legislative power (section 96) in matters of a national or regional character, provided that these matters require special regulation so as to ensure the full development of the material and spiritual forces of the Slovak nation, and provided that the said matters are not such as require uniform regulation by Act.[1]

[1] "*Act*" (zákon) denotes an Act of the National Assembly, valid throughout the territory of the State; the enactments of the Slovak National Council, which are valid in the

Section 95

1. The Board of Commissioners (individual Commissioners) shall in principle discharge all governmental and executive power in Slovakia (subsection 2 of this section), save for matters of foreign affairs, national defense and foreign trade.

2. Save for the exercise of the governmental and executive power within the sphere of the legislative power of the Slovak National Council (section 96, subsection 1), this power shall be vested in the Board of Commissioners (individual Commissioners) as in the executive organ of the Government (individual Ministers), in the following departments:

(1) General internal administration;
(2) Financial administration;
(3) Health administration;
(4) Social welfare and labor administration;
(5) Technical administration;
(6) Justice;
(7) Food;
(8) Agriculture;
(9) Industry;
(10) Internal trade;
(11) Education, popular culture and information;
(12) Transport and postal services.

3. Orders issued by the Government and by Ministers for the implementation of an Act (section 90) shall be valid throughout the territory of the State.

The Slovak National Council

Section 96

1. The legislative power of the Slovak National Council shall consist in:

(1) The care of the development of the national culture, that is, science, the arts of literature, drama, music and the dance, the fine arts, and the film; the care of historic monuments; all matters pertaining to libraries and museums; the care of specialized training in the sphere of home industry and popular art; the care of matters pertaining to Slovak cultural workers;

(2) The care of national, secondary ,technical and art education under the relevant Acts; of nursery schools and creches; of popular adult education, sports, physical culture, the tourist trade and rambling;

(3) The public health service and social welfare save for such matters as are or shall be uniformly regulated by Acts valid throughout the territory of the State;

(4) Funds and endowments, provided that the scope thereof is restricted to Slovakia only;

(5) The merging and division of parishes and districts, and the regulation of their boundaries; topography;

(6) The technical aspects of the construction of towns and villages an building regulations save for matters within the scope of the Uniform Economic Plan; the construction and maintenance of roads, highways and bridges not under the administration of the State; hydro-economic matter

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territory of Slovakia only, are specifically designated as "*Acts of the Slovak National Council*" (zákony Slovenské národní rady).—Cp. the terms "*Deputy*" (of the National Assembly) and "*Deputy of the Slovak National Council*".—Tr.

not within the scope of the Uniform Economic Plan, in particular the maintenance of riverbeds and streams, reservoirs and other waterworks, as well as the construction of fisheries, water supply lines and drainage installations;

(7) The maintenance and development of the land, save for matters within the scope of the Uniform Economic Plan; the protection of agriculture and forestry from pests and natural catastrophes; veterinary care and the care of the breeding of domestic cattle; fruit-growing and pastures hunting and fishing; the protection of land and forest property;

(8) Handicrafts and the retail trade, in so far as the operator's personal labor predominates, as well as matters of local markets (provided the uniform regulation of labor law is not infringed thereby), as well as the regulation of distribution, commerce and trade;

(9) Statistics and research in the sphere of special Slovak interests;

(10) Matters of guardianship and the care of orphans.

2. The Slovak National Council shall further decide by way of Acts of the Slovak National Council on matters the regulation of which has been delegated to the Slovak National Council by an Act.

Section 97

1. The seat of the Slovak National Council shall be Bratislava.

2. The Slovak National Council may be summoned temporarily to another place.

Section 98

1. Details in respect of the conditions of the franchise for the Slovak National Council, of the exercise thereof, and of the carrying out of the election of deputies of the Slovak National Council shall be prescribed by Act.

2. What activity and which public functions are incompatible with the function of deputy of the Slovak National Council shall be prescribed by Act.

Section 99

1. The Slovak National Council shall verify the validity of the election of individual deputies of the Slovak National Council and decide upon the incompatibility of the function of deputy of the Slovak National Council with other functions.

2. The verification shall be carried out within a period not exceeding six months after the Slovak National Council has been constituted, or within a period not exceeding three months after the day on which a substitute member, replacing a deputy of the Slovak National Council, takes the pledge.

Section 100

1. During his first sitting a deputy shall take the following pledge: "I pledge myself that I shall be loyal to the Czechoslovak Republic, to her People's Democratic Order and to the heritage of the Slovak National Rising. I will abide by her laws and discharge my mandate according to

the best of my knowledge and conscience, to the benefit of the People, the State and the Slovak nation."

2. Refusal to take the pledge or a pledge taken with reservations shall involve the direct loss of the mandate.

Section 101

1. The deputies of the Slovak National Council shall discharge their mandate personally. They may resign at any time.

2. They shall be entitled to compensation during the exercise of the mandate, the amount whereof shall be prescribed by Act of the Slovak National Council.

3. In respect of the discharge of the mandate of deputies of the Slovak National Council, their immunity and their right to refuse testimony, their entitlement to leave-of-absence and to continued payment of salary (if in public or private employment), the provisions relating to deputies (sections 44 to 47, and section 48. subsections 1 and 3) shall apply, mutatis mutandis.

Section 102

1. The Slovak National Council shall be summoned for sessions by the Prime Minister. It shall be the duty of the Prime Minister to summon the National Council to its first sitting not later than four weeks after the day of the elections.

2. The Prime Minister may adjourn the sessions of the Slovak National Council for not more than three months and not more often than twice a year. If during that time the absolute majority of deputies of the Slovak National Council applies to the Prime Minister that the Slovak National Council be recalled, it shall be the duty of the Prime Minister to recall the Slovak National Council so as to convene within a fortnight after lodgment of the application.

3. The Slovak National Council shall be dissolved by the Prime Minister on the authority of a decision of the Government.

4. New elections shall be carried out within 60 days after the expiry of the election term of the Slovak National Council or after it has been dissolved.

Section 103

1. The Slovak National Council shall elect a Presidium from among the deputies of the Slovak National Council.

2. The Presidium shall direct the work of the Slovak National Council and deal with its internal affairs.

Section 104

1. The fundamental rules relating to the proceedings of the Slovak National Council and its relations with the Board of Commissioners shall be laid down in the Slovak National Council Standing Orders Act which shall be enacted by the Slovak National Council. Subject to the provi-

sions of this Act the Slovak National Council may regulate its internal affairs and lay down additional rules of procedures by autonomous resolution.

2. The sittings of the Slovak National Council shall be presided over by the Chairman or one of the Vice-Chairmen.

3. The sittings of the Slovak National Council shall as a rule be held in public. Non-public sittings may be held only in cases provided for in the Standing Orders.

4. The quorum of the Slovak National Council shall consist of not less than one-half of the total number of deputies of the Slovak National Council. The enactments of the Slovak National Council shall be valid if adopted by a simple majority of votes.

Section 105

The Prime Minister and the other members of the Government shall have the right at any time to take part in the sittings of the Slovak National Council. They shall be permitted to speak whenever they so request.

Section 106

1. The Chairman and the other members of the Board of Commissioners shall have the right at any time to take part in the sittings of the Slovak National Council. They shall be permitted to speak whenever they so request.

2. It shall be the duty of a member of the Board of Commissioners to appear before the Chamber in person whenever the Slovak National Council, its Presidium or any of its Committees so request.

3. At other times a member of the Board of Commissioners may be represented by officials of his department.

Section 107

1. The Slovak National Council shall be entitled to interpellate the Chairman and the other members of the Board of Commissioners in respect of matters within their sphere of competence. It shall be the duty of the chairman and the other members of the Board of Commissioners to reply to the interpellations of the deputies of the Slovak National Council.

2. The Slovak National Council may adopt addresses and resolutions.

Section 108

1. Bills of the Slovak National Council may be moved, subject to the provisions of the Standing Orders, either by the Government or by the Board of Commissioners or by the deputies of the Slovak National Council.

2. Each Bill of the Slovak National Council shall be accompanied by an estimate of the financial import of the bill and by a proposal regarding revenue to cover the expenditure involved, from that portion of the Uniform State Budget which is allocated to Slovakia, and that in accordance with the Budget Act.

3. There shall be indicated in each Act of the Slovak National Council which member of the Board of Commissioners is to be charged with its implementation.

Section 109

Acts of the Slovak National Council, in so far as they infringe the Constitution or other laws, shall be void.

Section 110

1. Acts of the Slovak National Council shall be signed by the Prime Minister, the Chairman of the Slovak National Council, the Chairman of the Board of Commissioners, and the Commissioner charged with the implementation of the Act.
2. Where the Prime Minister is of opinion that an enactment of the Slovak National Council submitted to him for signature infringes the Constitution or a Constitutional Act, or exceeds the powers of the Slovak National Council or is inconsistent with the Uniform Economic Plan, or the Budget Act, he shall submit the said enactment to the Government which shall decide in respect thereof with final validity within two months.

Section 111

1. All Acts of the Slovak National Council shall, in order to be valid, be promulgated in the manner prescribed by Act.
2. The Act of the Slovak National Council shall be promulgated by means of the following introductory clause "The Slovak National Council has enacted the following Act."
3. The Acts of the Slovak National Council shall be promulgated within eight days after having been signed by the Prime Minister.

Section 112

The Slovak National Council shall, where a matter at issue is controversial, give a binding interpretation of the Acts of the Slovak National Council. Such interpretation shall require the approval of the Prime Minister in order to be valid.

The Board of Commissioners

1. The Board of Commissioners shall consist of the Chairman and of the other members (Commissioners).
2. The usual seat of the Board of Commissioners shall be Bratislava.
3. Commissioners' Departments shall be created by Act, which may delegate detailed regulation, in particular respecting their function, to a Government Order.

Section 114

1. The Chairman and the other members of the Board of Commissioners shall be appointed and recalled by the Government, which shall also determine which Commissioner shall direct a certain Department.

2. The Board of Commissioners and its individual members may resign and shall in that case tender their resignation into the hands of the Prime Minister.

Section 115

1. A member of the Board of Commissioners may not be a member of the Government.
2. Which other functions are incompatible with the function of member of the Board of Commissioners, shall be prescribed by Act.

Section 116

The members of the Board of Commissioners shall deliver the following pledge into the hands of the Prime Minister: "I pledge myself that I shall be loyal to the Czechoslovak Republic, to her People's Democratic Order and to the heritage of the Slovak National Rising. I will discharge my duties conscientiously and impartially in accordance with the will of the people and in the interest of the People, the State and the Slovak nation. I will abide by the Constitutional and other laws as well as by the Orders and directives of the Government."

Section 117

1. The Board of Commissioners and the members thereof shall be accountable to the Government.
2. It shall be the duty of the Board of Commissioners and of its members to abide by the directives and instructions of the Government, as it shall also be the duty of individual Commissioners to abide by the directives and instructions of the competent Ministers.
3. A Minister shall however be entitled, with the knowledge of the competent Commissioner, to exercise his authority in Slovakia also directly

Section 118

Within the sphere of the legislative power of the Slovak National Council the Board of Commissioners shall, in the matters set out in section 96, subsection 1, be accountable also to the Slovak National Council.

Section 119

1. The Board of Commissioners (individual Commissioners) shall issue Orders within the sphere of the legislative power of the Slovak National Council (section 96) and shall take appropriate measures within the territory of Slovakia.
2. The provisions of section 90 shall apply, mutatis mutandis, to the limits of the power of the Board of Commissioners (individual Commissioners) to issue Orders and to the manner of signing Orders.

Section 120

The Board of Commissioners shall decide in council, which shall be

deemed to form a quorum provided that not less than one-half of the members of the Board of Commissioners are present.

Section 121

1. In respect of the appointment of university professors, judges and other civil servants in Slovakia which appertains to the President of the Republic, the Board of Commissioners shall submit appropriate proposals to the Government. The Government may return the said proposals to the Board of Commissioners in so far as they are not consistent with the uniform State personnel policy.

2. The appointment of judges and other civil servants, which otherwise appertains to the Government, shall in Slovakia be the function of the Board of Commissioners, which shall however obtain the preliminary approval of the Government.

3. The appointment of civil servants and employees, which is otherwise the function of a Minister, shall in Slovakia be the function of a Commissioner, who shall, however, as a rule obtain the preliminary approval of the competent Minister.

4. The competence of the Board of Commissioners and of individual Commissioners in the matters set out in subsections 1 to 3 of this section shall be inoperative in respect of the appointment of civil servants and other employees in the National Security Corps and in those departments in which under section 95, subsection 1 the governmental and executive power is not vested in the Board of Commissioners, as also in respect of the appointment of civil servants and other employees attached to departments the competence of which extends throughout the territory of the State.

Section 122

1. Where an Order, decision or measure of the Board of Commissioners (regulation or measure of a Commissioner) exceeds the competence of the Board of Commissioners (individual Commissioner), or infringes the Constitution, an Act, an Act of the Slovak National Council, a Government Order or the Order of a Minister, the Government may declare it void. The same right shall appertain to the Government where a decision or measure of the Board of Commissioners is inconsistent with a decision of the Government.

2. In the cases set out in subsection 1 of this section a Minister may stay the execution of a Commissioner's measure pending a decision of the Government, which may declare the Commissioner's measure void.

Part VI

NATIONAL COMMITTEES

Section 123

In accordance with the administrative system of the Czechoslovak Republic, National Committees shall be

(1) Local,
(2) District,
(3) Regional.

Section 124

1. National Committees shall discharge within the territory for which they have been elected, the public administration in all its branches, in particular the general internal administration, the administration of education and popular culture, labor administration and the administration of the health and social welfare services, as well as, subject to special provisions, the financial administration.

2. Other organs shall be competent to discharge the public administration only exceptionally and by virtue of an Act.

Section 125

The National Committees, being the organs of the Uniform People's Administration, shall in particular have the following tasks:

To protect and strengthen the People's Democratic Order;

To participate in tasks connected with the defense of the State;

To care for the public safety;

To support the maintenance and increase of the national property;

To take part in the preparation and implementation of the Uniform Economic Plan;

Subject to the provisions of the Uniform Economic Plan, to plan and direct economic, social and cultural development within their territory, to take steps to ensure the constant flow of agriculture and economic production ,and to care for supplies and the feeding of the population;

To care for the maintenance of public health;

To administer law within their sphere of jurisdiction; in particular, to discharge within the limits of the law the criminal judicial power.

Section 126

1. The National Committees shall in discharging their tasks lean on the direct participation and initiative of the People and shall be subject to control by the People. The members of the National Committees and the members of the organs thereof shall be accountable to the People for their activity.

2. The manner in which the People shall exercise this control and carry into effect the said responsibility shall be prescribed by Act.

Section 127

1. The number of members of the National Committees shall be prescribed by Act.

2. Details regarding the conditions and the exercise of the right to elect the members of the National Committees as also regarding the holding of the elections shall be prescribed by Act.

Section 128

1. The members of the National Committees shall take the following pledge before entering office: "I pledge myself that I shall be loyal to the People and to the Republic, that I shall by my work protect and strengthen the People's Democratic Order and that I shall abide by the laws and Orders."

2. Refusal to take the pledge or a pledge taken with reservations shall directly involve the loss of the mandate.

Section 129

1. The organizational principles of the National Committees as well as the principles of their activity and the proceedings before them shall be prescribed by Act.
2. The organization of the People's Administration in the capital of the Republic shall be prescribed by special Act.

Section 130

1. The entire public administration shall be effectively decentralized.
2. The competence and territorial jurisdiction of the National Committees shall in accordance with their instances be so regulated as to enable them to deal without delay and effectively with all material and personnel matters of the public administration, inasmuch as these said matters do not affect the interests of higher units.

Section 131

1. It shall be the duty of the National Committees to abide by the Acts and Orders and in the interest of the uniform public administration and the uniform State policy to respect the directives and instructions of superior organs.
2. A National Committee of a lower instance shall be subordinate to a National Committee of a higher instance.
3. The National Committees shall be subordinate to the organs of governmental and executive power, in particular to the Ministry of the Interior.

Section 132

1. A National Committee may be dissolved in particular where it does not discharge its duties or where its activity endangers the proper operation of the public administration.
2. New elections shall be held within the period prescribed by Act.

Section 133

The financial administration of the National Committees shall be regulated by Act and within the framework of the public economy subject to the requirements of the Uniform Economic Plan in such a way as to enable the National Committees adequately to discharge their tasks.

Part VII

THE JUDICIARY

Section 134

No one shall be withheld from his lawful judge.

Section 135

1. The jurisdiction in matters of civil law shall be discharged by civil courts, which may be regular courts or special courts or courts of arbitration.

2. The jurisdiction in matters of criminal law shall be discharged by criminal courts save where the general regulations prescribe that criminal cases shall be dealt with by administrative criminal proceedings.

3. In criminal proceedings extraordinary courts may be established and may be established only for a limited period and only in cases specified in advance by Act.

Section 136

1. The jurisdiction of military criminal courts shall be regulated by special Act.

2. The authority of military courts may be under an Act extended to the civilian population only in time of war or of national emergency and only in respect of acts committed in such a time.

Section 137

1. There shall be established for the whole territory of the Czechoslovak Republic

(1) The Supreme Court,
(2) The Supreme Military Court,
(3) The Administrative Court.

2. The composition, organization and competence of these said courts and the manner of proceedings before them shall be regulated by Act.

Section 138

1. The judiciary in all its instances shall be separated from the administration.

2. The manner of settling disputes between the courts and the administrative authorities in matters of competence shall be regulated by Act.

Section 139

The organization of the courts, their competence and territorial jurisdiction as well as proceedings before them shall be regulated by Act.

Section 140

1. The courts shall as a rule discharge their power through benches.

2. The bench of courts of the second instance shall be constant for the whole year. Exceptions shall be prescribed by Act.

3. The bench shall as a rule consist of judges by profession and lay judges. Details and exceptions shall be prescribed by Act.

Section 141

1. The conditions of obtaining the qualification for the office of judge

by profession as well the conditions of service of such judges shall be prescribed by Act.

2. Judges by profession shall always be appointed permanently; they may be transferred, dismissed or pensioned against their will only in cases of a reorganization of the judiciary, for a limited period prescribed by Act, or by virtue of a valid disciplinary finding; they may be pensioned also upon reaching a prescribed age or upon completion of a prescribed period of service. Details of the foregoing provisions as well as the circumstances in which judges by profession may be suspended from office shall be prescribed by Act.

3. Judges by profession may not undertake other paid functions, permanent or temporary, save where exceptions are provided for by Act.

Section 142

1. Lay judges shall be appointed by the competent National Committee, save in special otherwise provided for by Act.

2. Provisions relating to the qualification for the office of lay judge, the appointment and recall of such judges, their legal position and accountability and the exercise of their office shall be laid down by Act.

Section 143

Judges shall declare on oath that they will abide by the laws and Orders, interpret them in the light of the Constitution and of the principles of the People's Democratic Order, and pronounce judgment impartially.

Section 144

1. Proceedings at court shall as a rule be oral and public. The public may be excluded from the proceedings only in cases prescribed by Act.

2. Judgment shall be pronounced in the name of the Republic.

3. Judgment in criminal cases shall always be pronounced in public.

4. Proceedings at criminal courts shall be based upon the principle of public prosecution. The accused shall be guaranteed the right to be defended by counsel.

Section 145

The liability of the State and the judge in respect of damages arising out of a violation of the law committed by the judge in the discharge of his office shall be prescribed by Act.

Part VIII

THE ECONOMIC SYSTEM

Section 146

The means and instruments of production shall be either national property, or the property of People's Cooperatives, or in the private ownership of individual producers.

Section 147

National property shall in particular include also economic assets nationalized under special Acts (section 153), as well as all public assets serving the common weal.

Section 148

The following shall be exclusively national property:

Mineral wealth and the mining thereof;
Sources of natural energy and power plants;
Coal mines and foundries;
Natural therapeutic springs;
The production of goods serving the health of the people;
Undertakings of not less than 50 employees or persons engaged therein, save for the undertakings of People's Cooperatives;
Banks and insurance institutions;
Public rail transport and regular road and air transport;
Postal services, public telegraph services and telephone services;
Broadcasting, television and motion pictures (section 22).

Section 149

1. National property shall as a rule be the tenure of the State (State ownership).

2. Portions of the national property which are not of national significance and serve wholly or chiefly the inhabitants of a certain administrative unit (parish, district, region), may be the tenure of the Units of the People's Administration (communal ownership).

Section 150

The State shall administer the national property either directly or through the instrumentality of National Enterprises (section 155).

Section 151

Economic enterprise shall be either public (in particular enterprise of the State or of the Units of the People's Administration), or People's Cooperatives, or private.

Section 152

1. The right to economic enterprise shall be vested in the State exclusively

(1) In the sphere of exclusively national property (section 148), provided the said property is not under an Act the tenure of the Units of the People's Administration (section 149, subsection 2);
(2) Under the Nationalization Acts (section 153);
(3) Under the Acts relating to the regulation of internal and foreign trade, as well as to the international forwarding trade.

2. The State may, in consideration, of the public interest and of the requirements of the national economy, surrender the exploitation of certain economic or other assets to the Units of the People's Administration or to People's Cooperatives, or to other bodies corporate.

Section 153

1. Which sectors of the economy and which economic and other assets are or shall be nationalized and to what extent shall be prescribed by Act.
2. The extent of nationalization carried out under Nationalization Acts cannot be restricted.
3. By nationalization the ownership of the affected enterprises an other economic units and property rights shall pass to the State.

Section 154

1. Nationalized enterprise shall as a rule be organized by the State in the form of National Enterprises.
2. In this form the State may organize also other sectors or units of State enterprise, as well as economic assets that have been or shall in future be acquired by it otherwise than by nationalization.

Section 155

1. National Enterprises shall be a part of the national property and shall be subject to the supreme direction and supervision of the State.
2. National Enterprises shall be autonomous bodies corporate.

Section 156

The economy of the People's Administrative Units shall be directed by the National Committees. This economy or portions thereof may be organized in a form analogous to that of National Enterprises.

Section 157

1. People's Cooperatives shall be associations of workers for common activity, the aim of which is the raising of the standard of living of the members and the rest of the working population, not however to derive the greatest possible profit from the capital invested.
2. The State shall support the People's cooperative movement in the interest of the development of the national economy and the general welfare.

Section 158

1. The private ownership of small and medium enterprises up to 50 employees is guaranteed.
2. The personal property of the citizens is inviolable. This provision shall in particular relate to household utensils and articles of personal use, family dwelling house and savings derived from personal labor as well as the rights of inheritance connected therewith.

Section 159

1. The largest area of land which may be held in private ownership by individual or joint owners or by a family working together shall be 50 hectares.

2. The private ownership of land in respect of farmers who till the land in person, shall be guaranteed up to the limit of 50 hectares.
3. Details shall be prescribed by Act.

Section 160

The State shall, with the active participation of the farmers, so direct the agricultural policy that the technical level of agricultural production be gradually raised and the social and cultural gap between town and country be bridged.

Section 161

Private monopoly organizations operating for profit, in particular cartels, trusts and syndicates, are prohibited.

The Uniform Economic Plan

Section 162

The State shall direct all economic activity by means of the Uniform Economic Plan, in particular production, trade and transport, in such a way that an effective level of national consumption be ensured, that the quantity, quality and fluency of production be increased and the standard of living of the population thus be gradually raised.

Section 163

1. The Uniform Economic Plan shall always be drawn up for a certain period of time and shall be promulgated by Act.
2. The preparation and implementation of the Uniform Economic Plan shall be one of the primary functions of the Government. In this task the Government shall base its work upon the creative initiative of the working population and its associations.
3. The Government shall submit to the National Assembly at regular intervals reports respecting the implementation of the Uniform Economic Plan.

Section 164

1. It is the duty of every one who is allotted any task whatever in the operation and implementation of the Uniform Economic Plan to carry out the said task conscientiously and economically to the best of his personal and economic capacity.
2. It shall be the duty of persons and bodies corporate to adapt their economic activity to the Uniform Economic Plan.

Part IX

GENERAL PROVISOINS

Section 165

1. State citizenship in the Czechoslovak Republic shall be one and uniform.

2. The conditions upon which State citizenship is acquired and lost shall be prescribed by Act.

Section 166

The frontiers of the Czechoslovak Republic may be altered only by Constitutional Act.

Section 167

1. Territorial administrative units shall be created with a view towards the requirements of the national economy and the cultural and social needs of the People.
2. The administration of the Republic shall be based upon the regional administrative system. Regions shall be divided into districts, districts into parishes.

Section 168

The capital of the Czechoslovak Republic shall be Prague.

Section 169

1. The colors of the Republic shall be white, red and blue.
2. The coat of arms and the flags shall be prescribed by Act.

Part X

CONCLUDING AND TRANSITIONAL PROVISIONS

Section 170

The Constitution shall become operative upon the day of promulgation.

Section 171

1. All parts of this Constitution (the Declaration, Fundamental Articles and Detailed Provisions) shall be valid as a whole.
2. The interpretation of the individual provisions of this Constitution shall rest on the spirit of this whole and on the principles upon which it is based.
3. The interpretation and application of all other provisions of the Legal Order shall always be consistent with the Constitution.

Section 172

1. The Constitution may be amended and supplemented only by Acts which are designated as Constitutional Acts and are enacted under the relevant provisions (section 54, subsection 2).
2. Acts issued after the date set out in section 170 shall, in so far as they are inconsistent with this Constitution or with Constitutional Acts, be void.

Section 173

1. As from the day on which this Constitution becomes operative, the

Constitutional Charter of the Czechoslovak Republic introduced by the Act No. 121 Sb.,[1] dated February 29th, 1921, and all the parts thereof shall cease to be valid.

2. As from the same day all Constitutional and other Acts in so far as they are inconsistent with this Constitution or the principles of the People's Democratic Order, or regulate matters at variance with this Constitution shall cease to be valid.

3. The provisions of the foregoing subsection of this section shall not apply to the Acts relating to nationalization and land reform which became valid before this Constitution becomes operative.

Section 174

1. The National Assembly elected under the Constitutional Act No. 74 Sb.,[2] relating to the transitional regulation, pending the operation of the new Constitution, of the election and competence of the National Assembly and the activity of the Constitutent National Assembly, dated April 16th, 1948, shall be deemed a National Assembly elected in accordance with this Constitution. The election term of this National Assembly shall be deemed to run from the date of the election.

2. If the National Assembly set out in the preceding subsection of this section is constituted before this Constitution becomes operative, the changes required by this Constitution shall be carried out within 14 days after the Constitution becomes operative. Within the same period the members (deputies) of the National Assembly shall take the pledge under this Constitution irrespective of whether they have already taken the pledge under the provisions previously in force.

3. Until such time as the National Assembly Standing Orders Act (section 51) becomes operative, the provisions of the Act No. 140 Sb., relating to the Standing Orders of the Constituent National Assembly, dated July 2nd, 1947, shall apply, mutatis mutandis.

Section 175

1. The Slovak National Council as at present constituted, or supplemented in accordance with the result of the elections to the National Assembly (section 174, subsection 1), shall exercise the power which is under this Constitution vested in the Slovak National Council, until such time as a Slovak National Council is constituted which has been elected under the new Election Act (section 98, sub-section 1). Until such time as the Act of the Slovak National Council, relating to the Standing Orders of the Slovak National Council (section 104, subsection 1) is issued, the provisions of the present Standing Orders of the Slovak National Council shall apply, mutatis mutandis.

2. The orders of the Slovak National Council issued prior to the d set out in section 170 shall be deemed Acts of the Slovak National Council

[1] Sb. = Sbírka zákonů a nařízení státu Československého (Collection of Acts and Orders of the Czechoslovak State).

[2] Sb. = Sbírka zákonů a nařízení republiky Československé (Collection of Acts and Orders of the Czechoslovak Republic).

even where these Orders exceed the power vested in the Slovak National Council by this Constitution, provided that the said Orders are not in discord with the provisions of this Constitution.

Section 176

1. Until such time as the Acts anticipated by this Constitution, relating to the principles of the organization, the procedure and proceedings (section 129), the financial administration (section 133), and the manner of popular control (section 126) of the National Committees become operative, the regulations hitherto operating shall apply.

2. The National Committees in their present composition or supplemented shall discharge their authority until such time as National Committees are constituted under the new Act (section 127).

3. An Act shall prescribe the day on which the Regional National Committees will begin to function and the present Provincial National Committees will cease to exist; this shall also be the date on which the National Committees will begin to perform the function of the public administration in those departments which have not hitherto been part of their authority (section 124).

Section 177

1. The competence which has under regulations hitherto valid been exercised by the Presidium of the Government, shall on the date set out in section 170 pass to the Prime Minister.

2. The Constitutional Acts relating to the regulating of State citizenship and matters connected therewith shall on that day lose the character of Constitutional Acts.

Section 178

The Constitution shall be implemented by the Government.

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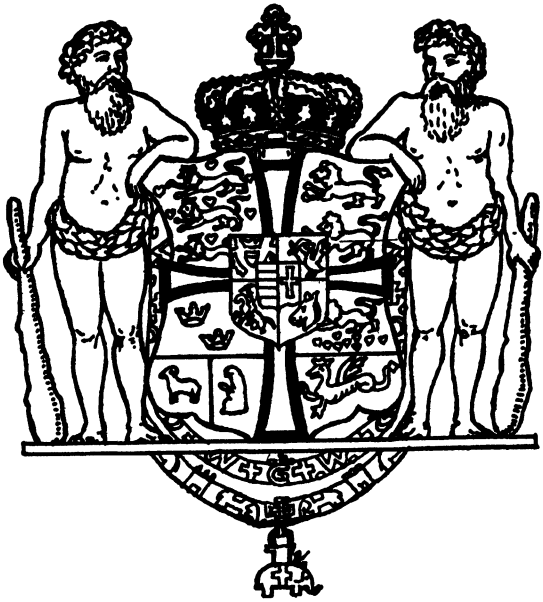
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DENMARK

SUMMARY

International Status

Denmark is a member of the United Nations. It was not invited to the San Francisco Conference, but was admitted after the Conference assembled, and signed the Charter. It deposited its ratification on October 9, 1945.

It became a member of the League of Nations as an invited State in 1920. It signed the Statute of the Permanent Court of International Justice on December 18, 1920, and deposited its ratification on June 13, 1921.[1] It has made an express declaration under the new Statute of the

[1] It signed the optional clause (Art. 36) on December 18, 1920, and ratified it June 13, 1921, on the sole condition of reciprocity for a period of five years. This was renewed December 11, 1925, ratified March 28, 1926, for a period of ten years from June 13, 1926. It was again renewed by a declaration of June 4, 1936, ratified May 24, 1937 for a period of ten years from June 13, 1936.

International Court of Justice of 1945 adopting the provisions of Article 36 of that Statute respecting compulsory jurisdiction.[1] It is a member of other international organizations.[2]

Denmark, whose status as a nation dates from about 925, formerly controlled not only its present territory but Schleswig-Holstein and what is now Norway. Norway was separated by the Treaty of Kiel, and Schleswig-Holstein by the Treaty of Vienna of 1864. Previous constitutions of the then greater Denmark were the Constitution of June 5, 1849, modeled on the Belgian Constitution of 1831, and the Constitutions of 1855 and 1863. In 1866 the Constitution of 1849 was temporarily restored.

Denmark and Iceland were associated in a Union Act of November 30, 1918, but on June 17, 1944. Iceland was made a republic, independent of Denmark.

Denmark exercises sovereignty over Greenland. The United States relinquished its claim of land in North Greenland, discovered by Admiral Peary, when it bought the Virgin Islands from Denmark in 1916. Denmark declared the entire Island of Greenland Danish territory on May 10, 1921. A defense agreement between Denmark and the United States of April 27, 1951 grants facilities in Greenland to the United States and other North Atlantic Treaty Organization nations.

Form of National Government

Denmark has a written Constitution, adopted June 5, 1953 and a Succession to the Throne Act, adopted March 27, 1953, which two documents replaced the Act of Constitution of June 5, 1915 as amended.

The Constitution of 1953 states that the government is a constitutional monarchy [3] and that the state church is the Evangelical-Lutheran.[4]

Source of Sovereign Power

The Constitution says that "subject to the limitations laid down in this Constitution the King shall have the supreme authority in all the affairs of the Realm". [5]

Rights of the People

Rights guaranteed to citizens include the right of freedom of religion,[6] inviolability of personal liberty and the requirement of speedy trial,[7] inviolability of the dwelling,[8] inviolability of the right of property.[9] Restraints of the free and equal access to trade not based on the public

[1] Declaration of acceptance signed December 10, 1946. See Yearbook of the Court, 1951–52, pp. 35–43, 187.
[2] See Table I.
[3] Const. Art. 2.
[4] Id., Art. 4.
[5] Id., Art. 12.
[6] Id., Art. 67.
[7] Id., Art. 71.
[8] Id., Art. 72.
[9] Id., Art. 73.

weal are to be abolished by Statute.[1] Persons unable to support themselves or their dependents are entitled to receive public assistance.[2] Free instruction in elementary schools is provided.[3] Freedom of the press, speech, association and assembly are guaranteed.[4] Military service is compulsory.[5] Privileges attached to nobility, titles and rank are abolished and no fiefs or entails may be created.[6]

Legislative Department

The legislative power is vested in the King and Folketing conjointly.[7] The Folketing consists of one Assembly of not more than 179 members.[8] Members are elected by general direct and universal suffrage for a term of four years, subject to dissolution.[9]

Executive Department

Executive power is vested in the King and this power is exercised through the Ministers.[10] Ministers are appointed by the King, are responsible to the Folketing and may not remain in office after a vote of no confidence by the Folketing.[11] The body of Ministers, presided over by the King, forms the Council of State.[12]

Judicial Department

Judicial power is vested in the courts of justice.[13] Provision is made for a High Court of the Realm composed of fifteen of the eldest, according to seniority of office, ordinary members of the highest Court of Justice of the Realm, and an equal number of members elected for six years by the Folketing, according to proportional representation.[14] It tries such actions as may be brought by the King or the Folketing against Ministers.[15] Courts of Justice are entitled to decide any question bearing upon the scope of the authority of the executive power.[16]

Area, Population, Language

Denmark has an area of 16,575 square miles and a population (1950 census) of 4,281,275.

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[1] Const., Art. 74.
[2] Id., Art. 75.
[3] Id., Art. 76.
[4] Id., Arts. 77, 78, 79.
[5] Id., Art. 81.
[6] Id., Arts. 83, 84.
[7] Id., Art. 3.
[8] Id., Art. 28.
[9] Id., Arts. 29, 31, 32, 15.
[10] Id., Arts. 3, 12.
[11] Id., Arts. 13, 14, 15.
[12] Id., Art. 17.
[13] Id., Art. 3.
[14] Id., Arts. 3, 59.
[15] Id., Art. 60.
[16] Id., Art. 63.

THE CONSTITUTION[1]
OF
THE KINGDOM OF DENMARK ACT
5th June, 1953
AND
THE SUCCESSION TO THE THRONE ACT
27th March, 1953

THE CONSTITUTION OF THE KINGDOM OF DENMARK ACT

Part I.

1. This Constitution Act shall apply to all parts of the Kingdom of Denmark.

2. The form of government shall be that of a constitutional monarchy. The Royal Power shall be inherited by men and women in accordance with the provisions of the Succession to the Throne Act, 27th March, 1953.

3. The legislative power shall be vested in the King and the Folketing conjointly. The executive power shall be vested in the King. The judicial power shall be vested in the courts of justice.

4. The Evangelical Lutheran Church shall be the Established Church of Denmark, and, as such, it shall be supported by the State.

Part II

5. The King shall not reign in other countries except with the consent of the Folketing.

6. The King shall be a member of the Evangelical Lutheran Church.

7. The King shall be of age when he has completed his eighteenth year. The same provision shall apply to the Successor to the Throne.

8. The King, prior to his accession to the Throne, shall make a solemn Declaration in writing before the Council of State that he will faithfully adhere to the Constitution Act. Two identical originals of the Declaration shall be executed, one of which shall be handed over to the Folketing to be preserved in its archives, and the other shall be filed in the Public Record Office. Where the King, owing to his absence or for other reasons, is unable to sign the aforesaid Declaration immediately on his accession to the Throne, the government shall, unless otherwise provided by Statute, be conducted by the Council of State until such Declaration has been signed. Where the King already as Successor to the Throne has signed the aforesaid Declaration, he shall accede to the Throne immediately on its vacancy.

[1] English translation kindly supplied by the Danish Embassy, Washington. D.C.

9. Provisions relating to the exercising of sovereign power in the event of the minority, illness, or absence of the King shall be laid down by Statute. Where on the vacancy of the Throne there is no Successor to the Throne, the Folketing shall elect a King and establish the future order of succession to the Throne.

10. (1) The Civil List of the King shall be granted for the duration of his reign by Statute. Such Statute shall also provide for the castles, palaces, and other State property which shall be placed at the disposal of the King for his use.

(2) The Civil List shall not be chargeable with any debt.

11. Members of the Royal House may be granted annuities by Statute. Such annuities shall not be enjoyed outside the Realm except with the consent of the Folketing.

Part III

12. Subject to the limitations laid down in this Constitution Act the King shall have the supreme authority in all the affairs of the Realm, and he shall exercise such supreme authority through the Ministers.

13. The King shall not be answerable for his actions; his person shall be sacrosanct. The Ministers shall be responsible for the conduct of the government; their responsibility shall be determined by Statute.

14. The King shall appoint and dismiss the Prime Minister and the other Ministers. He shall decide upon the number of Ministers and upon the distribution of the duties of government among them. The signature of the King to resolutions relating to legislation and government shall make such resolutions valid, provided that the signature of the King is accompanied by the signature or signatures of one or more Ministers. A Minister who has signed a resolution shall be responsible for the resolution.

15. (1) A Minister shall not remain in office after the Folketing has passed a vote of no confidence in him.

(2) Where the Folketing passes a vote of no confidence in the Prime Minister, he shall ask for the dismissal of the Ministry unless writs are to be issued for a general election. Where a vote of censure has been passed on a Ministry, or it has asked for its dismissal, it shall continue in office until a new Ministry has been appointed. Ministers who continue in office as aforesaid shall do only what is necessary for the purpose of the uninterrupted conduct of official business.

16. Ministers may be impeached by the King or the Folketing with maladministration of office. The High Court of the Realm shall try cases of impeachment brought against Ministers for maladministration of office.

17. (1) The body of Ministers shall form the Council of State, in which the Successor to the Throne shall have a seat when he is of age. The Council of State shall be presided over by the King except in the instance mentioned in section 8, and in the instances where the Legislature in pursuance of section 9 may have delegated the conduct of the government to the Council of State.

(2) All Bills and important government measures shall be discussed in the Council of State.

18. If the King should be prevented from holding a Council of State he may entrust the discussion of a matter to a Council of Ministers. Such Council of Ministers shall consist of all the Ministers, and it shall be presided over by the Prime Minister. The vote of each Minister shall be entered in a minute book, and any question shall be decided by a majority of votes. The Prime Minister shall submit the Minutes, signed by the Ministers present, to the King, who shall decide whether he will immediately consent to the recommendations of the Council of Ministers, or have the matter brought before him in a Council of State.

19. (1) The King shall act on behalf of the Realm in international affairs. Provided that without the consent of the Folketing the King shall not undertake any act whereby the territory of the Realm will be increased or decreased, nor shall he enter into any obligation which for fulfilment requires the concurrence of the Folketing, or which otherwise is of major importance; nor shall the King, except with the consent of the Folketing, terminate any international treaty entered into with the consent of the Folketing.

(2) Except for purposes of defence against an armed attack upon the Realm or Danish forces the King shall not use military force against any foreign state without the consent of the Folketing. Any measure which the King may take in pursuance of this provision shall immediately be submitted to the Folketing. If the Folketing is not in session it shall be convoked immediately.

(3) The Folketing shall appoint from among its Members a Foreign Affairs Committee, which the Government shall consult prior to the making of any decision of major importance to foreign policy. Rules applying to the Foreign Affairs Committee shall be laid down by Statute.

20. (1) Powers vested in the authorities of the Realm under this Constitution Act may, to such extent as shall be provided by Statute, be delegated to international authorities set up by mutual agreement with other states for the promotion of international rules of law and co-operation

(2) For the passing of a Bill dealing with the above a majority of five-sixths of the Members of the Folketing shall be required. If this majority is not obtained, whereas the majority required for the passing of ordinary Bills is obtained, and if the Government maintains it, the Bill shall be submitted to the Electorate for approval or rejection in accordance with the rules for Referenda laid down in section 42.

21. The King may cause Bills and other measures to be introduced in the Folketing.

22. A Bill passed by the Folketing shall become law if it receives the Royal Assent not later than thirty days after it was finally passed. The King shall order the promulgation of Statutes and shall see to it that they are carried into effect.

23. In an emergency the King may when the Folketing cannot assemble, issue provisional laws, provided that they shall not be at variance with the Constitution Act, and that they shall always immediately on the assembling of the Folketing be submitted to it for approval or rejection.

24. The King shall have the prerogative of mercy and of granting

amnesty. The King may grant Ministers a pardon for sentences passed upon them by the High Court of the Realm only with the consent of the Folketing.

25. The King may either directly or through the relevant Government authorities make such grants and grant such exemptions from the Statutes as are either warranted under the rules existing before the 5th June, 1849, or have been warranted by a Statute passed since that date.

26. The King may cause money to be coined as provided by Statute.

27. (1) Rules governing the appointment of civil servants shall be laid down by Statute. No person shall be appointed a civil servant unless he is a Danish subject. Civil servants who are appointed by the King shall make a solemn declaration to the effect that they will adhere to the Constitution Act.

(2) Rules governing the dismissal, transfer, and pensioning of civil servants shall be laid down by Statute, confer section 64.

(3) Civil servants appointed by the King shall only be transferred without their consent if they do not suffer any loss in the income accruing from their posts or offices, and if they have been offered the choice of such transfer or retirement on pension under the general rules and regulations.

Part IV

28. The Folketing shall consist of one assembly of not more than one hundred and seventy-nine Members, of whom two Members shall be elected on the Faeroe Islands, and two Members in Greenland.

29 (1) Any Danish subject whose permanent residence is in the Realm, and who has the age qualification for suffrage provided for in subsection (2) of this section shall have the right to vote at Folketing elections, provided that he has not been declared incapable of conducting his own affairs. It shall be laid down by Statute to what extent conviction and public assistance amounting to poor relief within the meaning of the law shall entail disfranchisement.

(2) The age qualification for suffrage shall be such as has resulted from the Referendum held under the Act dated the 25th March, 1953. Such age qualification for suffrage may be altered at any time by Statute. A Bill passed by the Folketing for the purpose of such enactment shall receive the Royal Assent only when the provision on the alteration in the age qualification for suffrage has been put to a Referendum in accordance with subsection (5) of section 42, which has not resulted in the rejection of the provision.

30. (1) Any person who has a right to vote at Folketing elections shall be eligible for membership of the Folketing, unless he has been convicted of an act which in the eyes of the public makes him unworthy of being a Member of the Folketing.

(2) Civil servants who are elected Members of the Folketing shall not require permission from the Government to accept their election.

31. (1) The Members of the Folketing shall be elected by general and direct ballot.

(2) Rules for the exercise of the suffrage shall be laid down by the

Elections Act, which, to secure equal representation of the various opinions of the Electorate, shall prescribe the manner of election and decide whether proportional representation shall be adopted with or without elections in single-member constituencies.

(3) In determining the number of seats to be allotted to each area regard shall be paid to the number of inhabitants, the number of electors, and the density of population.

(4) The Elections Act shall provide rules governing the election of substitutes and their admission to the Folketing, and also rules for the procedure to be adopted where a new election is required.

(5) Special rules for the representation of Greenland in the Folketing may be laid down by Statute.

32. (1) The members of the Folketing shall be elected for a period of four years.

(2) The King may at any time issue writs for a new election with the effect that the existing seats shall be vacated upon a new election. Provided that writs for an election shall not be issued after the appointment of a new Ministry until the Prime Minister has present himself to the Folketing.

(3) The Prime Minister shall cause a general election to be held before the expiration of the period from which the Folketing has been elected.

(4) No seats shall be vacated until a new election has been held.

(5) Special rules may be provided by Statute for the commencement and determination of Faeroe Islands and Greenland representation in the Folketing.

(6) If a Member of the Folketing becomes ineligible his seat in the Folketing shall become vacant.

(7) On approval of his election each new Member shall make a solemn declaration that he will adhere to the Constitution Act.

33. The Folketing itself shall determine the validity of the election of any Member and decide whether a Member has lost his eligibility or not.

34. The Folketing shall be inviolable. Any person who attacks its security or freedom, or any person who issues or obeys any command aiming thereat shall be deemed guilty of high treason.

Part V

35. (1) A newly elected Folketing shall assemble at twelve o'clock noon on the twelfth week-day after the day of election, unless the King has previously convoked a meeting of its Members.

(2) Immediately after the proving of the mandates the Folketing shall constitute itself by the election of a President and Vice-Presidents.

36. (1) The sessional year of the Folketing shall commence on the first Tuesday of October, and shall continue until the first Tuesday of October of the following year.

(2) On the first day of the sessional year at twelve o'clock noon the Members shall assemble for a new session of the Folketing.

37. The Folketing shall meet in the place where the Government has its seat. Provided that in extraordinary circumstances the Folketing may assemble elsewhere in the Realm.

38. (1) At the first meeting in the sessional year the Prime Minister shall render an account of the general state of the country and of the measures proposed by the Government.

(2) Such account shall be made the subject of a general debate.

39. The President of the Folketing shall convene the meetings of the Folketing, stating the Order of the Day. The President shall convene a meeting of the Folketing upon a requisition being made in writing by at least two-fifths of the Members of the Folketing or the Prime Minister, stating the Order of the Day.

40. The Ministers shall ex officio be entitled to attend the sittings of the Folketing and to address the Folketing during the debates as often as they may desire, provided that they abide by the Rules of Procedure of the Folketing. They shall be entitled to vote only when they are Members of the Folketing.

41. (1) Any Member of the Folketing shall be entitled to introduce Bills and other measures.

(2) No Bill shall be finally passed until it has been read three times in the Folketing.

(3) Two-fifths of the Members of the Folketing may request of the President that the third reading of a Bill shall not take place until twelve week-days after its passing the second reading. The request shall be made in writing and signed by the Members making it. Provided that there shall be no such postponement in connection with Finance Bills, Supplementary Appropriation Bills, Provisional Appropriation Bills, Government Loan Bills, Naturalization Bills, Expropriation Bills, Indirect Taxation Bills, and, in emergencies, Bills the enactment of which cannot be postponed owing to the intent of the Act.

(4) In the case of a new election and at the end of the sessional year all Bills and other measures which have not been finally passed, shall be dropped.

42. (1) Where a Bill has been passed by the Folketing, one-third of the Members of the Folketing may within three week-days from the final passing of the Bill request of the President that the Bill be subjected to a Referendum. Such request shall be made in writing and signed by the Members making the request.

(2) Except in the instance mentioned in subsection 7, no Bill which may be subjected to a Referendum, confer subsection (6), shall receive the Royal Assent before the expiration of the time limit mentioned in subsection (1) ,or before a Referendum requested as aforesaid has taken place.

(3) Where a Referendum on a Bill has been requested the Folketing may within a period of five week-days from the final passing of the Bill resolve that the Bill shall be withdrawn.

(4) Where the Folketing has made no resolution in accordance with subsection (3), notice to the effect that the Bill will be put to a Referendum shall without delay be given to the Prime Minister, who shall then cause the Bill to be published together with a statement that a Referendum will be held. The Referendum shall be held in accordance with the decision

of the Prime Minister not less than twelve and not more than eighteen week-days after the publication of the Bill.

(5) At the Referendum votes shall be cast for or against the Bill. For the Bill to be rejected a majority of the electors taking part in the voting however, not less than thirty per centum of all persons entitled to vote, shall have voted against the Bill.

(6) Finance Bills, Supplementary Appropriation Bills, Provisional Appropriation Bills, Government Loan Bills, Civil Servants (Amendment) Bills, Salaries and Pensions Bills, Naturalization Bills, Expropriation Bills, Taxation (Direct and Indirect) Bills, as well as Bills introduced for the purpose of discharge existing treaty obligations shall not be subject to a decision by Referendum. This provision shall also apply to the Bills referred to in sections 8, 9, 10, and 11, and to such resolutions as are provided for in section 19, if existing in the form of a law, unless it has been provided by a special Act that such resolutions shall be put to a Referendum Amendments of the Constitution Act shall be governed by the rules laid down in section 88.

(7) In an emergency a Bill that may be subjected to a Referendum may receive the Royal Assent immediately after it has been passed, provided that the Bill contains a provision to that effect. Where under the rules of subsection (1) one-third of the Members of the Folketing request a Referendum on the Bill or on the Act to which the Royal Assent has been given, such Referendum shall be held in accordance with the above rules. Where the Act is rejected by the Referendum, an announcement to that effect shall be made by the Prime Minister without undue delay and not later than fourteen days after the Referendum was held. From the date of such announcement the Act shall become ineffective.

(8) Rules for Referenda, including the extent to which Referenda shall be held on the Faeroe Islands and in Greenland, shall be laid down by Statute.

43. No taxes shall be imposed, altered, or repealed except by Statute; nor shall any man be conscripted or any public loan be raised except by Statute.

44. (1) No alien shall be naturalized except by Statute.

(2) The extent of the right of aliens to become owners of real property shall be laid down by Statute.

45. (1) A Finance Bill for the next financial year shall be laid before the Folketing not later than four months before the beginning of such financial year.

(2) Where it is expected that the reading of the Finance Bill for the next financial year will not be completed before the commencement of that financial year, a Provisional Appropriation Bill shall be laid before the Folketing.

46. (1) Taxes shall not be levied before the Finance Act or a Provisional Appropriation Act has been passed by the Folketing.

(2) No expenditure shall be defrayed unless provided for by the Finance Act passed by the Folketing, or by a Supplementary Appropriation Act, or by a Provisional Appropriation Act passed by the Folketing.

47. (1) The Public Accounts shall be submitted to the Folketing not later than six months after the expiration of the financial year.

(2) The Folketing shall elect a number of Auditors. Such Auditors shall examine the annual Public Accounts and see that all the revenues of the State have been duly entered therein, and that no expenditure has been defrayed unless provided for by the Finance Act or some other Appropriation Act. The Auditors shall be entitled to demand all necessary information, and shall have a right of access to all necessary documents. Rules providing for the number of Auditors and their duties shall be laid down by Statute.

(3) The Public Accounts together with the Auditors' Report shall be submitted to the Folketing for its decision.

48. The Folketing shall lay down its own Rules of Procedure, including rules governing its conduct of business and the maintenance of order.

49. The sittings of the Folketing shall be public. Provided that the President, or such number of Members as may be provided for by the Rules of Procedure, or a Minister shall be entitled to demand the removal of all unauthorised persons, whereupon it shall be decided without a debate whether the matter shall be debated at a public or a secret sitting.

50. In order to make a decision more than one-half of the Members of the Folketing shall be present and take part in the voting.

51. The Folketing may appoint committees from among its Members to investigate matters of general importance. Such committees shall be entitled to demand written or oral information both from private citizens and from public authorities.

52. The election by the Folketing of Members to sit on committees and of Members to perform special duties shall be according to proportional representation.

53. With the consent of the Folketing any Member thereof may submit for discussion any matter of public interest and request a statement thereon from the Ministers.

54. Petitions may be submitted to the Folketing only through one of its Members.

55. By Statute there shall be provision for the appointment by the Folketing of one or two persons, who shall not be Members of the Folketing, to control the civil and military administration of the State.

56. The Members of the Folketing shall be bound solely by their own consciences and not by any directions given by their electors.

57. No Member of the Folketing shall be prosecuted or imprisoned in any manner whatsoever without the consent of the Folketing, unless he is caught in flagrante delicto. Outside the Folketing no Member shall be held liable for his utterances in the Folketing save by the consent of the Folketing.

58. The Members of the Folketing shall be paid such remuneration as may be provided for in the Elections Act.

Part VI

59. (1) The High Court of the Realm shall consist of up to fifteen of the

eldest—according to seniority of office—ordinary members of the highest court of justice of the Realm, and an equal number of members elected for six years by the Folketing according to proportional representation. One or more substitutes shall be elected for each elected member. No Member of the Folketing shall be elected a member of the High Court of the Realm, nor shall a Member of the Folketing act as a member of the High Court of the Realm. Where in a particular instance some of the members of the highest court of justice of the Realm are prevented from taking part in the trial of a case, an equal number of the members of the High Court of the Realm last elected by the Folketing shall retire from their seats.

(2) The High Court of the Realm shall elect a president from among its members.

(3) Where a case has been brought before the High Court of the Realm, the members elected by the Folketing shall retain their seats in the High Court of the Realm for the duration of such case, even if the period for which they were elected has expired.

(4) Rules for the High Court of the Realm shall be provided by Statute.

60. (1) The High Court of the Realm shall try such actions as may be brought by the King or the Folketing against Ministers.

(2) With the consent of the Folketing the King may cause to be tried before the High Court of the Realm also other persons for crimes which he may deem to be particularly dangerous to the State.

61. The exercise of the judiciary power shall be governed only by Statute. Extraordinary courts of justice with judicial power shall not be established.

62. The administration of justice shall always remain independent of the executive power. Rules to this effect shall be laid down by Statute.

63. (1) The courts of justice shall be entitled to decide any question bearing upon the scope of the authority of the executive power. However, a person who wants to query such authority shall not, by bringing the case before the courts of justice, avoid temporary compliance with orders given by the executive power.

(2) Questions bearing upon the scope of the authority of the executive power may be referred by Statute for decision to one or more administrative courts, provided that an appeal from the decision of the administrative courts shall lie to the highest court of the Realm. Rules governing this procedure shall be laid down by Statute.

64. In the performance of their duties the judges shall be directed solely by the law. Judges shall not be dismissed except by judgment, nor shall they be transferred against their will, except in the instances where a rearrangement of the courts of justice is made. However, a judge who has completed his sixty-fifth year may be retired, but without loss of income up to the time when he is due for retirement on account of age.

65. (1) In the administration of justice all proceedings shall be public and oral to the widest possible extent.

(2) Laymen shall take part in criminal procedure. The cases and the form in which such participation shall take place, including what cases are to be tried by jury, shall be provided for by Statute.

Part VII

66. The constitution of the Established Church shall be laid down by Statute.

67. The citizens shall be entitled to form congregations for the worship of God in a manner consistent with their convictions, provided that nothing at variance with good morals or public order shall be taught or done.

68. No one shall be liable to make personal contributions to any denomination other than the one to which he adheres.

69. Rules for religious bodies dissenting from the Established Church shall be laid down by Statute.

70. No person shall for reasons of his creed or descent be deprived of access to complete enjoyment of his civic and political rights, nor shall he for such reasons evade compliance with any common civic duty.

Part VIII.

71. (1) Personal liberty shall be inviolable. No Danish subject shall in any manner whatever be deprived of his liberty because of his political or religious convictions or because of his descent.

(2) A person shall be deprived of his liberty only where this is warranted by law.

(3) Any person who is taken into custody shall be brought before a judge within twenty-four hours. Where the person taken into custody cannot be released immediately, the judge shall decide, stating the grounds in an order to be given as soon as possible and at the latest within three days, whether the person taken into custody shall be committed to prison, and in cases where he can be released on bail, the judge shall determine the nature and amount of such bail. This provision may be departed from by Statute as far as Greenland is concerned, if for local considerations such departure may be deemed necessary.

(4) The finding given by the judge may at once be separately appealed against by the person concerned to a higher court of justice.

(5) No person shall be remanded for an offence that can involve only punishment consisting of a fine or mitigated imprisonment (hæfte).

(6) Outside criminal procedure the legality of deprivation of liberty which is not by order of a judicial authority, and which is not warranted by the legislation dealing with aliens, shall at the request of the person who has been deprived of his liberty, or at the request of any person acting on his behalf, be brought before the ordinary courts of justice or other judicial authority for decision. Rules governing this procedure shall be provided by Statute.

(7) The persons mentioned in subsection (6) shall be under supervision by a board set up by the Folketing, to which board the persons concerned shall be permitted to apply.

72. The dwelling shall be inviolable. House searching, seizure, and examination of letters and other papers as well as any breach of the secrecy to be observed in postal, telegraph, and telephone matters shall take place only under a judicial order unless particular exception is warranted by Statute.

78. (1) The right of property shall be inviolable. No person shall be ordered to cede his property except where required by the public weal. It can be done only as provided by Statute and against full compensation.

(2) Where a Bill relating to the expropriation of property has been passed, one-third of the Members of the Folketing may within three weekdays from the final passing of such Bill, demand that it shall not be presented for the Royal Assent until new elections to the Folketing have been held and the Bill has again been passed by the Folketing assembling thereupon.

(3) Any question of the legality of an act of expropriation and the amount of compensation may be brought before the courts of justice. The hearing of issues relating to the amount of the compensation may by Statute be referred to courts of justice established for such purpose.

74. Any restraint of the free and equal access to trade which is not based on the public weal, shall be abolished by Statute.

75. (1) In order to advance the public weal efforts should be made to afford work to every able-bodied citizen on terms that will secure his existence.

(2) Any person unable to support himself or his dependants shall, where no other person is responsible for his or their maintenance, be entitled to receive public assistance, provided that he shall comply with the obligations imposed by Statute in such respect.

67. All children of school age shall be entitled to free instruction in the elementary schools. Parents or guardians who themselves arrange for their children or wards receiving instruction equal to the general elementary school standard, shall not be obliged to have their children or wards taught in an elementary school.

77. Any person shall be entitled to publish his thoughts in printing, in writing, and in speech, provided that he may be held answerable in a court of justice. Censorship and other preventive measures shall never again be introduced.

78 (1) The citizens shall be entitled without previous permission to form associations for any lawful purpose.

(2) Associations employing violence, or aiming at attaining their object by violence, by instigation to violence, or by similar punishable influence on people of other views, shall be dissolved by judgment.

(3) No association shall be dissolved by any government measure. However, an association may be temporarily prohibited, provided that proceedings be immediately taken against it for its dissolution.

(4) Cases relating to the dissolution of political associations may without special permission be brought before the highest court of justice of the Realm.

(5) The legal effects of the dissolution shall be determined by Statute.

79. The citizens shall without previous permission be entitled to assemble unarmed. The police shall be entitled to be present at public meetings. Open-air meetings may be prohibited when it is feared that they may constitute a danger to the public peace.

80. In case of riots the armed forces, unless attacked, may take action only after the crowd in the name of the King and the Law has three times been called upon to disperse, and such warning has been unheeded.

81. Every male person able to carry arms shall be liable with his person to contribute to the defence of his country under such rules as are laid down by Statute.

82. The right of the municipalities to manage their own affairs independently under the supervision of the State shall be laid down by Statute.

83. All privileges by legislation attached to nobility, title, and rank shall be abolished.

84. In future no fiefs, estates tail in land or estates tail in personal property shall be created.

85. The provisions of sections 71, 78, and 79 shall only be applicable to the defence forces subject to such limitations as are consequential to the provisions of military laws.

Part IX

86. The age qualification for local government electors and congregational council electors shall be that applying at any time to Folketing electors. With reference to the Faeroe Islands and Greenland the age qualification for local government electors and congregational council electors shall be such as may be provided for by Statute or fixed in accordance with Statute.

87. Citizens of Iceland who enjoy equal rights with citizens of Denmark under the Danish-Icelandic Union (Abolition), etc. Act, shall continue to enjoy the rights attached to Danish citizenship under the provisions of the Constitution Act.

Part X.

88. When the Folketing passes a Bill for the purposes of a new constitutional provision, and the Government wishes to proceed with the matter, writs shall be issued for the election of Members of a new Folketing. If the Bill is passed unamended by the Folketing assembling after the election, the Bill shall within six months after its final passing be submitted to the Electors for approval or rejection by direct voting. Rules for this voting shall be laid down by Statute. If a majority of the persons taking part in the voting, and at least 40 per centum of the Electorate has voted in favour of the Bill as passed by the Folketing, and if the Bill receives the Royal Assent it shall form an integral part of the Constitution Act.

Part XI

89. This Constitution Act shall come into operation at once. Provided that the Rigsdag last elected under the Constitution of the Kingdom of Denmark Act, 5th June, 1915, as amended on the 10th September, 1920, shall continue to exist until a general election has been held in accordance with the rules laid down in Part IV. Until a general election has been held the provisions laid down for the Rigsdag in the Constitution of the Kingdom of Denmark Act, 5th June, 1915, as amended on the 10th September 1920, shall remain in force.

THE SUCCESSION TO THE THRONE ACT

1. The Throne shall be inherited by the descendants of King Christian X and Queen Alexandrine.

2. On the demise of a King the Throne shall pass to his son or daughter so that a son shall take precedence over a daughter, and where there are several children of the same sex the eldest child shall take precedence over a younger child.

Where one of the King's children has died the issue of the deceased shall take his place in accordance with the lineal descent and the rules laid down in subsection 1.

3. On the demise of a King who has left no issue entitled to succeed to the Throne, the Throne shall pass to his brother or sister with preference for the brother. Where the King has one or more brothers or one or more sisters, or where any of his brothers or sisters have died, the rules of section 2 shall apply correspondingly.

4. Where there is no person entitled to succeed to the Throne under the rules of sections 2 and 3, the Throne shall pass to the then nearest collateral line of the descendants of King Christian X and Queen Alexandrine in accordance with the lineal descent, and with preference correspondingly for men over women, and for the elder over the younger as laid down in sections 2 and 3.

5. Only children born of lawful marriage shall be entitled to succeed to the Throne.

The King shall not enter into marriage without the consent of the Rigsdag.

Where a person entitled to succeed to the Throne enters into marriage without the consent of the King given in the Council of State, the person in question shall forfeit his right of succession to the Throne for himself and the children born of the marriage and for their issue.

6. The provisions of sections 2—5 shall apply correspondingly in the case of the abdication of a King.

7. This Act shall come into operation at the same time as the Constitution of the Kingdom of Denmark Act, 5th June, 1953.

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DOMINICAN REPUBLIC

SUMMARY

International Status

The Dominican Republic is a member of the United Nations. It signed the Charter of that organization at San Francisco on June 26, 1945, and deposited its ratification September 4, 1945. It also signed the United Nations Declaration of January, 1942.

It was a member of the League of Nations and signed the Paris Pact of 1928 for the renunciation of war. It signed and ratified the Statute of the Permanent Court of International Justice of 1921 and also accepted the optional clause (Article 36).[1] It is a member of the Organization

[1] By the provisions of Art. 93 of the Charter of the United Nations it automatically becomes a party to the Statute of the International Court of Justice of 1945; and its

of the American States, the Postal Union and numerous other international organizations.[1]

The island of which Santo Domingo forms a part was the first settlement of Spain in the New World and was for several years the metropolis of the Spanish Western Empire. In 1680 a portion of the island was granted to France, a French colony having been set up there at the beginning of the century. In 1795, under the Treaty of Basle, the island was ceded to France. During the Napoleonic wars the portion of the island which had originally been Spanish was regained by Spain and in 1821 it proclaimed its independence. The following year it was occupied by Haiti and continued to be ruled by it until 1844, when the separation of the Dominican Republic was accomplished and its independence once again proclaimed. Internal troubles and the menace of Haiti caused the Dominican Republic to place itself under Spanish domination in 1861. This ended in 1865, two years after the Dominican people had started the war of restoration. Revolutions continued until 1878 when a period of relative calm began. In 1907 the United States took over the administration of the customs. Internal troubles continued, and in 1916 officers of the United States Marines placed the island under military occupation. The United States forces were later withdrawn.

Form of National Government

The Dominican Republic has a written constitution promulgated January 10, 1947, which declares that the government is "civil, republican, democratic, and representative." [2] The first constitution was that of 1844. The several constitutions which succeeded it have been for the most part merely amendments of that document.

Source of Sovereign Power

The Constitution states that "the people is the only sovereign." [3]

Rights of the People

Inviolability of life, freedom to work, freedom of religion, freedom of education, freedom of speech and the press, liberty of association, the right of property, inviolability of correspondence, inviolability of domicile, freedom of transit and individual security [4] are guaranteed.

Legislative Department

Legislative power is vested in a Congress composed of a Senate and a Chamber of Deputies.[5] The Senate is made up of one member for each

acceptance of obligatory jurisdiction is deemed to be in force as to the International Court of Justice. See Yearbook of the Court, 1951–52, pp. 35–43.

[1] See Table I. [2] Const. of 1942, Art. 2. [3] Id., Art. 12.
[4] Id., Art. 6. [5] Id., Art. 13.

province and also one from the District of Santo Domingo, directly elected for a term of five years [1] by universal suffrage.[2] Members of the Chamber of Deputies are similarly elected for five years on a basis of one for every sixty thousand inhabitants.[3]

Executive Department

Executive power is exercised by a President elected by direct universal suffrage for a term of five years.[4] Provision is made for secretaries of state appointed by the President.[5]

Judicial Department

There is a Supreme Court of Justice composed of at least seven members, appointed by the Senate.[6] It is the final court of appeal and has original jurisdiction in cases instituted against high officials.

Provision is also made for courts of appeal, land tribunals, and tribunals of the first instance.[7]

Area, Population, Language

The Dominican Republic has an area of 19,332 square miles and a population (census of 1950) of 2,121,083. Spanish is the prevailing language.

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[1] Const. of 1942, Art. 17. [2] Id., Art. 10. [3] Id., Art. 20.
[4] Id., Art. 44. [5] Id., Arts. 54, 49 (1). [6] Id., Art. 19.
[7] Id., Arts. 62–71.

CONSTITUTION of the DOMINICAN REPUBLIC

January 10, 1947 [1]

TITLE I

Section I

The Nation and Its Government

Art. 1. The people of Santo Domingo form a nation organized into a free and independent state under the name of Dominican Republic.

Art. 2. Its government is essentially civil, republican, democratic, and representative.

It is divided into legislative, executive, and judicial powers. These three powers are independent in the exercise of their respective functions. Those entrusted with these powers are responsible and cannot delegate their attributes, which are solely those determined by this Constitution and the laws.

Section II

The Territory

Art. 3. The territory of the Republic, including the adjacent islands, is and shall be inalienable.

Art. 4. The territory of the republic is composed of the District of Santo Domingo and the provinces determined by law. The provinces, in turn, are divided into communes.

The law shall fix the number and the boundaries of the provinces and those of the communes into which they may be divided and it may also create new political divisions of the territory under other denominations.

Art. 5. The ancient city of Santo Domingo, now Ciudad Trujillo, is the capital of the Republic and the seat of the national government.

TITLE II

Section I

Individual Rights

Art. 6. There are consecrated as inherent in the human personality:

1. Inviolability of life. Capital punishment shall not be imposed or any other penalty which implies loss of the physical integrity of the individual. The law can nevertheless impose the penalty of death for

[1] Spanish text supplied by the Embassy of the Dominican Republic in Washington, D.C. Translation by Dorothy W. Peaslee.

those who, in time of war with a foreign nation, become guilty of crimes against the fortune of the national arms or of treason or espionage in favor of the enemy.

2. Freedom of work. Consequently, there is prohibited the establishment of monopolies for the benefit of private parties. The law may, in accordance with the requirements of the general interest, establish the maximum days of work, days of rest and vacations, minimum wages and salaries and their forms of payment, social security, the preponderant participation of nationals in all work, and in general, all the means of protection and assistance of the state that are considered necessary in favor of the workers.

3. Freedom of conscience and of worship, without other limitation than the respect due to public order and good customs.

4. Freedom of education. Primary instruction shall be subject to the vigilance of the state and shall be obligatory for the minor of school age in the form established by law. In official establishments, this instruction as well as that given by schools of agriculture, manual arts, and domestic economy, shall be gratuitous.

5. The right to express thought without subjection to previous censure. The law shall establish sanctions applicable to those who attack the honor of individuals, the social order, or the public peace.

6. The liberty of association and meeting for peaceful ends.

7. The right of property. Nevertheless this may be expropriated for public utility or social interest by due process of law and with prior payment of equitable indemnification. In case of public calamity, the indemnification need not be prior. The general confiscation of property is prohibited except as a penalty for persons guilty of treason or espionage in favor of the enemy in time of war with a foreign nation.

8. Inviolability of correspondence and other private documents, which cannot be seized or inspected except as the result of legal proceedings in connection with matters which are then before the courts. Also inviolable is the secrecy of telegraphic, telephonic, and cablegraphic communication.

9. Inviolability of domicile. No domicile may be searched except in cases provided by law, and with the formalities prescribed by law.

10. Freedom of transit, subject to the restrictions resulting from the execution of penalties judicially imposed, or of the immigration and sanitary laws.

11. Exclusive ownership, for the period and in the form determined by law, of inventions and discoveries and of scientific, artistic and literary productions.

12. Individual security. Therefore: (a) physical constraint for debt not originating in fraud or infraction of the penal law shall not be established; (b) no one shall be imprisoned or restrained of his liberty without warrant assigning cause and in writing from a competent judicial authority, except in the case of flagrante delicto; (c) no one shall be tried twice for the same cause, or be obliged to testify against himself, or be sentenced to any penalty, whatever may be its nature, without having been heard in a public hearing, or within having been regularly summoned. Excepted from being heard in public are the cases for which the law establishes disciplinary tribunals; (d) every person deprived of his liberty shall be brought before a competent judge or court within forty-eight hours of his detention, or be set free. Every arrest shall be without effect unless it shall result in imprisonment within forty-eight hours of the time the arrested is brought before a competent judge or court, notification within a like period to the person interested in the decision rendered being obligatory; (e) every person deprived of his liberty without cause or without legal formalities or outside of the cases provided by the laws shall be immediately set free on his own demand or that of any other person. The law will determine the manner of summary proceeding in such a case.

Art. 7. The enumeration contained in Article 6 is not limitative and therefore does not exclude the existence of other rights of a like nature.

Title III

POLITICAL RIGHTS

Section I

Nationality

Art. 8. The following are Dominicans:

1. Persons who at present enjoy that status by virtue of former constitutions and laws;
2. All persons who were born in the territory of the Republic with the exception of the legitimate sons of foreigners who are resident in the Republic as diplomatic representatives or who are in transit across the Republic;
3. Persons born abroad of Dominican fathers or mothers, provided that they have not acquired foreign nationality in accordance with the laws of the countries of their births, or, if they have acquired it, that after coming of political age, or at the latest within a year of coming of civil age, fixed in Dominican legislation, they shall, by sworn statement before a public official commissioned by the executive power, declare their intention of retaining Dominican nationality;
4. Those naturalized according to the law.

No Dominican can claim the position of foreigner through naturalization or through any other cause. The law can apply sanctions for those who, being Dominicans, claim the possession of a foreign nationality. Nevertheless, a Dominican woman married to a foreigner may acquire the nationality of her husband.

Section II

Citizenship

Art. 9. All Dominicans of either sex above eighteen years old, and such as may be or may have been married, although not having reached that age, are citizens.

Art. 10. The rights of citizens are:

1. To exercise the suffrage;
2. To be eligible to elective offices, under the restrictions indicated in this Constitution.

Art. 11. The rights of citizens are lost:

1. By bearing arms against the Republic or lending aid to any attempt against it;
2. By sentence to criminal punishment and during the term of punishment;
3. By judicial interdiction;
4. By accepting employment while in Dominican territory from any foreign government without authority from the executive power;
5. By having adopted another nationality.

Title IV

SOVEREIGNTY

Art. 12. The people is the only sovereign.

Title V

Section I

The Legislative Power

Art. 13. All the legislative powers conferred by the present Constitution are entrusted to a Congress of the Republic composed of a Senate and a Chamber of Deputies.

Art. 14. The election of senators as also of deputies shall be made by direct vote.

Art. 15. The office of senator and that of deputy are incompatible with all other permanent public employment or office with the exception of honorary ones and professorships. These last are not incompatible with any other public office or employment.

Art. 16. When vacancies of senator or of deputy occur, they shall be filled by the corresponding chamber, which shall choose the substitute from a list of three names presented by the proper organ of the political party to which the senator or deputy whose seat is vacant belonged.

The list of three names must be submitted to the proper chamber within thirty days following the occurrence of the vacancy if Congress be in session; and in case it be not in session, within thirty days after the day it convenes. If the thirty days shall have elapsed, and the proper organization of the party has not submitted the list, the corresponding chamber shall make the designation without restriction.

Section II

The Senate

Art. 17. The Senate shall be composed of members elected at the rate of one for each province and the District of Santo Domingo, and the term of office shall be five years.

Art. 18. For the office of senator it is required: to be a Dominican in full exercise of civil and political rights and to have attained the age required by this Constitution.

Naturalized persons may not be senators except ten years after having acquired nationality and provided that they have resided continuously in the country for two years prior to their election.

Art. 19. The exclusive attributes of the Senate are:

1. To appoint the judges of the Supreme Court of Justice, of the courts of appeal, of the tribunals or magistracies of first instance, of the land courts, judges of instruction, and judges of any other tribunals of a judicial character created by law;
2. To appoint the members of the bureau of accounts;
3. To approve, or not, nominations of a diplomatic character submitted by the executive power;
4. To try accusations preferred by the Chamber of Deputies against public officials elected for a determined period, on grounds of bad conduct or of offenses in the exercise of their functions. The Senate, in the matter of the accusation, cannot impose other penalties than those of removal from office or of disqualification for all offices of trust, honor, or profit in the Republic. The convicted person shall remain, nevertheless, if there be occasion for it, subject to being accused and tried according to law.

The Senate cannot pronounce a condemnatory sentence except when approved by at least three-fourths of all the members thereof.

The provisions contained in this Article do not exclude, with respect to the members of the judicial power, the dicisplinary authority of the Supreme Court of Justice.

Section III

The Chamber of Deputies

Art. 20. The Chamber of Deputies shall be composed of members elected every five years by the people of the provinces and of the District of Santo Domingo at the rate of one for every sixty thousand inhabitants or fraction greater than thirty thousand.

No province shall have less than two deputies.

Art. 21. For the office of deputy it is required: to be a Dominican in full exercise of civil and political rights and to have attained the age required in this Constitution.

Naturalized persons may not be elected deputies except eight years after having acquired nationality and provided that they have resided continuously in the country for the two years prior to their election.

Art. 22. The exclusive attributes of the Chamber of Deputies are:

1. To exercise the right to impeach public officials before the Senate in the cases determined in paragraph 4 of Article 19. The impeachment cannot be made without the vote of three-fourths of the total of the members of the chamber;
2. To authorize, or not, the municipalities to alienate real property and to approve, or not, contracts which they may enter into involving communal real property or revenues as a guaranty.

Section IV

Provisions Common to Both Chambers

Art. 23. The chambers shall unite in National Assembly in the cases indicated by the Constitution and there must be present for the purpose more than one-half of the members of each chamber.

The decisions shall be taken by absolute majority of the votes.

Art. 24. Each chamber shall make rules in respect to its own proceedings and the despatch of affairs peculiar thereto; being authorized in the rules of discipline to provide punishments for its members proportionate to the faults they may commit.

Art. 25. The Senate and the Chamber of Deputies shall hold their sessions separately except when united in National Assembly.

Art. 26. In each chamber the presence of at least more than half of its members shall be necessary for the validity of its deliberations. Decisions shall be taken by absolute majority vote except in the matters previously declared of urgency, which shall be decided by two-thirds vote.

Art. 27. The members of either chamber shall enjoy the fullest immunity for the opinions they may express in the sessions.

Art. 28. No senator or deputy shall be deprived of his liberty during the legislative term without authority of the chamber to which he belongs,

except in the case of his being apprehended while in the commission of a crime. In all cases the Senate or the Chamber of Deputies, or if they are not in session or there is no quorum, any member thereof, may require that any member, who may have been detained, arrested, imprisoned, or in any other way deprived of his liberty, shall be set free during the sitting of the legislature or any period thereof. To this end a requisition shall be made on the attorney general of the Republic by the president of the Senate or of the Chamber, or by the senator or deputy, as the case may be; and if it becomes necessary, the liberating order shall be given directly, in which case assistance may be required and must be rendered by every depositary of the public force.

Art. 29. The chambers shall meet ordinarily on February 27 and August 16 of each year and each legislative session shall continue ninety days, which may be extended for sixty days more.

Extraordinary sessions shall be at the call of the executive power.

Art. 30. On the sixteenth of August of each year each chamber shall name from among its membership a president, a vice-president, and two secretaries for the term of one year.

Each chamber shall designate its auxiliary employees, who shall remain in their posts so long as they are not expressly removed.

The presidents of the Senate and of the Chamber of Deputies shall have disciplinary powers during the sessions; and they shall represent their respective chamber in all legal acts.

Art. 31. When the chambers are united in National Assembly, the presidency will be assumed by the person who at that time is entitled to preside in the Senate; the vice-presidency will be occupied by the president of the Chamber of Deputies, and the secretariat by the secretaries of both chambers.

Art. 32. It appertains to the National Assembly:

To examine the election returns of the President and of the Vice-President of the Republic, to announce the results, to administer the oaths of office and, in the event, to receive their resignations.

Title VI

Section I

The Congress

Art. 33. Attributes of the Congress are:

1. To levy general taxes and contributions and to determine the method of legally collecting and expending the same;
2. To approve or disapprove, after examination of the report of the bureau of accounts, the report of collections and expenditures of the revenues which the executive power must present;
3. To take account of the observations respecting the laws which the executive power may make;
4. To devise means for conserving the national property and making it productive, and for the alienation of property under the private ownership of the Nation;
5. To determine all measures for the preservation of ancient monuments and for the acquisition of all kinds of prehistoric and historic objects which constitute national archaeology;

6. To create or abolish provinces, communes, or other political divisions of the territory, and to determine everything concerning their limits and organization;

7. In case of a breach of the public peace, to declare a state of siege and, where the same exists and for the period of its duration, to suspend the individual rights guaranteed in Article 6, paragraphs 5, 6, 10 and 12, subheadings (b), (d) and (e);

8. In case the national sovereignty is exposed to grave and imminent peril, Congress may declare that a state of national emergency exists, suspending the individual rights guaranteed in paragraphs 2 to 12, inclusive, of Article 6 of this Constitution. If Congress is not in session, the President of the Republic may take the same measure, with the obligation to summon Congress, by the same act, to meet within the next ten days in order to decide whether to maintain or support said measure. If Congress decides against it, or does not meet, the said measure shall automatically cease;

9. To legislate in full respecting immigration;

10. To regulate whatever appertains to the customs service;

11. To increase or reduce the number of courts of appeal and to create or abolish ordinary or exceptional tribunals;

12. To create or abolish tribunals to hear and decide matters of administrative litigation and to make full provision for their organization and jurisdiction;

13. To vote extraordinary public expenditures for which the executive may have asked an appropriation;

14. To raise loans upon the credit of the Republic acting through the executive power;

15. To approve, or disapprove, international treaties and conventions entered into by the executive power;

16. To legislate in respect to whatever concerns the national debt;

17. To decree by law the necessity of constitutional reform;

18. To grant permission to the President of the Republic to absent himself from the territory of the Republic when it is for more than thirty days;

19. To interrogate secretaries of state regarding matters in their jurisdiction;

20. Annually to examine all the acts of the executive power and to approve the same if in accordance with the Constitution and the laws;

21. To approve or not the contracts that may be submitted to it by the President of the Republic in conformity with subhead 10 of Article 49 and with Article 90;

22. To create, or discontinue, secretariats and under secretariats of state when according to the judgment of the executive power it is necessary for the purposes of the public administration;

23. To decree the transfer of the legislative chambers outside the capital of the Republic for justified reasons of force majeure or by convocation of the President of the Republic;

24. To legislate regarding any matter that many not be within the competence of another power of the state or contrary to the Constitution.

Title VII

Section I

The Enactment of Laws

Art. 84. In the enactment of laws the following have the right of initiative:

(a) Senators and Deputies;
(b) The President of the Republic;
(c) The Supreme Court of Justice, in judicial affairs.

Art. 35. Every proposal of law introduced in one of the chambers shall be submitted to two distinct discussions, with an interval of a day at least between the first and second; in case of a prior declaration of urgency the proposal may be discussed in two consecutive sessions.

Art. 36. A proposal of law approved in either of the chambers shall be sent to the other for appropriate discussion, the same legal formalities being observed. If this chamber make amendments, it shall be returned with comments to the chamber in which it was first introduced; and in case the amendments be accepted, the law will be forwarded to the executive power; but if they be refused, the proposal shall be returned to the other chamber with comments, and if these be approved, the law will then be forwarded to the Executive Power; if the comments be disapproved, the proposal will be considered rejected.

Art. 37. Every law approved in both chambers shall be forwarded to the executive power. If the executive power does not veto the law, he shall promulgate it within eight days of receipt thereof and shall cause it to be published within fifteen days of its promulgation; if vetoed, it shall be returned with objections to the chamber from which it came in the same period of eight days counting from the date on which it was sent, provided the matter be not one declared as of urgency, in which case the veto shall be made within the period of three days. The chamber which may have received the veto shall assign the matter to the calendar of the next session and shall discuss the law anew. If after this discussion, two-thirds of the whole membership of this chamber again approve it, it shall be forwarded to the other chamber, and if by a like majority it be there approved, it shall be considered as definitively a law.

The President of the Republic shall be obliged to promulgate and publish the law within the period above prescribed.

Proposals of law which may be pending in either of the chambers at the close of the legislative term must follow the constitutional procedure until converted into law in the following legislature. When this is not done, the project shall be regarded as if it had not been initiated.

Every proposed law received in a chamber after having been approved in the other shall be assigned to the calendar.

Art. 38. Whenever a law is forwarded to the President of the Republic for its proclamation, and the period of the legislative term remaining is less than that prescribed in the preceding Article for presentation of objections, the legislature shall remain open to hear the objections until the termination of the period and of the procedure established by Article 37.

Art. 39. Laws after publication are obligatory on all the inhabitants of the Republic if the time within which they are by law considered to be known has elapsed.

Art. 40. All laws, decrees, regulations, and acts contrary to the present Constitution are null ipso jure.

Art. 41. Proposed laws rejected in one chamber cannot be introduced in the other, or anew in either of the chambers, except at the following legislative term.

Art. 42. Laws do not have a retroactive effect, except when they are favorable to one who is sub judice or serving a sentence.

Art. 43. All laws shall begin thus, "The National Congress, in the Name of the Republic."

Title VIII

Section I

The Executive Power

Art. 44. The executive power shall be exercised by the President of the Republic, who shall be elected every five years by direct vote.

Art. 45. In order to be President of the Republic it is required:

1. To be Dominican by birth and origin and to have resided in the country during the five years immediately before his election;
2. To be of the age required in this Constitution and in the full exercise of civil and political rights.

Art. 46. The President of the Republic cannot resign except before the National Assembly.

Art. 47. The President of the Republic elected in the regular elections shall take possession of his office at the end of the term of the outgoing incumbent. When, by reason of not being in the country, or on account of illness or any other case of force majeure, the President is unable to do this, the president of the Supreme Court of Justice named for the term about to begin shall take possession in the interim. In case of definite default of the President-elect of the Republic, before the sixteenth of August, the National Assembly, made up of the senators and deputies elected with the President, shall meet the sixteenth of August to designate a new President of the Republic, in a session that may not be recessed until it has concluded the election. If the President-elect of the Republic defaults definitively without taking possession of his office after the sixteenth of August, the National Assembly shall reconvene within thirty days of the definite default to designate a new President of the Republic with the same requirements before stated.

Art. 48. The President of the Republic, before entering on the discharge of his duties, shall take the following oath before the National Assembly or before any functionary or public official:

> I swear before God, my country, and my honor, to execute and cause to be executed the Constitution and laws of the Republic, to uphold and defend its independence, to respect its rights and to fulfill faithfully the duties of my office.

Art. 49. The President of the Republic is the chief of the public administration and the commander-in-chief of all the armed forces of the Republic.

The President of the Republic shall have power:

1. To appoint the secretaries of state, to accept their resignations, and remove them from office;
2. To preserve the Nation from all foreign attack;
3. To promulgate and cause to be published the laws and resolutions and care for their faithful execution; to issue rulings, decrees, and instructions when necessary;

4. To watch over the proper collection and faithful expenditure of the national revenues;
5. To appoint all public officials whose appointment is not given to another power or autonomous organization, and to appoint the members of the diplomatic corps with the approval of the Senate;
6. To receive the foreign chiefs of state and their representatives;
7. To preside at all national solemnities, direct diplomatic negotiations and conclude treaties with foreign countries, being obliged to submit the latter to the approval of Congress, without which they shall have no validity nor be binding on the Republic;
8. In case of a disturbance of the public peace, the two chambers not being assembled, the executive may decree a state of siege and suspend the individual guarantees which, by Article 33, paragraph 7, of this Constitution, Congress is allowed to suspend; he may also, when Congress is not assembled, declare a state of national emergency, with the effects and subject to the requirements indicated in paragraph 8 of the same Article;
9. To fill temporarily the vacancies that may occur among the judges of the tribunals, the peace courts and the Chamber when Congress is in recess, with the obligation of informing the Senate with respect to the said appointments in the next legislative session in order that definitive appointments may be made;
10. To conclude contracts, submitting them to the approval of the National Congress when they contain provisions affecting the national revenues, the alienation of immovables, or the raising of loans, or when they stipulate exemptions from taxes in general in accordance with Article 90; and without such approval in other cases;
11. To fill vacancies which may occur in the municipal councils when the number of alternates is exhausted;
12. To issue navigation patents;
13. To issue orders, in time of peace or of war, concerning the armed forces of the Republic, to command the national army and navy himself or through the person or persons he may designate to do so, to fix the number of the forces of the army and navy and dispose of the same in time of peace or war for the ends of public service;
14. To declare war, after decree of Congress, and to conclude peace when it may become necessary, subject to obtaining the approval of Congress;
15. In case of foreign war, he may cause to be arrested or expelled from the national territory individuals of the nation with which the country may be at war, and in general those foreigners whose activities in the judgment of the executive power, are or may be prejudicial to the national interest;
16. To ask the necessary credits of Congress for carrying on war;
17. To name and dismiss members of the councils of war in accordance with the law;
18. To regulate all matters with respect to maritime, river and military zones;
19. To determine all matters with respect to the qualification of ports and maritime coasts;
20. To prohibit, when he deems it necessary, the entrance of foreigners into the national territory and to expel them when he judges it necessary for the public interest;
21. To change the place of his official residence when he deems it necessary;
22. To deposit before the National Congress at the beginning of the ordinary legislature, on February 27 of each year, a message accompanied by the reports of the secretaries of state, wherein he shall give account of his administration during the preceding year;
23. To submit to the Congress, during the legislature beginning August

16, a draft of budget of income and law of public expenditures for the following year;

24. To grant or not authorization to Dominican citizens that they may be empowered to exercise foreign public offices and that they may accept and use decorations and titles granted by foreign governments;

25. To annul, by decree assigning reasons, the excise taxes established by the administrative council of the District of Santo Domingo or the municipal councils when they are contrary to the general economy of the nation;

26. To grant total or partial pardon, on February 27, August 16, September 24, and December 23, to prisoners who may be serving sentences in the prisons of the Republic;

27. To name the President and other members of the administrative council of the District of Santo Domingo.

Art. 50. The President of the Republic may not leave the country for more than thirty days without authority from Congress.

Art. 51. In case the President of the Republic is temporarily absent the executive power shall be exercised during his absence by the secretary of state for war and the navy; in the absence of the latter, by the secretary of state for the interior and police, and if both are absent, by the secretary of state for the Presidency. In case of permanent vacancy, the Presidency for the remainder of the term shall be occupied by the person invested with the office of secretary of state for war and navy; in default of him, by the person invested with the office of secretary of state for the interior and police, and in default of both, by the person invested with the office of secretary of state for the presidency.

These secretariats of state must always figure in the law which establishes them, and to exercise their functions, the same conditions shall be required as for President of the Republic.

Art. 52. By virtue of a decree of the President of the Republic, and while this is not revoked by another decree, a secretary of state designated by him and possessing the conditions required by the Constitution to become President of the Republic may also exercise the executive power temporarily.

Art. 53. In case of default of all the substitutes provided for in Article 51, the president of the Supreme Court of Justice shall assume the executive power in the interim, and, within thirty days of the date on which he assumed these functions, he shall convoke the National Assembly to name a permanent substitute in a session that may not close or declare a recess until it shall have concluded the election. In case it is not convoked within those thirty days, the National Assembly shall convene in its own right to carry out the election in the manner provided for above.

Section II

The Secretaries of State

Art. 54. For the discharge of matters of the public administration, there shall be secretaries of state as established by law.

Art. 55. In order to be a secretary of state, it is required to be a Dominican in the full exercise of civil and political rights and to have arrived at the age of twenty-five years.

Naturalized citizens cannot be secretaries of state except after ten years of having been naturalized.

Art. 56. The powers of the secretaries of state shall be determined by law.

Title IX

Section I

The Judicial Power

Art. 57. The judicial power shall reside in the Supreme Court of Justice, the courts of appeal, the land courts, the courts of first instance, the peace courts, and the other tribunals of the judicial order created by the laws.

Section II

The Supreme Court of Justice

Art. 58. The Supreme Court of Justice shall be composed of seven judges, at least; but it can meet, deliberate, and judge validly with the quorum determined by the law which shall regulate its organization.

Until the said law is voted, the quorum under reference shall be five members.

On the designation of the judges of the Supreme Court of Justice, the Senate shall choose which of them is to occupy the presidency and a first and a second substitute to replace the president in case of default or impediment.

Upon the end of the service of a judge who has been accorded one of the above-mentioned positions, the Senate shall name a new judge with the same position, or give it to one of the other judges.

The attorney general of the Republic is the chief of the judicial police and the public ministry and represents it before the Supreme Court of Justice personally or through the substitutes the law may provide; he has the attributes, duties, and prerogatives which the laws confer upon him and the same rank as the president of the Supreme Court of Justice.

Art. 59. In order to be judge of the Supreme Court or attorney general of the Republic, it is necessary to be Dominican by birth or origin, to be in full possession of civil and political rights, to have completed the age required by this Constitution, and to be a lawyer or a doctor of laws who has pursued his profession at least for eight years, or to have been the judge of some court or tribunal or attorney general for four years.

Art. 60. The office of judge of the Supreme Court is incompatible with any other public office or employment, permanent or occasional, with the exception of honorary ones and professorships.

Art. 61. The Supreme Court, without prejudice to other attributes conferred by law, has exclusive power:

1. To have cognizance in first and final instance of cases instituted against the President of the Republic, senators, deputies, secretaries of state, sub-secretaries of state, members of the Supreme Court of Justice, the attorney general of the Republic, judges and attorneys of the courts of appeal, and the members of the national diplomatic corps;
2. To judge appeals in cassation in conformity with the law;

3. To have cognizance in final jurisdiction of cases whose original jurisdiction belongs to the courts of appeal;
4. To exercise the highest disciplinary authority over all the members of the judicial powers with authority to suspend or dismiss from office in the form determined by law;
5. To move provisionally or definitely from one jurisdiction to another when it deems it useful, the judges of the first instance, the resident judges of the land court, and the judges of instruction.

Section III

The Courts of Appeal

Art. 62. There shall be at least three courts of appeal for all the Republic; the number of judges to compose the same, as also the judicial districts corresponding to each court, shall be determined by law.

Art. 63. Only Dominicans above twenty-five years of age, who are in the full exercise of civil and political rights and who are members of the bar or doctors of law with at least four years of practice of law, or who have been judges of the first instance for two years can be judges of the courts of appeal.

Naturalized citizens can become judges of the court of appeal only eight years after having acquired Dominican nationality.

Art. 64. The public ministry is represented in each court of appeal by an attorney general or by the substitutes the law may create all of whom must possess the same qualifications as the judges of those courts.

Art. 65. The courts of appeal have the following jurisdiction:

1. To hear appeals from decisions handed down by tribunals and courts of first instance;
2. To have cognizance in first instance of cases instituted against magistrates and attorneys of the tribunals and courts of first instance and governors of provinces;
3. To hear other matters as may be determined by law.

Section IV

The Land Tribunals

Art. 66. The jurisdiction of the land tribunals shall be determined by law.

To be president or judge of the supreme land tribunal, the same conditions are required as to be judge of a court of appeal; and to fill the other offices of judge of the land tribunal, the same conditions as to be judge of first instance.

Section V

The Tribunals of First Instance

Art. 67. For each judicial district there shall be tribunals or courts of first instance with such jurisdiction as may be conferred on them by law.

The law will determine the number of judicial districts, the number of judges to compose the tribunals or courts, and the number of chambers into which they may be divided.

Art. 68. In order to be a judge of a tribunal or court of first instance it is required: to be a Dominican in full exercise of civil and political rights and to be twenty-five years of age and a member of the bar of the courts of the Republic.

Art. 69. Fiscal attorneys and judges of instruction must have the same requirements as are necessary to be judge of a tribunal or court of first instance.

Section VI

Of the Peace Courts

Art. 70. In each commune and in the District of Santo Domingo, there shall be one or more justices of the peace with two substitutes, respectively, all appointed by the Senate. However, the Supreme Court of Justice, when it considers it necessary, may provide for the provisional or definitive transfer of the justices of the peace from one jurisdiction to another.

Art. 71. To be a justice of the peace it is required: to be a Dominican, to be at least twenty-five years of age, and to be in the full exercise of civil and political rights.

They shall have the jurisdiction determined by law and shall be subject to the requirements as to capacity prescribed thereby.

Title X

Section I

The Bureau of Accounts

Art. 72. There shall be a permanent bureau of accounts composed of five citizens at least, appointed by the Senate from lists of three names presented by the Chamber of Deputies.

Art. 73. Its jurisdiction shall be, in addition to powers conferred by law:

1. To examine the general and special accounts of the Republic;
2. To present to Congress at the first ordinary term a report in respect to the account of the preceding year.

Art. 74. Members of the bureau of accounts shall hold office for five years.

Art. 75. To be a member of the bureau of accounts, it is required to be a Dominican in the full exercise of civil and political rights and to have reached the age fixed by this Constitution.

Title XI

THE MUNICIPAL COUNCILS

Art. 76. The government of the communes shall be in the hands of municipal councils, whose members in a number fixed by law in proportion to population, shall be elected by direct vote.

Art. 77. The municipal councils shall be independent in the exercise of

their functions, except for such restrictions and limitations as may be prescribed by law in economic matters.

Art. 78. The members and trustees of the municipal councils shall remain for five years in the exercise of their duties. When vacancies occur, they shall serve to the end of the term for which their predecessors were elected.

Foreign men who have attained their majority and who have resided more than five years in the commune which elects them may be municipal councilors in accordance with such conditions as the laws may prescribe.

Title XII

THE ADMINISTRATION OF THE PROVINCES

Art. 79. There shall be in each province of the Republic a civil governor designated and revocable by the executive power.

In order to be governor, it is required to be a Dominican of more than twenty-five years of age and to be in the full exercise of civil and political rights.

Art. 80. The organization and administration of the provinces, as well as the attributes and duties of the civil governors, shall be determined by law.

Title XIII

Section I

The Electoral Assemblies

Art. 81. All citizens have the right to vote, with the following exceptions:

1. Those who have lost their rights of citizens in accordance with Article 11 of this Constitution;
2. Members of the armed forces and of the police.

Art. 82. The electoral assemblies shall meet in full right three months before the expiration of the constitutional period and shall proceed to exercise the functions prescribed by the Constitution and by law. In cases of extraordinary convocation, they shall meet not more than sixty days after the date of the law of convocation.

Art. 83. It appertains to the electoral assemblies: to elect the President of the Republic, senators, and deputies, members, trustees, and alternates of the municipal councils, and any other functionary determined by law.

Art. 84. The elections shall be held by direct vote with inscription of the electors; and with representation of minorities, when more than one candidate is to be elected, according to the standard fixed by law.

Art. 85. The elections shall be directed by a central electoral board and by boards dependent thereon, which shall have the power of judging and regulating in accordance with the law.

The central electoral board shall assume the direction and control of the public forces in those places in which the votes are cast.

Title XIV

Section I

The Armed Forces

Art. 86. The armed force is essentially obedient and has in no case the right to deliberate. The object of its creation is to defend the independence and integrity of the Republic and to maintain public order, the Constitution, and the laws.

In no case may privileged corps be created.

Art. 87. In order to belong to any armed body of the Republic, it is required to be a Dominican in the full exercise of civil and political rights.

Title XV

GENERAL PROVISIONS

Art. 88. No one may be obliged to do what the law does not command or prevented from doing what the law does not prohibit.

Art. 89. All usurped authority is without efficacy and its acts are void. Every decision procured by armed force is null.

Art. 90. No exemption shall be recognized, nor shall any release, reduction, or limitation of taxes, contributions, or fiscal or municipal duties be granted for the benefit of private parties except by virtue of the law. Nevertheless, through concessions authorized by law, or through contracts approved by the National Congress, private parties may acquire the irrevocable right, for the whole time stipulated by the concession or contract, and in compliance with the obligations that the one or the other imposes, to enjoy exemptions, releases, reductions, or limitations of taxes, contributions, or fiscal or municipal duties incidental to specified works or enterprises for which they are necessary to attract the investment of new capital, to promote the national economy, or for any other object of social interest.

Art. 91. No expenditure of public funds shall be valid if it be not authorized by law and ordered by a competent official.

Art. 92. Annually, in the month of April, shall be published the general account of receipts and expenditures of the Republic for the preceding year.

Art. 93. The relations of church and state shall continue as at present, since the Roman Catholic Apostolic religion is that professed by the majority of the Dominicans.

Art. 94. The national monetary unit is the gold peso.

1. Legal circulation and validity as legal tender shall be accorded only to the bills issued by a single and autonomous issuing body, the capital of which shall belong to the State, provided that the said bills are fully supported by reserves in gold and by other real and effective value in the proportions and conditions prescribed by law and under the unlimited guaranty of the State. However, the law may maintain in force the provisions which now regulate the circulation of foreign bills and it may restrict, suspend, or reestablish the terms of the said provisions.

2. The metallic money shall be issued in the name of the State through the same issuing body and shall be put into circulation only by way of replacing an equivalent value in bills. The legal tender value of the

metallic money in circulation and of that to be issued in the future shall be determined by the law.

3. The regulation of the monetary and banking system of the Nation shall be the function of the issuing body, the supreme organ of which shall be a monetary board composed of members who shall be designated and may be removed only in accordance with the law and shall be responsible for the faithful fulfillment of their functions in conformity with the criteria established in the said law.

4. The issuance or the circulation of paper money, as well as of any other monetary symbol not authorized by this Constitution, either by the State or by any other public or private person or body, is prohibited.

Art. 95. Any modification in the legal monetary or banking system shall require the support of two-thirds of the entire membership of both chambers, unless it has been initiated by the executive power on the proposal or with the favorable vote of the monetary board.

Art. 96. Mineral deposits belong to the state and can be exploited by private persons only by virtue of concessions or contracts granted under conditions determined by law.

Art. 97. The twenty-seventh of February, anniversary of independence, the sixteenth of August, anniversary of the restoration, and the twenty-fourth of September, anniversary of the financial restoration of the Republic, are national holidays.

Art. 98. The national flag is composed of the colors ultramarine blue and vermillion red, in alternating quarters, placed in such manner that the blue is toward the upper part of the staff, separated by a white cross in width half the height of a quarter, and bears in the center the coat of arms of the Republic.

The merchant flag is the same as the national flag without the coat of arms.

Art. 99. The coat of arms of the Republic carries the colors of the national flag; in the center the book of the Gospels, open, with a cross thereon, both issuing from out of a trophy of lances and national flags, without coat of arms, with branches of laurel and palm surrounding, and crowned with a ribbon on which is this legend: *Dios, Patria, y Libertad* (God, Country, and Liberty), and at the base another ribbon with these words: *Republica Dominicana* (Dominican Republic). It must have the form of an oblong with two smaller angles, ending in a point for the base and placed so that if a horizontal line is drawn uniting the two verticals of the oblong, from where the inferior angles begin, a perfect square results.

The law will regulate the use and the dimensions of the national flag and shield.

Art. 100. The person chosen to exercise a public function shall make oath to respect the Constitution and laws and to discharge faithfully his office. This oath shall be taken before any functionary or public official.

Art. 101. The minimum age of thirty is required to exercise the functions of President of the Republic, secretary of state for war and navy, secretary of state for the interior and the police, secretary of state for the presidency, senator, deputy, member of the revisory assembly, judge of the Supreme Court of Justice, attorney general of the Republic, member of the bureau of accounts, and chief of diplomatic missions.

Art. 102. The tenure of all elective officials, whatever may be the date of their election, terminates uniformly on the sixteenth day of August every five years, the date on which the constitutional term begins; and, consequently, they shall require to have been the object of a new election in order to be able validly to exercise their functions.

When any elective official whatever ceases in the exercise of his office by death, resignation, removal, incapacity, or other cause, his substitute shall remain in office until the completion of the term.

Art. 103. The organization of political parties and associations is free in accordance with the law, provided that its tendencies conform with Article 2 of this Constitution.

Art. 104. The law of public expenditures shall be divided into sections which correspond to the different services of the administration, and no money may be transferred from one branch to another, nor may funds voted for a special object be diverted, except as expressly provided by law. Such a law, when not initiated by the executive power, must receive the vote of two-thirds of the total of the members of each chamber.

Any law shall be null and void which orders or authorizes a payment or which establishes a liability for the state, unless the same law creates special funds for its execution, or provides that the payment be made from the estimated revenues for the year, of which a balance remains sufficient for the payment at the time the law is published.

Congress cannot legally vote any appropriation unless it is included in the law of public expenditures submitted by the executive power in accordance with Article 49 of the Constitution, or unless it be requested by the executive power after having submitted that proposal, except when the law which authorizes that appropriation has been concurred in by two-thirds of the total of the members of each chamber; and all this without prejudice to the general rule established in the first paragraph of the present Article.

Congress may not modify the items in the bills which appropriate funds or in the law of public expenditures submitted by the executive power, except by vote of two-thirds of the total of the members of each chamber; and in accordance with the stipulations of paragraph one of this article.

When for whatever circumstance Congress closes the legislature without having voted the budget of income and the law of public expenditure, the law of public exependitures of the preceding year shall continue in force.

When Congress is recessed, the executive power may by means of a decree-law order the transfer of sums within the law of public expenditures that urgent necessities of the administrative service require, as also the creation or suppression of administrative positions or public services affecting that law, with the obligation to submit such orders to Congress for its approval in the next session.

Art. 105. Justice shall be administered without cost in all the territory of the Republic.

Art. 106. The development and beautifying of Ciudad Trujillo, capital of the Republic, are declared to be work of high national interest. Therefore the state shall destine and apply annually for this end in the law of

public expenditures a sum not less than the third part of the budget of the District of Santo Domingo.

Art. 107. Titles that establish differences between citizens shall not be recognized in the Republic. But titles of honor that the National Congress shall grant or has granted to citizens who will give or have given eminent service to the Republic to assure its peace and wellbeing, or to finance or restore its liberty and independence, shall be valid for a lifetime.

Title XVI

CONSTITUTIONAL REFORMS

Art. 108. The Constitution cannot be changed except when two-thirds of the members of each chamber so agree.

Art. 109. The necessity for the reform being declared, Congress, by a law which cannot be the subject of objections by the executive power, shall order the meeting of a revisory assembly to pass upon the reform. The articles whose reform is proposed shall be inserted in the law of convocation.

Art. 110. The election of members of the revisory assembly shall be made by direct vote of the people of the provinces, in the same proportion as for the election of deputies.

No province shall have less than two representatives.

The same qualifications are necessary in order to be elected a member of the revisory assembly as for being a deputy.

Members of the Assembly shall enjoy the same immunities as the members of the two chambers.

Art. 111. The Constitution may not be so amended as to change the form of the government, which must always be civil, republican, democratic, and representative.

Art. 112. Reform of the Constitution shall be made only in the manner indicated therein, and it shall never be suspended or annulled by any power or authority nor by popular acclamation.

TRANSITORY PROVISION

Pending the adoption and promulgation of the Monetary Law, an Organic Law of the issuing body and a General Banking Law, which are to constitute the new legal monetary and banking system, the present legal monetary system shall continue in force.

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ECUADOR

SUMMARY

International Status

Ecuador is a member of the United Nations. It signed the Charter of that organization in San Francisco on June 26, 1945. It also signed the Declaration of the United Nations of January 1942 in February, 1945.

It was an original member of the League of Nations in 1920. It was not a party to the Statute of the old Permanent Court of International Justice, but it is automatically a party to the Statute of the International Court of Justice of 1945 by virtue of its membership in the United Nations.[1] It is a party to the 1928 Paris Treaty for the renunciation of war.

[1] See Art. 93 of the Charter of the United Nations. It is not, as of the time of our going to press, subject to the compulsory jurisdiction of that Court under its Article 36. See Yearbook of the Court, 1951–52, pp. 35–43.

It is a member of the Organization of the American States and numerous other international organizations.[1]

Ecuador freed itself from Spanish rule on May 24, 1822, and became a part of Bolivar's Republic of Greater Colombia, accepting Bolivar's Constitution of August 30, 1821. Ecuador separated itself from Colombia on May 12, 1830, and in that year adopted its own first Constitution. A succession of constitutions followed. The constitution adopted in 1906 was in effect from that year until 1929 and again from 1935 to 1945. A new constitution, promulgated on March 6, 1945, was suspended on March 30, 1946, and was replaced by the present Constitution, adopted on December 31, 1946.

Form of National Government

The Constitution of December 31, 1946, states that the Republic of Ecuador is unitary and democratic and that its government is "of the people, representative, elective, accountable, and requiring alternation in office." [2] Provision is made for local government of the provinces, cantons, and parishes.[3]

Source of Sovereign Power

The source of sovereign power is evidently deemed to be the people, in whose name the Constitution was adopted.[4]

Rights of the People

The Constitution guarantees the inviolability of human life, forbidding the death penalty,[5] and provides for the presumption of innocence,[6] that no one may be obliged to testify against himself or his relatives,[7] the right of habeas corpus,[8] inviolability of domicile,[9] secrecy of correspondence,[10] freedom of speech,[11] of conscience,[12] and of labor, commerce, and industry,[13] and the right to assemble [14] and to petition.[15] All persons are equally entitled to the protection of the law.[16] Property rights are guaranteed when in harmony with their social function.[17] The State undertakes to see that fundamental rules of justice, set forth in the Constitution, are observed in the relations between employers and employees.[18]

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[1] See Table I.

[2] Const. of 1946, Art. 2. The principal consequence of the requirement of alternation in office is that the President may not serve two consecutive terms.

[3] Id., Arts. 124–130. [4] Id., Preamble. [5] Id., Art. 187, 1.
[6] Id., Art. 187, 2. [7] Id., Art. 187, 9. [8] Id., Art. 187, 4.
[9] Id., Art. 187, 6. [10] Id., Art. 187, 7 [11] Id., Art. 187, 11.
[12] Id., Art. 168. [13] Id., Art. 187, 10. [14] Id., Art. 187, 13.
[15] Id., Art. 187, 12. [16] Id., Art. 169. [17] Id., Art. 183.
[18] Id., Art. 185.

The Legislative Department

The National Congress consists of a senate and a house of deputies.[1] Two senators are elected by direct popular vote, for a term of four years, in each of the provinces and one in the Archipelago of Galapagos. There are also twelve "functional" senators, designated in a manner prescribed by law to represent, respectively, public education; private education; the press and the scientific and literary associations; the agriculture, commerce, labor, and industry of the coast (one for each group); the agriculture, commerce, labor, and industry of the sierra (one for each group); and the public forces.[2] One deputy is elected, for a term of two years, by each of the provinces for every fifty thousand inhabitants, with a minimum of two deputies for each province except the Archipelago of Galapagos.[3] The powers of the Congress divided into houses are set forth in twenty-three categories, and those of the Congress in joint session in fourteen categories.[4]

The Executive Department

The President of the Republic is elected by universal direct suffrage for a term of four years.[5] He may not be re-elected until four years have elapsed after his term as president.[6] He may not leave the Republic during his term of office or for one year thereafter without the consent of Congress.[7] His normal powers and duties are set forth in eighteen categories.[8] Extraordinary powers, listed in eleven categories, may be granted to him in emergencies.[9] There is provision for ministers of state appointed by the President who must report to the houses of the Congress.[10] If a minister is censured by Congress, he loses his office and may not serve as minister during the next two years or in the same presidential term.[11]

The Judicial Department

The judicial function is exercised by the Supreme Court and other courts established by the Constitution and the laws.[12] Judges of the Supreme Court serve for six years, those of the superior courts for four years, and are re-eligible.[13] A council of state, headed by the chief justice of the Supreme Court and including a senator, a deputy, the attorney general, the comptroller general, the chief justice of the supreme court of elections, and five other persons, has power to render opinions respecting unconstitutionality, subject to final action by the Congress.[14]

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[1] Const. of 1946, Art. 26. [2] Id., Arts. 42, 43. [3] Id., Arts. 47, 49.
[4] Id., Arts. 53, 55. [5] Id., Art. 84. [6] Id., Art. 83.
[7] Id., Art. 86. [8] Id., Art. 92. [9] Id., Art. 94.
[10] Id., Arts. 107, 112. [11] Id., Art. 111. [12] Id., Art. 113.
[13] Id., Arts. 116, 117.
[14] Id., Arts. 145, 146, 189. The Supreme Court may act also respecting procedural irregularities.

AREA, POPULATION, LANGUAGE

Ecuador has an estimated area of 175,880 square miles and an estimated population of 3,400,000. The official language is Spanish.[1] Quechua and other Indian languages are also spoken.

CONSTITUTION of the REPUBLIC OF ECUADOR[2]

December 31, 1946

In the name of God the people of Ecuador, through their representatives met in assembly, issue the following Constitution of the Republic of Ecuador.

FIRST PART

ORGANIZATION

TITLE I

NATION, SOVEREIGNTY AND GOVERNMENT

Art. 1. The Ecuadorian Nation is composed of the Ecuadorian people associated under the dominion of the same laws and customs.

Art. 2. The Republic of Ecuador, the form of state in which the Ecuadorian nation is constituted, is unitary, sovereign, independent, and democratic; and its government is of the people, representative, elective accountable and one in which the office of President may not be held successively by the same person.

Art. 3. The national sovereignty is exercised by means of the organs of the public power which this Constitution establishes.

Art. 4. In addition to the continental provinces situated in South America, the national territory embraces the adjacent islands, the Archipelago of Columbus, also known as Galapagos, the territorial seas, the subsoil and the atmosphere above them.

The national territory is inalienable, and no pact may be entered into which affects its integrity, or which impairs the national sovereignty; the foregoing being without prejudice to the duties imposed by the international juridical community.

Art. 5. The Republic of Ecuador respects the rules of international law, and proclaims the principle of co-operation and good neighborliness

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[1] Const. of 1946, Art. 7.

[2] Translation by Charles A. Van Patten, member of the New York bar and of the committee on foreign law of the Association of the Bar of the City of New York.

between states, and the solution of international controversies by juridical methods.

Art. 6. Within the world community of nations, Ecuador will collaborate especially with the Ibero-American states, to which it is united by ties of solidarity and interdependence originating from their identity of origin and culture, for the defense of their common territorial, economic, and cultural interests. Consequently it may form associations for the defense of such interests with one or more of said states.

Art. 7. The official language of the Republic is Spanish. The national emblem, flag, and anthem are those determined by law.

Art. 8. The capital of the Republic is the city of Quito.

Title II

NATIONALITY

Art. 9. Ecuadorians are such by birth or by naturalization. The following are Ecuadorian by birth:

(1) Those born in the national territory who are included in any of the following cases:

(a) If both parents are Ecuadorian or foreigners domiciled in Ecuador at the date of the birth of the child or if both parents are unknown;

(b) If only one of the parents is Ecuadorian and the child resides in Ecuador or has been inscribed as an Ecuadorian in the registry of births before the age of eighteen years, or if, having reached the said age, he does not manifest a contrary desire;

(c) The child of foreign parents, not domiciled in Ecuador, who, having reached eighteen years of age, declares his desire to be Ecuadorian.

(2) Those born in foreign territory and included in any of the following cases:

(a) If the father or the mother, or both, are Ecuadorians who are abroad in the service of Ecuador on the date of birth of the child;

(b) If the father or the mother, or both, are Ecuadorians who are exiled or temporarily absent from the country, on said date; and

(c) If the father or the mother, or both, are Ecuadorians or foreigners domiciled in Ecuador on the date of the birth of the child, and the latter, having reached the age of eighteen years, does not manifest a contrary desire.

Art. 10. In general it is presumed that a person born in the territory of the Republic is Ecuadorian by birth.

Art. 11. The following are Ecuadorians by naturalization:

(a) Those who have obtained Ecuadorian nationality from Congress for having rendered service to the country;

(b) Those who have received a certificate of naturalization in conformity with the law;

(c) Those born abroad of foreign parents who later become naturalized in Ecuador while the former are under the age of eighteen years. In this case they retain such nationality if they do not expressly renounce it.

Art. 12. Neither marriage nor its dissolution alters the nationality of the spouses.

Art. 13. Those who, in conformity, with previous constitutions, have had or acquired Ecuadorian nationality, and have not lost it, shall continue in its enjoyment.

Art. 14. Juridical entities authorized by Ecuadorian law are Ecuadorian.

Art. 15. Ecuadorian nationality is lost:

(a) By treason to the country, judicially determined;
(b) By naturalization in another state, and
(c) By cancellation of the certificate of naturalization.

Art. 16. Nationality may be regained in accordance with the law.

Title III

CITIZENSHIP

Art. 17. Every Ecuadorian, man or woman, over eighteen years of age, who knows how to read and write, is a citizen, and, in consequence, as a general rule, may elect or be elected or appointed a public official.

Art. 18. Rights of citizenship are lost:

(1) By insolvency, adjudged fraudulent;
(2) By sentence, in case of fraud in the management of the public funds;
(3) By sentence, in case of the breaking of constitutional provisions by public employees or officials, and
(4) In the other cases established by the Constitution and the laws.

Art. 19. Rights of citizenship are suspended:

(1) By offenses against the freedom of suffrage;
(2) By judicial injunction, for the duration thereof;
(3) By order issued for cause, until final judgment be rendered, if of acquittal, or until the sentence has been complied with, if condemnatory;
(4) By not having presented the accounts of public funds within the time fixed by law, or by not having paid the balances therein declared, the same to be for the duration of the delay; and
(5) In the other cases established by the law.

Title IV

SUFFRAGE

Section I

Concerning Elections

Art. 20. There shall be direct and indirect elections in accordance with the Constitution and the laws.

Art. 21. The representation of minorities is guaranteed in direct elections, when it is a case of electing more than two persons in the same election. The law shall determine the form in which said representation will be made effective and shall establish, moreover, the cases in which the same will be applied to indirect elections.

Art. 22. To be a voter one is required to be in the exercise of the rights of citizenship and to fulfill the other conditions required by the law.

Subject to these conditions, the vote in popular elections is obligatory for men and optional for women. The law shall determine the corresponding penalty for non-compliance with this duty.

The public forces guarantee the sanctity of the electoral process. They do not have the right to vote in universal suffrage. Their representation will be functional.[1]

[1] That is, by one of the "functional" senators provided for in Article 42.

Section II

Concerning Electoral Tribunals

Art. 23. In the capital of the Republic, and with jurisdiction throughout the Republic, there shall be an autonomous supreme court of elections, which shall be organized in the following form:

Three members designated by Congress;
Two by the President of the Republic, and
Two by the Supreme Court.

Twice as many substitutes shall be designated.

The members shall hold office for four years and may be indefinitely re-elected. Said office shall be obligatory, and the members shall receive, for each session, the pay which the law fixes.

Art. 24. The following are powers and duties of the supreme court of elections:

(a) To regulate and watch over, personally or through their agents, the diverse acts of the electoral process; as well as to give instructions and to prescribe the necessary measure for its proper fulfillment;

(b) To resolve doubts concerning the interpretation and correct application of the law of elections, in each case that may be presented;

(c) To resolve, in the second and final instance ,the complaints which any citizen may present in respect to infractions of the law or improprieties in the vote; and to impose or order the corresponding sanctions;

(d) To count the vote as required of it by the law of elections, and to issue the corresponding election certificates, and

(e) To elect officers from among its members, to prescribe its rules and to designate the members of the provincial courts of elections.

Art. 25. All administrative authorities must co-operate with the courts of elections for the fulfillment of the functions with which the latter are entrusted.

Title V

Concerning the Legislative Function

Section I

General Provisions

Art. 26. The legislative function is exercised by the national Congress, composed of two houses: that of the senators and that of the deputies.

Art. 27. The regular session of the Congress will convene annually on the tenth of August in the capital of the Republic, even when not convoked. The sessions shall last sixty days and may be extended thirty days more by decision of the Congress in joint session.

There shall be an extraordinary session of the Congress when the executive convokes it in conformity with Article 92, section 4, and when the president of the Congress convokes it, on petition subscribed by at least two-thirds of the members of the Congress.

The extraordinary session of the Congress may deal only with the subjects expressed and concretely determined in the convocation.

Art. 28. The sessions shall be public, unless the Congress in joint session or either of the houses resolves to deal with some subject in secret session.

Art. 29. Neither of the houses may come into session without the attendance of two-thirds of its entire membership, nor continue the sessions without a majority of the entire membership.

Art. 30. The functions of senator and deputy are obligatory in conformity with the law. No senator or deputy may withdraw from the house to which he belongs without the permission of the said house, and if he does so, the same shall suspend his exercise of the rights of citizenship for two years.

Art. 31. The houses must convene on their own initiative, open and close their sessions the same day, and function in the same town, and only by common consent may they move to another place or suspend their sessions for more than three days.

Art. 32. If the number of senators and deputies prescribed in Article 29 is not present on the day designated for the convening of the Congress, or if, thereafter, either of the houses cannot continue its sessions for lack of a majority, the members present shall take legal measures to compel the attendance of absent members until the required majority is obtained.

Art. 33. Senators and deputies will not be responsible for the opinions which they express in Congress, and they will enjoy immunity for thirty days before the sessions, during the sessions, and for thirty days thereafter. They shall not be sued, arrested, or prosecuted unless the house to which they belong previously authorizes the suit, arrest, or prosecution by vote of the majority of the members present. When a senator or deputy is caught in the act of committing a crime or offense, the matter shall be placed at the disposition of the house to which he belongs, to the end that it may decide, on summary proceedings, whether or not proceedings shall continue. But if the crime or offense be committed when the Congress has closed its sessions, the prosecution of the senator or deputy shall proceed freely.

Art. 34. Senators or deputies who accept commissions or employment paid for by the executive, leave vacant, by the very act of acceptance, the post of legislator which they were occupying in the house for which they were elected.

Art. 35. Each of the houses is empowered to elect its officers from among its members; to hear the complaints which may be presented with respect to the judgments rendered by the supreme court of elections; to pass on the fitness of its members and to accept or deny their excuses and resignations; to appoint employees, and to issue rules for the direction of their work.

Art. 36. The following may not be elected senators or deputies, nor carry out those functions except where they have ceased to exercise their duties at least six months before the elections and except as provided in Article 179:

> The President and Vice-President of the Republic; ministers of state; ministers of the gospel of any denomination; the comptroller general of the nation and the assistant comptroller; the attorney general of the nation; the superintendent of banks and the presidents of banks established by

the State; diplomatic agents and consuls; magistrates, judges, officials, states attorneys and official secretaries who are not merely occasional employees of the tribunals and courts, and the salaried officials and employees freely appointed and removed by the executive.

The prohibition relative to the salaried employees of the executive department does not refer to the functional senators.

Nor may any person be elected by a province if, within six months previous to the elections, he has or has had any civil, political, or military command or jurisdiction of more than occasional character in the whole or any part of the said province.

Art. 37. Nor may the following be elected senators or deputies: the members and secretaries of the courts of elections, except those who have relinquished the exercise of their duties at least two months before the elections. As to the former, the act of accepting candidacy annuls the obligation stated in the final paragraph of article 23.

Art. 38. Those who have contracts or concessions with the State for the exploitation of the national wealth or public utilities, and the representatives or attorneys-in-fact of such persons, or of foreign companies of like nature, may not be elected senators or deputies, nor discharge such functions.

Art. 39. One may not be elected senator or deputy for a province who is not a native thereof, unless, he has been domiciled therein at least three continuous years immediately preceding the date of his election.

Art. 40. If the same citizen be elected senator or deputy for several provinces, or both senator and deputy at the same time for one or more provinces, he shall choose a single one of the said functions; and, having taken office, shall lose conclusively the right to the others.

Art. 41. If for some reason the election of one or more of the senators or deputies has not taken place, this circumstance will not prevent the convening of the Congress, provided that there be the number of senators and deputies stipulated in Article 29.

Section II

The Senate

Art. 42. The Senate is composed of two senators for each province of the sierra [1] and of the coast,[1] elected by direct popular vote. It shall have, moreover, a senator for the Galapagos Islands,[1] and one for each of the eastern provinces,[1] elected by direct suffrage; and

The functional senators designated as follows: one for public education, elected by the universities; one for private education; one for the press and the academies and societies of sciences and letters which are juridical entities and have been established for at least five years prior to the date of the elections; one each for the agriculture, the commerce, the laborers, and the industry of the coast; one each for the agriculture, the commerce, the laborers, and the industry of the sierra, and one for the public forces.

[1] Ecuador is divided geographically and also politically into four sections; the sierra (being the interandine basins), the coast, the Galapagos Islands and the region east of the Andes.

The law shall determine the form of election of these senators and one may not be elected a functional senator who has not been carrying on the activity which he represents, at least during the year immediately preceding the date of the election, and he shall cease to be such in case of termination of the said activity.

Art. 43. Senators shall continue in office for four years and may be indefinitely re-elected, except as provided in the final part of the preceding article.

Art. 44. In order to be a senator it is required:

(1) That one be Ecuadorian by birth and be in the enjoyment of the rights of citizenship;

(2) That one be not included in any of the cases of disability provided for in this Constitution or in the law of elections, and

(3) That one be at least thirty-five years of age.

Art. 45. The following are the exclusive powers of the Senate:

(1) To hear charges brought by the House of Deputies against the officers referred to in Article 50, section 2.

(2) To restore the enjoyment of the rights of nationality or of citizenship, in cases in which such rehabilitation is not effected by the ministry of the law.

(3) To elect each year, from its members, a counselor of state and two substitutes.

(4) When innocence is established, to restore the honor or the memory of those unjustly condemned, and

(5) To require the President of the Republic to compel observance of the responsibilities of public officers and employees who have abused their powers or failed to comply with their duties.

In case of proceedings against the President of the Republic, the Vice-President or the one charged with the executive function, the Presiding Judge of the Supreme Court shall preside over the Senate.

Art. 46. When the Senate considers a charge relative only to official conduct, it may not impose any other penalty than that of suspension or dismissal from office, or disqualification from public office for the period it deems proper.

If the act which is the subject of the charge also makes the accused penally responsible, the Senate, after having adjudged the official conduct, shall proceed in the manner determined by the following paragraph.

When the matter is not one of official conduct, the Senate will be limited to deciding whether or not there shall be a trial; and if it decide in the affirmative, it shall place the accused at the disposition of the proper judge or court.

Section III

The House of Deputies

Art. 47. The House of Deputies is composed of the citizens whom the provinces of the Republic elect in conformity with the law of elections.

Each province shall elect a deputy for each fifty thousand inhabitants; and, if there remains an excess of twenty-five thousand or more, it shall elect another deputy.

Each province, except the Archipelago of Galapagos, shall elect at

least two deputies even when it does not have fifty thousand inhabitants.

Art. 48. In order to be a deputy, one is required:

(1) To be Ecuadorian by birth;
(2) To be in the exercise of the rights of citizenship;
(3) To be at least twenty-five years of age, and
(4) Not to be included in any of the cases of disability provided for in this Constitution and in the law of elections.

Art. 49. Deputies shall continue in office for two years and may be indefinitely re-elected.

Art. 50. The following are exclusive powers of the House of Deputies:

(1) To elect each year, from among its members, a counselor of state and two substitutes;
(2) To examine the charge which may be made against the President or the Vice-President of the Republic, the person charged with the executive function, the ministers and counselors of state, the judges of the Supreme Court, the senators and deputies in the case with which Article 33 is concerned, and the members of the supreme court of elections. If it deem said charges well founded, it must present them to the Senate.

Art. 51. If the House of Deputies refuse to make the charge, or the Senate reject it as unfounded, it may not be renewed as to the same acts which caused it to be brought, unless at the same time it constitutes a common crime.

Art. 52. Charges with reference to official conduct may be made only by Ecuadorian citizens, within the period of the exercise of the respective public functions of the accused and for one year thereafter.

Section IV

Powers of the Congress

Divided into Houses

Art. 53. The following powers are vested in the Congress divided into houses:

(1) To exercise the powers granted in paragraphs 2 and 3 of Article 189 of this Constitution, causing its resolutions or interpretations to be expressly recorded in law;
(2) To approve amendments to the Constitution in accordance with the provisions of Article 190;
(3) To enact the laws necessary to carry out the constitutional guarantees and, in general, for the fulfillment of all the provisions of the Constitution and the achievement of the purpose of the State;
(4) To care for, either directly or through organs created for the purpose, the legal and proper administration and due investment of the revenue of the State;
(5) To levy or abolish taxes, assessments, and other public revenue;
(6) To authorize the executive to enter into contracts for loans and bonds which pledge the public credit, but the same shall not be executed without first being ratified by the Congress in joint session;
(7) To examine the public debt and determine the manner of accomplishing its conversion, amortization, consolidation, and cancellation;
(8) To regulate the administration of the national property and to order and authorize the alienation or hypothecation of publicly held realty. The sale of personalty of the State shall be provided for by law;
(9) To require, by simple resolution of either of the houses, that the

proper authorities compel observance of the responsibility of public employees who have abused their powers or failed to comply with their duties; except as provided in Article 45, section 5;

(10) To see that the public administration renders good service, creating or abolishing offices and employment if necessary; without prejudice to the powers granted by the law to other authorities;

(11) To decide upon, in conformity with the law and with reference to the respective decree, the legal and financial responsibility or irresponsibility of the ministers of state;

(12) To bestow honorary citations upon those who have rendered services to the nation, or bestow public honors in their memory;

(13) To determine and make uniform the fineness, weight, value, and denomination of the national currency and to regulate the admission and circulation of foreign currency. Both for the currency and for weights and measures, the decimal system is adopted as official;

(14) To fix, annually, the maximum of the armed forces which must remain in service in time of peace;

(15) To approve or disapprove public treaties and other conventions, which may not be ratified or exchanged without this approbation;

(16) To grant general or particular amnesty and pardon for political crimes, and general amnesty and pardon for common crimes, when some important reason so requires. Except for such cases, Congress may not obstruct the judicial process or the execution of the judgments or decrees of the judiciary;

(17) To permit or refuse transit of foreign troops through the territory of the Republic and the transit or putting in of surface or submersible warships in the waters of the Republic for a greater time than that permitted by international custom. The same authority applies to the transit, arrival, and sojourn of warplanes. These provisions do not apply to cases of forced arrival or grounding;

(18) To create or abolish provinces or cantons and to fix their boundaries;

(19) To open and close ports;

(20) To declare such public works at it deems necessary to be of national character, without prejudice to the power to this effect which the law grants to other authorities and institutions;

(21) To issue national codes and other laws and decrees which have for their purpose the enactment, maintenance, modification, or repeal of law, and also to interpret them in a way generally obligatory, to amend and repeal them, and to regulate the various branches of the public administration;

When Congress is in recess, in case the various parts of the Supreme Court render or have rendered contradictory judgments on the same point of law or on the interpretation of law, it is the function of the Supreme Court to establish the rule which shall be binding upon all in the future, so long as no law contravenes;

(22) To issue decisions, resolutions, and other acts which, while legislative, are not covered in any of the cases of the previous subdivisions; and

23. To exercise the other powers which this Constitution confers on it.

Art. 54. It is prohibited for the legislature:

(1) To intervene in matters which, according to the Constitution, are the province of another authority or governmental body;

(2) To impair the authority which this Constitution confers upon another national or sectional authority or body;

(3) To order any payment, if the credit is not found to have been previously approved according to law, or to decree indemnities without the same having been preceded by a final judgment;

(4) To remit balances and other debts in favor of the government;

(5) To order new life pensions and increase existing ones, with the exception of those which they may confer on the constitutional ex-presidents of the Republic;
(6) To establish or recognize lifetime public jobs or offices;
(7) To delegate to one or more members or to any other person, body, or authority any of the powers set forth in the previous Article or any function incumbent on it;
(8) To suggest promotions or reinstatements of officers of the armed forces and promote them, without previous petition of the President of the Republic; and
(9) To execute any act prohibited by this Constitution.

Section V

Powers of the Congress in Joint Session

Art. 55. The following are powers of the Congress in joint session:

(1) To amend the Constitution, subject to the provisions of Article 190;
(2) To declare the President and Vice-President of the Republic legally elected, in conformity with Article 84 and 102, and receive their oaths of office;
(3) To accept or deny the excuse or renunciation of the President or Vice-President of the Republic, and to declare their physical or mental incompetence to discharge their duties;
(4) To elect Judges of the Supreme Court and the Superior Courts, the comptroller general of the nation, the Attorney General of the nation, the superintendent of banks, members of the legislative commission, and other officers with whose designation it is concerned. The election of the Attorney General of the nation, the superintendent of banks and the comptroller general of the nation shall be from amongst three names previously submitted by the President of the Republic;
(5) To receive the oath of such officers as it may appoint and to accept or deny their excuses or renunciations;
(6) To approve or deny, by secret ballot, such promotions to general or colonel as the President of the Republic may request in accordance with law;
(7) To examine the official conduct of ministers of state, and to censure them if there be reason to do so;
(8) To issue the national budget in the form which the Constitution establishes;
(9) To grant or deny extraordinary powers to the President of the Republic, or withdraw them, as the case may be, and to examine the use which he has made of them;
(10) To receive the President of the Republic and the Presiding Judge of the Supreme Court, who shall, in person, give an account of the matters with which the executive and judicial departments are respectively concerned;
(11) To take cognizance of the matters which have been submitted to it by either of the houses;
(12) To declare war and settle the peace, having regard for the recommendation of the President of the Republic;
(13) To discuss and approve or deny the bills which the legislative commission may present, and also to approve or disapprove the emergency decrees which the executive has issued pursuant to the power granted in Article 80; and
(14) To exercise the other powers provided for in this Constitution.

Art. 56. The Presidency of the Congress in joint session is vested in the Vice-President of the Republic, the President of the House of Deputies,

the Vice-President of the Senate and the Vice-President of the House of Deputies, in the order mentioned.

Art. 57. It is necessary that the numerical majority of both the Senate and the House of Deputies be present at the meetings of the Congress in joint session. Every decision or election of the Congress in joint session, to be binding, requires the concurring vote of at least two-thirds of the legislators present.

In case a two-thirds vote is not had, the matter shall be decided at the next session. And if at this second session it is still impossible to obtain the said number, the decision shall be taken at the following session by majority of the votes of those present.

Section VI

Legislation

Art. 58. Laws and legislative decrees may originate, as the case may be, either in the Congress in joint session or in one of the houses, on the proposal of at least three of their members, the executive, the Supreme Court, the legislative commission, or the national economic council.

Art. 59. Every proposed law or decree shall be accompanied by a report as to its purposes, and shall be referred to a commission to advise concerning the desirability or non-desirability thereof. In case of approval or favorable report, the bill shall follow the usual course.

A proposed law or decree which is rejected in the house of origin may not be reconsidered by the same legislature unless it be presented again with substantial modifications.

The functional senators and the authors of a bill shall be ex-officio members of the respective commission.

In case of an unfavorable report, the house or the Congress, as the case may be, will decide as it deems advisable.

Art. 60. When a proposed law or decree has been approved in the house of origin, it shall send it immediately to the other house, noting the days upon which it was discussed. The latter may or may not give its approval or may make such changes, additions, or modifications as it deems proper.

Art. 61. If the reviewing house rejects, in whole or in part, the bill that has come from the house of origin, or if it modifies it, it shall return it to the latter, pointing out the reasons for the total or partial rejection or the modification. If the house of origin concurs with a total rejection by the reviewing house, the bill shall be tabled; but if it concurs in a partial rejection or in a modification, the bill will follow its course as revised. Finally, if the house of origin does not accept the revision of the reviewing house, both houses shall unite in joint session to reconcile the differences in a single discussion.

Art. 62. Every proposed law or decree, in order to be considered approved by the legislature, must have been discussed and approved in two debates and on separate days in each House.

Laws proposing amendments to the Constitution, bills proposed by the legislative commission or the national economic council, and the national

budget law shall be discussed and approved in joint session, in two debates and on separate days.

Art. 63. If bills concerning the same matter be presented in both houses, preference shall be granted to the one that was presented first; for which purpose the secretaries of the houses must advise each other as to the reception or presentation of all new bills.

Art. 64. A declaration of Congress concerning an object of common or private interest, respectively, when it creates, modifies, or extinguishes rights, or modifies, interprets, or derogates the law, shall be considered a law or decree for legislative effect.

Congress shall use the words "decision" (acuerdo) or "resolution" for decisions as to mere procedure or rules, or for other legislative acts not covered in the preceding paragraph.

Art. 65. A proposed law or decree, definitely approved in the indicated manner, shall be sent to the executive for ratification or objection. If the executive approve it, he shall promulgate it; if he object to it, he shall return it to the house of origin within ten days, with his observations, whether they be as to unconstitutionality or inadvisability.

Art. 66. When the house of origin has received a bill with the objections of the executive, it shall invite the co-legislative body to hear them in joint session, irrespective of whether they relate to the bill as a whole or whether they constitute mere amendments or modifications.

If the objections are not based on unconstitutionality, the Congress in joint session shall resolve the matter in a single discussion, and may insist upon the original bill, rejecting the modifications or amendments or accepting one or more of them. In case it agree with an objection to the bill as a whole, it shall order that the bill be tabled. In case it insist on the bill, it shall return it to the executive, who must ratify it and promulgate it.

Art. 67. When the executive considers a proposed law or decree to be unconstitutional, he shall be obliged to object to it, and shall return it to the Congress with his respective reasoned objections. If the Congress in joint session accepts them, the bill shall be tabled; but if it does not accept them, it shall remit the bill to the Supreme Court which must render its report within the maximum period of eight days.

If the Supreme Court also considers the bill to be unconstitutional, Congress may not insist on the bill, and shall table it. Otherwise, the bill shall follow the appropriate course.

Art. 68. If the objections relate to both unconstitutionality and inadvisability of the bill, in whole or in part, once the constitutionality has been resolved in accordance with the preceding article, the Congress in joint session shall consider the other objections of the executive, observing the provisions of Article 66 for such a case.

Art. 69. If the executive does not return the bill, ratified or objected to, within ten days, or if he does not ratify it after the constitutional requisities have been fulfilled, the bill shall have the force of law.

Bills whose ratification has remained pending in the office of the executive, when the sessions of the Congress have dissolved or adjourned, and

those to which timely objection has been made, shall be published with the objections, in the official register, within the period of twenty days, and shall be introduced at the next legislature during the first three days of its sessions. If they have not been published in the manner mentioned, the bills shall have the force of law.

Art. 70. The law is not binding except by virtue of its promulgation, which shall be accomplished by publishing the same in the official register.

Art. 71. Treaties and conventions will be considered by the Congress in joint session in a single discussion, without prejudice to the provisions of section 15 of Article 53, and the respective decree which is issued will not be subject to the general rules regarding the period for ratification. In consequence, the executive may delay ratification, if he deem the same to be advisable, reporting to Congress concerning his decision, in public or secret session, at his discretion.

Art. 72. Bills which pass to the executive for ratification shall be sent in duplicate, with both copies signed by the presidents and secretaries of the two houses and certified as to the days on which they were discussed.

Art. 73. The decisions or resolutions of the Congress in joint session or of the houses shall be issued after a single discussion, shall not require the ratification of the executive, and shall be communicated to whoever must comply with them.

Art. 74. In the laws, decrees, decisions, and resolutions which the legislature issues, it shall use, as the case may be, the following introductions: "The Congress of the Republic of Ecuador," "decrees," "decides," "resolves," "requires," "The Senate," "The House of Deputies," "decides," "resolves."

The executive, according to the case, will use these: "Let it be executed" or "objected to."

Art. 75. Laws and decrees shall be promulgated by the executive within fifteen days after their ratification; and if he does not do so before this period lapses, the council of state shall do so within the ten days following.

Art. 76. If in the enactment of a law, some formal constitutional requirement has been omitted, and, nevertheless, it has been promulgated as law, the Supreme Court shall suspend, at any time, upon hearing the cause, the effects of such promulgation; and shall place the same before the next Congress, which, in joint session and on a single discussion, shall take suitable action; all of which shall be published in the official register.

Neither a decision of the Supreme Court nor a resolution of the Congress shall have retroactive effect.

Section VII

Legislative Commission

Art. 77. With the object of drawing up, of its own initiative, proposals as to amendment or interpretation of the Constitution and bills in general (with the exception of those of an economic character which shall be presented at the initiative of the national economic council) and with the

further object of codifying and editing laws, there is established in the capital of the Republic, a legislative commission composed of five members, as follows:

One representative of the Senate;
One representative of the House of Deputies;
One representative of the executive department;
One representative of the judicial department, appointed by the Supreme Court; all of whom shall occupy office for four years and may be indefinitely re-elected, and
The dean of the law school of the Central University.

For each of the regular members there shall be two substitutes.

Art. 78. In order to be a member of the legislative commission, the same conditions are required as to be a senator, and those who embark upon the office may not carry on any other, not even those the acceptance of which is obligatory, except in the cases provided by law.

Section VIII

National Economic Council

Art. 79. For the study of economic problems and the correlation of the finances of the country, there is established a national economic council. The law shall determine its form of organization and functioning.

Art. 80. In order to issue emergency decree-laws of economic order, the President of the Republic shall resort to the national economic council so that this organ may indicate the measures which should be adopted to normalize the situation or that it may pass judgment on that which the executive proposes.

The executive may not issue emergency legal measures of an economic character without first consulting the national economic council.

The said decrees must be promulgated with the respective report of the national economic council, a requisite without which they will not have the force of law.

The President of the Republic will be obligated to report to the Congress concerning this class of decrees, indicating the reasons he had for issuing them when the opinion of the national economic council was unfavorable.

Title VI

Concerning the Executive Function

Section I

General Provisions

Art. 81. The executive function is exercised by the President of the Republic.

Art. 82. In order to be President of the Republic, one must be Ecuadorian by birth, in the enjoyment of the rights of citizenship, and have reached the age of thirty-five.

Art. 83. The President of the Republic shall continue four years in office and cannot again be President, nor can he be Vice-President, until

after four years counted from the end of the presidential term for which he was elected.

Art. 84. The President of the Republic shall be elected by direct and secret ballot the first Sunday of June every four years, in conformity with the law of elections. The presidential term shall begin the following first of September.

The supreme court of elections shall check the counting of the vote, the result of which it shall refer to the Congress the first day of the session, together with the certificate, the ballots and all other basic documents. The Congress in joint session, having first reviewed the returns, in case it believes it necessary, shall declare elected the citizen who has obtained the greatest number of votes. In case of a tie vote, the election shall be decided by the vote of the majority of the legislators present, by secret ballot limited to the citizens who have received the same number of votes in the popular election. Should there be a tie in this vote, the decision shall be by lot.

In case the supreme court of elections has not made the election returns within the term provided by law, the Congress shall do so.

The president of the Congress shall advise the person elected of his election and the latter shall take the oath of office the thirty-first of August; but, if for some reason he cannot take it on that date, he shall have sixty days to take office, after which the office will be vacant and the provisions of Articles 88, 89, and 91 shall be observed. In the meantime, the provisions of Article 90 will be in force.

If on the date on which the person elected may take the oath of office, Congress is not in session, the council of state shall receive the oath.

The President of the Republic, on taking office, shall take the following oath:

> I ———— accept the office of President of the Republic, and I solemnly swear that I will obey and defend the Constitution and the laws of Ecuador.

Art. 85. The following may not be elected President of the Republic:

(a) The relatives of the President within the fourth degree of consanguinity or the second degree of affinity;

(b) The Vice-President of the Republic;

(c) He who, at the time of the election, is occupying the Presidency of the Republic, he who has occupied it within six months immediately prior to the election, and their relatives within the said degrees;

(d) Ministers of state who were such at the time of the election, or their relatives within the second degree of consanguinity or the first degree of affinity, and

(e) He who has occupied the office of minister of state within six months immediately prior to the election.

Art. 86. Without authorization of the Congress, if it be in session, or otherwise of the council of state, neither the President of the Republic nor he who takes his place may absent himself from the national territory while exercising his functions, or for a year thereafter.

Art. 87. The functions of the President of the Republic are finally terminated: by the end of the term fixed in the Constitution; by death,

dismissal and acceptance of renunciation; by abandonment of office or by permanent physical or mental incapacity, declared by the Congress.

The act of absenting himself from the Republic without corresponding authorization, or of remaining absent longer than authorized, constitutes abandonment of office.

In case of the death of the President, the council of state shall call to the presidency him who is entitled thereto.

If, when Congress is in recess, the council of state considers with reason that there has been an abandonment of office on the part of the President, or that he is physically or mentally incapacitated, the said council shall call to office provisionally the respective substitute and shall by the same act convoke a special session of the Congress to the end that it issue the proper resolution.

Physical or mental incapacity may not be considered by the council of state except by virtue of a written petition of the Supreme Court, which shall be accompanied by the documents establishing the facts complained of.

That which is said in this article with respect to the President of the Republic shall apply, in turn, to anyone occupying the presidency.

Art. 88. Whenever, either definitively or temporarily, there is no titular or elected President of the Republic in office, the office shall fall to the Vice-President of the Republic.

Art. 89. If there also be no Vice-President, either definitively or temporarily, the presidency of the Republic shall be exercised by one of the following officers in the following order:

(1) The President of the House of Deputies;
(2) The vice-president of the Senate;
(3) The vice-president of the House of Deputies.

Art. 90. Whenever a person who legally should substitute for the President is lacking or suffers some accidental impediment, his place shall be taken by the next person mentioned in the preceding article until the exercise of the executive function has been assumed by the person called to office in accordance with the provision of the said article.

Art. 91. He who, in conformity with the order and circumstances established in the three preceding articles, finally occupies the office of President of the Republic shall continue in office during the entire term for which the titular President was elected.

Section II

Powers and Duties of the President of the Republic

Art. 92. The following are powers and duties of the President of the Republic:

(1) To maintain internal order and to watch over the external security of the Republic;
(2) To ratify and promulgate the laws and decrees of the Congress and to issue administrative rules which neither interpret nor alter them;
(3) To comply with the Constitution and the laws of the Republic and see that they are complied with;

(4) To call the Congress into ordinary sessions and special sessions when he deems it necessary;
(5) To direct the public forces, as their chief, when the defense and the public service of the nation so require;
(6) Freely to appoint and remove ministers of state, governors of provinces, and the other administrative officers and employees whose appointment and removal are not conferred upon some other authority by the Constitution and the laws;
(7) To direct the international relations and diplomatic negotiations of the Republic; to enter into treaties and ratify them, having first secured the approval of Congress, and to exchange ratifications;
(8) To appoint and remove diplomatic and consular agents. The authorization of the Senate, or, if it is not in session, that of the council of state, must precede the appointment of ambassadors and ministers plenipotentiary;
(9) To solicit from the Congress promotions to the rank of general and colonel and to confer the rank of lieutenant colonel and major in agreement with the council of state; all in accordance with the law;
(10) To grant, in conformity with the law, certificates of incapacity, orders of retirement, and pensions to the dependents of deceased military men;
(11) To authorize and cancel letters of naturalization in conformity with the Constitution and the laws;
(12) To issue navigation permits;
(13) To take care of the national property and of the collection, administration, and investment of the public revenue, as well as to see to it that the respective accounts are rendered and balances collected. in accordance with the law;
(14) To issue patents and to grant certificates of exclusive property right, in the form prescribed by the law;
(15) To pardon, reduce, or commute, in accordance with the law, the sentences imposed in penal proceedings. In order to exercise this power there must first be:
(a) A final pronouncement of sentence;
(b) A report from the judge or court, and
(c) A favorable report from the council of state;
(16) To establish and close ports temporarily during recess of the Congress, in agreement with the council of state;
(17) To grant the permits, to which section 17 of Article 53 refers, during recess of the Congress, and with authorization of the council of state;
(18) To comply with and exercise the other duties and powers which the Constitution and the laws impose and confer upon him.

Art. 93. The President, or he who occupies the office, shall advise the Congress, on the first day after it has reconvened, concerning the political and military state of the Republic and concerning its revenues and resources, indicating the improvements and reforms which must be made in each branch of the administration.

Art. 94. In case of imminent threat of invasion from without, or international conflict or internal disturbances, the executive shall appeal to the Congress, if in session, and if not, to the council of state, in order that, after considering the urgency, according to the report and corresponding probative documents, it may grant or deny all or some of the following extraordinary powers, with such restrictions as it deems proper:

(1) To declare the army on a wartime basis for the duration of the danger. In case of internal disturbances, the declaration that the army

be on a wartime basis shall be limited to one or more provinces, according to the requirements of the circumstances;

(2) To increase the armed forces and to establish military authorities wherever he deems it advisable;

(3) To order the collection of taxes and other revenue in advance for a period up to a year;

(4) To contract for loans;

(5) To invest the state funds in the defense of the State and preservation of public order, even though they may have been destined for other objects, with the exception of those set aside for public welfare and health;

(6) To change the capital of the Republic, if it be menaced, or when a grave necessity requires it, until the threat or necessity ceases;

(7) To close and temporarily establish ports;

(8) To arrest those suspected of abetting an invasion from without or disturbances within or of taking part in them; but, within six days at most he shall place them at the disposition of a judge of competent jurisdiction with the record of the proceedings taken, and the other documents which have caused the arrest, or he shall order imprisonment within the said six days.

The detention shall be in an abode that is not a prison for common criminals;

(9) To incarcerate those suspected of inciting war and those charged with taking part in internal disturbances.

The confinement may not take place other than in a provincial capital.

It is especially prohibited that confinement be in the eastern provinces or in the Archipelago of Galapagos or that the suspect be obliged to go to the place of detention by roads that are not the customary ones.

It is likewise prohibited to confine residents of the sierra in the provinces of the coast and vice versa; unless the person arrested voluntarily elects, in accord with the authority and in writing, a place so excluded. If the suspect requests a passport to leave the Republic, it shall be granted to him, giving him a judicious period of not less than eight days to regulate his affairs, and letting him select his route of his own free will.

Upon termination of the extraordinary powers, the person imprisoned and the person expatriated shall recover their liberty thereby and may return to their homes without a safe-conduct pass or passport.

The provisions of the preceding paragraphs do not prevent the suspects from being brought to trial and punished by the civil courts provided that they have not been pardoned. If a criminal sentence be pronounced, the time of detention or expatriation shall be credited against the sentence;

(10) To establish preventive censorship;

(11) To declare as a security zone, a stated portion of the national territory or the whole thereof, and to impose martial law.

Art. 95. In case of catastrophe, such as fire, earthquake, flood, etc., the executive may invoke the last-mentioned power, without the necessity of applying previously to the Congress or the council of state and with the sole obligation of reporting immediately to the one or the other, as the case may be, so that it may decide what is advisable. Without prejudice to the foregoing, he may also request others of the powers set forth in the preceding article, observing the procedure for the same.

Art. 96. The powers granted to the President of the Republic by Article 94, are limited to the time, place, and objectives indispensable to the re-establishment of the tranquillity and safety of the Republic; all of which shall be set forth in the decree granting the powers.

As soon as the circumstances which have caused the concession of ex-

traordinary powers have terminated, the council of state shall recall them, on its own responsibility.

The President of the Republic may not delegate the extraordinary powers except to governors of provinces upon consent of the council of state. Governors may not imprison without an express order of the President of the Republic.

The President of the Republic and the civil authorities he commands to execute his order shall be directly responsible for abuses they commit.

The authorities to which the previous paragraph refers shall also be responsible for complying with orders of the President of the Republic which exceed his powers.

Art. 97. The fact of the convening of the Congress shall terminate the exercise of extraordinary powers by the President of the Republic, and during the first eight days of the session he shall present a detailed report of the use which he has made of such powers.

The Congress shall adopt a resolution approving the proceedings of the government or declaring it responsible therefor.

Art. 98. The President of the Republic, or anyone who acts as such, is prohibited from:

(1) Violating the provisions of the Constitution and the laws;

(2) Obstructing or interfering with the electoral process, or employing methods of physical or moral duress or influence to bring about a given result in the elections;

(3) Attacking the independence of judges or imposing his authority in judicial proceedings;

(4) Dissolving the Congress or obstructing the free exercise of its functions;

(5) Admitting foreigners to the military service, unless a contract has previously been entered into according to law; and

(6) Exercising his functions outside of the national territory, or absenting himself from the capital of the Republic for more than thirty consecutive days.

During absence from the capital of the Republic for not more than thirty consecutive days, the President may exercise his functions wherever he may be within the national territory.

Art. 99. The President of the Republic, or whoever is acting as such, incurs a particular responsibility above all for treason or conspiracy against the Republic.

He is also especially responsible for: infringing upon the Constitution and the laws; violating constitutional guarantees; attacking the other departments of the State; refusing to give the sanction of law when obliged to give it, or hindering the promulgation thereof; provoking unjust war and exercising extraordinary powers not duly received according to the Constitution, or the abuse thereof.

Section III

Concerning the Vice-President of the Republic

Art. 100. There shall be a Vice-President of the Republic, elected every four years by popular and secret ballot.

Art. 101. In order to be elected Vice-President of the Republic, the same conditions are required as to be President.

Art. 102. The provisions contained in Articles 82 to 87 and 90 of this Constitution extend to the Vice-President of the Republic in so far as applicable.

Art. 103. In all cases of permanent or temporary absence from office of the President of the Republic, the Vice-President shall exercise the functions of the latter in conformity with the provisions of Articles 88 and 90.

Art. 104. The Vice-President, while not acting as President of the Republic, shall be the ex-officio president of the Senate, but he shall have only the deciding vote.

Art. 105. In case it become settled that there is no Vice-President because he has become acting President on a permanent basis, or for some other reason, the officers specified in Article 89 shall take over the vice-presidency of the Republic in the order and manner therein established. This substitution shall last until the next Congress, which, in joint session, presided over by the president of the House of Deputies, shall elect a Vice-President to complete the balance of the constitutional term of the vice-presidency.

In case of temporary absence from office, the substitution shall last for the time of such absence.

Art. 106. The term of the Vice-President of the Republic shall be four years and his election shall take place simultaneously with that of the President, by popular and secret ballot.

Section IV

Concerning the Ministers of State

Art. 107. The President of the Republic shall appoint ministers of state for the activities belonging to the executive function.

The law shall determine the number of ministers and the branch of service, powers, and duties of each of them. No portfolio shall remain without a titular minister for over thirty days for any reason whatsoever.

Art. 108. To be a minister of state one is required to be Ecuadorian by birth, to be in full exercise of the rights of citizenship, and to be at least thirty-five years of age.

Art. 109. Decrees, decisions, and resolutions of the executive must be authorized by the respective minister of state; otherwise they shall lack validity and shall not be obeyed.

Excepting the appointment and removal of the ministers of state themselves, which the President of the Republic alone orders, every minister of state is personally responsible for the acts of the executive which he authorizes with his signature.

Art. 110. The ministers of state are, moreover, responsible for the execution of the acts set forth in Articles 98 and 99 and for taking bribes, extortion, misappropriation of public funds, undue compulsion, negligence or delay in the execution of the laws or executive decrees, and for any other serious default which is duly proved.

Art. 111. Ministers of state who have been censured by the Congress shall cease to be such, and may not be such during the two years following or in the same presidential term. There shall be no votes of lack of confidence.

Art. 112. The ministers of state shall publish not later than June thirtieth of each year reports by which they shall acquaint the nation with the state of affairs of their respective departments, and include their proposals as to laws or decrees which they deem necessary.

Ministers of state must render all reports relative to the affairs of their ministries to the houses of the legislature with the knowledge of the President of the Republic.

Furthermore, they must render to the legislative houses, with the knowledge of the President of the Republic, all data the houses of the legislature may request concerning the matters dealt with in the reports. When these are of confidential nature, in the judgment of the executive, they must be presented in secret session. Ministers of state must appear before the legislature when called.

Title VII

CONCERNING THE JUDICIAL FUNCTION

Art. 113. The judicial function is exercised by the Supreme Court, the superior courts, and the other tribunals, courts, and officers that the Constitution and the laws establish.

Art. 114. The Chief Justice of the Supreme Court shall report to the Congress concerning the administration of justice throughout the entire Republic in a message personally delivered on the opening day of Congress.

Art. 115. The Supreme Court has jurisdiction throughout the Republic and its headquarters in the capital. The superior courts and other tribunals and courts shall have jurisdiction in so far as granted in the organic judicial law.

Art. 116. In order to be a judge of the Supreme Court one must be Ecuadorian by birth; be in the enjoyment of the rights of citizenship; have practised as an attorney or have been a provincial or superior court judge, in both cases in good standing and for not less than twelve years in all, and be at least forty years of age.

Judges of the Supreme Court hold office for six years and may be indefinitely re-elected.

Art. 117. Judges of the superior courts hold office for four years and may also be indefinitely re-elected.

When the Congress is in recess, the Supreme Court shall hear the excuses and resignations of its members and those of the members of the superior courts and shall fill vacancies on a provisional basis.

Art. 118. The Supreme Court, by one or more of its judges, shall appear before the Congress when called; and shall have the right to attend, in the same manner, in order to take part, without voting, in the discussion of bills it presents to the legislature.

Art. 119. The law shall determine the number of judges of which the Supreme Court and the superior courts must be composed. It shall also

determine the province or provinces embraced in the jurisdiction of each of the superior courts; the powers of the said courts and of all the judges; the manner and form of their appointment and the term of office.

Art. 120. In order to be a judge of the superior court one must be Ecuadorian by birth; be in the enjoyment of the rights of citizenship, have practised as an attorney or have been a judge, in both cases successfully and for a period of not less than eight years in all, and be at least thirty-five years of age.

Art. 121. In no case shall there be more than three stages of judicial proceedings (inclusive of appeals). Public hearing of lawsuits is essential, but the courts may confer in secret.

Judgments shall contain an opinion expressing the law and principles upon which they are based.

In procedural law, the greatest speed in handling cases shall be paramount. Except for the cases otherwise provided by law, the administration of justice is gratuitous when rendered by judges, and remunerated when special masters intervene.

The organic judicial law shall determine the structure of the tribunals and courts.

Art. 122. Magistrates and judges have no other powers than those which the laws grant them and, in conformity with the said laws, they are responsible for the carrying out of their duties.

Art. 123. While in office, magistrates and judges may not carry on their profession except in the cases determined by law; nor may they occupy any other public office or employment or intervene in electoral contests or political parties.

Title VIII

Sectional Régime

Art. 124. The territory of the Republic is divided into provinces, cantons, and parishes. In each province there shall be a governor; in each canton, a Cantonal Executive; and in each parish a Parochial Executive. The law shall determine the duties and powers of these officers. The eastern provinces and the Archipelago of Galapagos may have a special organization.

Art. 125. In each provincial capital, with the object of contributing to its progress and integrating it with the central government, there shall be a provincial council, the members of which shall be elected by popular and secret ballot on the date fixed by the law.

They are autonomous and independent of other public functions. Their structure and functioning shall be determined by the law.

In order to be a provincial councilor one must be Ecuadorian by birth, be in the enjoyment of the rights of citizenship and be at least twenty-five years of age.

Art. 126. The State guarantees the relative autonomy of the provinces, in accordance with the law. The necessities, productive capacity, and distribution of all of the provinces and each of them shall be taken into account in reference to the allocation of national disbursements for

special services and public works for the provinces. The law shall determine everything related to the provinces for the fulfillment of their economic and administrative ends.

Art. 127. Each canton constitutes a municipality. The municipal government is controlled by the cantonal or municipal council, elected by popular and secret ballot in accordance with the law. In the councils of the provincial capitals, in order to direct municipal affairs, there shall be a mayor elected by popular and secret ballot, who shall preside over the municipal body, having only a deciding vote.

Art. 128. The municipalities are autonomous and independent of other public functions, in accordance with the provisions of the Constitution and the laws. The law shall determine their powers and duties and may establish, within constitutional limitation, separate régimes, considering the population, economic resources, and importance of each canton. The members of the municipal government shall be held responsible, before the respective judges, for the abuses which they commit either collectively or individually.

Art. 129. No subsequent law may deprive the municipalities, in whole or in part, of the right that they have to the receipts from taxes on urban property. The law shall fix specific taxes and income in such a way as to guarantee their economic autonomy.

Art. 130. Neither the decisions nor the ordinances or resolutions of the provincial or cantonal councils shall be valid or enforced in so far as they are contrary to the Constitution or the laws. All claims shall be heard and decided by the Supreme Court.

Title IX

CONCERNING THE NATIONAL BUDGET

Art. 131. The revenue and expenses of the State shall be set forth in the general budget law, which shall be issued annually in accordance with the provisions of this Title.

The provincial, municipal, and special revenue and expenses shall be regulated in laws appertaining thereto.

Art. 132. All general revenue of the State shall constitute a single fund applicable to general expenses.

No revenue for a special purpose may be applied to general expenses of the State.

Administrative expenses of permanent character may not be met by means of loans.

Art. 133. The budget may not be issued unless it contain an item destined to the payment of the national debt.

Art. 134. National defense and public education shall receive preferential attention in the budget.

Art. 135. The preparation of the pro forma general budget of the State lies with the budgetary technical commission, which shall consist of:

The minister responsible for the state finances, who shall preside and have the deciding vote in case of a tie;

The minister responsible for the national economy, or his representative;

A legislator appointed by the Congress in joint session from the members of the budgetary commission of the legislature, together with two substitutes and

A representative of the national economic council, appointed from among its members.

The director of the budget shall act as secretary.

Art. 136. In preparing the pro forma budget, the budgetary technical commission shall consider the suggestions of the provincial authorities, governmental bodies, and legislatures with respect to the necessities of the respective provinces.

Art. 137. The Executive shall present the pro forma budget to the regular session of the Congress within the first three days thereof, and he shall present it with a message in which he explains the situation of the exchequer, of the internal and foreign credit, and the general financial position of the government.

Art. 138. The Congress shall submit the pro forma budget to the internal budget commission for study. The said commission shall consist of a representative, either senator or deputy, of each of the provinces of the Republic in conformity with the regulations of the Congress in joint session. This commission, having studied the pro forma budget, shall present such observations as it deems appropriate to the technical budgetary commission and shall send up its report, together with the answer of the latter, to the Congress in joint session, with notations as to all the discrepancies which arose between the two commissions not solved by mutual consent. The Congress shall then proceed to approve or disapprove the report, a two-thirds vote of those voting being required for disapproval or any modification. The Congress shall then vote the budget, chapter by chapter, the details thereof being thus approved.

The technical budgetary commission shall be charged with carrying out the resolutions of the Congress with respect to the budget.

Art. 139. No pro forma budget, the expenditures of which are not in balance with revenue, may be presented to the Congress. If the aggregate ordinary revenue requires the imposition of new taxes, appropriate tax bills shall be presented jointly with the pro forma budget, but separately stated. The bills shall be duly drafted and explained as well as the details of the corresponding expenditures.

Art. 140. The internal budget commission of the Congress may not propose, or the latter approve, additional items of revenue nor the increase of those set forth in the pro forma budget drawn up by the technical commission of the budget; and if, in fact, the actual revenues during the fiscal year exceed those set forth in the pro forma budget, they shall serve only for the general liquidation of the budget and to consitute a possible surplus.

Art. 141. The Congress shall issue the budget by the ninth of October of each year, after two debates. Should it not be issued within this period, it shall be considered in consecutive sessions to the end that it may be approved before the close of the regular legislative session. If the Congress does not succeed in approving it within the latter period, the original pro forma budget will go into force.

The budget shall take effect from the first day of the fiscal year following its promulgation.

Art. 142. The Congress may not enact laws repealing or modifying those which establish revenues covered by the current budget or by that issued for the following fiscal year, except on condition that at the proper time it create new income or increase existent income to make up for the income it deals with in such modification or repeal; and in no case may it approve any law that throws the budget out of balance by new expenditures,

When the Congress discusses bills that increase expenses or create or increase taxes it shall first consult the minister who is in charge of the finances of the country, and he must render his opinion within the period that the Congress designates. If for any reason the minister does not make known his opinion, the Congress may proceed freely.

Art. 143. No expenditure or transfer may take place except in accordance with specific provision of the law.

The items concerning education and those concerning national, provincial, or local public works, may not be diverted to other objects, except for the case provided for in section 5 of Article 94 and in case of public calamity.

Art. 144. When a deficit appears in the final liquidation of the budget, the President of the Republic shall dispatch a message to the Congress, with corresponding documents, explaining the said deficit.

Title X

VARIOUS ORGANIZATIONS

Section I

Concerning the Council of State

Art. 145. There shall be a council of state with headquarters in the capital of the Republic, which shall consist of the following members:

The Chief Justice of the Supreme Court, who shall preside over it;
A Senator elected by the Senate;
A Deputy elected by the House of Deputies;
Two citizens, elected by the Congress in joint session;
The Attorney General of the nation;,
The Comptroller General of the nation;
A representative of the National Economic Council, elected by it;
The presiding justice of the Supreme Court of elections;
A general officer, or officer with the rank of major or higher, appointed annually by the armed forces;
The President of the National Institute of Social Security.

The Senate, the House of Deputies and the Congress in joint session shall elect two substitutes for each member.

The members elected by the legislature shall hold office for one year.

The members of the President's cabinet are likewise members of the council of state and participate in the deliberations, without vote.

In case of the occasional absence of the Chief Justice of the Supreme Court, the member designated by the body shall preside over the session.

Art. 146. The following are powers and duties of the council of state:

(1) To guard the observance of the Constitution and the laws and especially to protect the constitutional guarantees, seeing to it that they are respected and not violated by the President of the Republic, the courts of justice, and the other authorities entrusted with them;

(2) To render opinions concerning decrees, decisions, rules, and resolutions which have been issued or may be issued in manifest violation of the Constitution or the laws. This provision does not cover judgments issued by the courts of the judicial department of government.

If the opinions are not accepted by the authority or body affected by them, the council of state shall publish them in the press and shall present them to the consideration of the Congress, to the end that it may decide upon the alleged unconstitutionality or illegality.

The acceptance of an opinion of unconstitutionality or illegality by the authority or body mentioned shall be published in the official register for the effects that will issue therefrom;

(3) To decide, when the legislature is in recess, concerning the legality of the absence or excuse of the senators and deputies; to call the respective substitute, if the occasion arises, and report this to the corresponding house at the beginning of the legislative term; the foregoing being without prejudice to the right of the house to review the decision;

(4) To convoke the Congress into special sessions in the case covered by paragraph 4 of Article 87;

(5) To give its advice concerning the contracts which are not covered in section 6 of Article 53 and which, because of their size, require bids, and also concerning subjects upon which the executive wishes to or must consult it;

(6) When the Congress is in recess, to receive and handle the charges that may be presented against the President of the Republic and the other officers enumerated in Article 50;

(7) When the Congress is in recess, to grant or deny extraordinary powers to the President of the Republic, in accordance with the provisions of Article 94;

(8) To hear and determine disputed administrative questions;

(9) When the Congress is in recess, to fill provisionally all offices subject to congressional appointment under section 4 of Article 55, except the justices of the supreme and superior courts;

This power also extends to the appointment of citizen councilors in case of default of both the member and the substitutes. The person elected by the council of state shall hold office for the rest of the term for which he whom he replaces was elected;

(10) To present, by its president, to the regular session of the Congress, a report relative to its work and its suggestions for the enactment of the laws it deems advisable;

(11) When the Congress is in recess, to authorize the President of the Republic to appoint ambassadors and ministers plenipotentiary;

(12) To authorize the executive to grant promotions to the rank of lieutenant colonel and major;

(13) When the Congress is in recess, to authorize the President of the Republic to alienate and hypothecate realty of the State;

(14) To permit or deny transit of foreign troops through the territory of the Republic and the transit or putting in of warships or submarines in territorial waters, for a greater time than that permitted by international custom;

The same power applies to the transit, arrival, and sojourn of warplanes.

The provisions of this subdivision do not apply to cases of forced arrival or landing; and

(15) To exercise the other powers which are conferred upon it by the Constitution and the laws.

Section II

Concerning the Ministry of Prosecution

Art. 147. The Attorney General of the nation, the prosecuting attorneys of the courts of justice, and the other officials that the law designates function as the ministry of prosecution under the direction of the President of the Republic.

Art. 148. The Attorney General of the nation shall hold office for four years and must have the requisites needed for being a judge of the Supreme Court. He shall be appointed by the Congress in joint session.

The law shall determine the powers and duties, as well as the occasions for removal and substitution, of the Attorney General and other officials of the ministry of prosecution.

Section III

The Department of the Comptroller General and that of the Superintendent of Banks

Art. 149. The department of the comptroller general shall supervise the proper collection and investment of the public funds and shall pass judgment on the respective accounts.

The comptroller general of the nation shall be elected every four years by the Congress in joint session.

In so far as comptroller general of the nation adjudges and passes upon accounts of those who render them, he discharges a judicial function and this function and the others with which he is concerned shall be specified in the respective laws.

Art. 150. The office of the comptroller general of the nation is autonomous in its administrative functions. The comptroller general is granted the power to appoint the personnel of his department, in conformity with the law.

The comptroller shall report annually to the Congress concerning his work.

Art. 151. There shall be a technical and autonomous banking department directed by the superintendent of banks appointed by the Congress in joint session, in order to provide supervision over the functioning of institutions of bank credit. The office of the superintendent of banks shall also supervise insurance companies, savings plan companies, and mutual credit companies.

Other corporations may also be supervised in accordance with the law.

The superintendent shall hold office four years and may be re-elected. He shall appoint the personnel of his department in accordance with the law. The officials and employees of this department shall have banking experience.

The budget of the office of the superintendent of banks is independent of the State. The superintendent shall study and approve the budgets of the banks established by the law and shall advise the Congress concerning his work.

Art. 152. The law shall determine the powers, duties, and functions

of the office of the comptroller general of the nation and of the office of the superintendent of banks, as well as the cases or removal and substitution of the comptroller general and of the superintendent of banks.

Title XI

CONCERNING THE PUBLIC FORCES

Art. 153. For the defense of the Republic and the maintenance of constitutional order, there shall be a military armed force organized in accordance with the law.

For the protection of internal order and security and social services, there shall be a civil police force which is governed by special laws.

Art. 154. All Ecuadorians and foreigners domiciled in the country are obliged to co-operate in the national defense in the form and manner determined by the law.

Moreover, the law shall establish the system of compulsory military service.

Art. 155. The public forces are not deliberative. The authorities giving orders shall be solely responsible for orders which are manifestly contrary to the Constitution and the laws.

Art. 156. Military power and jurisdiction are exercised over the members of the armed forces on active service. The law shall regulate the professional relations between retired military men and the respective ministry.

Art. 157. In case of war, the President of the Republic may delegate his authority as chief of the armed forces to the commander of the mobilized forces. In a zone declared to be a zone of operations, the latter shall have power and jurisdiction over the civil and military authorities.

Art. 158. Frontier commands have civil powers in conformity with the law.

SECOND PART

RULES OF ACTION

Title I

FUNDAMENTAL PRECEPTS

Art. 159. All inhabitants of the national territory are obliged to respect and obey the Constitution, the laws, and the authorities of the Republic.

Art. 160. In Ecuador there shall be no authority exempt from responsibility in carrying out its functions.

Art. 161. No contract shall be valid in which one person is put at the absolute and indefinite disposition of another; nor may the laws establish conditions which detract from human dignity.

Art. 162. The State shall cherish maternity and protect the mother and the child irrespective of their antecedents.

The State shall create adequate conditions for the protection and development of children under fourteen who lack family and economic protection.

Art. 163. The State protects and the laws regulate marriage, domestic relations, and family property.

Art. 164. Not only legitimate children but also the illegitimate have the right to be brought up and educated by their parents and to inherit from them within the limits that the law establishes.

In case there are both legitimate and illegitimate children, each illegitimate child shall have a hereditary share equal to one-half of that of each legitimate child.

Art. 165. The law shall regulate everything relating to filiation and its rights, and investigation as to paternity. In registering births, no statement may be required concerning legitimacy.

Art. 166. Inalienable and unattachable family rights of inheritance are established, the amount and other conditions of which shall be regulated by the law.

Art. 167. The right to leave property by will and the right to inherit are guaranteed within the limitations established by the law.

Art. 168. Liberty of conscience in all its aspects and manifestations is guaranteed in so far as not contrary to moral requirements and public order. The law shall make no discrimination for religious, ideological, or racial reasons.

Art. 169. All persons are equally entitled to protection of the law. No rights may be granted or obligations imposed to or upon anyone, which put him in a better or worse condition than others.

No one may be deprived of a hearing before the proper judge, or condemned without prior trial under a law antedating the material facts of the matter adjudged, or judged by special commissions, or deprived of the right of defense in every stage of the proceedings.

Art. 170. Work is compulsory for all members of the Ecuadorian community, consideration being given to conditions of age, sex, health, etc., and with freedom of choice.

Art. 171. Education of children is primarily the duty and right of the parents or those who stand in their place. The State shall watch over the compliance with this duty and facilitate the exercise of this right.

Education and instructions shall enjoy freedom within moral limits and those of republican institutions.

The municipalities may subsidize free private instruction. These subsidies may not exceed twenty per cent of the revenue set aside for education. When the executive deems it advisable to grant any aid, he will need the approval of the council of state in order to grant it.

Primary instruction and instruction in the arts and crafts are gratuitous when of official character; and primary instruction, whether official or private, is obligatory.

Social services shall be furnished without distinction to the students who need them in the free, official, or private schools.

In all grades of education special emphasis shall be given to the moral and civic training of the students.

The indigenous race shall receive special attention both in public and private schools.

All of the teaching staffs of the country, both public and private, shall be represented on the national supervisory boards, in conformity with the law.

Public education whether of the State, the province, or the municipality is secular, that is to say, the State as such neither teaches nor attacks any religion.

The State shall respect the right of parents, or those who represent them, to give to their children the instruction they deem advisable.

Art. 172. Both public and private universities are autonomous.

In order to effectuate this autonomy in the official universities, the law will support the creation of endowment funds.

Art. 173. The State shall found and maintain special establishments for free instruction in arts, crafts, commerce, agriculture, and other means of compensated labor, which shall at the same time give moral and civic education. The schools and institutions of learning shall cultivate the aptitudes of the students for gainful employment in special sections of objective training. In public primary schools and public schools of arts and crafts, the State shall furnish, free of charge to students who need them, such tools as are indispensable in the training.

Art. 174. The following are also duties of the State.

(a) To find work for the unemployed;
(b) To support production;
(c) To foster the culture of the native indians and the peasants, effectively;
(d) To maintain public welfare;
(e) To accomplish the apportionment and utilization of undeveloped lands in accordance with social necessities, by expropriation if that be necessary.

Art. 175. There is no real estate in Ecuador that may be held inalienable or indivisible in perpetuity.

Nor shall there be obligations which must be complied with in perpetuity, or obligations which may not be extinguished by some legal means.

Art. 176. The debts of the State shall be paid in conformity with its respective contracts and the law of public credit, which shall classify them according to their origin and other circumstances.

The State may set aside certain revenue to secure its obligations; but in no case may it cede to the creditor the right to collect the same.

Art. 177. Every contract which a foreigner or a foreign company enters into with the government of Ecuador, or any Ecuadorian person or legal entity, shall always carry the express or tacit condition that all diplomatic protest is waived.

Art. 178. Public officials or employees who violate any of the guaranties proclaimed in this Constitution shall be financially responsible for the damages and injuries which they cause; and with respect to the crimes which the violation of such guaranties entails, the following provisions shall be observed:

(1) They may be denounced by any one;
(2) The punishments which have been imposed on a delinquent official or employee may not be revoked, reduced, or commuted during the

constitutional term in which the crime was committed, or thereafter, unless at least half of the penal term has been served;

(3) The statute of limitations with regard to these crimes, as well as the sentences imposed on those responsible, shall not commence to run until after the said constitutional term.

Civil responsibility is independent of penal responsibility.

It is understood that this article is without prejudice to the provisions with respect to high officials contained in Articles 46 and 50.

Art. 179. No one may simultaneously hold two or more remunerated public offices, under any title, with the exception of university professors and those who exercise functions which are strictly technical or obligatory of acceptance, who may hold up to two offices with corresponding salaries.

With the exception contained in the previous paragraph, the holding by the same person of an office in the central bank, in the banks of the development credit system and in the social service institute and its agencies is incompatible with a salaried public office. However, the President of the national social service institute, the managers or provincial delegates of the social service agencies, and the managers of the banks previously mentioned may not hold any salaried public office.

In the cases of incompatibility to which this article refers, a person may not be considered to have been discharged with the effect of giving a right to damages.

No Ecuadorian may carry out public service functions of permanent character without a corresponding appointment or the record of his election, nor may he do his work as a public officer on a contract basis.

The performance of the function of legislator is not a public office, but rather a democratic mandate. Offices and functions compatible with this mandate shall not lapse by reason of such performance.

Title II

CONCERNING GUARANTEES

Section I

General Guarantees

Art. 180. In Ecuador foreigners enjoy, within the limits of the law, the same rights as Ecuadorians, with the exception of political rights and the guarantees which the Constitution establishes in favor of Ecuadorians only.

Art. 181. Freedom to practise professions is guaranteed within the requirements of the law. The law shall determine the cases in which a license is required and the method of obtaining it.

Art. 182. No taxes or other revenue may be created except by virtue of a law and in proportion to the economic capacity of the taxpayer.

Art. 183. Property rights are guaranteed when in harmony with their social function. Confiscation of wealth is prohibited, and if it takes place, it shall not cause any change in the rights of the prejudiced party or loss thereof, and a summary action for damages shall arise against the authority that ordered the confiscation and against the State.

No one may be deprived of property rights, or of the possession of his property, except by virtue of judicial decree or of expropriation, legally carried out, for public use.

Only the State, the municipalities and other institutions of public law may institute expropriations for public use.

Expropriation for construction, grading, and improvement of roads, railways, aviation fields, and towns shall be governed by special laws.

Only authorities which exercise some sort of judicial function, by virtue of law, may issue orders which obstruct or interfere with the freedom to contract concerning property and the transfer thereof. Any order in this respect which comes from any other authority shall have no effect whatsoever and shall not be obeyed.

Art. 184. The law shall determine the frontier zone in which foreigners are prohibited from acquiring or holding rights in real property or the administration thereof, under penalty of losing such rights in favor of the State.

This prohibition shall not prevent there being foreigners in the personnel of institutions of national character, or prevent them from establishing themselves in frontier regions for reasons of national interest, under agreement or contract with the executive; provided, however, that the director and the legal representative of these institutions be Ecuadorians.

Art. 185. The State shall see that justice in the relations between employers and employees is observed, that the dignity of the employee is respected, that he be assured a decent existence and be granted a just salary with which he may take care of the necessities of himself and his family.

The law shall regulate everything relative to employment, in accordance with the following fundamental rules:

(a) A contract of employment, in the form established by the law, is obligatory for employers and employees;

(b) The rights of the employee may not be renounced and every stipulation to the contrary shall be void;

(c) The State shall establish a minimum wage for the different types of work and shall favor the establishment of a fair wage taking into consideration the number of dependents;

(d) Wages shall not be subject to garnishment, save for debts incurred for board, and they may not be paid with I.O.U's, tokens or other means which are not legal tender, nor may they be for periods greater than a month;

(e) The maximum working day shall be eight hours, with half holiday on Saturday afternoon, so that the work-week will not exceed forty-four hours, save for the exceptions which the law may establish. The night shift shall be given extra pay, and women and children under eighteen years of age may not be used on such shift. The maximum period of actual work underground shall be six hours daily and the total shift shall not exceed seven hours;

(f) Every employee shall have weekly time off of forty-two consecutive hours as well as an annual vacation. This weekly rest period, vacations, and legal holidays shall be remunerated. The application of this rule shall be governed by regulations;

(g) The right to form syndicates and unions for their professional welfare is guaranteed to employers and employees. No one may be

required to join such a syndicate or union. Public employees, as such may not form unions;

(h) Union contracts shall be particularly protected;

(i) The right of employees to go on strike and that of employers to conduct a lockout are recognized, under regulations as to the exercise thereof. Employees of public works and institutions of public service may not go on strike, except in accordance with special rules;

(j) An employee who is a mother shall be the object of particular solicitude. A pregnant woman may not be obliged to work during the period fixed by law prior to and subsequent to birth, during which time she has the right to full pay. Moreover, the mother shall enjoy the time off during her work necessary for nursing the child;

(k) Labor of children under fourteen years of age is prohibited save for the exceptions which the law establishes, and labor by children up to eighteen years of age shall be regulated;

(l) The employer is obliged to provide for apprenticeship, in the manner determined by law, in industry and work which requires technical knowledge;

(ll) For the solution of industrial conflicts, conciliation and arbitration courts shall be constituted, which shall be composed of employees and employers and presided over by an officer of the department of labor;

(m) Hygiene and safety in work shall be regulated in order to guarantee the health and life of the employees;

(n) All employees shall participate in the net profits of the respective enterprises, in the percentage which the law directs, which may not be less than five per cent. The law shall regulate the division thereof;

(ñ) That which the employer owes to the employees for salaries, wages, damages, and retirement pay are a lien of the first class, with preference even over contract liens;

(o) Agricultural labor, particularly by natives, shall be especially regulated in respect to everything connected with daily hours of labor. The other aspects of labor shall likewise be regulated, particularly that of artisans, miners, domestics, and home craft;

(p) The taking away without just cause of the land designated for use of the workers (*huasipungo*) shall be considered as untimely discharge of the worker;

(q) For equal work there shall be equal pay without distinctions as to sex, race, nationality, or religion, but specialization and experience in the execution of the work shall be taken into account in respect to the amount of pay; and

(r) The administrative career of public employees shall be regulated by the law.

The public authority is obliged to promote, preferentially, the moral, intellectual, economic, and social betterment of the native indians and the peasants in order to encourage their incorporation into the national life and their access to property, and is also obliged to stimulate the construction of hygienic homes on the farms and to bring about the abolition of alcoholism, particularly in rural districts.

Art. 186. There shall be freedom of contract except as restricted by the law.

Section II

Ordinary Individual Guarantees

Art. 187. The State guarantees the following to the inhabitants of Ecuador:

(1) The right to live. There shall be no death penalty. Mutilation, flagellation and other tortures and infamous punishments are forever

prohibited as penalties or as correctional methods, and finally, as methods of criminal investigation;

(2) The right of every person to keep his good reputation and be presumed innocent so long as he is not declared guilty in conformity with the laws;

(3) Personal liberty. There is no imprisonment for debts, whether they be called costs, fees, taxes, fines, or by any other name. This provision does not included debts contracted for food for indigent relatives;

(4) The right of "Habeas Corpus." With the exception of apprehension in the act of commission of crime, contravention of police rules, or military crimes, no one may be detained, arrested, or imprisoned except by order signed by an authority having jurisdiction, with a statement of the cause, which may not be other than one prescribed by law.

The writ of "Habeas Corpus" shall be presented to the president of the council of the canton in which the petitioner is found, or whoever is acting in place of the said president. Having received the writ, and within the term provided therefor, the said authority shall order that the prisoner be brought immediately before him and that the order depriving him of his liberty be exhibited.

If the prisoner is not brought before him or if the order is not exhibited or if the order does not contain the requisites above provided for, the president of the council shall order the immediate release of the petitioner without further action. He who disobeys such order shall ipso facto be dismissed from his office or position by the said president of the council, who shall communicate the dismissal to the comptroller general and to the authority which must see to his replacement.

The discharged employee may take an appeal from the judgment issued against him, to the president of the superior court of the corresponding district, within twenty-four hours of notification of his discharge; but, in order to avail himself of this appeal, he must first place the prisoner at liberty.

To the latter, moreover, all the actions to which he is entitled are available;

(5) Freedom to travel in the territory of the Republic, to change domicile, to leave Ecuador and to return thereto, and to take with one one's goods, without prejudice to the provisions of law with respect to art treasures forming a part of the national heritage and restrictions as to currency;

(6) The inviolability of the home. No one may enter a home against the will of its proprietor unless an order signed by competent authority be presented; and without such an order, only in the cases expressly provided by the law;

(7) The inviolability of correspondence by mail or otherwise. Consequently the interception, opening, or inspection of another's correspondence is prohibited, except in the cases provided by the law;

(8) The right not to be obliged to testify, for any reason, on one's political convictions or religious beliefs, and not to be molested in the practice thereof; except in the cases provided in the Constitution and the laws;

(9) The right not to be obliged to testify in criminal proceedings against one's spouse, ascendants, descendants, or collateral relatives within the fourth degree of consanguinity or the second degree of affinity; or to be compelled by oath or under duress to testify against oneself, in matters which may carry penal responsibility, or to be held incomunicado for more than twenty-four hours;

(10) Freedom of labor, commerce and industry. Everyone enjoys the right to his discoveries, inventions, and scientific, literary, and artistic works on the terms provided by the laws.

No one may be required to render services, either gratuitously or for

pay, which are not required by the law, except in cases of extraordinary emergency or in case of the necessity of immediate aid. Except for these cases, no one shall be obliged to work except by contract and for corresponding pay;

(11) Liberty to express one's thoughts by word of mouth, by the press, or by other means of expressing and publishing them, in so far as the same does not involve injury, calumny, personal insult, immorality, or run contrary to the national interests. Such acts shall be subject to the responsibilities and procedure established by the law.

The law shall regulate the exercise of this immunity, taking into account that the principal object of the press is the defense of national interests and constitutes a social service entitled to the respect and aid of the State;

(12) Freedom to make individual or collective petition in writing before any authority or governmental body with the right to obtain a corresponding decision;

(13) Freedom to gather together and associate, without arms, for objects not prohibited by the law.

Section III

Special Guarantees for Ecuadorians

Art. 188. The following special guarantees are established with respect to Ecuadorians:

(1) The right freely to elect and be elected to public office, in conformity with the law;

(2) The right of oral and collective petition before the authorities, by parade or other public pacific and unarmed manifestation, permission having been previously granted by the proper authority;

(3) The right that the State distribute the means of subsistence to invalids who are in need of it, while they are incapacitated to obtain it by labor, and provided that there is no person legally obligated and able to provide it;

(4) The right to take part in political parties and other political associations which are not opposed to the Constitution, with the purpose of entering into national politics; and

(5) The penalty of banishment is prohibited and in no case shall an Ecuadorian be expatriated against his will.

Ecuadorians do not need a passport to return to their country and no consul of the Republic may refuse one to an Ecuadorian who asks for one to return to Ecuador.

In no case shall extradition be granted with respect to an Ecuadorian.

THIRD PART

CONCERNING THE SUPREMACY OF THE CONSTITUTION AMENDMENT THEREOF AND COMPLEMENTARY PROVISIONS

Art. 189. The Constitution is the supreme law of the Republic. Therefore, any laws, decrees, regulations, ordinances, provisions, public pacts, or treaties which are in any way contradictory to it or which depart from its text have no validity.

The Congress alone has the power to interpret the Constitution in a manner generally obligatory and to resolve doubts which may arise concerning the meaning of any one or more of its precepts.

Thus, the Congress alone has jurisdiction to declare whether a law or legislative decree is, or is not, unconstitutional.

Art. 190. The Congress in ordinary session may discuss any bill concerning constitutional amendment, following the procedure established for formulating laws.

The bill, having been approved by both houses, shall be sent to the President of the Republic so that he may publish the same with this report.

The next regular session of the Congress, after an election of deputies, shall approve the bill concerning constitutional amendment, without any modification, or shall disapprove it, in a single debate and by majority of all of its members.

The President of the Republic may not reject the amendatory law and will be obliged to promulgate it.

Art. 191. A permanent and autonomous character is guaranteed as to the agencies of social security, the central bank, and the banks of the system of development credit, all of which are institutions of private law for social or public ends. The employees of these institutions are governed, in matters concerning strikes, by the provisions contained in letter (i) of Article 185 for employees of businesses and institutions of public service.

Art. 192. No public institutions are recognized other than the State, the provincial councils, the municipalities, and the establishments supported by the State.

Art. 193. Coercive jurisdiction is established only in favor of the State and the other institutions of public law and also the central bank of Ecuador and the banks of the system of development credit for the collection of their credits, as well as in favor of the departments of social security for the collection of capital and reserve funds.

Art. 194. Monopolies are prohibited except the monopolies of the State, and these may not be ceded to any person or firm, national or foreign.

Art. 195. This Constitution repeals all previous juristic precepts which are contrary to its provisions, whether issued by legitimate authorities or by de facto governments; with the result that any laws, decrees, regulations, decisions, orders or resolutions, issued before the Constitution be in effect, shall be in force only in so far as they are in conformity with it, and provided that they are not or have not been repealed or revoked; with the exception of rights validly acquired in accordance with such precepts.

TRANSITORY PROVISIONS

FIRST

This Constitution having been promulgated, the Constituent National Assembly shall continue its functions as such up to the day of the close of its session and consequently may pass laws, decrees, and resolutions that it deems necessary and may exercise all its powers.

SECOND

The next regular session of the Congress shall be convened August 10, 1948.

THIRD

The deputies of the present Assembly shall remain as such until the supreme court of elections approves the credentials of the citizens elected as legislators for the regular session of the Congress of 1948. Should a special session of the Congress be necessary prior to the approval of these credentials, the present deputies shall constitute a unicameral Congress, presided over by the Vice-President of the Republic, provided that the disqualifications provided for by this Constitution have not occurred.

A majority of the deputies of the present Assembly, as well as the President of the Republic, may convene this Congress. Laws may be passed by it after two debates had on separate days.

FOURTH

The President of the Republic designated by this Assembly shall exercise his mandate in accordance with this Constitution and shall complete his constitutional term the first day of September, 1948, the day upon which the new President shall take over.

FIFTH

The Constituent National Assembly shall elect a provisional Vice-President of the Republic by secret ballot and absolute majority of votes, who shall take office before the Assembly and complete his term the first day of September, 1948, the day upon which the new Vice-President, elected in the manner established by this Constitution, shall take office. In case of default of the Vice-President whom the Assembly elects, his place shall be taken by the president and vice-presidents of the latter in their order of precedence, who shall keep the right of succession until the first Congress elects its officers.

SIXTH

While the census of the population is being taken, the provinces shall elect the following number of deputies:

Pichincha, Guayas, Azuay, Manabí, Chimborazo and Loja—five each; Tungurahua and Cotopaxi—four each;

Carchi, Imbabura, Bolívar, Cañar, Esmeraldas, Los Rios and El Oro—three each; Napo-Pastaza and Santiago Zamora—two each, and

One for the Archipelago of Galapagos.

SEVENTH

Until a law provides to the contrary, the conditions established in Article 39 do not cover senators or deputies of the eastern provinces. The latter must have resided in one of the provinces for at least six months at some time. This requisite is not necessary for the election of the representative of the Archipelago of Galapagos.

EIGHTH

For the time being, the Constituent National Assembly shall proceed

to appoint, by secret ballot and absolute majority of votes, the officers who, in conformity with this Constitution, must be appointed by the Congress. They shall hold office until the regular session of the Congress of 1948 confirms the new election. Likewise, the Assembly shall appoint, in the manner designated, the judges of the Supreme Court and the superior courts, who shall carry out their duties for the term fixed in this Constitution, or until the regular sessions of the Congress of 1952 and 1950, respectively, proceed to hold an election for these offices. The new superior courts, in turn, shall, within a period of thirty days from their organization, appoint all the judges, officials, employees, and clerks for their respective districts.

NINTH

The National Constituent Assembly shall issue the budget for the fiscal year of 1947, voting it, chapter by chapter, in two sessions, based upon the pro forma budget issued by the Executive and the report of the internal commission of the budget, and after the latter has taken cognizance of the details of the items concerning expenditures.

TENTH

The budget for the fiscal year of 1948 shall be issued by the technical commission of the budget and approved by the council of state.

FINAL ARTICLE

The Constitution shall be in force from the date of its publication in the official register.

Approved at the National Palace, in Quito, Capital of the Republic of Ecuador, the thirty-first day of December, one thousand nine hundred and forty-six.

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EGYPT

SUMMARY

International Status

Egypt is a member of the United Nations. It deposited its ratification of the Charter of that organization on October 22, 1945.

It joined the League of Nations in May, 1937. It signed the Statute of the Permanent Court of International Justice on May 30, 1939 and accepted the optional clause (Article 36) regarding obligatory jurisdiction upon specified conditions.[1] It is a member of various other international organizations. [2]

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[1] Egypt is not, at the time of our going to press, subject to the obligatory jurisdiction of the International Court of Justice, though it is, of course, a party to the Statute of 1945 by virtue of its membership in the United Nations (See Yearbook of the Court 1951–52, pp. 35–43.

[2] See Table 1.

Prior to 1841, Egypt had been a province of the Ottoman Empire, and it remained nominally under Turkish control until 1914. The British occupied Egypt in 1882 and adopted the position of adviser to the Khedive. At the outbreak of the World War in 1914, Egypt was declared a British protectorate, but on February 28, 1922, Great Britain declared that Egypt was a sovereign state.

The Treaty between Egypt and the British Government of August 26, 1936, ratified by Egypt on November 14, 1936, established a military alliance between Egypt and Great Britain, and limited British forces in Egypt for the protection of the Suez Canal for a period of 20 years. In conformity with the Treaty, Egypt declared a state of siege upon the declaration of war between the United Kingdom and Germany in 1939. It declared war on Germany and Japan on February 26, 1945.

Negotiations for a revision of the 1936 Treaty began in May 1946. The Security Council of the United Nations, at the request of Egypt, examined the dispute concerning the maintenance of British troops in Egypt and British policy in the Sudan[1] but failed to make any recommendation. The Egyptian Senate and Chamber abrogated the Treaty on October 15, 1951.

The King abdicated in July 1952 after widespread disturbances and seizure of power by General Mohammed Neguib. Egypt was declared a Republic on June 18, 1953.

Form of National Government

The "Principles of the Interim Constitution" of the Republic of Egypt were issued on February 10. 1953. The 1923 Constitution was abrogated on December 8, 1952 and a three-year transition period proclaimed until January 1956. A special committee was appointed to draw up a new constitution. Egypt had previously been a monarchy, governed by the Constitutions of 1866 (amended in 1878, 1882, 1883 and 1913) and 1923 (reintroduced in 1935) and 1930.

Source of Sovereign Power

"All powers emanate from the people." [2]

Rights of the People

Egyptians are guaranteed equality before the law in both rights and duties,[3] freedom of the individual, freedom of expression, inviolability

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[1] The administration of the Sudan was operated in accordance with the arrangement resulting from the condominium agreement of 1899.

[2] Principles, Art. 1. [3] Id., Art. 2.

of private property, freedom of faith.[1] The extradition of political refugees is forbidden.[2]

Legislative Department

The Council of Ministers exercises the legislative power.[3]

"The Revolution Command Council and the Council of Ministers jointly form a Congress which will consider the general policies of the state as well as all related subjects. It has the right to question the actions of ministers each in his own ministry." [4]

A National Consultative Assembly, appointed by the Council of Ministers, and composed of representatives of agriculture, labor unions, the liberal professions, "leaders of opinion and men of religion," industrialists, and provincial representatives was established by a law of May 1954.

Executive Department

The Council of Ministers and the ministers each within his own jurisdiction exercises the executive power.[5]

Judicial Department

The judiciary is independent and subject to nothing except the law.[6]

Area, Population, Language

Egypt has an estimated area of 386,000 square miles and a population (1951 United Nations estimate) of 20,729,000. The main language is Arabic, although English and French are also spoken.

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[1] Principles, Arts. 3, 4. [2] Id., Art. 5. [3] Id., Art. 9.
[4] Id., Art. 11. [5] Id., Art. 10. [6] Id., Art. 7.

THE REPUBLIC OF EGYPT

THE PRINCIPLES OF THE INTERIM CONSTITUTION

issued February 10, 1953

Art. 1. All powers emanate from the people.

Art. 2. All Egyptians are equal before the law in both rights and duties.

Art. 3. The freedom of the individual and the freedom of expression are guaranteed within the limits of the law. Private property and homes are inviolable in accordance with the law.

Art. 4. Freedom of faith is absolute. The state safeguards the freedom of practice of religious rites in conformity with prevailing customs provided this does not violate public order and morality.

Art. 5. The extradition of political refugees is forbidden.

Art. 6. Taxes cannot be imposed except by law and duties cannot be levied except by law. Nobody can be exempted from payment of taxes except in cases stipulated by the law.

Art. 7. The judiciary is independent and is subject to nothing except the law. Its judgments are pronounced and executed in accordance with the law and in the name of the people.

Art. 8. The leader of the revolution within and in conjunction with the revolution command council exercises acts of sovereignty, particularly measures which he deems necessary to protect this revolution and the regime based on it with the object of realising the aims of the revolution. He also has the right to appoint and dismiss ministers.

Art. 9. The Council of Ministers exercises the legislative power.

Art. 10. The Council of Ministers and the ministers each within his own jurisdiction exercises the executive power.

Art. 11. The Revolution Command Council and the Council of Ministers jointly form a Congress which will consider the general policies of the state as well as all related subjects. It has the right to question the actions of ministers each in his own ministry.

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EL SALVADOR

SUMMARY

International Status

El Salvador is a member of the United Nations. It signed the Charter in San Francisco on June 26, 1945, and deposited its ratification September 26, 1945.

It was a member of the League of Nations.[1] It signed and ratified the statute of the Permanent Court of International Justice and, with reservations of 1930, accepted the optional clause (Article 36). It is deemed subject to the compulsory jurisdiction of the International Court of

[1] El Salvador gave notice of withdrawal from the League in 1937.

Justice under its Article 36.[1] A Salvadorean, José Gustavo Gueréro, became the first president of the Court. It is a member of other international organizations.[2]

After its independence from Spain, El Salvador became part of the Central American Federation. Before the formation of the latter, El Salvador opposed the proposed incorporation of Central America into Mexico and, to avoid this, declared its annexation to the United States. However, before the authorities in Washington could act on this proposition, the Federation was formed. Following the dissolution of the Federation in 1839, El Salvador had a turbulent history, due not only to internal conflicts but also to intervention at various times on the part of Guatemala and Nicaragua.

Form of National Government

The Constitution of September 8, 1950 states that the government is "republican, democratic, and representative." [3] El Salvador is declared to be "a part of the Central American Nation" and, as such, under obligation to promote the total or partial reestablishment of the Republic of Central America." [4]

The Constitution of 1950 replaced the 1886 Constitution which had been reinstated by a decree of November 29, 1945.

Source of Sovereign Power

The Constitution states that all public power "emanates from the people." [5]

Rights of the People

The Constitution guarantees equality before the law,[6] personal freedom,[7] freedom of movement, religion, expression, assembly, association and petition.[8] Correspondence and domicile are inviolable.[9] There is a due process clause and the right of habeas corpus.[10] Forced labor is prohibited.[11] Convents, monastic institutions and international or foreign political organizations may not be established.[12] The death penalty is only permitted for certain specified offences.[13] There are provisions relating to the family labor and social security, culture, public health and social assistance.[14]

Legislative Department

Legislative power is exercised by the unicameral Legislative Assembly

[1] See Yearbook of the Court, 1951–52, pp. 35–43, 188. [2] See Table I.
[3] Const. of 1950 Art. 3 [4] Id., Art. 9. [5] Id., Art. 6.
[6] Id., Art. 150. [7] Id., Art. 151. [8] Id., Arts. 154, 157, 159, 160, 23, 162.
[9] Id., Arts. 159, 165. [10] Id., Art. 164. [11] Id., Art. 155.
[12] Id., Art. 160. [13] Id., Art. 168. [14] Id., Arts. 180–210.

composed of deputies elected every two years by universal, direct, equal and secret suffrage.[1] Deputies represent the whole people.[2] The Legislative Assembly elects a Permanent Committee composed of nine members to act during adjournment of the Assembly.[3]

Executive Department

Executive power is exercised by the President and the Ministers and Under-Secretaries of State.[4] The former is elected by direct universal suffrage for a term of six years, and he may never be re-elected.[5] Ministers and Under-Secretaries of State are appointed by the President.[6] They must attend the sessions of the National Assembly whenever they are called to do so, and must answer interpellations, but have no vote in the Assembly.[7]

Judicial Department

The judicial power is vested in the Supreme Court of Justice, the Chamber of Second Instance and other courts.[8] The Supreme Court is composed of nine magistrates elected by Congress for a term of 3 years.[9] Its duties include the grant and enforcement of the constitutional remedy of *amparo*.[10] It may declare inapplicable any law or order which is contrary to the provisions of the Constitution.[11]

Area, Population, Language

El Salvador has an area of 13,176 square miles and a population (1950 census) of 1,855,917

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[1] Const. of 1950, Arts. 28, 35, 39. [2] Id., Art. 43. [3] Id., Art. 47.
[4] Id., Art. 61. [5] Id., Arts. 30, 62. [6] Id., Art. 72.
[7] Id., Arts. 76, 41. [8] Id., Art. 81.
[9] Id., Arts. 82, 46, 91. [10] Id., Art. 89. [11] Id., Art. 95.

THE CONSTITUTION OF EL SALVADOR[1]

September 8, 1950

The National Constituent Assembly, in the name of the Salvadorean people, with trust in God and the high destiny of the Country, decrees, sanctions and proclaims the following Constitution:

TITLE I

THE STATE AND ITS FORM OF GOVERNMENT

Art. 1. El Salvador is a sovereign State. Sovereignty resides in the people and is limited to what is honest, just, and advantageous to society.

Art. 2. It is an obligation of the State to ensure to the inhabitants of the Republic the enjoyment of liberty, health, culture, economic well-being and social justice.

Art. 3. The Government is republican, democratic and representative.

Art. 4. The Government is composed of three Powers: Legislative, Executive, and Judicial, which shall act independently within the scope of their powers and duties, which cannot be delegated, but shall collaborate in the exercise of public functions.

Art. 5. The principle that a President cannot succeed himself (alternabilidad) is indispensable for the maintenance of the established form of government. Violation of this rule makes insurrection an obligation.

Art. 6. All public power emanates from the people. The officials of the State are their delegates and have no other powers than those expressly given to them by law.

Art. 7. The territory of the Republic within its present boundaries is irreducible; it includes the adjacent sea within a distance of two hundred marine miles measured from the line of lowest tide, and it embraces the air space above, the subsoil, and the corresponding continental shelf.

The provisions of the preceding section do not affect freedom of navigation in accordance with principles accepted by International Law.

The Gulf of Fonseca is an historic bay subject to a special regime.

Art. 8. None of the constituted Powers may make or ratify treaties or conventions which will in any way alter the established form of government or impair the integrity of the territory or sovereignty of the State.

Art. 9. Inasmuch as El Salvador is a part of the Central American Nation, it is under obligation to promote the total or partial reestablishment of the Republic of Central America. The Executive Power, with the approval of the Legislative Power, may do so in either federal or unitary form, without the necessity of authorization or ratification by the Constituent Assembly, provided that republican and democratic principles are

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[1] Decree No. 14. Diario Oficial No. 196, September 8, 1950. English translation kindly supplied by Pan American Union; Law and Treaty Series, 1953.

respected in the new State, and that the essential rights of individuals and of associations are fully guaranteed.

Art. 10. The official language of the Republic is Spanish. The Government is bound to see to its preservation and teaching.

Title II

SALVADOREANS AND FOREIGNERS

Art. 11. The following are Salvadoreans by birth:

(1) Those born in the territory of El Salvador whose father or mother is Salvadorean or a native of one of the Republics of Central America, or whose parents are unknown;

(2) Children of a Salvadorean father or mother but born in a foreign country and who have not obtained any other nationality;

(3) Descendants of children of foreigners, said children having been born in El Salvador, who within a year after attaining majority do not opt for the nationality of their parents; and

(4) Natives of the other States which constituted the Federal Republic of Central America who, having a domicile in El Salvador, declare before a competent authority their desire to be Salvadoreans.

Art. 12. The following are Salvadoreans by naturalization:

(1) The children of foreigners, born in El Salvador, who within one year after attaining majority, declare before a competent authority that they opt for Salvadorean nationality;

(2) Spaniards and native Hispano-Americans who submit to a competent authority proof of good conduct and of one year's residence in the country;

(3) Foreigners of any other origin who, in accordance with the law, show proof of good conduct, five years' residence in the country, and that they have a profession, trade, or other means of honest livelihood.

(4) Persons who obtain this status from the Legislative Power for noteworthy services rendered to the Republic;

(5) A foreign man with two years' residence in the country who marries a Salvadorean woman, or a foreign woman with the same length of residence who marries a Salvadorean man, if at the time of marriage they opt for Salvadorean nationality; and foreigners married to Salvadoreans who have resided in the country for two years and apply for naturalization before a competent authority.

Persons who become naturalized must expressly renounce any other nationality.

The naturalization of minors shall be regulated by law.

Art. 13. Salvadorean nationality is lost by the voluntary acquisition of any other.

Salvadoreans by birth who become naturalized in a foreign country may regain their status by applying for it before a competent authority, by proving two consecutive years residence in the country after their return. However, if they were naturalized in any State comprising the Federal Republic of Central America, they shall regain their status as Salvadoreans by birth, as soon as they become domiciled in El Salvador and make application before a competent authority.

Art. 14. The status of Salvadoreans and other Central Americans who adopt the nationality of any State forming the Federal Republic of Central

America for the purpose of retaining their nationality of origin, may be regulated by treaty.

Art. 15. The status of Salvadorean naturalization is lost:

(1) By residing more than two years consecutively in the country of origin or by absence from the territory of the Republic for more than five consecutive years, unless permission was granted according to law;

(2) By executed sentence, in those cases determined by law. Any one who loses his nationality in this manner may not regain it.

Art. 16. Juridical persons constituted in accordance with the laws of the Republic and who have legal domicile in the country are Salvadoreans.

The regulations which the laws provide for the benefit of Salvadoreans may not be impugned through the intermediary of Salvadorean juridical persons of which a majority of the capital or members is foreign.

Art. 17. Foreigners, from the moment they arrive in the territory of the Republic shall be strictly bound to respect the authorities and obey the laws, and acquire the right to be protected by them.

Art. 18. Neither Salvadoreans nor foreigners may in any case make claim against the Government for indemnity of any kind for injury or damage to their persons or property caused by civil strife (fracciones). They may do so only against guilty officials or private persons.

Art. 19. Foreigners may not take recourse to diplomatic claims except in case of denial of justice and after other legal recourses have been exhausted.

Denial of justice does not mean that a judicial decision was unfavorable to the claimant. Anyone who contravenes this provision shall lose the right to inhabit the country.

Art. 20. The laws shall prescribe in what cases and in what form a foreigner may be refused entry or sojourn in the national territory.

Foreigners who directly or indirectly participate in the internal politics of the country, or who advocate anarchistic doctrines or those contrary to democracy, shall lose the right to reside therein.

Art. 21. Foreigners shall be subject to a special law.

Title III

CITIZENS AND THE BODY ELECTORATE

Art. 22. All Salvadoreans over eighteen years of age are citizens, without distinction as to sex.

Art. 23. Suffrage is a right and a duty of citizenship, except as indicated in this Constitution.

These are rights of citizens: to associate together to form political parties in accordance with the law and to join those already formed: to accept public office according to their qualifications; and others recognized by law.

These are duties of citizens: to comply with the Constitution of the Republic and to see that it is complied with, and to serve the State in conformity with its laws

Art. 24. Ministers of any religious sect may not belong to political parties nor be elected to public office.

Art. 25. The rights of citizenship are suspended for the following reasons:

(1) Formal imprisonment;
(2) Mental derangement;
(3) Judicial interdiction;
(4) Refusal to accept, without just cause, an elective office. In such cases, the suspension shall continue during the whole period that the said position should have been occupied;

Art. 26. The rights of citizenship are lost:

(1) By those of notoriously depraved conduct;
(2) By those convicted of crime;
(3) By those who buy or sell votes in the elections;
(4) By those who sign acts, proclamations, or agreements to promote or support the reelection or continuation (in office) of the President of the Republic, or who resort to direct means leading toward that end;
(5) Officials, authorities, or their agents, who restrict the freedom of suffrage. In such cases, the rights of citizenship may be restored by an express declaration of rehabilitation by a competent authority.

Art. 27. The body electorate is composed of all citizens having the capacity to cast their votes.

Art. 28. Voting shall be direct, equal, and secret.

Art. 29. Inscription in the appropriate register is a necessary requirement for the exercise of suffrage.

Art. 30. The President and Vice President of the Republic, Deputies to the Constituent and Legislative Assemblies, and the members of Municipal Councils (Municipalidades) are elective officials.

Art. 31. The territory of the Republic shall be divided into electoral divisions to be determined by law. The basis of the electoral system is population.

The law shall prescribe the time, manner, and other conditions for the exercise of suffrage.

The date of the election for President and Vice President of the Republic must precede the commencement of the presidential term by at least two months.

The election of Deputies and of the President and Vice President of the Republic shall in no case be held simultaneously.

Art. 32. Election propaganda, even without prior edict, shall be permitted only for four months before the date established by law for the election of the President and Vice President of the Republic; for two months in the case of Deputies; and for one month for members of the Municipal Councils.

Art. 33. The law shall establish the necessary organisms to receive, count, and supervise votes and for other activities connected with the exercise of suffrage. A Central Election Council shall be the supreme authority in these matters.

The contesting political parties have the right to watch over the electoral process.

Art. 34. The Central Election Council shall consist of three members, elected by the Legislative Assembly, one of whom shall be chosen from each of the lists (of three names) submitted by the Executive Power and the Supreme Court of Justice. There shall be three alternate members elected in the same manner. Their term of office shall be three years.

TITLE IV

THE PUBLIC POWERS

Chapter I

The Legislative Power

Art. 35. The Legislative Power is vested in a Legislative Assembly.

Art. 36. The Legislative Body shall meet regularly in the capital of the Republic, without the necessity of convocation, on the first of June and the first of December of each year. The respective session periods shall continue for such time as may be necessary.

It shall meet in extraordinary session whenever it is convoked by the Executive Power in Council of Ministers or by the Permanent Committee of the Assembly, to deal with matters indicated in the convocation decree.

The Assembly may move to another place to hold its meetings whenever it shall so resolve.

Art. 37. Five representatives, meeting as a preparatory body, may take such steps as they deem necessary to call the others together.

Art. 38. A majority of the members of the Assembly shall be sufficient to deliberate; but whenever less than two thirds of the elected members are present, the approval of two thirds of those present is necessary for a decision.

Art. 39. The members of the Assembly shall be renewed every two years and may be reelected. Their term of office shall commence on the first of June.

Art. 40. To be elected Deputy a person must be over twenty-five years of age, a Salvadorean by birth, and of well-known integrity and education; he must not have lost his rights of citizenship during the five years preceding the election and must be a native or resident of the corresponding electoral district.

Art. 41. The following may not be Deputies:

(1) The President of the Republic, the Ministers and Under-Secretaries of State, Magistrates of the Supreme Court of Justice, officials of the electoral organisms, military officers in active service, and in general, officials who exercise jurisdiction;

(2) Persons who have handled or administered public funds, until their accounts have been audited;

(3) Contractors for public works or enterprises paid out of State or Municipal funds, their sureties, and any others, who as a result of such works or enterprises have pending claims in their own interest;

(4) Relatives of the President of the Republic within the fourth degree of consanguinity or second degree of affinity;

(5) Delinquent debtors to the Public or Municipal Treasuries; and

(6) Persons who have contracts or concessions pending with the State for the exploitation of national resources or public services; as well as the representatives or agents of such persons or of foreign companies in the same status.

The incompatibilities referred to in N° 1 of this article apply to anyone who has held the positions indicated within three months prior to the election.

Art. 42. Deputies in office may not hold any other remunerative public

office during the term for which they have been elected, except as Minister or Under-Secretary of State, diplomatic representative, professorships, and professional posts in the social welfare services.

If they accept any position referred to in the preceding section, except the last two, they shall cease to be a Deputy.

A Deputy who resigns without just cause, approved as such by the Assembly, shall become disqualified from holding any other public office during the term for which he was elected.

Art. 43. Deputies represent the whole people and are not bound by any imperative mandate. They are inviolable and shall not be held responsible at any time for opinions expressed or votes cast.

Art. 44. Deputies may not be tried for serious offenses committed from the day of their election to the end of the term for which they were elected, unless the Legislative Assembly first declares that there are grounds for prosecution. In this event, the Assembly must expel the guilty party and surrender him to the ordinary courts.

For minor offenses and misdemeanors committed during the same period they shall be tried by a competent court; but they may not be detained, arrested, or examined, until after the expiration of their term.

If a Deputy is caught in the act of committing an offense, during his term of office, he may be detained by any person or authority, who is under obligation to place him immediately at the disposition of the Assembly, if it is in session, or at the disposition of the Permanent Committee, if the former is in recess.

Art. 45. The provisions contained in articles 40, 41, 42, 43 and 44 of this Constitution likewise apply to Deputies of the Constituent Assemblies.

Art. 46. The following are duties of the Legislative Assembly:

(1) To accept or reject the credentials of its members, to receive the constitutional oath from them and to hold them liable in those cases provided for in this Constitution.

(2) To receive resignations submitted by Deputies, and accept them when based on legally proven justifiable cause.

(3) To summon alternate Deputies in the event of the death, resignation, nullification of election, or inability to attend of their principals.

(4) To make rules for its internal government.

(5) To elect, by a public roll-call vote, the President and Vice President of the Republic whenever no citizen received an absolute majority of votes of those counted; this election must be made from between the two citizens who received the highest number of votes for each position.

(6) To receive the constitutional oath and invest in office that citizen who, according to law, should exercise the Presidency of the Republic.

(7) To act upon resignations submitted and leaves requested by the President and Vice President of the Republic and Designates, after personal ratification before the Assembly itself.

(8) To elect the following officials by a public roll-call vote: Magistrates of the Supreme Court of Justice and of the Courts of Second Instance, members of the Central Election Council, and the President and Magistrates of the Court of Accounts of the Republic.

(9) To receive the detailed and documented account that must be rendered by the Executive through his Ministers, and approve or disapprove this.

(10) To elect, by public roll-call vote, three persons who, as Designates

(Designados), shall occupy the Presidency in those cases and in the order specified by this Constitution.

(11) To declare, by a vote of not less than two thirds of the elected representatives, the physical or mental incapacity of the President and Vice President of the Republic and of officials elected by the Assembly in the exercise of their functions, based on the unanimous findings of a committee of five physicians appointed by the Assembly.

(12) To enact, interpret, amend, and repeal statutory laws.

(13) To create judicial districts and establish offices, as proposed by the Supreme Court, in order that the respective officials shall take cognizance of all kinds of criminal, civil, commercial, or labor cases; and at the request of the Executive Power, of all contentious-administrative matters.

(14) To define the powers and jurisdiction of the different officials wherever this has not been done by this Constitution.

(15) To levy taxes and imposts on all classes of property and income on an equitable basis; and in the event of invasion, legally declared war or public disaster, to decree forced loans in the same proportion, if the ordinary public revenues are insufficient.

(16) To authorize the Executive Power to contract voluntary loans, either at home or abroad, whenever a serious or urgent necessity so demands, and to guarantee obligations contracted by governmental or municipal entities of public interest. The commitments contracted in accordance with this provision must be submitted to the cognizance of the Legislative Power, which may not approve the action by a vote of less than two thirds of the elected Deputies.

The legislative decree in which the issuance or contracting of a loan is authorized must clearly state the purpose for which the funds are to be used and in general, all essential conditions of the transaction.

(17) To enact the Budget of revenues and expenditures of the Public Administration, which must provide for the expenditure of funds in such a way that priority is given to education, public health and social welfare the administration of justice, and the police.

(18) To establish the Coat of Arms, the Flag, and the National Hymn of the Republic.

(19) To establish and regulate the system of the national currency and decide upon the admission and circulation of foreign currency.

(20) To establish and make uniform the laws on weights and measures, on the basis of the metric system.

(21) To grant to persons or towns titles, honors, and pecuniary awards compatible with the established form of government, for meritorious services to the country. However, it is prohibited to grant such titles, honors, or pecuniary awards to the following officials during their term of office: the President and Vice President of the Republic, Ministers and Under-Secretaries of State, Deputies to the Legislative Assembly, and Magistrates of the Supreme Court of Justice.

(22) To grant permission to Salvadoreans to accept honors bestowed by foreign governments.

(23) To create and eliminate positions; to appropriate salaries for officials and employees in accordance with the civil service system.

(24) To grant rewards or privileges for a limited time to the authors of or those who improve upon useful inventions, also temporary benefits to new industries and, in the event of absolute necessity, subsidies or other form of protection to an industry of general utility.

(25) To declare war, on the basis of information received from the Executive Power.

(26) To grant amnesties for political crimes or common crimes connected therewith, or for common crimes committed by not less than twenty persons; and to grant pardons, upon recommendation of the Supreme Court of Justice.

(27) To suspend and reestablish the constitutional guaranties in accordance with article 176 of this Constitution, by a public roll-call vote of at least two thirds of the elected representatives.

(28) To enact laws recognizing the public debt, and to create and appropriate the funds necessary for its payment.

(29) To ratify treaties or agreements made by the Executive with other States, or to refuse ratification. In no event may treaties or conventions be ratified which will restrict or in any way affect constitutional provisions. For the ratification of any treaty or agreement by which any question concerning the boundaries of the Republic is subjected to arbitration, a vote of at least three fourths of the elected Deputies is required.

(30) To grant or refuse permission to Salvadoreans to accept diplomatic or consular posts to be exercised in El Salvador. Excepted from this is diplomatic or consular representation of the States which formed the Federal Republic of Central America, for which permission is not necessary.

(31) To permit or refuse the transit of foreign troops through the territory of the Republic and the stationing of war ships or airplanes of other countries for a longer time than is established by international treaties or practice.

(32) To disavow obligatorily the President of the Republic or his substitute if at the end of his constitutional term he remains in power. In this event if no person has been legally designated to occupy the Presidency, the Assembly shall designate a Provisional President.

Art. 47. The Legislative Assembly, fifteen days before the close of its first period of regular sessions, shall elect a Permanent Committee, composed of nine members, from its membership. It shall also elect nine alternate members. The President of the Assembly shall always be the President of the Permanent Committee, and one of the First Secretaries shall be Secretary of the Committee. This Committee shall exercise its functions during adjournments of the Assembly.

Art. 48. The Permanent Committee shall have the following powers:

(1) To transact business which was left pending by the Assembly.

(2) To convoke the Assembly into extraordinary session whenever the national interest so demands and this has been agreed upon by at least five members of the Committee.

(3) To prepare bills for consideration by the Assembly at the next sessions.

(4) To declare whether there are grounds for action in the cases contemplated in articles 44 and 213 of this Constitution, except when the Presidents of the Public Powers are concerned.

(5) To submit to the Assembly a detailed report of the work it has accomplished.

(6) Any others indicated by this Constitution and those expressly entrusted to it by the Assembly.

Art. 49. The Deputies, the President of the Republic through his Ministers, and the Supreme Court of Justice have the exclusive right to initiate laws.

Art. 50. Every bill, after its discussion and approval, shall be sent within ten days to the Executive Power, and if the latter has no objections, he shall give his sanction and order it published as law.

The sanction of the Executive Power shall not be necessary in the cases enumerated in items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 32 of the article 46 of this Constitution, and of indictments (antejuicios) of which the Assembly takes cognizance.

Art. 51. Whenever the Executive Power finds it advisable to disapprove a bill, the bill shall be returned to the Assembly within eight days after its receipt, with the reasons on which objection is based; if the bill is not returned within the period indicated it is to be considered as sanctioned and will be published as law.

In case a bill is returned, the Assembly shall reconsider it, and if it is ratified by a vote of at least two thirds of the elected Deputies, it shall be sent again to the Executive and the latter must then sanction it and order its publication. When the Executive receives a bill during the last eight days of the first or second session periods of the Assembly, and he has objections to make, he must return it to the Permanent Committee within the period indicated in the first paragraph of this article, if the Assembly has adjourned.

Art. 52. Whenever a bill is returned because the Executive Power regards it as unconstitutional, and the Legislative Power ratifies it in the manner prescribed in the preceding article, the Executive must submit it to the Supreme Court within three days so that the latter, after hearing the arguments of both Powers, may decide whether it is or is not constitutional, within fifteen days. If the Supreme Court decides that it is constitutional, the Executive Power is under obligation to sanction it and publish it as law.

Art. 53. The period for the publication of laws shall be fifteen days. If the Executive Power fails to publish them within this period, the President of the Assembly shall do so in the Diario Oficial or in any other newspaper of widest circulation in the Republic.

Art. 54. Whenever a bill is defeated or not ratified it may not be offered again during sessions in the same year.

Art. 55. Every bill that is approved shall be drawn up in triplicate; the three copies must be signed by the officers of the Assembly (Directiva); one shall be preserved for the Assembly's archives and the others shall be sent to the Executive.

Art. 56. If the Executive has no objection to offer to a bill received, he shall sign the two copies, return one to the Assembly and retain the other in his files, and shall order publication of the text as law in the appropriate official organ.

Art. 57. In the event of an obvious error in printing the text of the law, it shall be republished within not more than ten days. The final publication is to be regarded as the authentic text; and the date of the new publication shall count as the time it takes effect.

Art. 58. To interpret, amend, or repeal a law the same procedure shall be followed as for its enactment.

Art. 59. No law is binding except by virtue of its promulgation and publication. In order that a law that is permanent in character shall be binding, a period of at least eight days must elapse after its publication. This period may be extended but it cannot be lessened.

Art. 60. Whenever a bill not initiated by the Supreme Court of Justice is for the purpose of interpreting, amending, or repealing any provisions contained in the Codes of the Republic, it may not be discussed except

after first hearing the opinion of that tribunal, which must render such opinion within the same or following session period, according to the importance, urgency or scope of the bill.

Chapter II

The Executive Power

Art. 61. The Executive Power shall be exercised by the President of the Republic and the Ministers and Under-Secretaries of State.

Art. 62. The presidential term shall be six years, and shall begin and end on the fourtheenth of September, and no person who has occupied the Presidency may continue in office a day longer.

Art. 68. The Designates for the Presidency shall be elected for a term of two years.

Art. 64. If there is no President of the Republic, due to death, resignation, removal, or other cause, he shall be replaced by the Vice President; if the latter is unavailable, by one of the Designates in the order of their selection, and if all of these are unavailable for any legal reason, the Assembly shall designate the person who is to take office.

If the reason which incapacitates the President from exercising his position endures more than six months, the person replacing him, in accordance with the terms of the preceding paragraph, shall complete the presidential term.

If the incapacity of the President is temporary, his replacement shall hold office while such incapacity endures.

Art. 65. A citizen who occupied the Presidency of the Republic under any title may not be President, Vice President or Designate during the following presidential term.

Art. 66. To be elected President of the Republic a person must be a Salvadorean by birth and child of a Salvadorean father or mother, a layman, over thirty years of age, of well-known morality and education, and in the exercise of his rights of citizenship for six years immediately preceding the election.

Art. 67. The following may not be President of the Republic.

(1) Relatives within the fourth degree of consanguinity or second of affinity of any persons who held such office during the immediately preceding term;

(2) Anyone who has been a Minister or Under-Secretary of State within the last year of the immediately preceding term;

(3) Professional military men in active service or who have been so within six months prior to the date of the elections;

(4) A Vice President or a Designate who, if legally called to occupy the Presidency during the immediately preceding term, refused to do so without justifiable cause;

(5) Persons enumerated in items 2, 3, 5, and 6 of article 41 of this Constitution.

Art. 68. The two preceding articles shall apply to the Vice President of the Republic and the Designates to the Presidency.

Art. 69. The President and Vice President of the Republic and the

Designates may resign their positions solely for serious reasons duly substantiated and approved by the Assembly.

Art. 70. The President of the Republic is the Commander-in-Chief of the Armed Forces.

Art. 71. To conduct the public business there shall be such Departments (Secretarias) of State as are necessary, among which the different branches of the Administration are to be distributed. Each Department shall be in charge of a Minister who shall act in collaboration with one or more Under-Secretaries. The Under-Secretaries shall replace the Minister in those cases determined by law.

Art. 72. It is a function of the President of the Republic to appoint, remove, accept resignations of, and grant leaves to the Ministers and Under-Secretaries of State, the Attorney General (Fiscal General) of the Republic and the Defender General of the Poor (Procurador General de Pobres).

Art. 73. A Minister or Under-Secretary of State must be a Salvadorean by birth, over twenty-five years of age, a layman, of well-known morality and education, and in the exercise of rights of citizenship for six years immediately preceding his appointment.

Art. 74. Those persons included in items 2, 3, 4, 5, and 6 of article 41 of this Constitution may not be Ministers or Under-Secretaries of State.

Art. 75. The decrees, decisions, orders and rulings (decretos, acuerdos, ordenes y providencias) of the President of the Republic must be authorized and communicated by the Ministers in their respective Departments or by the Under-Secretaries, when they are acting. Without this requirement they shall have no legal force and should not be obeyed.

Art. 76. Ministers and Under-Secretaries must appear before the Assembly to answer interpellations addressed to them.

Art. 77. The President of the Republic and the Ministers and Under-Secretaries are jointly and severally liable for acts which they authorize. Ministers and Under-Secretaries who are present are liable for decisions taken in Council of Ministers, even if they did not vote for the measure, unless they resign immediately after the decision is adopted.

Art. 78. The Executive Power has the following duties:

(1) To maintain unimpaired the sovereignty of the Republic and the integrity of its territory.

(2) To preserve peace and domestic tranquility and the security of the individual as a member of society.

(3) To sanction, promulgate, and publish the laws and to see that they are enforced.

(4) To present to the Legislative Power, through the Ministers, within two months after the close of each year of administration, a detailed report and documented accounting of the Public Administration for the year completed. The Ministry of the Treasury shall likewise present, within three months after the close of each fiscal period, the general accounts of the last budget and a statement showing the position of the Public Treasury and the Fiscal Patrimony.

If these obligations are not complied with within the periods indicated a Minister who fails to do so is by this fact removed and the President of the Republic shall be immediately notified in order that he may appoint a replacement. The latter shall submit the report and accounts within the following fifteen days. If the requirement is still not complied with, the President of the Republic shall thereby be removed.

(5) To prepare the proposed budget of revenues and expenditures and submit it to the Assembly at least three months before the beginning of the new fiscal period.

(6) To give to the Assembly such information as it may request, except in the case of secret military plans. With respect to political negotiations which it is necessary to keep confidential, the President of the Republic shall give notice thereof, in order that they may be heard in secret session.

(7) To supply to judicial officials such aid as may be needed to enforce their rulings.

(8) To conduct foreign affairs. Career diplomatic and consular representatives accredited by the Republic must be Salvadoreans by birth.

(9) To appoint, remove, accept resignations of, and grant leaves to officials and employees of the Administration and of the Army, with the exception of those appointed by other authorities.

(10) To organize and maintain the Armed Forces and the Public Security Corps, and to confer military ranks in accordance with law.

(11) To convoke the Legislative Assembly into extraordinary session, with approval of the Council of Ministers, whenever the interests of the Republic so demand.

(12) To make treaties and international conventions, submit them to the Legislative Assembly for ratification, and to see that they are enforced.

(13) To wage war and make peace, and immediately submit any treaty made for the latter purpose to the Legislative Power for ratification.

(14) To direct disposition of the Armed Forces for the maintenance of order, security, and tranquility in the Republic and to call into service any forces necessary in addition to the permanent corps, in order to repel invasion or put down rebellion.

(15) To enact internal regulations and those necessary to facilitate and ensure the enforcement of laws where he is responsible.

(16) To commute sentences, based on a report and favorable decision of the Supreme Court of Justice.

(17) To suspend and reestablish, with approval of the Council of Ministers the constitutional guarantees to which article 176 of this Constitution refers, if the Assembly is adjourned. In the former case, he must immediately advise the Permanent Committee of the Assembly of the reasons for taking the step and of the actions taken in connection therewith.

(18) To perform any other functions conferred on him by law.

Art. 79. The President of the Republic is prohibited from leaving the national territory without permission of the Assembly, or of the Permanent Committee thereof if the former is adjourned.

Art. 80. All decrees, orders, and resolutions issued by the Executive Power which exceed the powers granted by this Constitution shall be null and void and should not be obeyed, even if issued with the intention of submitting them to the approval of the Legislative Power.

Chapter III

The Judicial Power

Art. 81. The Judicial Power shall be vested in the Supreme Court of Justice, the Chambers of Second Instance, and other tribunals to be established by statute. This Power has the authority to pass judgment and to enforce its judgments in constitutional, civil, penal, commercial and labor matters, and in any others prescribed by law.

Art. 82. The Supreme Court of Justice shall consist of nine Magistrates,

one of whom shall be its President. He shall be the President of the Judicial Power.

The law shall provide for the internal organization of the Supreme Court of Justice, in such a way that its powers shall be divided into different Sections (Salas), and the number of members may be increased.

Art. 83. There shall be Chambers of Second Instance, consisting of two Magistrates for each, and Courts of First Instance. Their number, jurisdiction, powers, and residence shall be determined by law.

Art. 84. There shall be Justices of Peace in all towns in the Republic. Their organization, powers, and other circumstances shall be determined by law.

Art. 85. The administration of justice shall always be free of charge.

Art. 86. To be a Magistrate of the Supreme Court of Justice or of the Chambers of Second Instance, a person must be a Salvadorean, a layman, over thirty and less than seventy years of age, a lawyer in the Republic, and of well-known morality and competence; he must have served a judgeship in a court of first instance for three years or have practiced law for six years; and he must have been in the exercise of the rights of citizenship for three years immediately preceding his election.

Art. 87. Persons related to each other within the fourth degree of consanguinity or second degree of affinity may not be elected Magistrates of the Supreme Court of Justice or to the same Chamber of Second Instance.

Art. 88. To be a Judge of First Instance a person must be a Salvadorean and a lawyer in the Republic, of well-known morality and competence; and he must have been in the exercise of his rights of citizenship for three years immediately preceding his appointment.

Art. 89. The duties of the Supreme Court of Justice are:

(1) To hear cases of *amparo* and appeals in cassation (casación).

(2) To settle conflicts of jurisdiction of any kind among tribunals and judges.

(3) To take cognizance of the responsibility of public officials in those cases indicated by law.

(4) To issue reports and opinions on applications for pardon or commutation of sentences.

(5) To take cognizance of prize cases, and of others not reserved to another authority; to order the issuance of letters rogatory for use in proceedings outside the Republic and to demand compliance with those coming from other countries without prejudice to the provisions of existing treaties; and to grant extradition in accordance with provisions of law.

(6) To grant, according to law, the permission necessary for the execution of judgments issued by foreign courts.

(7) To see that justice is promptly and faithfully administered and that members of the Court visit other courts and prisons in order to prevent irregularities.

(8) To appoint the judges of first instance who shall try cases in civil, commercial, criminal, Treasury, military, and labor matters, the justices of peace in those cases prescribed by law; the court physicians; and the employees in the offices of the Supreme Court itself; and to remove, act on resignations of, and grant leaves to such officials.

(9) To appoint associate justices in those cases provided by law.

(10) To receive, personally or through designated officials, the oath of office of the officials appointed by it.

(11) To admit lawyers and authorize them to practice their profession; to suspend them for non-fulfillment of professional obligations, for grave negligence or ignorance, unethical professional conduct, or for notorious immorality; to disqualify them for venality, bribery, fraud, or deceit, and to reinstate them on legal grounds. In cases of suspension and disqualification it shall proceed summarily and render decisions on the moral force of the evidence. The same powers shall be exercised with respect to notaries and *procuradores*.

(12) To prepare the budget for salaries and expenditures in the administration of justice and send it in due course to the Executive Power for inclusion in the General Budget to be submitted by the latter to the Assembly. The Executive shall consult with the Court concerning changes which he may deem necessary in the proposed budget.

(13) Any others prescribed by law.

Art. 90. One of the Chambers of Second Instance for Civil Matters sitting in the capital shall try cases against the State in first instance, and such cases shall be tried in second instance in one of the Sections (Salas) of the Supreme Court of Justice.

Art. 91. A career judicial service is established.

The Magistrates of the Supreme Court of Justice, of the Chambers of Second Instance, and the Judges of First Instance shall be elected for a term of three years and they may be reelected. If a Magistrate or Judge merits election to a third successive term this shall be for whatever length of time remains until he reaches seventy years of age. During a term of office no Magistrate or Judge may be removed, suspended, or transferred except for legal reasons. A special law shall regulate this subject.

Art. 92. The office of Magistrate or Judge of First Instance is incompatible with the practice of law or holding a position as official or employee of the other Powers, except as a teaching professor or a diplomat on a temporary mission.

Art. 93. Members of the Armed Forces in active service shall have the right of trial by military tribunals (fuero militar) for crimes and misdemeanors that are purely military. Other jurisdictional privileges (fuero atractivo) of these courts are prohibited.

Art. 94. Trial by jury is established for certain ordinary crimes specified by law.

Art. 95. Included within the power of administering justice, the courts have the power to declare, in cases on which they must pronounce judgments, the inapplicability of any law or order of the other Powers which is contrary to provisions of the Constitution.

Art. 96. The Supreme Court of Justice shall be the sole tribunal having jurisdiction to declare the unconstitutionality of laws, decrees, and regulations, by their form or content, in a general and compulsory manner, and it may do so on the petition of any citizen.

Title V

THE PUBLIC MINISTRY

Art. 97. The Public Ministry shall be vested in the Attorney General (Fiscal General) of the Republic, the Defender General of the Poor (Procurador General de Pobres) and other officials specified by law.

Art. 98. To be Attorney General of the Republic or Defender General of the Poor the same qualifications are necessary as for a Judge of First Instance.

Art. 99. The duties of the Attorney General of the Republic are:

(1) To defend the interests of the State and of society.

(2) To denounce or personally prosecute before the Legislative Assembly or the Supreme Court of Justice any officials indicted for legal infractions and who are to be tried before those bodies.

(3) To intervene personally or through attorneys in his office, in cases requiring official proceedings.

(4) To appoint, remove, grant leaves to, and accept resignations of attorneys of the Supreme Court of Justice, the Chambers of Second Instance, the Military Tribunals and courts of first instance, and attorneys of the Treasury Department. He has the same powers with respect to officials and employees in his own office.

(5) To defend the fiscal interests and to represent the State in all cases and contracts specified by law.

(6) To initiate the trial and punishment of persons indicted for crimes against the authorities, and for disrespect (desacato).

(7) To exercise other powers prescribed by law.

Art. 100. The duties of the Defender General of the Poor are:

(1) To defend the persons and interests of minors and other incompetents.

(2) To provide legal assistance to indigent persons and to represent them in court in defense of their individual freedom and their rights as workers.

(3) To appoint, remove, grant leaves to, and accept resignations of defenders of the poor in all courts of the Republic, the Labor Attorneys (Procuradores del Trabajo) and other officials and employees of his office.

(4) To exercise other powers prescribed by law.

Title VI

THE ADMINISTRATIVE SYSTEM

Chapter I

Local Government

Art. 101. For purposes of political administration, the territory of the Republic is divided into Departments, the number and boundaries of which shall be fixed by law. Each Department shall have a Governor and a substitute Governor, appointed by the Executive Power.

Art. 102. To be a Governor the following qualifications are required: to be a Salvadorean, a layman, over twenty-five years of age, to have been in exercise of the rights of citizenship for three years immediately preceding his appointment, to be of well-known morality and education, and a native or resident of the Department. In the latter case, two years' residence immediately preceding appointment is necessary.

Art. 103. For purposes of local government, the Departments are divided into Municipalities, which are governed by Municipal Councils (Consejos Municipales) consisting of a Mayor (Alcalde), a Syndic (Síndico), and two or more Aldermen (Regidores), the number of whom shall be in proportion to the population.

The members of the Municipal Councils shall be elected for a term of

two years, may be reelected, and their qualifications shall be determined by law.

Art. 104. Municipal funds may not be centralized in the general funds of the State and may not be used except for municipal services.

The Municipal Councils shall administer their resources for the benefit of the community, and shall submit detailed and documented accounts of their administration to the appropriate court.

Art. 105. The law shall specify the powers of the Municipal Councils which shall be purely economic and administrative.

The Municipal Councils are autonomous in the exercise of their functions. As juridical persons, they are liable for their acts as a body, or their individual members may be so liable, as the law may prescribe.

They shall prepare their schedules of local taxes, to be submitted to the Legislative Assembly for enactment as laws, and that body may make any changes deemed necessary.

Art. 106. Municipal Councils may appoint their own officials and employees without the intervention of any other authority.

Art. 107. The Executive Power shall see that Municipal Councils comply with the laws, but he shall always respect municipal independence.

Chapter II

The Civil Service

Art. 108. Public officials and employees are in the service of the State and not of any specific political faction. They may not make use of their positions to engage in election campaigning.

Art. 109. A career administrative service is established.

The law shall regulate the civil service, especially the conditions for admission to the service; promotions and raises on the basis of merit and aptitude; a guaranty of permanent status; transfers, suspensions and dismissals; the duties of public servants, and recourses against decisions affecting them.

Officials and employees holding political and personal appointments are not included in the career service, specifically the Ministers and Under-Secretaries of State, the Attorney General of the Republic, the Defender General of the Poor, the Secretaries of the Presidency of the Republic, Ambassadors and Diplomatic Ministers, Directors General, Departmental Governors, and the private secretaries of the foregoing officials.

Art. 110. Strikes by public officials or employees, as well as the collective abandonment of positions, are prohibited.

The civil public services will be militarized only in the event of a national emergency.

Art. 111. The provisions of this Chapter also apply to municipal officials and employees.

Title VII

THE ARMED FORCES

Art. 112. The Armed Forces are established to protect the integrity of the territory and the sovereignty of the Republic, enforce the law, maintain

public order, and guarantee constitutional rights. They shall especially see that the principle of non-succession to the Presidency of the Republic is not violated.

Art. 113. Military service is compulsory for all Salvadoreans from eighteen to thirty years of age.

In the event of war, all Salvadoreans from eighteen to sixty years of age are soldiers, and if this class becomes exhausted, all Salvadoreans capable of performing military service. The permanent strength of the Army shall be fixed annually by the Assembly. It may in no case be less than three thousand men.

Art. 114. The Armed Forces are non-political and essentially obedient, and may not deliberate on service matters. Their organization and the scope of their activities shall be subject to special laws, regulations and provisions.

Art. 115. The military career is professional and the only military ranks recognized are those obtained in strict order of precedence in conformity with the law. Anyone who legally obtains a military rank shall retain it for life and may not be deprived of it except by judicial sentence.

Art. 116. Decisions of the Courts Martial may be appealed, in last instance, before the Commander-in-Chief of the Armed Forces or before the respective Chief of Operations in the field. There shall be special tribunals and procedure for the trial of military offenses.

Art. 117. The importation and manufacture of arms and war material may be effected only by a license and under the supervision of the Executive Power.

Title VIII

THE PUBLIC WEALTH

Art. 118. The Public Wealth consists of the following:

(1) The funds and liquid assets of the Nation.
(2) All debts due the Nation;
(3) Its real and personal property;
(4) Revenues received by application of the laws governing taxes, duties and other payments, and those obtained in any other manner.

Recognized debts and those originating from duly authorized public expenditures are obligations chargeable against the Public Wealth.

Art. 119. No taxes may be imposed except for the public service and by virtue of a law.

Churches and subsidiary buildings are exempt from taxes on real property.

Art. 120. All revenues of the Public Wealth shall constitute a single fund which shall be generally subject to the needs and obligations of the State.

The law may, however, allocate specific revenues for service on the public debt. Donations likewise may be allotted to the purposes indicated by the donor.

Art. 121. Whenever a law so authorizes, property may be separated from the general assets of the Public Wealth, or appropriations made from

the General Fund, to establish or add to special accounts of the State for the use of public institutions devoted to cultural, welfare and social security, or economic development purposes, or designed to increase the ownership of small rural or urban holdings.

Art. 122. The General Budget of the State, for each fiscal period, shall contain an estimate of all revenues anticipated in accordance with laws in force on the date the budget is passed, as well as the authorization for all expenditures deemed necessary to accomplish the aims of the State.

The Legislative Power may decrease or reject the credit items requested but may never increase them.

The Budget shall authorize the amount of floating debt that the Government may incur in each year to cover temporary deficits in revenue.

The autonomous state institutions and enterprises and entities whose expenditures are paid from or subsidized by funds of the Treasury, with the exception of credit institutions, are governed by special budgets and salary systems approved by the Legislative Power.

A special law shall establish regulations for the preparation, voting, execution, and rendering accounts of the budgets and shall regulate the procedure to be followed when at the close of one fiscal period the budget for the new period is not yet in effect.

Art. 123. The Executive Power, through the appropriate Department, shall have the direction of the public finances and shall be especially bound to maintain a balanced budget, in so far as this is compatible with the fulfillment of the purposes of the State.

Art. 124. There shall be a general treasury service (Servicio General de Tesorería) for the collection, custody, and expenditure of public funds.

Whenever public property is expended in contravention of legal provisions, the official who authorizes or orders the transaction shall be held liable, as well as the person who effects the expenditure, unless he proves his freedom from guilt.

Art. 125. No sum shall be granted or paid from public funds unless it is within the limits of the budget credit.

Any pledge, grant, or payment must be made in accordance with provisions of law.

Funds from future fiscal periods may be pledged only by legislative authorization, for works of public or administrative interest or for the consolidation or conversion of the public debt. For such purposes an extraordinary budget may be approved.

There shall be a special law to regulate subsidies, pensions, and retirement allotments payable from public funds.

Art. 126. When the Legislative Assembly is not in session, the Permanent Committee may authorize the Executive Power to expend funds which have not been included in the budgets to meet needs due to war, public disaster, or serious disturbance of the public order. When the Assembly again meets, approval must be sought for the expenditures made.

The Executive Power, observing due legal formalities, may also make transfers between items under the same department or administrative

organ, with the exception of those stated in the budget to be non-transferable.

Art. 127. Whenever the State has to conclude contracts for public works or to acquire property for which public funds or assets are to be expended, such works or supplies must be submitted to public bids, except in those cases specified by law.

No contract may be concluded in which the decision, in the event of controversy, is to be rendered by the courts of a foreign country.

The preceding provisions of this article shall also apply to Municipal Councils.

Art. 128. The audit of the Public Wealth in general and of the execution of the Budget in particular shall be entrusted to an independent agency of the Executive Power, to be known as the Court of Accounts of the Republic, and which shall have the following functions:

(1) To supervise and inspect the collection, custody, commitment, and expenditure of public funds; and also the payment of taxes and other such payments when the law so provides.

(2) To authorize every withdrawal of funds from the Public Treasury, in conformity with the Budget; to intervene for protective purposes in any matter which directly or indirectly affects the Public Treasury or the assets of the State; and to approve acts and contracts relating to the public debt.

(3) To supervise, inspect, and verify the accounts of officials in charge of public funds or property and to try cases arising from such accounts.

(4) To supervise the economical management of autonomous institutions and enterprises and entities supported or subsidized by funds from the Treasury. Such supervision shall be adapted to the nature and purposes of the organization concerned, in accordance with provisions of law in this respect.

(5) To examine the account submitted by the Executive Power to the Assembly on the management of the Public Wealth, and report to the Assembly the result of such examination.

(6) To prepare the regulations necessary for the fulfillment of its duties.

(7) To perform any other functions prescribed by law.

Art. 129. Whenever an act submitted for review by the Court of Accounts in the exercise of its legal functions, is, in its opinion, in violation of some law or regulation in force, the Court must so advise the officials responsible, and the act in question shall be suspended.

The Executive may ratify the act in whole or in part, provided he considers it legal, by means of a resolution with explanation, issued with the consent of the Council of Ministers and communicated in writing to the President of the Court. The resolution must be published in the Diario Oficial.

The ratification, duly made known, will terminate the suspension of the act, provided the objections of the Court of Accounts are not based on the lack or insufficiency of a budgetary credit to which an expenditure is to be charged, and in such cases the suspension must be maintained until the deficiency has been corrected.

Art. 130. For carrying out its jurisdictional functions, the Court of Accounts of the Republic shall be divided into a Chamber of Second Instance and as many Chambers of First Instance as the law may prescribe.

The Chamber of Second Instance shall be composed of the President of

the Court and two Magistrates, but their number may be increased by law.

These officials shall be elected for a term of three years, may be reelected, and may not be removed from office except for just cause, by a resolution of the Legislative Assembly.

The Chamber of Second Instance shall appoint, remove, grant leaves to, and accept resignations of the Judges of the Chambers of First Instance. The President of the Court of Accounts shall exercise the same powers with respect to other officials and employees of the Court.

The administrative functions are vested in the President, who may delegate them in part to the Magistrates.

Art. 131. The President and Magistrates of the Court of Accounts must be Salvadoreans, over thirty years of age, and of well-known integrity and competence; they must have been in the exercise of their rights of citizenship for three years immediately preceding their election.

Art. 132. The President of the Court of Accounts shall submit annually to the Legislative Assembly a detailed and documented report of the work of the Court.

Art. 133. Neither the Legislative Power nor the Executive Power may relieve officials and employees who manage national or municipal funds of the obligation to pay sums of money retained by them, nor dispense with the payment of debts due the Public Treasury or to Municipalities.

Art. 134. Real property in the Public Wealth or in public use may only be granted or given in usufruct, loan, or lease with the authorization of the Legislative Power, to entities of general utility.

Title IX

THE ECONOMIC REGIME

Art. 135. The economic system must be based essentially on principles of social justice which will ensure to all inhabitants of the country the livelihood of a dignified human being.

Art. 136. Economic freedom is guaranteed, in so far as it is not contrary to the social interest.

The State shall promote and protect private enterprise, limited only by the conditions necessary to increase the national resources and to ensure the benefits therefrom to the greatest number of inhabitants of the country.

Art. 137. Private property as a social function is recognized and guaranteed.

Likewise, intellectual and artistic property is also recognized, for the time and in the manner specified by law.

The subsoil belongs to the State, which may grant concessions for its exploitation.

Art. 138. Property may be expropriated for reasons of legally proven public utility or social interest, and after due compensation. If the expropriation is caused by the necessities of war or public disaster or if it is for the purpose of supplying water or electric power, or for the construction of housing or roads, compensation need not be made in advance.

Whenever justifiable, the amount of compensation fixed for expropria-

ted property, in accordance with the preceding paragraph, may be paid in installments over a period not to exceed twenty years.

Entities which have been created from public funds may be nationalized without compensation.

Confiscation of property is prohibited, either as a penalty or on any other grounds. Officials who violate this provision shall be liable at all times with their persons and property for damages incurred. Confiscated property is imprescriptible.

Art. 139. Any kind of entailment is prohibited, except:

(1) Trusts constituted in favor of the State, Municipalities, public entities, welfare and cultural institutions, and legal incompetents;

(2) Trusts constituted for a period not to exceed twenty-five years, the management of which is entrusted to banks or legally authorized credit institutions;

(3) Family trusts ("el Bien de Familia").

Art. 140. No civil or ecclesiastical corporation or foundation, regardless of its denomination or purpose, shall have legal capacity to hold or administer real property, with the exception of property used immediately and directly for the service or purposes of the institution.

Art. 141. Ownership in rural real property may not be acquired by foreigners in whose countries of origin Salvadoreans do not have equal rights, except in the case of land for industrial establishments.

Foreign and Salvadorean companies to which the second paragraph of article 16 of this Constitution refers, shall be subject to this rule.

Art. 142. No monopoly may be created or authorized in favor of private individuals. The law may grant privileges for a limited time to inventors or persons making improvements in industries. Monopolies or exclusive marketing privileges (estancos) may be established in favor of the State or Municipalities when the social interest so demands.

The State shall perform the postal services and those of electrical communications. It may also assume charge of other public services when social interest so requires. The State shall also approve the rates to be charged for public services performed by private enterprises and shall also supervise such services.

Art. 143. The State shall have exclusive power to issue currency, and it may exercise this power either directly or through a public issuing institution. The monetary, banking, and credit systems shall be regulated by law.

The State must direct monetary policy with the aim of promoting and maintaining conditions most favorable to an orderly development of the national economy.

Art. 144. The State may administer enterprises which render essential services to the community, for the purpose of maintaining continuity of service if the owners or operators refuse to abide by legal provisions governing their economic and social organization.

The State may also intervene with respect to property belonging to nationals of countries with which El Salvador is at war.

Art. 145. Associations of an economic nature designed to increase the national wealth by a better utilization of natural and human resources,

and to bring about a fair distribution of the profits derived from such activities, shall be promoted and protected. In addition to private individuals, the State, the municipalities, and public agencies may participate in this class of associations.

Art. 146. Small trade and small industry are the patrimony of native-born Salvadoreans and Central Americans. A law shall be enacted for their protection.

Art. 147. The State shall promote the development of small rural property holdings. It shall provide the small farmer with facilities for technical assistance, credit, and other means necessary for a better utilization of his lands.

Art. 148. Housing construction is declared to be a matter of social interest.

The State shall endeavor to permit the greatest possible number of Salvadorean families to become home owners. It shall undertake to see that every farm owner shall provide a sanitary and comfortable home for his tenants and workers, and shall provide facilities to enable small owners to do so.

Art. 149. In every concession granted by the State for the establishment of docks, railroads, canals or other material public works, there shall be stipulated as an essential condition that after a certain time has elapsed, which may not be greater than fifty years, such works shall by law pass in perfect working condition into the ownership of the State, without compensation of any kind.

Title X

INDIVIDUAL RIGHTS

Art. 150. All men are equal before the law. In the enjoyment of civil rights no restrictions shall be enacted based on differences of nationality, race, sex or religion.

Hereditary offices or privileges are not recognized.

Art. 151. Every man in the Republic is free. No one who enters the territory shall be a slave and anyone who traffics in slaves may not become a citizen. No one may be subjected to servitude nor to any other requirement which impairs human dignity.

Art. 152. No person is compelled to do what the law does not command nor to deprive himself of anything it does not prohibit.

Art. 153. El Salvador grants asylum to any foreigner who desires to reside in its territory, except in those cases provided in its laws or by International Law. These exceptions may not include anyone who is being persecuted solely for political reasons.

Extradition may not be stipulated with respect to Salvadoreans on any grounds whatever, nor with respect to foreigners for political offenses, even if a common crime has resulted therefrom.

Art. 154. Every person has the right to enter, remain in, and leave the territory of the Republic, subject to such limitations as the law may establish.

No one may be compelled to change his domicile or residence, except by order of a judicial authority in special cases and according to requirements prescribed by law.

No Salvadorean may be expatriated, nor his entry into the Republic prohibited, nor may a passport or other documents of identification for his return be denied.

Art. 155. No one may be compelled to perform work or personal services without fair remuneration or without his full consent, except in case of public disaster or for other reasons specified by law.

Art. 156. The law may not authorize any act or contract which involves the loss or the irreparable sacrifice of human dignity or freedom, nor may it authorize agreements in which a person convenants his own proscription or exile.

Art. 157. The free exercise of all religions, without other restriction than that required by morals or the public order is guaranteed. No religious act shall serve as evidence of the civil status of persons.

Neither the clergy nor laymen may engage in political propaganda of any kind based on religious motives or making use of the religious beliefs of the people. Likewise, the laws of the State, its Government, or public officials may not be criticized at religious rites or sermons in places of worship.

Art. 158. Every person may freely express and disseminate his thoughts provided they are not injurious to morals or to the private lives of persons. The exercise of this right shall not be subject to previous examination, censorship, or bond; but anyone who violates the law thereby shall be liable for the offense committed.

Propaganda advocating anarchistic or anti-democratic doctrines is prohibited.

In no event may the press, its accessories, or any other material means devoted to the dissemination of thought be confiscated as an instrument of crime.

Public entertainment may be subjected to censorship in accordance with provisions of law.

Art. 159. Correspondence of every kind is inviolable; if intercepted it shall not be given credence nor accepted as evidence in any legal action, with the exception of cases of receivership and bankruptcy.

Art. 160. The inhabitants of El Salvador have the right to assemble and to meet peacefully, without arms, for any lawful purpose.

The establishment of convents and any form of monastic institution is prohibited.

The functioning of international or foreign political organizations is likewise prohibited, excepting those which by peaceful means advocate Central American union or hemispheric or universal cooperation on a basis of fraternity.

Art. 161. The juridical personality of the Catholic Church is recognized. Other churches may obtain recognition of their juridical personality in conformity with the law.

Art. 162. Every person has the right to address written petitions to the

legally constituted authorities, if they are made in a decorous manner; and to have such petitions acted upon and to be informed of the results thereof.

Art. 163. All the inhabitants of El Salvador have the right to be protected in the preservation and defense of their life, honor, liberty, labor, property and possessions.

Indemnification is established, in conformity with the law, for damages of a moral nature.

Art. 164. No person may be deprived of his life, liberty, property, or possessions, except after being tried and sentenced in accordance with provisions of law; nor shall anyone be tried twice for the same offense.

Every person has the right of *habeas corpus* before the Supreme Court of Justice or the Chambers of Second Instance not sitting in the capital, whenever any authority or individual illegally restricts his freedom.

Art. 165. Examination or search of the person shall only be made to prevent or investigate crimes or offenses.

The home is inviolable; it may not be entered except in case of fire or for analagous reasons, for the investigation of crimes and the pursuit of offenders and for sanitary purposes, in the manner and under circumstances prescribed by law.

Art. 166. No power, authority, or official may issue orders for arrest or imprisonment except in conformity with the law, and such orders must always be in writing. If an offender is caught in the act, he may be detained by any person to be immediately delivered to a competent authority.

Detention for the purpose of investigation shall not last longer than three days, and the investigating court shall be bound to inform the prisoner in person of the reason for his detention, to hear his testimony, and to order either his release or provisional arrest, within the period stated.

For reasons of social protection, persons who, by their antisocial, immoral, or harmful acts reveal a dangerous tendency and constitute an imminent threat to society or individuals, may be subjected to reeducative or rehabilitating security measures. Such security measures must be strictly regulated by law and subject to the jurisdiction of the Judicial Power.

Art. 167. The Judicial Power has the sole authority to impose punishments. However, the administrative authority may punish violations of the laws, regulations, or ordinances, by imprisonment up to fifteen days or by fine, and if the latter is not paid, the penalty may be changed to imprisonment up to a maximum of thirty days.

Art. 168. The death penalty may be imposed only for the crimes of rebellion or desertion in the field of battle, treason and espionage, and for the crimes of parricide, murder, and for robbery or arson if they result in a death.

Imprisonment for debt, life imprisonment, infamous punishments, proscriptive penalties, and any form of torture are prohibited.

The State shall organize the penitentiaries with the aim of reforming offenders, educating them, and teaching them industrious habits, looking toward their rehabilitation and the prevention of crime.

Art. 169. No person shall be tried under a law which was not promulgated prior to the commission of the offense in question, or by a court which was not previously established by law.

Art. 170. The same judge shall not try the same case in its different instances.

Art. 171. No power or authority may assume jurisdiction of a case pending before the courts or reopen terminated cases.

In the event of a reversal of sentence in a criminal case, the State shall pay an indemnity, in conformity with the law, to the victims of duly proven judicial errors.

Art. 172. The laws may not have retroactive effect except in matters of public order and in penal matters if the new law is favorable to the offender.

Art. 173. Every person has the right to dispose of his property freely, according to law. Property is transferable in the manner and form prescribed by the laws. Property may be disposed of freely by will.

Art. 174. The freedom to make contracts in conformity with the laws is guaranteed.

No person who has the free administration of his property may be deprived of the right to settle his civil or commercial affairs by compromise or arbitration. As to persons who do not have this free administration, the law shall fix the cases and requirements by which this may be done.

Art. 175. The right of insurrection, which is recognized by this Constitution, shall in no case produce abrogation of the laws; its effects shall be limited to the removal of officials, whenever necessary, until they are replaced in legal form.

Art. 176. In the event of war, invasion, rebellion, sedition, catastrophe, epidemic or other general disaster, or serious disturbances of the public order, the guaranties established in articles 154, 158 paragraph one, 159, and 160 of this Constitution may be suspended, except for meetings or assemblies for cultural or industrial purposes. Such suspension may be put in effect in the whole or a part of the territory of the Republic and may be accomplished by a decree of the Legilastive Power or of the Executive Power, as the case may be.

The period of suspension of constitutional guaranties may not exceed thirty days. When this period has elapsed the suspension may be prolonged for a like period by a new decree, if the circumstances which caused it continue. If such new decree is not issued, the suspended guaranties are thereby legally re-established.

Art. 177. The Executive Power, on the advice of the Council of Ministers, may decree the suspension of guaranties when the Legislative Assembly is in adjournment. Such a decree shall include, by implication, the convocation of the Assembly within the next forty-eight hours to approve or disapprove the decree.

When a suspension of constitutional guaranties has been declared, the military tribunals shall have jurisdiction in trying cases of treason, espionage, rebellion, sedition, and other offenses against the peace or independence of the State or against the Law of Nations.

Cases which are pending before the regular court at the time constitutional guaranties are suspended shall continue under the jurisdiction of such courts.

When constitutional guaranties are reestablished, the military tribunals shall continue the trials of cases pending before them.

Art. 179. Whenever the circumstances which gave rise to the suspension of constitutional guaranties no longer exist, the Legislative Assembly must reestablish such guaranties, but if it has adjourned, the Executive Power shall order their reestablishment.

TITLE XI

SOCIAL RIGHTS

Chapter I

The Family

Art. 180. The family, as the fundamental basis of society, shall have the special protection of the State, which shall enact the necessary laws and regulations for its betterment, for encouraging marriages and for the protection and aid of mothers and children. Marriage is the legal basis of the family and rests on the juridical equality of the spouses.

The State shall protect the physical, mental, and moral health of minors and guarantee their right to education and assistance. Juvenile delinquency shall be subject to a special legal system.

Art. 181. Children born in or out of wedlock, and adopted children, shall have equal rights with respect to education, assistance, and parental care.

Records of the civil register shall make no mention of the nature of filiation, and birth certificates shall not mention the civil status of the parents.

The law shall prescribe the manner of investigating paternity.

Chapter II

Labor and Social Security

Art. 182. Labor is a social function. It enjoys the protection of the State, and is not regarded as an article of commerce.

The State shall employ all resources at its disposal to provide employment for manual or intellectual workers and to ensure to them and their families the economic conditions for a dignified existence.

Suitable measures shall be enacted to prevent and suppress vagrancy.

Art. 183. Labor shall be regulated by a Labor Code, the principal purpose of which shall be to attain harmony in relations between capital and labor, and it shall be based on general principles directed toward better living conditions for workers, and especially the following:

(1) In the same enterprise or establishment and under identical circumstances, equal work must receive equal remuneration regardless of sex, race, creed or nationality.

(2) Every worker has the right to earn a minimum wage which shall be fixed periodically. In fixing this wage attention shall be given primarily

to the cost of living, the type of work, and to the various systems of remuneration. This wage must be sufficient to satisfy the normal home needs of a worker in their material, moral and cultural aspects.

For piece work and work paid by the job or on a percentage basis, it is compulsory to ensure a minimum wage per day of work.

(3) Wages and social benefits, to the amount stipulated by law, are unattachable and may not be substituted or withheld, except for obligations of support. Amounts also may be withheld for social security obligations, union dues, or taxes.

A worker's tools are unattachable.

(4) Wages must be paid in legal currency. Wages and social benefits constitute prior liens in relation to other credits that may exist against an employer.

(5) Employers shall give their workers a bonus for each year of labor. The law shall prescribe the manner of determining the amount in relation to wages.

(6) Ordinary effective daytime work shall not exceed eight hours and the work week shall not exceed forty-eight hours.

The maximum hours of overtime for each type of labor shall be determined by law.

The number of hours of night work and work in dangerous or unhealthful tasks shall be less than for daytime work and shall be regulated by law.

The limitation on working hours shall not apply in cases of *force majeure*.

The law shall determine the extent of interruptions in working hours when, for biological reasons, the rythm of work so demands, and for work which must cover two days.

Overtime and night work shall receive extra remuneration.

(7) Every worker has the right to a day of rest with pay during each work week, in the form prescribed by law.

Workers who do not receive a day of rest in the period indicated, shall be entitled to extra remuneration for services rendered on such days, and to compensatory leave.

(8) Workers shall be entitled to leave with pay on holidays designated by law; the law shall specify the classes of work for which this provision shall not apply, but in such cases, workers shall have the right to extra remuneration.

(9) Every worker shown to have rendered a minimum of services during a given period, shall be entitled to an annual paid vacation in the form to be prescribed by law. Vacations may not be replaced by money and a worker has an obligation to take a vacation the same as the employer has the obligation to grant it.

(10) Minors under fourteen years of age, and those who are older but subject to compulsory education required by law, may not be employed in any type of work. Their employment may be authorized if this is considered indispensable for the maintenance of the worker or his family provided that this will not prevent compliance with the minimum requirements of compulsory education.

Working hours for persons under sixteen may not be more than six hours a day and thirty-six hours a week, in any kind of work.

Work by minors under eighteen and by women in dangerous or unhealthful work is prohibited. Night work is likewise prohibited for minors under eighteen years of age. The law shall specify what is dangerous and unhealthful work.

(11) An employer who dismisses a worker without just cause is compelled to pay compensation in conformity with the law.

Art. 184. Female workers shall be entitled to leave with pay before and after childbirth, and to retain their employment.

The laws shall regulate the obligation of employers to install and maintain beds and nurseries for the children of female workers.

Art. 185. Employers are required to pay compensation, to provide medical and pharmaceutical services and others established by law for workers who are victims of work accidents or any occupational disease.

Art. 186. The law shall specify what enterprises and establishments, due to special conditions, are required to provide a worker and his family with suitable housing, schools, medical assistance, and other services and attention necessary for their well-being.

Art. 187. Social security is a public service compulsory in character. The law shall regulate the scope, extent, and form in which it is to be put in effect.

Employers, workers, and the State shall contribute to the payment of the insurance quotas.

The State and employers shall be exempt from the obligations imposed by law in behalf of workers, to the extent that the latter are covered by social insurance.

Art. 188. Contracts of apprenticeship shall be regulated by law, in order to ensure that the apprentice shall receive training in a trade or occupation, decent treatment, equitable remuneration, and welfare and social security benefits.

Art. 189. Home workers have the right to an officially designated minimum wage, and to the payment of compensation for time lost by reason of an employer's delay in ordering or receiving work or for arbitrary or unjustifiable suspension of work. Workers at home shall be recognized as having the same legal status as that of other workers, taking into consideration its special characteristics.

Art. 190. Agricultural and domestic workers have the right of protection with respect to wages, working hours, leaves, vacations, compensation for dismissal, and to social benefits in general. The nature and extent of the aforementioned rights shall be determined according to the conditions and peculiarities of the work involved. Persons who perform services that are domestic in character in industrial, commercial, social, and similar enterprises shall be considered as manual workers and shall have the rights granted to this class of workers.

Art. 191. The law shall regulate the terms under which labor contracts and collective agreements shall be concluded. The stipulations contained in such contracts shall be applicable to all workers in the enterprises that sign them, even if they do not belong to the contracting union, and also to other workers who enter such enterprises while the contracts or agreements are in effect. The law shall establish the procedure by which working conditions in different economic activities may be made uniform, on the basis of provisions contained in the majority of contracts and collective agreements in force in each type of activity.

Art. 192. Employers, private employees and workers, without distinction as to nationality, sex, race, creed, or political beliefs, have the right to associate freely for the protection of their respective interests, by forming professional associations or trade unions.

These organizations are entitled to juridical personality and to due protection in the exercise of their functions. Their dissolution or suspension may be ordered only in those cases and according to formalities specified by law.

The conditions adopted for the basis and form of the constitution and functioning of professional and trade union organizations must not restrict the freedom of association.

Members of the boards of directors of trade unions must be Salvadoreans by birth; and during the period of their election and term of office they may not be dismissed, transferred, or their working conditions reduced, except for justifiable cause approved by competent authority.

Art. 193. Workers have the right to strike and employers the right to suspend work. The law shall regulate these rights with respect to their exercise and conditions.

Art. 194. A special jurisdiction is established for labor. Procedure in labor matters shall be regulated in a manner which will permit a rapid settlement of disputes.

The State is under obligation to promote conciliation and arbitration as a means of peaceful solution of collective labor disputes.

Art. 195. The law shall regulate the conditions to be met by workshops, factories and working premises.

The State shall maintain a technical inspection service charged with seeing that legal regulations for labor, assistance, welfare, and social security are strictly complied with, verifying results, and suggesting pertinent reforms.

Art. 196. The rights given to workers cannot be renounced, and the laws which recognize them bind and benefit all inhabitants of the territory.

The enumeration of the rights and benefits to which this chapter refers, does not exclude others that are derived from principles of social justice.

Chapter III

Culture

Art. 197. The preservation, promotion, and dissemination of culture is an obligation and primary aim of the State.

Education is an essential power and duty of the State, which shall organize the educational system and create such institutions and services as are necessary.

Art. 198. Education must be directed toward the full development of the personality of those being educated in order that they may lend constructive cooperation to society; to inculcate a respect for the rights and duties of man; to combat any spirit of intolerance and hatred; and to promote the ideal of unity of the peoples of Central America.

There must be articulation and continuity in all stages of education which will embrace its intellectual, moral, civic, and physical aspects.

Art. 199. All inhabitants of the Republic have the right and duty to receive a basic education which will enable them conscientiously and effectively to fulfil their role as workers, parents and citizens. Basic

education shall include the primary grades, and when provided by the State it shall be free.

Art. 200. Literacy is a matter of social interest. All inhabitants of the country shall contribute toward it in the manner prescribed by law.

Art. 201. Teaching in official establishments shall be by laymen.

Private educational centers shall be subject to regulation and inspection by the State.

The State may assume charge, exclusively, of the training of teachers.

Art. 202. No educational establishment may refuse to accept students by reason of the marital status of their parents or guardians, or for social, racial, or political differences.

Art. 203. Qualifications to engage in teaching shall be determined by law.

In all schools, public or private, the teaching of history, civics, and the Constitution must be given by teachers who are Salvadoreans by birth.

Academic freedom is guaranteed.

Art. 204. The artistic, historic, and archeological wealth of the country form a part of the cultural heritage of El Salvador, which shall be under the safeguard of the State and subject to special laws for its preservation.

Art. 205. The University of El Salvador is autonomous in its teaching, administrative and financial aspects, but must perform a social service. It shall be governed by statutes based on a law which shall establish the general principles for its organization and functioning.

The State shall contribute toward ensuring and increasing the assests of the University and shall annually include items in the budget for its maintenance.

Chapter IV

Public Health and Social Assistance

Art. 206. The health of the inhabitants of the Republic constitutes a public good. The State and individuals are under obligation to see to its preservation or restoration.

Art. 207. The State shall give free assistance to indigents who are ill, and to the inhabitants in general when the treatment constitutes an effective means of preventing the dissemination of a transmissible disease. In the latter case every person is bound to submit to such treatment.

Art. 208. The public health services shall be essentially technical.

A sanitary and health career service is established for trained personnel.

Art. 209. A Superior Council of Public Health shall oversee the health of the people. It shall be composed of an equal number of representatives of the medical, dental and pharmaceutical professions and shall have a President and Secretary appointed by the Executive Power, who shall not be members of those professions. The Law shall prescribe its organization.

The practice of the professions which immediately relate to the health of the people shall be supervised by legal organizations formed by members of each profession. These organizations shall have the power to suspend

the professional practice of members of the professions under their control, if such practice is manifestly immoral or incompetent.

The Superior Council of Public Health shall hear in final instance the decisions rendered by the organizations referred to in the preceding paragraph. Professional suspensions may be decided by the competent organizations merely on the moral force of the evidence.

Art. 210. The State shall assume charge of indigents who because of their age or physical or mental incapacity are unable to work.

TITLE XII

RESPONSIBILITY OF PUBLIC OFFICIALS

Art. 211. Every official, whether civil or military, shall, before taking possession of his office, swear on his word of honor to be faithful to the Republic, to comply with and enforce the Constitution and to abide by its provisions notwithstanding any laws, decrees, orders, or resolutions to the contrary, and promise likewise strictly to fulfill the duties imposed by his office, for the violation of which he shall be responsible under the law.

Art. 212. The President and Vice President of the Republic, the Designates to the Presidency, the Ministers and Under-Secretaries of State, the Magistrates of the Supreme Court of Justice and of the Chambers of Second Instance, the President and Magistrates of the Court of Accounts of the Republic, the Attorney General of the Republic, the Defender General of the Poor, members of the Central Election Council and of the Superior Council of Public Health, and diplomatic representatives, shall be liable before the Legislative Assembly for official and ordinary offenses committed by them.

The Assembly, after hearing an accusing member and the accused official or special defender, as the case may be, shall declare whether there are or not grounds for a trial. In the former event, the case is sent to the Chamber of Second Instance specified by law, for a trial in first instance, and in the latter event, the case is dropped. The decisions rendered by the aforementioned Chamber will be passed upon in second instance by one of the sections (Salas) of the Supreme Court of Justice, and in cassation by the full court.

Any person has the right to denounce offenses with which this article is concerned, and to appear as a party if he has the qualifications required by law.

Art. 213. The preceding article shall apply to Deputies of the Legislative or Constituent Assemblies for official offenses they commit, and for ordinary offenses they will be tried in accordance with the provisions of article 44 of this Constitution.

Art. 214. Judges of First Instance, Departmental Governors, Justices of Peace and other officials specified by law shall be tried for official offenses in the ordinary courts after issuance of a statement by the Supreme Court of Justice that there are grounds for trial. The aforementioned officials shall be subject to ordinary procedure for ordinary crimes and offenses they commit.

Art. 215. As soon as the Legislative Assembly or the Supreme Court

of Justice delcares that a trial should be held, the offender shall be suspended from the exercise of his functions and may not continue in his position for any reason whatever. If he does, he shall be guilty of the crime of usurpation of authority. If convicted, he shall thereby be dismissed from the service. If acquitted, he shall resume the exercise of his functions, if the position is one that runs for a definite period and the term of office by election or appointment has not expired.

Art. 216. Public officials who have knowledge of official offenses committed by officials or employees subordinate to them must notify the competent authorities as soon as possible so that they may be tried, and if such notice is not given in due time the officials concerned will be considered guilty as accessories after the fact, and will incur the corresponding penal liabilities.

Art. 217. Public officials and employees who enrich themselves at the expense of the public or municipal treasury without justifiable cause, shall be bound to make restitution to the State or Municipality whatever they have illegally acquired, without prejudice to criminal liability that may have been incurred according to law.

Unlawful enrichment is presumed if the increase in the capital of the official or employee, from the date when he took possession of his office to the date when his functions ceased, is noticeably higher than would be normal for the wages or salary legally received and the increases in capital or income from any other justifiable source. In determining the increase, the capital and income of the official or employee, his spouse, and children shall be considered jointly.

Certain officials and employees specified by law are required to declare their financial status before the Supreme Court of Justice, in accordance with the preceding paragraphs, within sixty days after taking possession of their office. The Court has the authority to take such steps as it deems necessary to verify the truth of the declaration, shall keep it on file, and may make use of it solely for the purposes indicated in this article. When the term of office of such officials or employees ends they must make a new declaration of their financial status.

Trials for enrichment without due cause may only be initiated within two years following the date when the official or employee ended the term of office concerned.

Art. 218. The statute of limitations for official crimes and offenses follows general rules, and shall commence to run from the date the guilty official terminated his functions.

Art. 219. Notwithstanding approval given by the Legislative Power to official acts in those cases required by this Constitution, officials who have intervened in such acts may be prosecuted for official offenses as long as the period designated by the statute of limitations has not expired.

The approval of reports and accounts that are submitted to the Legislative Power gives no greater validity to the acts and contracts to which they refer than they have according to law.

Art. 220. The violation, infraction or alteration of constitutional provisions shall be specially punished by law; and the offenses incurred by

officials in such cases admit of no amnesty, commutation, or pardon during the presidential term in which they were committed.

TITLE XIII

SCOPE, APPLICATION AND AMENDMENT OF THE CONSTITUTION

Art. 221. The principles, rights, and obligations established by this Constitution may not be altered by laws which regulate their exercise.

The Constitution shall prevail over all laws and regulations. The public interest shall come before private interest.

Art. 222. Any person may seek protection before the Supreme Court of Justice for the violation of rights granted by this Constitution.

Art. 223. Amendment of this Constitution may be initiated only by a vote of two thirds of the elected representatives of the Legislative Assembly. In the resolution which is adopted the article or articles to be amended must be indicated and included in the corresponding proposal. The resolution and proposed amendment shall be published in the Diario Oficial and shall be taken under consideration in the following Legislative Assembly. If the latter ratifies them, a Constituent Assembly shall be convoked to enact the amendments if it so agrees.

Art. 224. The Constitutions and Constitutional Laws which have been in effect in El Salvador, and Decree No 6 of the Revolutionary Council of Government of December 20, 1948 are hereby repealed.

TITLE XIV

TRANSITORY PROVISIONS

Art. 225. A special law enacted by this Assembly shall contain the transitory provisions that are necessary to put into effect the juridical order established by the present Constitution.

Art. 226. This Constitution shall take effect on the fourteenth day of September in the year 1950.

Done in the National Palace: San Salvador, September 7, 1950

REYNALDO GALINDO POHL
President
Deputy of the Department Sonsonate

(The signatures of the Vice Presidents, Secretaries and other Deputies follow).

TO BE PUBLISHED

(Signatures of the members of the Revolutionary Council of Government, and the Ministers and Under-Secretaries of State follow).

DECREE NO. 15

The National Constituent Assembly, in accordance with the provisions of article 225 of the Constitution of the Republic, enacts the following

TRANSITORY LAW FOR THE APPLICATION OF THE CONSTITUTIONAL SYSTEM

Art. 1. During the presidential term which is to begin on September 14, 1950, there shall be no Vice President of the Republic. If for any legal reason the President of the Republic shall be unable to serve, during the aforementioned term, he shall be replaced by the corresponding Designate to the Presidency, as provided in article 64 of the Constitution.

Art. 2. The provisions of Chapter III, Title IV of the Constitution, which change the structure of the Supreme Court of Justice, abolish the third instance in judicial procedure, and establish the recourse of cassation, shall take effect when the respective enabling laws are enacted, or at the latest within three years after the date the Constitution takes effect. In the meantime, the organization and procedure now in effect shall be maintained.

Art. 3. Until the Labor Code is promulgated, the matters dealt with in Chapter II, Title XI of the Constitution shall be regulated by special laws, and laws governing them at present shall continue in effect. The subordinate organs of the Executive Power that have jurisdictional authority over labor matters shall continue to exercise such authority until the labor courts established by the Constitution are created.

Art. 4. The present members of the Judicial Power and of the Court of Accounts of the Republic shall continue in office until the respective elections and appointments have taken place in accordance with the Constitution.

Art. 5. Within two years from the date when the Constitution takes effect elections shall be held for members of the Municipal Bodies. Until that time, these officials shall be appointed by the Executive Power.

Art. 6. The provisions concerning the Public Ministry shall take effect on January 1, 1951.

Art. 7. The laws and regulations now in effect, in so far as they do not conflict with the carrying out of the provisions of the Constitution and of this present law, and unless they are repealed or amended, must continue to be complied with.

Art. 8. The present law shall take effect as of September 14, 1950.

Done in the National Palace: San Salvador, September 7, 1950.

REYNALDO GALINDO POHL
President

Followed by the signatures of Deputies, etc.

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ETHIOPIA

SUMMARY

International Status

Ethiopia is a member of the United Nations. It signed the Charter of that organization in San Francisco on June 27, 1945.

Ethiopia was invaded by Italy in 1934 and was annexed to Italy in 1936, remaining so until 1941. In 1941 it was occupied by British forces and was re-established as a sovereign nation. Under an Anglo-Ethiopian Treaty, British and Imperial troops were withdrawn, except those defending certain strategic points.

It joined the League of Nations in 1923. It signed the Statute of the old Permanent Court of International Justice on July 12, 1926 and de-

posited its ratification on July 16, 1926.[1] It was a party to the Paris Treaty of 1928 for the renunciation of war. It is a member of various international organizations.[2]

Form of National Government

The Constitution of 1931 was suspended during the Italian occupation and restored in 1942. A new Constitution is in the course of being drafted which will embody a thoroughgoing revision of the 1931 Constitution and provide for the federation with Eritrea. Federation occurred in accordance with a Resolution of the General Assembly of the United Nations, recommending that Eritrea (which had been an Italian colony prior to World War II) be an autonomous unit, federated with Ethiopia, under the sovereignty of the Ethiopian crown. On September 15, 1952, the British administration handed over sovereignty of Eritrea to Ethiopia.

Area, Population, Language

The federation of Ethiopia and Eritrea has an area of approximately 395,000 square miles and an officially estimated (1953) population of 16,000,000. The Statesman's Yearbook of 1953 considers eight to ten million a more probable estimate. The Coptic branch of Christianity is the religion of the imperial family and is the dominant religion of Ethiopians and Eritreans. Mohammedanism prevails in the northwest and in most parts of the perimeter of the country. The official language is Amharic. Galla is spoken by a large proportion of the population.

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[1] It adhered to the optional clause regarding obligatory jurisdiction (Article 36) on the sole condition of reciprocity for limited periods. Ethiopia is not at the time of our going to press deemed to be subject to the obligatory jurisdiction of the International Court of Justice; though it is, of course, a party to the 1945 Statute by virtue of its membership in the United Nations. See Art. 93 of the U. N. Charter. See also Yearbook of the Court, 1951-52, pp. 35–43.

[2] See Table I.

THE CONSTITUTION OF ETHIOPIA

Established in the Reign of His Majesty Haile Selassie I, July 16, 1931[1]

Chapter I

The Ethiopian Empire and the Succession to the Throne

Art. 1. The territory of Ethiopia, in its entirety, is, from one end to the other, subject to the government of His Majesty the Emperor. All the natives of Ethiopia, subjects of the empire, form together the Ethiopian Empire.

Art. 2. The imperial government assures the union of the territory, of the nation and of the law of Ethiopia.

Art. 3. The law determines that the imperial dignity shall remain perpetually attached to the line of His Majesty Haile Selassie I, descendant of King Sahle Selassie, whose line descends without interruption from the dynasty of Menelik I, son of King Solomon of Jerusalem and the Queen of Ethiopia, known as the Queen of Sheba.

Art. 4. The throne and the crown of the empire shall be transmitted to the descendants of the Emperor pursuant to the law of the imperial house.

Art. 5. By virtue of his imperial blood, as well as by the anointing which he has received, the person of the Emperor is sacred, his dignity is inviolable and his power indisputable. He is consequently entitled to all the honors due to him in accordance with tradition and the present Constitution. The law decrees that anyone so bold as to seek to injure His Majesty the Emperor will be punished.

Chapter II

The Powers and Prerogatives of the Emperor

Art. 6. In the Ethiopian Empire supreme power rests in the hands of the Emperor. He ensures the exercise thereof in conformity with the established law.

Art. 7. The Emperor of Ethiopia will institute the Chamber of the Senate (Yeheggue Mewossegna Meker Beth) and the Chamber of Deputies (Yeheggue Memriya Meker Beth). The laws prepared by those chambers become executory by imperial promulgation.

Art. 8. It is the Emperor's right to convene the deliberative chambers and to declare the opening and close of their sessions. He may also order their convocation before or after the usual time.

Art. 9. When the chambers are not sitting, the Emperor has the right

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[1] The text used is that of the official translation into English. A copy of the translation was received by the editor from the American Minister to Ethiopia in January, 1948

in case of necessity to promulgate decrees taking the place of laws, so as to maintain order and avert public dangers. The law determines that these decrees shall in due course be presented to the chambers at their first subsequent meeting, and that they shall be abrogated for the future if the chambers do not approve of them.

Art. 10. The Emperor shall give the necessary orders to ensure the execution of the laws in force, according to the letter and the spirit thereof, for the maintenance of public order and for the development of the prosperity of the nation.

Art. 11. The Emperor shall decide the organization and regulation of all administrative departments. It is the Emperor's right to appoint and dismiss officers in the Army as well as civil officials, and to decide their respective functions and salaries.

Art. 12. The right of declaring war and concluding peace is legally reserved to the Emperor.

Art. 13. It is the Emperor's right to decide what armed forces shall be maintained, both in time of peace and in time of war.

Art. 14. The Emperor has legally the right to negotiate and sign all kinds of treaties.

Art. 15. The Emperor has the right to confer the title of prince and other honors, to establish personal estates (reste-guelt), and to institute new orders.

Art. 16. The Emperor has the right to grant pardons, commute penalties, and to reinstate.

Art. 17. If the Emperor is incapable, either by reason of age or sickness, of dealing with the affairs of State, a regent of the empire may be appointed, pursuant to the law of the imperial house, in order to exercise the supreme power on the Emperor's behalf.

Chapter III

The Rights Recognized by the Emperor as Belonging to the Nation, and the Duties Incumbent on the Nation

Art. 18. The law specifies the requisite conditions for the status of Ethiopian subjects.

Art. 19. All Ethiopian subjects, provided that they comply with the conditions laid down by law and the decrees promulgated by the Emperor, may be appointed officers in the army or civil officials, or to any other posts or offices in the service of the State.

Art. 20. All members of the Ethiopian army owe absolute loyalty and obedience to the Emperor, in conformity with the provisions of the law.

Art. 21. The nation is bound to pay legal taxes.

Art. 22. Within the limits laid down by the law, Ethiopian subjects have the right to pass freely from one place to the other.

Art. 23. No Ethiopian subject may be arrested, sentenced, or imprisoned except in pursuance of the law.

Art. 24. No Ethiopian subject may, against his will, be deprived of his right to be tried by a legally established court.

Art. 25. Except in cases provided for by law, no domiciliary searches may be made.

Art. 26. Except in cases provided by the law, no one shall have the right to violate the secrecy of the correspondence of Ethiopian subjects.

Art. 27. Except in cases of public necessity determined by the law, no one shall have the right to deprive an Ethiopian subject of any movable or landed property which he owns.

Art. 28. All Ethiopian subjects have the right to present to the Government petitions in legal form.

Art. 29. The provisions of the present chapter shall in no way limit the measures which the Emperor, by virtue of his supreme power, may take in the event of war or public misfortunes menacing the interests of the nation.

Chapter IV

The Deliberative Chambers of the Empire

Art. 30. The deliberative chambers of the empire are the two following:

(*a*) The first: Chamber of the Senate,
(*b*) The second: Chamber of Deputies.

Art. 31. The members of the Senate shall be appointed by His Majesty the Emperor from among the dignitaries (Mekuanent) who have for a long time served his empire as princes or ministers, judges or army leaders.

Art. 32. As a temporary measure until the people are capable of electing them themselves, the members of the Chamber of Deputies shall be chosen by the dignitaries (Mekuanent) and the local chiefs (Shumoch).

Art. 33. A person who has been appointed a member of the Senate may not, during the same parliamentary session, become a member of the Chamber of Deputies, and a person who has been chosen as a member of the Chamber of Deputies may not, during the same parliamentary session, become a member of the Senate.

Art. 34. No law shall be put into force without having been discussed by the chambers and having received the confirmation of the Emperor.

Art. 35. The members of the Chamber of Deputies are legally bound to receive and discuss proposals transmitted to them by the ministers of the various departments. However, when the deputies have an idea which might be of use to the empire or to the people, the law reserves to them the right of communicating it to the Emperor through their president, and the chamber shall discuss the subject if the Emperor consents thereto.

Art. 36. Each of the two chambers shall have the right to express separately its opinion to His Majesty the Emperor on a question relating to legislation or on any other matter whatsoever. If however the Emperor does not accept this opinion, the chambers may not reconsider the question in the same parliamentary session.

Art. 37. The two chambers shall be convened annually and shall sit for six months. If need be, the Emperor may prolong a session.

Art. 38. The chambers may be convened in extraordinary session,

should the necessity arise. In such case, it is for the Emperor to fix the duration of such session.

Art. 39. The opening and closing, and the duration of sessions and recesses shall be fixed identically in respect of the two Chambers. If the Chamber of Deputies is dissolved, the Senate will adjourn its session until later.

Art. 40. If the Emperor avails himself of his right to dissolve the Chamber of Deputies completely, he will arrange for a new Chamber to meet within four months.

Art. 41. Neither of the Chambers shall commence its deliberations or undertake a debate or a vote without two-thirds of its members being present.

Art. 42. If during the deliberations of the Chambers the votes are equally divided, the opinion of the group to which the President of the Chamber shall have adhered shall prevail.

Art. 43. The President of the Chamber will announce in advance whether the question forming the subject matter of the deliberations is of a public or of a secret nature.

If after a question has been declared to be secret, a member of the chamber makes it known to the public either in a speech, or by the press, or by writings or in any other way, he shall be punished according to the provisions of penal law.

Art. 44. The Emperor will establish in the form of a law the standing orders of the Senate and the Chamber of Deputies.

Art. 45. Except in cases of crime, judgment whereof cannot be deferred, no member of the Chamber of Deputies can be prosecuted at law while a parliamentary session is in progress.

Art. 46. If after deliberating an important matter, the two Chambers come to different conclusions, the Emperor, having received written statements of their conflicting opinions, will examine the reasons for their disagreement, and having come to a conclusion in the matter will seek a compromise likely to bring them to a final agreement, by selecting what he considers best in the two different conclusions.

In the event of it being impossible to reconcile the opinions of the two Chambers, the Emperor legally has the right of selecting and promulgating the opinion of one or of adjourning the matter.

Art. 47. Without first obtaining the consent of the Emperor, the Chambers may not call upon Ministers to assist at their deliberations. In the same way Ministers may not assist at meetings of the Chambers and take part in their deliberations, without first obtaining the consent of His Majesty.

Chapter V

The Ministers of the Empire

Art. 48. Ministers shall submit in writing to the Emperor their opinions on matters relating to their respective departments, and they are responsible for such opinions. Laws and decrees and all other acts emanating from the Emperor touching matters of State shall bear the

imperial signature; then the keeper of the seal (Tsahafi Teezaz) shall notify them under his signature to the appropriate minister.

Art. 49. If the Emperor asks the advice of his ministers on an important governmental question, they shall deliberate it together according to the regulations before submitting their opinion.

Chapter VI

Jurisdiction

Art. 50. Judges, sitting regularly, shall administer justice in accordance with the laws in the name of His Majesty the Emperor. The organization of the courts shall be regulated by law.

Art. 51. Judges will be chosen from men who have experience in legal matters.

Art. 52. Judges will sit in public. In cases which might affect public order or endanger public morals, they may sit, according to the law, in camera.

Art. 53. The jurisdiction of each court shall be fixed by law.

Art. 54. Special courts shall judge all matters relating to administrative affairs, which are withdrawn from the jurisdiction of other courts.

Chapter VII

The Budget of the Imperial Government

Art. 55. The law lays down that the receipts of the government treasury, of whatever nature they may be, shall only be expended in conformity with the annual budget fixing the sums to be at the disposition of each ministry. The annual budget shall be framed on the basis proposed by the minister of finance during deliberations in the Chamber of Deputies and in the Senate, whose resolutions shall be submitted for the approval of the Emperor.

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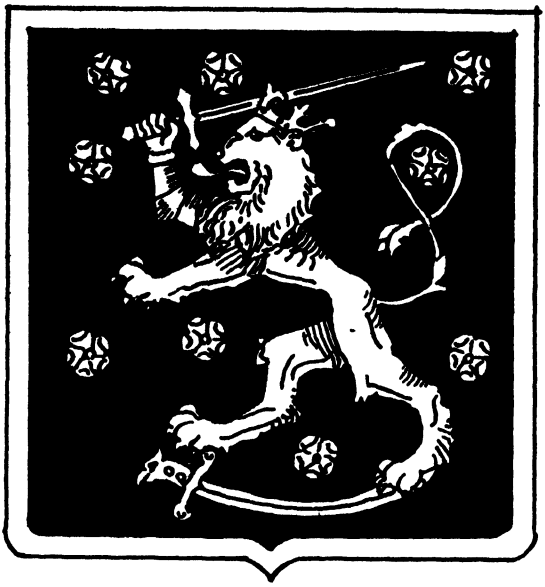
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FINLAND

SUMMARY

International Status

Finland is a member of the United Nations.[1] It is a member of other international organizations.[2] It joined the League of Nations in 1920, signed the Statute of the Permanent Court of International Justice June 28, 1921, and deposited its ratification April 6, 1922.[3]

After the invasion of Finland by Russia in 1939, Finland was a co-belligerent with Germany from 1941 to 1944. By the Armistice of 1944

[1] Application, first made in 1947, was approved December 14, 1955.

[2] See Table I.

[3] It adhered, on June 28, 1921, to the optional clause regarding obligatory jurisdiction (Article 36). It is not, at the time of our going to press, a party to the Statute of the International Court of Justice.

between Finland and the Soviet Union and Great Britain, Finland ceded to Russia the Petsamo area and leased to Russia for fifty years the Porkkala headland. A treaty of peace was signed February 10, 1947.

Finland had a loose association with Sweden from 1155 to 1600 and was an integral part of Sweden from 1600 to 1809. Following the Napoleonic wars, it was an autonomous grand duchy of the Russian Empire from 1809 to 1917. In 1917 Finland declared its independence, which was recognized by Russia under Trotzky on January 3, 1918, through action of the Council of Peoples Commissars and the Central Executive Committee in Petrograd. Its independence was recognized by France on January 4, 1918, by Sweden on January 5, 1918, and by Germany on January 6, 1918. Recognition followed by Norway, Denmark, Austria-Hungary, Holland, Switzerland, Bulgaria, Turkey and the Vatican City. Notwithstanding the favorable attitude of the Council of Peoples Commissars and the Central Executive Committee, fighting took place between Finnish and Russian forces during January, February and March, 1918. In April, 1918, a German expeditionary force landed in southern Finland.

A multilateral treaty of October, 1921, signed by Germany, Denmark, Estonia, Finland, France, the British Empire, Italy, Latvia, Poland, and Sweden provided for the renewal of neutrality of the Aland Islands.

Form of National Government

Finland adopted a fundamental statute, to "consolidate its constitution," by action of the Finnish Diet in 1919.[1] The 1919 Act declares that Finland is a Republic.[2]

Source of Sovereign Power

Sovereignty is declared to belong "to the people represented by their delegates assembled in Diet." [3]

Rights of the People

Finnish citizens are guaranteed equality before the law,[4] protection of life, honor, personal liberty, and property, protection of working faculties,

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[1] The Finland Year Book of 1939–40 states, however, that "there is no uniform written constitution of Finland." It states, further, that "the Finnish Constitution consists of the Form of Government adopted July 17, 1919, the Parliament Act passed on January 13, 1928, the law regarding the right of the Diet to scrutinize the legality of the official actions of members of the government and of the Chancellor of Justice, the law regarding the Court of State (the special court for trial of ministers accused of illegal acts), both passed in 1922, besides which the electoral law passed in 1935 and some other laws contain stipulations that are of importance to the Constitution." The Act of January 13, 1928 is reproduced here as well as the Form of Government Act of July 17, 1919.

[2] Form of Government Act, Art. 1. [3] Id. [4] Id., Art. 5.

protection against expropriations without compensation,[1] the right to sojourn freely in the country and choose a place of residence,[2] freedom of worship,[3] freedom of speech and of the press, freedom of assembly and to form associations,[4] inviolability of the domicile (but "domiciliary searches may be ordered and carried out" under conditions "determined by law"),[5] secrecy of postal, telegraphic, and telephonic communications.[6] Citizens are guaranteed the right to use their mother tongue, Finnish or Swedish, before courts of law and administrative authorities.[7] There is a prohibition against titles of nobility and other hereditary dignity.[8]

Legislative Department

The Diet is the legislative branch and is unicameral.[9] The two hundred representatives are elected by direct and proportional suffrage [10] for a term of three years.[11] All citizens who have reached the age of twenty-one years have the right to vote,[12] and all who have the right to vote are eligible to become deputies, with the exception of those in active military service.[13]

The duties, powers, and procedure of the Diet are set forth in the remainder of the Diet Act.

Executive Department

Supreme executive power is vested in the President of the Republic, who is assisted by a council of state consisting of a prime minister and other ministers.[14] The President is elected by the people for a term of six years through presidential electors and by secret ballot.[15] Decisions of the President, with certain exceptions, in order to be valid must be signed both by the President and by the minister who has reported upon the matter.[16] The council of state has a "chancellor of justice who must possess an eminent knowledge of the law." [17] The prime minister is chairman of the council of state.[18]

Judicial Department

Judicial power is exercised by independent tribunals, including a Supreme Court and a supreme administrative court.[19] The Chancellor of justice acts as a public prosecutor in the Supreme Court and in the Supreme Administrative Court.[20] The Supreme Court is the court of final resort in suits of law. It supervises "judges and executive authorities in

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[1] Form of Government Act, Art. 6. [2] Id., Art. 7. [3] Id., Art. 8.
[4] Id., Art. 10. [5] Id., Art. 11. [6] Id., Art. 12.
[7] Id., Art. 14. [8] Id., Art. 15. [9] Diet Act of 1928, Art. 2.
[10] Id., Art. 4. [11] Id., Art. 3. [12] Id., Art. 6.
[13] Id., Art. 7. [14] Id., Art. 2. [15] Id., Art. 23.
[16] Id., Art. 34. [17] Id., Art. 37. [18] Id., Art. 39.
[19] Id., Art. 2. [20] Id., Art. 46.

their administration of justice." [1] The supreme administrative court, with certain exceptions, is the court of last resort in cases of appeal involving administrative law.[2] There is a prohibition on the creation of any "extraordinary tribunal." [3] Members of the Supreme Court and of the supreme administrative court are appointed by the President of the Republic upon recommendation of members of those courts.[4]

Area, Population, Language

Finland has an area of 130,837 square miles, since the cession of 1940 to the USSR, and a population (1950 census) of 4,032,698. The national languages are Finnish and Swedish.[5]

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[1] Form of Government Act, Art. 53. [2] Id., Art. 60. [3] Id., Art. 59.
[4] Id., Art. 87. [5] Id., Arts. 14 and 22; see also Art. 88 of the Diet Act.

FORM OF GOVERNMENT OF FINLAND[1]

Adopted at Helsingfors, July 17, 1919

WHEREAS, Finland having become an independent and sovereign State, it has been deemed necessary to develop and consolidate its constitution by new statutes having the character of fundamental laws, which, while securing the necessary stability of the State, enlarge the powers of the national representation and guarantee the legal rights and liberties of the citizens; therefore, in conformity with the decision of the Diet, taken in accordance with the procedure prescribed in Article 60 of the organic law of the Diet of July 20, 1906, the following Form of Government for Finland is hereby sanctioned.

Chapter I

General Provisions

Art. 1. Finland is a sovereign Republic, its constitution being established by this Form of Government Act and by other fundamental laws.

Art. 2. Sovereign power in Finland belongs to the people represented by their delegates assembled in Diet.

Legislative power shall be exercised by the Diet in conjunction with the President of the Republic.

Supreme executive power is vested in the President of the Republic. Together with the President there shall be, for the general government of the State, a council of state consisting of a prime minister and the necessary number of ministers.

The judicial power shall be exercised by independent tribunals, and, in final instance, by the Supreme Court and the supreme administrative court.

Art. 3. The territory of the Republic of Finland shall be indivisible. Its boundaries cannot be modified except with the consent of the Diet.

Art. 4. Finnish citizenship belongs to every person born of Finnish parents and to every woman of foreign nationality who has married a Finnish citizen.

A citizen of another country may be admitted to Finnish citizenship in accordance with the conditions and procedure specially prescribed by law.

Chapter II

General Rights and Constitutional Protection of Finnish Citizens

Art. 5. Finnish citizens shall be equal before the law.

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[1] From the official English translation published by the Finnish Government in 1924; checked with the printer's proofs of forthcoming revised translation, by courtesy of the Finnish Minister in Washington, in 1947. See also the French version in Dareste, *Les Constitutions Modernes*, Vol. 1, p. 496.

Art. 6. Every Finnish citizen shall be protected by law as to life, honor, personal liberty, and property.

The working faculties of citizens shall be under the special protection of the State.

Expropriation for purposes of public utility with full compensation shall be regulated by law.

Art. 7. Every Finnish citizen shall have the right of sojourn in his country, of freely choosing his place of residence, and of traveling from one place to another, except where otherwise provided by law.

The right of Finnish citizens to leave the country is governed by special provisions.

Art. 8. Every Finnish citizen shall have the right to worship in public and in private in so far as he does not violate law or good morals; he shall be at liberty also, in conformity with the special regulations governing the matter, to leave the religious community to which he belongs as well as to join another such community.

Art. 9. The fact of belonging to any particular religious community or of not belonging to any such community shall have no influence upon the rights and duties of Finnish citizens. In respect to public posts and offices restrictions defined by law shall, however, remain in force until it be otherwise enacted.

Art. 10. Finnish citizens shall enjoy freedom of speech and the right of printing and publishing written or pictorial representations without any previous restraint being imposed. They shall also have the right of assembly without previous authorization, for the discussion of public affairs and for all other legitimate purposes, and the right of forming associations for purposes not contrary to law or good morals.

The rules governing the exercise of these rights shall be determined by law.

Art. 11. The domicile of Finnish citizens shall be inviolable.

The conditions under which domiciliary searches may be ordered and carried out shall be determined by law.

Art. 12. The secrecy of postal, telegraphic, and telephonic communication shall be inviolable, except when otherwise provided by law.

Art. 13. No Finnish citizen shall be tried by any other court than that which has jurisdiction over him in accordance with the law.

Art. 14. Finnish and Swedish shall be the national languages of the Republic.

The right of Finnish citizens to use their mother tongue, whether Finnish or Swedish, before the courts and the administrative authorities, and to obtain from them documents in such language, shall be guaranteed by law, so as to safeguard the rights of the Finnish population and the rights of the Swedish population of the country in accordance with identical principles.

The State shall provide for the intellectual and economic needs of the Finnish and Swedish populations in accordance with identical principles.

Art. 15. No title of nobility or other hereditary dignity shall be conferred in the Republic.

Art. 16. These provisions concerning the general rights of Finnish citizens shall constitute no obstacle to the establishment by law of restrictions which are necessary in time of war or insurrection, and, in respect to persons in the military or naval service, at any time.

Chapter III

Legislation [1]

Art. 17. The organization and the functions of the Diet are regulated by the Law of the Diet.

Art. 18. The right of proposing the enactment of a new law or the modification, interpretation, or repeal of a law in force shall belong both to the President and to the Diet.

The President of the Republic shall exercise his right of initiating laws by presenting proposals of law to the Diet. Proposals of law shall be drafted by the council of state. According to the nature of the matter, the opinion of the Supreme Court or of the supreme administrative court or of both those courts may be requested upon such proposals.

The exercise of the right of the Diet to initiate laws is determined by the Law of the Diet.

Art. 19. Laws adopted by the Diet shall be submitted to the President of the Republic for his sanction. The President may as to such laws request the opinion of the Supreme Court or the supreme administrative court or of both these courts, according to the nature of the matter.

The law must be sanctioned in the wording adopted by the Diet. If a law is not sanctioned by the President, it shall nevertheless come into force even without his sanction, if the Diet, after a new election, re-adopts it without alteration by a majority of votes cast. Otherwise the law shall be regarded as having lapsed.

If the President, within three months after a law has been submitted for his sanction, has not sanctioned it, this shall be regarded as a refusal of sanction.

Art. 20. In the preamble of every law it shall be stated that it has been enacted in conformity with the decision of the Diet, and, if the law has been enacted in accordance with the procedure required for the enactment of fundamental laws, this too shall be stated.

Every law, whether it be sanctioned or whether it come into force without the sanction of the President, shall be signed by the President and countersigned by the competent minister, after which it shall be published by the council of state in the statute book of Finland.

Art. 21. The right of the President to issue ordinances is determined by Article 28.

Art. 22. Laws and ordinances as well as proposed laws presented by the government to the Diet, and the replies, representations, and other documents addressed by the Diet to the government shall be drawn up in the Finnish and the Swedish languages.

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[1] See the Diet Act of 1928, *infra*, p. 878.

Chapter IV

Government and Administration

Art. 23. The President of the Republic shall be elected by the people of Finland from among the native born citizens of Finland each time for a term of six years.

The election of the President shall be made by three hundred presidential electors. In choosing these electors, the regulations in force for elections to the Diet shall be observed in respect to suffrage and eligibility, and, in so far as applicable, also to the mode of election, the procedure of voting, and the designation of deputy electors.

The election of electors shall take place on the fifteenth and sixteenth of January; and on the fifteenth of February following, the electors shall assemble under the chairmanship of the prime minister to elect the President. The vote shall be by secret ballot. If a candidate obtains more than half of the votes cast, he shall be declared elected; otherwise a new ballot shall immediately be taken, and if no candidate obtains an absolute majority this time, another ballot shall be taken between the two candidates who obtain the highest number of votes on the second count. In case of an equal number of votes the decision shall be by lot.

If a member of the Diet is elected President, his mandate as a member shall cease. A public functionary who is elected President shall be regarded as having resigned his office.

If a day fixed in paragraph 3 of this Article or elsewhere in this Form of Government Act falls upon a public holiday, the next following workday shall be substituted for it.

Art. 24. The President shall enter upon his duties on the first day of the month of March following his election, and in the presence of the Diet shall make at this time the following solemn vow:

> "I (full name), elected by the Finish people President of the Republic of Finland, do hereby vow that in the exercise of my presidential functions I will truly and faithfully obey and uphold the constitution and the laws of the Republic, and that I will to my utmost power promote the welfare of the Finnish people."

Art. 25. If the President is prevented from fulfilling his functions, these shall be exercised by the prime minister. If his disability is lasting, a new President shall be elected as soon as possible, who shall enter upon his duties immediately after the election.

Art. 26. For the exercise of his functions the President shall receive an annual remuneration, the amount of which shall be fixed by law, which amount shall be neither increased nor diminished during his term of office.

Art. 27. The President shall have power to convoke the Diet in extraordinary session, to issue orders for parliamentary elections, to open and close the sessions of the Diet, and to order new elections and dissolve the Diet.

Art. 28. In cases not otherwise provided for in this present Form of Government Act or, in case the right has not been vested in the council of state, the President shall have the right to issue ordinances upon matters

which have heretofore been regulated by administrative provisions, as well as ordinances containing detailed provisions for bringing laws into force, the administration of state property, and the organization and operation of administrative services and public institutions. Ordinances shall not contain any provision implying a modification of a law.

Ordinances shall be promulgated as provided in Article 20, paragraph 2, in respect to laws.

Art. 29. In particular cases the President may, after having taken the opinion of the Supreme Court, by the exercise of his prerogative of pardon, remit or reduce a penalty. In respect, however, to the pardoning of a member of the council of state or of the chancellor of justice, the existing special stipulations must be observed. A general amnesty may be granted only by a special law.

The President may also grant exemption from the requirements of the law in cases in which the law permits the granting of such exemption.

Art. 30. The President shall be commander-in-chief of the armed forces of Finland; he shall have power in time of war to transfer his command to another.

Art. 31. The President may grant Finnish citizenship to a citizen of another country and may release a Finnish citizen from his citizenship.

Art. 32. The President shall supervise the administration of the State, and for this purpose he may demand explanations from the directors or the governing boards of public departments and institutions, and order inspections to be made.

Art. 33. The President shall determine the relations of Finland with foreign powers, it being, however, provided that every treaty with a foreign power must be ratified by the Diet in so far as it contains stipulations falling within the domain of legislation, or if the constitution requires such ratification for other reasons. Decisions in respect to peace and war shall be taken by the President with the consent of the Diet.

Every communication with foreign powers or with the diplomatic representatives of Finland abroad must take place through the minister to whose department belongs the management of foreign affairs.

Art. 34. The decisions of the President shall be made in the council of state upon the report of the minister whose department the question involved concerns.

The decisions of the President, in order to be valid, must be signed by the President and countersigned by the minister who has reported upon the matter. This rule, however, shall not apply to the matters referred to in Articles 32 and 47.

If the decision of the President concerns the entire council of state, it shall be countersigned by the appropriate reporter of the council.

On the reporting of military questions concerning matters of command or appointments, and on the countersigning of the decisions of the President in such matters, special regulations shall be issued,

The countersigner of a decision of the President shall be responsible for the correct form of the document in which such a decision is published.

Art. 35. If a minister finds a decision of the President to be contrary

to law, he shall refer his opinion to the council of state, which shall thereupon proceed as is set forth in Article 45. If the decision is considered contrary to a fundamental law, the minister must refuse his countersignature.

Art. 36. The members of the council of state, who must enjoy the confidence of the Diet, shall be chosen by the President from among the citizens of Finland native born and known for their honesty and ability. The minister under whose jurisdiction affairs relating to the administration of justice are placed, and at least one other minister, must have legal training.

Art. 37. The council of state shall have a chancellor of justice who must possess an eminent knowledge of the law. The chancellor of justice shall have by his side an assistant chancellor of justice, who in case of need shall take his place.

Art. 38. The council of state shall include as many ministerial departments as are necessary for the different branches of administration. Each department shall be directed by a minister.

The number of ministerial departments and the general extent of their jurisdiction shall be fixed by law, but the detailed rules governing the apportionment of business among the departments and the organization of the council of state in other respects shall be decreed by ordinance.

Art. 39. The prime minister shall be chairman of the council of state; in case he is unable to attend, his place shall be taken by the minister present who is first in point of precedence. When the President of the Republic is present, he shall preside over the council.

Art. 40. The business of the council of state shall be conducted in plenary session, except in cases in which the decision of certain questions has been, by ordinance, committed to one of the ministers in his capacity as head of a department.

A quorum of the council shall consist of five members.

Art. 41. The council of state shall execute the decisions of the President and decide on matters which according to the law fall within its competence, as well as on other questions of government and administration which have not, in the present Form of Government Act or in any other law or ordinance, been either reserved for the President or committed to a minister in his capacity as head of a department, or to an inferior authority.

The extent to which matters relating to the administration of justice, the University of Helsingfors, and military organization are withdrawn from the competence of the council of state is defined by special regulations.

Art. 42. If the council of state is in doubt as to its competence definitely to decide any matter, the President of the Republic shall settle this question of competence.

Art. 43. The members of the council of state shall be responsible to the Diet for their conduct of affairs.

Every member of the council of state who has taken part in the settlement of any matter by the council shall be responsible for the decision

reached, unless he shall have expressed a different opinion recorded in the minutes.

Art. 44. The questions considered by the council of state must have been prepared by the competent department.

Each ministerial department shall supervise the administration within its own sphere of authority, and shall take measures to enforce the laws, ordinances and decisions of the council.

Art. 45. If it happens that a decision of the President which has been presented to the council of state for execution, is found to be contrary to law, the council, after taking the opinion of the chancellor of justice, shall address to the President a representation that he withdraw or modify his decision, and, if the President nevertheless adheres to his decision the council must declare that the decision cannot be enforced.

Art. 46. The chancellor of justice must see that the authorities and functionaries comply with the law and perform their duties so that no person shall suffer injury to his rights.

It shall be the duty of the chancellor of justice to act as public prosecutor in the Supreme Court and in the supreme administrative court, and generally to guard the interests of the State in these courts, as well as to institute prosecutions in other tribunals, or cause them to be instituted, when he shall deem it necessary. In his capacity as supreme public prosecutor, the chancellor of justice must also exercise supervision over other public prosecutors, and these must comply with his decisions.

The chancellor of justice shall have the right to be present at the sessions of the council of state as well as of all tribunals and public departments, and shall have access to the minutes of the council of state and of the ministerial departments, tribunals, and other authorities.

Art. 47. If the council of state or one of its members act in a manner contrary to the law in the exercise of their functions, it is incumbent upon the chancellor of justice to make a representation upon the subject, and at the same time to indicate in what respect the act is illegal. If no heed is taken of such representation, the chancellor of justice shall have his opinion entered on the minutes of the council of state, and shall also have the right to advise the President in respect to it. If the illegality is such as to render a member of the council of state liable to prosecution before the high court mentioned in Article 59, and if the President orders such a prosecution to take place, it shall be carried out by the chancellor of justice. If the President finds that there is no ground for an arraignment, the chancellor of justice shall be free to report on the case to the Diet. If the President decides upon an arraignment of the chancellor of justice, the indictment shall be prosecuted by the person designated by the President for that purpose.

If the President in the exercise of his functions should commit illegal acts, the chancellor of justice must make a representation upon the subject as provided above. If the chancellor of justice or the council of state considers that the President is guilty of high treason or treason felony, the chancellor or the council shall report on the matter to the Diet. And in case the Diet, by a three-fourths majority of the votes cast, decides to

arraign the President, the chancellor shall prosecute him before the Supreme Court, and in the meantime the President shall abstain from the exercise of his functions. Except in the case herein provided the President shall not be arraigned for his administrative acts.

Art. 48. The chancellor of justice shall present each year to the President as well as to the Diet a report upon the measures that he has taken, and his remarks on the observance of the laws.

The chancellor of justice shall upon request give the President and the council of state information and advice.

Art. 49. At each ordinary session the Diet shall elect, in accordance with the procedure provided for the election of its own speaker, a person distinguished in the law who shall be the solicitor of the Diet for a three-year period.[1] The solicitor, in conformity with the instructions given him by the Diet, shall supervise the observance of the laws in the proceedings of courts and other authorities. There shall be elected also, in accordance with the same procedure and for the same time, a deputy solicitor, who shall act for the solicitor in case of the latter's disabilty.

The solicitor of the Diet shall have the same right as the chancellor of justice to be present at the sessions of the council of state and of tribunals and public departments, to have access to the minutes of the council of state, of ministerial departments, tribunals, and other authorities, and, under the responsibility imposed by law upon prosecutors, the right to prosecute or cause to be prosecuted complaints for malfeasance or nonfeasance in office.

The solicitor shall annually present to the Diet a report on the manner in which he has performed his functions, on the state of the administration of the law, and on the defects which he has noticed in legislation.

Art. 50. For the purposes of general administration, Finland shall remain divided into provinces, shires, and communes.

Every modification in respect to the number of provinces shall be made by law; the council of state shall decide all other changes in reference to administrative divisions, unless otherwise provided by law.

In case of new deliminations of administrative districts, the new districts, wherever circumstances permit, shall be so formed as to include populations speaking only one language, Finnish or Swedish, or so that the minority speaking the other language shall be as small as possible.

Art. 51. The provinces shall be administered by governors.

The administration of the communes shall be established upon the principle of local autonomy as prescribed by special laws. The form and extent of local autonomy to be applied in districts larger than communes shall also be regulated by law; the regulations contained in Article 50, Paragraph 8, shall be followed in fixing the boundaries of these districts.

Art. 52. Public departments now existing or hereafter created for different branches of the administration of the State are governed by special regulations.

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[1] Amendment of November 10, 1933.

Chapter V

The Judiciary

Art. 53. The Supreme Court is the court of final resort in suits of law; moreover it shall supervise judges and executive authorities in their administration of justice.

Art. 54. The Supereme Court shall be composed of a president and of the necessary number of councillors of justice.

Matters pertaining to judicial administration which, by reason of special regulations, fall within the jurisdiction of the Supreme Court shall be prepared by the department of the council of State to which questions concerning the administration of justice are assigned. The head of this department shall take part in the deliberations of the Supreme Court upon these matters.

In the Supreme Court questions may be decided by five members except when, for the decision of certain questions, a larger or smaller number of members is specially provided for by law.

Art. 55. Provisions referring to general tribunals of first instance and of appeal are laid down in the law.

Art. 56. The supreme administrative court shall, except where other wise specially provided, be the court of last resort in cases of appeal involving administrative law. This court shall also supervise inferior authorities in their administration of justice in the field of administrative law.

Art. 57. The supreme administrative court shall be composed of a president and of the necessary number of councillors of administration. The provisions of Article 54, paragraph 3, shall apply also to this court.

Art. 58. The Supreme Court and the supreme administrative court shall have the right, when they think that a modification or interpretation of a law or ordinance is necessary, to address to the President of the Republic a note requesting that such legislation be enacted.

Art. 59. In case of arraignment of a member of the council of state, of the Supreme Court, or of the supreme administrative court, or the chancellor of justice, for an illegal act committed in the exercise of their functions, the case shall be tried by a special court called High Court, established by special regulations having the character of a fundamental law.

If an arraignment be decided upon by the Diet, the solicitor of the Diet shall act as prosecutor.

Art. 60. Provisions as to special tribunals other than that mentioned in Article 59 shall be made by law.

No extraordianry tribunal shall be established.

Chapter VI

Public Finance

Art. 61. Imposts, including customs duties, shall be prescribed by law for an indeterminate or a limited period, as is the case also with the modification or abolition of a previously established impost and of compulsory public services.

An impost established for a limited period shall not be collected beyond such period except in the case provided in Article 69, paragraph 1.

Art. 62. The general principles in respect to fees to be paid for the official services of public authorities, and for documents issued by them, as well as for the use of the post, the railways, the canals, the hospitals, the schools, and other public establishments belonging to the State shall be fixed by law.

Art. 63. Revenue-yielding property and enterprises belonging to the State shall be exploited and utilized according to general principles established by law.

Art. 64. The consent of the Diet shall be necessary for the issue of a public loan.

Art. 65. The principles governing new budgets for public departments and institutions, as well as the modification and abrogation of principles previously established, shall be regulated by law, as shall also the question of pension rights. New public posts and departments may be created only within the limits of the annual budget.

New extraordinary pensions or subventions may be granted only from credits voted for this purpose by the Diet.

Art. 66. The annual budget, in which must be included the receipts and expenses for the financial year, shall be adopted by the Diet and promulgated in the same manner as is required for the promulgation of laws.

Special regulations determine whether a fund not designed to meet the annual expenses of the State shall be excluded from the budget.

Art. 67. The budget for any particular year shall not omit any impost or other revenue which, in accordance with any current law or ordinance, is that year to be paid.

Art. 68. Interest on public debts and annuities for their amortization and other grants designed to meet some State obligation, as well as other expenses which must be defrayed in accordance with regulations in effect during the financial year, must be included without deductions in the budget. The budget must also include amounts covering expenses based upon laws or ordinances but not entered in the budget as special items, as well as necessary credits placed at the disposal of the government for unexpected needs.

Other expenses contained in the budget shall be examined and voted by the Diet for a single financial year at a time.

Credits voted by the Diet upon parliamentary initiative shall be inserted in the budget as conditional.

The budget must show resources sufficient to cover expenses.

Art. 69. If the budget is not adopted by the Diet before the beginning of the year, although the budgetary proposals have been in the preceding year submitted by the government at least two months before the expiration of the parliamentary session, the expenditures mentioned in Article 68, paragraph 1, shall be paid, and the revenues necessary for this purpose shall continue to be collected provisionally.

If modifications in the approved budget are found to be absolutely

necessary, supplementary budget proposals shall be presented to the Diet.

Art. 70. The credits contained in the budget shall not be exceeded, nor shall they be carried over from one financial year to another, unless provision for this is made in the budget, nor shall a credit be transferred from one part separately voted by the Diet to another part of the budget.

Independently of the budget, every person shall have the right to receive from the treasury what is legally due to him.

Art. 71. For the examination of treasury accounts and balance-sheets there shall be a board of audits, which must satisfy itself that the figures in the accounts are correct, that the receipts and expenditures are legal, and that the budget has been complied with.

At every ordinary session of the Diet there shall be appointed five state auditors, who shall, on behalf of the Diet, supervise the observance of the budget and examine the condition and administration of the treasury. These auditors shall be subject to the instructions given by the Diet, and shall be entitled to obtain from the competent authorities information and documents. They shall be elected, by proportional voting, by those members of the Diet entrusted with electing parliamentary committees. In the same manner there shall be elected also the necessary number of deputy auditors.

Art. 72. The currency of Finland shall be regulated by law.

Art. 73. The Bank of Finland shall be placed under the guarantee and care of the Diet and under the supervision of trustees elected by the Diet.

The Bank of Finland shall be administered by regulations adopted in accordance with the procedure prescribed for the enactment of laws.

The Diet shall determine how the profits of the bank shall be used for the needs of the State.

Art. 74. Landed property, imposts, or revenue-yielding rights of the State shall not be alienated or hypothecated except as authorized by law.

Occupiers of state land shall nevertheless have the right to purchase the freehold of such land in accordance with special regulations.

Chapter VII

National Defence

Art. 75. Every Finnish citizen must take part in the defence of the country or assist therein as prescribed by law.

Every conscript, unless he otherwise desires, shall if possible be enrolled in a military unit the members of which speak his own mother tongue (Finnish or Swedish), and shall in such unit receive his instruction in that language. Finnish shall be the language of command of the armed forces.

Art. 76. If the armed forces are to be put upon a war footing, the President shall issue an order to this effect in the council of state. When this order has been given, the council shall take measures for covering the necessary expenditure which results, and the Diet shall be convoked in case it is not in session.

Chapter VIII

Education

Art. 77. The University of Helsingfors shall retain its right of autonomy.

New regulations concerning the principles of the organization of the university shall be determined by law; but details in respect to the university shall be regulated by ordinance. In both cases the senate of the university must be previously consulted.

Art. 78. The State shall promote the study of, and higher instruction in, the technical, agricultural, and commercial sciences and other applied sciences, as well as the practice of and higher instruction in the fine arts, by maintaining and establishing for all these branches special schools of higher learning in so far as they are not represented at the university, or by giving grants in aid to private institutions created for these purposes.

Art. 79. The State shall maintain at its expense or, if necessary, subsidize schools for secondary education as well as for higher primary education. The principles of the organization of state-owned schools shall be established by law.

Art. 80. The principles governing the organization of primary instruction, the obligations of the State and the communes to support primary schools and compulsory education, shall be determined by law.

Instruction in the primary schools shall be free to all.

Art. 81. The State shall maintain or, so far as necessary, subsidize institutions for instruction in the technical professions, in agriculture and its allied pursuits, in commerce and navigation, and in the fine arts.

The right to establish private schools or other private institutions of instruction and to organize instruction therein shall be regulated by law.

Instruction given at home shall be subject to no supervision by the authorities.

Chapter IX

Religious Communities

Art. 83. The organization and administration of the Evangelical Lutheran Church is regulated by the church law.

Other existing religious communities shall be governed by rules which are or shall be prescribed in respect to them.

New religious communities may be established subject to the provisions of the law.

Chapter X

Public Offices

Art. 84. Except as otherwise provided in this Article, only Finnish citizens shall be appointed to public offices.

Employments of a technical nature, teaching posts in the university or other high schools, posts of teacher of foreign languages in the schools and of translator in public departments, as well as honorary consular

posts and the posts of clerical assistant and other special positions in legations and consulates, may be held by other than Finnish citizens.

Art. 85. Examinations for appointment to public offices shall be regulated by ordinance except where such matters are regulated by law. Exemption from the qualifications prescribed by ordinance may for special reasons be granted by the council of state; this concession, however, shall not apply to employments in the judicial service.

Art. 86. The general principles upon which appointment to public offices of the State may be made shall be merit, ability and proved civic virtue.

Art. 87. The President of the Republic shall appoint:

(1) The chancellor of justice and the assistant chancellor of justice;
(2) The archbishop, the bishops, and the chancellor of the university;
(3) The presidents of the Supreme Court and of the supreme administrative court, and, upon the recommendation of the Supreme Court, the members of that court and the presidents of the courts of appeal, as well as, upon recommendation of the supreme administrative court, the members of that court;
(4) The members of the courts of appeal and the professors of the university and of the technical high school;
(5) The heads of the central administrative offices and the provincial governors, upon the recommendation of the council of state, and members of the central administrative offices;
(6) The officials in the President's chancery and, upon the recommendation of the proper authority, the reporters to the council of state, to the Supreme Court, and to the supreme administrative court; and finally
(7) Ministers plenipotentiary and consuls (missi), upon the recommendation of the council of state.

Art. 88. Judges of rural tribunals of first instance, burgomasters, and chairmen of land partition courts shall be appointed by the Supreme Court.

In compliance with special regulations, appointment to certain employments shall be made as follows:

(1) To posts in the judiciary, by the Supreme Court or by the superior court within whose jurisdiction the employment falls, and to supreme administrative court, by that court; and
(2) In administrative offices and in schools, by the council of state, the minister, the provincial government, or the governing body of the office to which the employment belongs.

Appointment to other public offices shall be made by the council of state, unless the right of appointment has been reserved to the President or committed to some other authority.

Art. 89. In filling vacancies in the central administrative offices and the employments mentioned in Article 87, Section 4, and in Article 88, and subject to the reservations contained in Article 90, the post shall first be declared open for applications, whereupon, to serve as a basis for the appointment, a list shall be drawn up by the authority to which the applications have been addressed, which list shall bear the names of the three candidates who are best qualified in accordance with the principles established. In filling vacancies in the courts of appeal, the Supreme Court shall give its opinion on the list of candidates.

If the appointment is to be made by the same authority to which the applications are addressed, no list of candidates need be drawn up. In accordance with special regulations, certain other administrative posts may also be filled by a procedure different from that prescribed in paragraph 1 of this Article.

Art. 90. For appointments to posts in the university, in the institute of technology, in the Evangelical Lutheran Church and the Greek Orthodox Church, to the offices of burgomaster and of aldermen in towns, and to offices and employments in the Bank of Finland, special regulations are in force.

Officers of the army and the navy shall be appointed by the President. Special regulations shall be issued concerning other matters of military promotion and instruction.

Art. 91. No judge shall be deprived of his office except by lawful trial and judgment. Nor shall he, without his own consent, be transferred to another post, except in the case of reorganization of the judicial establishment.

The right of other officials to retain their offices shall be regulated by a special law.

The law may impose, even for irremovable officials, an obligation to retire at a fixed age or because of infirmity involving incapacity for work.

Special regulations shall define the rights and duties of officials whose offices are abolished.

Art. 92. In the exercise of public functions, the law must be strictly followed under the penalty prescribed by law.

If a provision in an ordinance is contrary to a fundamental or other law, it shall not be applied by a judge or other official.

Art. 93. Every official is responsible for the measures that he takes or to which he contributes in his capacity as a member of a collegiate public office. A reporter is likewise responsible for a decision taken upon his report, unless he has recorded his dissenting opinion on the minutes.

Whoever suffers a violation of his right, or injury, as a result of an illegal measure, or of the negligence of an official, has the right to demand that this official shall be punished and pay damages, or to lay an information against him demanding his arraignment in accordance with the formalities prescribed by law.

The responsibility of the State for damages caused by an official shall be governed by special regulations.

Chapter XI

Final Provisions

Art. 94. The election of the first President of the Republic shall be made by the Diet and shall take place immediately after the present Form of Government comes into force. The election shall be by secret ballot. If a candidate obtains more than half of the votes cast he shall be declared elected. Otherwise a new ballot shall immediately be taken, and if no candidate obtains this time an absolute majority, another ballot shall be taken between the two candidates who on the second count obtain

the highest number of votes. In case of an equal number of votes, the decision shall be by lot.

Art. 95. This present Form of Government shall have in all its parts the sanctity of a fundamental law. It cannot be modified, interpreted, or repealed, nor can it be departed from, except in accordance with the procedure prescribed for fundamental laws in general.

The following laws are repealed by the present law: The Form of Government Act of August 21, 1772, and the Act of Union and Security of February 21 and April 3, 1789, as well as such provisions contained in other laws and enactments as are in conflict with this present Form of Government Act.

The provisions necessary for bringing the present Form of Government Act into effect shall be determined by law.

By all whom it may concern to be followed and obeyed.

Helsingfors, July, 17 1919.

Regent:
Mannerheim
Minister of Justice: Söderholm.

DIET ACT

Adopted at Helsingfors, January 13, 1928[1]

WHEREAS, by reason of the adoption of the Form of Government Act of July 17, 1919 and on the experience acquired, it has been judged necessary to bring certain modifications to the Diet Act of July 20, 1906, there is hereby sanctioned, by the resolution of the Diet, taken in conformity with the dispositions of Article 60 of the said Act, the Diet Act for the Republic of Finland of which the following is the text:

Chapter I

General Principles

Art. 1. The Diet represents the people of Finland.

Art. 2. The Diet forms a single chamber, composed of two hundred representatives.

Art. 3. Elections to the Diet shall take place every three years and simultaneously throughout the country.

Meanwhile the President of the Republic, if he judges it necessary, has the right to order new elections before the expiration of the period of three years provided for in paragraph 1. In this case the elections which immediately follow these shall take place, if there is no new dissolution of the Diet, the third year after the preceding elections.

The mandate of the representative shall take effect as soon as he has

[1] This translation made by Harold B. Shill from text published in French by the Government Printing Office, Helsinki (Helsingfors) 1930.

been declared elected and shall continue until the new elections have been held.

Art. 4. Representatives are elected by direct and proportionate suffrage; for these elections the country shall be divided into electoral districts numbering a minimum of twelve and a maximum of eighteen.

When local circumstances necessitate an exception to the proportional procedure, one or several districts, besides the number indicated above, can be established for the purpose of electing a single representative.

At elections every elector shall have the same right to vote.

The right to vote cannot be exercised by proxy.

Detailed provisions relative to districts, to dates, and to the procedure of elections shall be given by special law.

Art. 5. Whosoever shall seek to hinder freedom of the vote by persuasion or bribery shall be liable to a maximum of three months' imprisonment. If he has employed force or threats, he shall be liable to a prison term of from one month to a year; if he is an official, he shall be in addition removed from office.

An official who takes advantage of his public authority to influence the election of representatives shall be removed.

An employer who does not grant an elector in his employment the opportunity to use his right to vote shall be liable to a fine.

Art. 6. Every Finnish citizen, man and woman, who before the year in which the election takes place has reached twenty-one years of age, shall be an elector.

The following shall be deprived of the right to vote: whoever

(1) Is under guardianship;
(2) Has not during the last three years been carried present on the lists of the civil register as a Finnish citizen;
(3) Has been committed to a workhouse or forced labor for vagrancy, until the expiration of the third year counting from the year in which he has been set free;
(4) Has been deprived by judicial decree of his right to vote or of his civil rights, or has been declared unworthy of serving the country or of acting on behalf of another, whether or not the decree be final;
(5) Is convicted of having, at the time of the election of representatives, bought or sold votes or of having made attempts in this direction, or has voted in more than one place, or has by force or threats disturbed the freedom of vote; he shall be deprived of his right to vote until the expiration of the sixth year counting from the year in which final judgment was rendered.[1]

Art. 7. Every elector shall be eligible to become a representative, without regard to residence.

However, eligibility shall not extend to those who are in active military service.[1]

Art. 8. Every person elected representative who loses his eligibility shall lose his mandate.

Art. 9. The chancellor of justice, members of the Supreme Court and of the supreme administrative court as well as the judicial delegate of

[1] **Amendment of November 24, 1944.**

the Diet, cannot be representatives. If a representative is named or elected to any of these functions, he shall cease to be a representative.

Art. 10. Whoever is, by virtue of the electoral law, declared elected representative, cannot resign except for legal obstacle or for another cause approved by the Diet.

Art. 11. Every representative should act according to justice and truth in the exercise of his mandate. He should observe the fundamental laws and is not bound by any other limitation.

Art. 12. Access to the sessions and the exercise of his mandate cannot be refused to a representative.

Art. 13. No representative should be prosecuted or deprived of his liberty because of opinions expressed by him in the Diet or because of his attitude during the proceedings, unless the Diet has authorized it by a vote having mustered at least five-sixths of the votes cast.[1]

Art. 14. In the course of a session of the Diet, no representative should be arrested, without the consent of the Diet, for a criminal offense, unless a tribunal has ordered his arrest or unless has been taken in the act of committing a criminal offense punishable by at least six months' imprisonment.

A representative who while proceeding to a session is arrested for a cause other than that provided for in paragraph 1, should be freed if the Diet decides upon it.

The Speaker should be informed immediately of the arrest of a representative.

Art. 15. If anyone abuses by act or word a representative while the latter is proceeding to a session of the Diet or returning from it or in the course of a session, and knowing that a representative is concerned, or if anyone, the session ended, commits an assault upon a representative because of the way in which he has exercised his mandate, the circumstance that the infraction has been committed against a representative shall be considered particularly aggravating.

That which is stated here of representatives shall apply also to secretaries as well as to other officials and employees of the Diet.

Art. 16. Every representative shall enjoy a parliamentary indemnity paid by the funds of the State; moreover, his traveling expenses in proceeding to a session and returning from it shall be reimbursed.

The parliamentary indemnity and the traveling expenses shall be fixed by law; such a bill shall be handled as stipulated in Article 70.

In the said law shall also be determined the indemnity to which, during a recess or after the close of a session, the following are entitled: members of the finance committee and the committee for foreign affairs, as well as representatives appointed for the verification of communications emanating from the Diet and of the resolutions of the Diet.

Art. 17. On every representative who does not present himself in due time at the session of the Diet, or who is, without authorization by the latter and without accepted hindrance, absent from a sitting, the Diet can impose the loss of the parliamentary indemnity or a part of it. Every

[1] Amendment of November 3, 1944.

representative who does not amend his conduct can be declared by the Diet to have forfeited his mandate.

Every representative who undergoes a punishment depriving him of liberty shall forfeit his indemnity during this time.

Chapter II

Opening and Closing of Sessions of the Diet and Dissolution of the Diet

Art. 18. The Diet convenes in the capital of the State except when a hostile invasion or other serious cause makes it impossible or compromises the security of the Diet; in this case, another place of assembly shall be assigned by the President of the Republic.

Art. 19. The ordinary session of the Diet shall begin yearly, without special convocation, on February 1, unless the preceding session has appointed another date, and shall terminate after having continued for one hundred and twenty days, with or without interruption. The Diet. shall nevertheless have the right to decide whether it will break up sooner or later.

Art. 20. If the President of the Republic, in the course of an ordinary session, orders new elections, the Diet shall be dissolved on the day that the President of the Republic causes to be proclaimed. In this case, the Diet shall reassemble in ordinary session after the new election on the first day of the first month which begins after a delay of ninety days reckoning from the dissolution, or on a previous day fixed by the President of the Republic.

If the new elections are ordered after the closing of an ordinary session so that the elections cannot be concluded before February 1 following, the reassembly of the Diet in ordinary session shall be put off to the first day of the month which follows the publication of the results of the elections.

Art. 21. The President of the Republic shall have the right to convoke the Diet in extraordinary session and to determine the date when this session shall end.

An extraordinary session of the Diet should not be convoked to a date prior to the fifteenth day reckoning from the publication of the convocation, and should not continue beyond the last working day preceding the beginning of the ordinary session.

An extraordinary session should not deal with matters other than those which caused the convocation or which otherwise are submitted to it by the government, as well as affairs which are germane to the foregoing.

Art. 22. The orders of the President of the Republic aimed at in Articles 18, 20, and 21 should be promulgated in the order established for the promulgation of laws and decrees.

The decision relative to new elections shall further be made known to the provincial governors and to authorities and commissions charged with the organization of elections.

Art. 23. On the day preceding the day when the Diet should assemble for the first time after the elections, all Representatives shall be obliged, beginning at twelve o'clock noon and in the order named by placard, to

present their full powers to the person or persons commissioned by the President of the Republic for this purpose. It should be proved at the time of the verification of powers that these powers have been delivered by competent authority and are in good and due form.

An alphabetical list of duly validated representatives should be held at the disposal of the Diet before twelve o'clock noon of the following day.

A full power presented later should be immediately verified, conforming to paragraph 1, and shown to the Speaker as soon as it has been approved. Mention of it should be made in the list provided by paragraph 2, in the same manner as any other change arising in the composition of the Diet.

Art. 24. If the power of a representative has not been approved, the Diet shall have the right to consider whether this representative can nevertheless take a seat in the Diet.

If, by virtue of the present law, the qualification of a representative is contested, the Diet should likewise pronounce on this question, unless the same contest has been, by way of appeal made on the elections, already submitted or is capable of being submitted to the decision of competent authority.

Any other question relative to the validity of the elections cannot be submitted to the examinations of the Diet, except when it is claimed that an act manifestly criminal has been committed at the time of the elections or of any proceeding relating to the elections, or that an indubitable error has occurred at the verification of the results of the elections. In these cases, when it appears also that the criminal proceeding or error has been able to affect the issue of the elections and that a rectification can no longer be demanded by way of appeal, the Diet has power to rectify the result conforming to the electoral law.

A person whose qualification as representative is contested shall nevertheless keep his mandate until it has been invalidated.

Art. 25. On the first day of the session, the Diet assembles at noon in a plenary sitting which shall begin with a roll-call following the list provided for in Article 23. At this sitting the Diet shall elect from among its members the Speaker and two deputy speakers.

Then the Speaker and deputy speakers shall deliver one after the other before the assembled house this solemn declaration:

> I, ..., affirm that I shall maintain with all my power, in the exercise of my functions, the rights of the people of Finland, of the Diet and of the Government in conformance with the Constitution.

Until this declaration has been taken, the senior member shall preside over the Diet.

In case of the death or resignation of the Speaker or of a deputy speaker in the course of the session, a new speaker or deputy speaker should be immediately elected.

Art. 26. The President of the Republic causes the date and hour of the opening of the session to be proclaimed; the opening should not take place later than the third working day counting from the assembly of the Diet. On the day and hour indicated, the representatives should as-

semble, after divine service, at the house, where the President of the Republic shall greet the representatives and shall declare open the session of the Diet. The Speaker, in the name of the Diet, shall reply to the welcoming speech.

Art. 27. At the time of the closing of the session, the representatives shall assemble, after divine service, on the day and hour fixed by the President of the Republic, at the house, where the Speaker shall tender to the President of the Republic the greetings of the Diet and shall deliver its resolution, after which the President of the Republic shall declare the closure of the session of the Diet.

Chapter III

Introduction of Affairs in the Diet

Art. 28. At the time of the opening of the session, the President of the Republic shall make known the propositions of the government which are delivered to the Diet.

Propositions which could not then be sent to the Diet can be submitted for consideration subsequently.

A proposition of the government can, if there is reason to do so, be taken back.

Art. 29. At every ordinary session of the Diet, at the time of its opening or within a delay of three months of the opening, a statement should be delivered to it concerning measures taken by the government as a result of the resolutions of the Diet and about any other important issue relating to public administration and to the country's relations with foreign powers.

Art. 30. At the time of every ordinary session, a budget bill shall be delivered to the Diet for the coming financial year.

At every ordinary session of the Diet there should likewise be presented a statement concerning the administration and status of the public finances.

State auditors appointed by the Diet are bound to report to it conforming to the provisions in force on this subject.

Art. 31. The Diet shall have the right to admit for consideration any motion duly made by a representative. Such motion can be:

(1) A motion of law, containing a bill, drawn up in legal form, aiming at the adoption of a new law or at the amendment, interpretation or abrogation of a law in force, or a bill on a matter regulated previously by administrative provisions;

(2) A motion of finance, containing the proposal to include an appropriation in the budget for the coming financial year;

(3) A motion of vote, containing a proposal that the Diet recommend to the government to take certain measures in a matter which is within the competency of the government.

Relative to the enactment of ecclesiastic laws, special provisions are in force.

Art. 32. Every motion should be presented in writing before noon of the fourteenth day counting from the opening of the first ordinary session

after elections, but of the tenth day at other ordinary sessions. A representative shall not have the right to make a motion after this date unless it be directly justified by a resolution of the Diet or a government proposition presented to the Diet or the resumption of a proposition or another issue arising in the course of the session. In any case, no motion can be made later than noon of the seventh day counting from the day when the author of the motion should be considered as having been acquainted with the issue in point.

Every motion should be justified.

Questions of different character should not be included in the same document.

Art. 33. Relative to the right of motion of the representative assembly (Landsting) of Aaland, special provisions are in force.

Art. 34. In a matter which is within the competency of the government and which does not require the concurrence of the Diet, the government can, by a proposition, request the opinion of the Diet.

Art. 35. If the consideration of a matter has not been terminated at an ordinary session, it shall be continued with the exception of cases provided for in Article 36 and 37, at the following ordinary session, unless the elections intervene.

Art. 36. If the government desires to make, outside of the order of the day, a communication or account concerning the administration of public affairs or the relations with foreign powers, this shall be read in the house and laid on the table for a subsequent sitting. The debate on the matter having been declared ended, the Speaker shall propose to the Diet to pass to the order of the day by the adoption of a declaration formulated thus: "The Diet, after having received the communication, shall pass to the order of the day."

The Diet can either adopt simple passage to the order of the day, or the justified passage to the order of the day proposed in the course of the debate, or refer the matter to a competent committee. If the matter is referred to a committee, the latter will propose a justified passage to the order of the day; the final substance of the justified passage shall be determined by the Diet.

The consideration of a point in question here cannot be continued at a subsequent session.

Art. 37. If a representative desires to ask a question of a member of the government on a matter which is within this minister's competency, he shall present it in writing in precise terms to the Speaker, whose duty it is to forward it to the minister concerned. On the day and hour agreed to by the Speaker, the minister shall answer orally or in writing, unless he considers that he should abstain from answering; in this case, the motives for the refusal should be brought to the attention of the Diet. In a matter of this sort, there can be neither debate nor resolution in the Diet.

If a representative wishes to interpellate a member of the government on an affair which is within the competency of the latter, so that the matter may be considered by the Diet, he should present the interpellation to

the Speaker in form and substance as provided by paragraph 1. When the interpellation has been read to the Diet and laid on the table and if at least twenty representatives, including the authors, have approved it in writing, it shall be, without preliminary discussion in the Diet, through the good offices of the Speaker, brought in writing to the attention of the minister concerned. The minister is bound to reply within fifteen days after notification, on the day and hour agreed upon by him and by the Speaker, unless the government, within the same delay, has made known that the character of the matter does not permit any reply; the motives for the refusal should be brought to the attention of the Diet. After a reply, or the communication that there is no reply, has been delivered and the debate is declared closed, the Speaker shall move to pass to the order of the day by this form: "After having heard the explanation given, the Diet passes to the order of the day."

The Diet can either adopt simple passage to the order of the day, or the justified passage proposed in the debates, or decide to refer the matter to the committee on fundamental laws or, if the character of the matter demands it, to another committee. If the matter is referred to a committee, the latter should propose a justified passage to the order of the day, of which the final substance shall be determined by the Diet.

The consideration of a point in question here cannot be continued at a subsequent session.

Art. 38. A special law shall prescribe the competency of the Diet to judge the legality of measures taken in the execution of their office by members of the government and the chancellor of justice and the procedure to follow in the examination of affairs of this nature.

Chapter IV

Preparation of Affairs

Art. 39. Within three days, reckoning from the opening of the first session after the elections, the Diet shall appoint the electors, at least forty-five in number, with the necessary number of substitutes, in view of the election of members to the Diet committees.

The electors and their substitutes shall be elected by proportional vote and their mandate shall continue during all sessions until new elections unless the Diet decides, on the proposal of the Speakers' conference, upon proceedings for a new election of electors.

Art. 40. At the time of an ordinary session, there shall be constituted, within five days of the opening of the session, a committee on fundamental laws, a committee on laws, a committee for foreign affairs, a finance committee, and a bank committee. The committee on fundamental laws, the committee on laws and the committee for foreign affairs should each be composed of at least seventeen members, the finance committee of at least twenty-one, and the bank committee of at least eleven members. At the same time substitutes numbering at least one quarter of the regular members of each committee shall be selected.

In addition to these standing committees, the Diet can also, in case of

need, establish extraordinary committees; to such a committee, if it is composed of at least eleven members, there can also be referred matters which, considering their character, otherwise should be prepared by a standing committee.

If a committee deems it necessary that the number of its members or substitutes be increased, it should make a proposal to the Diet to this effect.

Every committee shall have the right to divide, when matters demand it, into sub-committees of which each shall make reports in the name of the committee. Regarding the sub-committees, which should each consist of at least eleven members, the stipulations for committees in the present law shall be enforced.

In extraordinary sessions, the Diet shall establish committees which are necessary for the preparation of matters submitted to that session.

Art. 41. If the electors cannot agree on the designation of members of the committees, the proportional vote shall be applied.

Art. 42. Within five days after the opening of the session, the Diet will establish, for the preparation of certain matters provided by Article 66, the grand committee comprising at least forty-five members; these, together with the necessary substitutes, shall be elected in the manner stipulated for the selection of electors.

Art. 43. The finance committee will, if the Diet so decides, continue its work even when the Diet is in recess or after the closing of a session.

The committee for foreign affairs will meet on the summons of the government likewise during a recess of the Diet or after the closing of a session.

Art. 44. A member of the government cannot be a member of a committee.

A member whose official activity is being examined by a committee or who is personally on trial should not participate in the handling of such a matter within a committee.

Art. 45. The committees and electors of the Diet as well as the examiners provided for in Article 85 shall elect from among themselves a chairman and a vice-chairman at each session.

The senior member of each committee shall convoke the first meeting and preside over it until the chairman is chosen.

Every committee shall have the right to designate, for a fixed question, one or more reporters charged with communicating all necessary information to the plenary sitting of the Diet or to the grand committee.

Art. 46. The committee on fundamental laws shall be charged with preparing matters which have been referred to it relative to the establishment, amendment, interpretation, or abrogation of fundamental laws, or to all legislation intimately connected with fundamental law.

It is the duty of this committee also to examine bills which have been referred to it relative to the establishment, amendment, or abrogation of the order of work of the Diet or of dispositions concerning the elections within the Diet according to the proportional system, as well as of instructions for the judicial delegate of the Diet.

It is likewise the duty of this committee to examine the statement made by the government and mentioned in Article 29, and to make proposals justified by this statement.

Matters proceeding from the right of the Diet to examine the legality of official measures taken by members of the government and the chancellor of justice shall likewise be prepared by this committee.

It is the duty of the committee on fundamental laws to award arbitration between the Diet and the Speaker, when the latter has refused to submit for consideration a question raised, or to put a matter to the vote.

Art. 47. The committee on laws shall be charged with preparing matters which have been referred to it relative to the establishment, amendment, interpretation, or abrogation of law.

Art. 48. The committee for foreign affairs shall be charged with preparing questions relating to the treaties, or the provisions contained in treaties, which, according to the Form of Government Act, should be approved by the Diet; it shall also prepare other questions relating to foreign affairs, the decision of which requires the consent of the Diet, as well as all questions of foreign policy which may be referred to it.

The committee should receive, as often as circumstances require, a statement by the government concerning the relations of the country with foreign powers; the committee can, if it judges it necessary, express its opinion on this statement.

The committee shall also examine the report aimed at in Article 29, in so far as it regards relations with foreign powers, and make such proposals as the matter may require.

The members of the committee should observe the discretion that the government may impose upon them in the case in point.

Art. 49. The finance committee should have access to all the accounts and acts of the treasury. In the opinion which the committee will give on the state of public finances and on the report of the state auditors, it will be its duty to pronounce on the manner in which the budget has been observed and public economy administered, and to make proposals which may be justified by these facts.

The budget bill shall also be referred to the finance committee, as well as other finance propositions of the government and motions of finance made by the Diet. In its opinion on the budget bill, the committee should treat all points of appropriation together. In this same opinion, the committee should make proposals on the manner of procuring the resources for the expenditures.

Every proposition for additions to the budget should be treated by the committee in the same manner as the budget bill.

It is also the duty of the committee to examine proposals which may be referred to it relative to the establishment, amendment, or abrogation of instructions for the state auditors.

Art. 50. The bank committee shall be charged with studying the administration and situation of the Bank of Finland, the action of the bank trustees and the board of the bank, and the state and management of

s found under the guarantee of the Diet, and with making reports on it.

The committee is bound to make necessary proposals relating to the establishment, amendment, or abrogation of regulations for the Bank of Finland and of instructions for the bank trustees, as well as relating to other provisions concerning the Bank of Finland, and to prepare government propositions and other proposals relating thereto. No decision should be taken on the disposal of the profit of the Bank of Finland before hearing the bank committee.

It shall likewise be the duty of the committee to prepare matters referred to it concerning the banks and the monetary system of the country.

Art. 51. Every committee should assemble at the latest two days after its formation and send, in proportion to its preparation, on each matter to the plenary sitting of the Diet the opinion which that matter requires.

If a member is hindered from taking part in the consideration of a matter, a substitute shall be summoned in his place. A quorum is not attained unless two-thirds of the members are present.

If a member of a committee is absent from a meeting without excuse or special authorization, the Diet can condemn him to the loss, in whole or in part, of his parliamentary indemnity, as stated in Article 17, and, if this is repeated, can declare him deprived of his mandate as a member of the committee.

Every member who has not accepted the resolution of the committee shall have the right to express in writing his dissenting opinion, but without retarding the opinion of the committee in that way.

Art. 52. Members of the government shall have the right to attend meetings and take part in debates of the committees, unless the committee decides otherwise in the case in point.

The Speaker and deputy speakers shall have the right to attend the meetings of the committees.

All members of the Diet as well as the secretary and any other Diet official assigned by the Speaker for this purpose shall have the right to attend meetings of the grand committee.

Art. 53. If a committee deems that it needs to have access to a dossier relating to a question treated by a public authority or administration which is not under the jurisdiction of the Diet, or to obtain oral or written information from these, the Prime Minister or minister concerned shall take, on the demand of the committee, measures so that these documents or information may be communicated to it without delay. If they cannot be communicated, the refusal should be justified.

Art. 54. The Speaker and deputy speakers and the chairmen of the committees shall constitute the Speakers' conference.

It shall be the duty of the Speakers' conference to make necessary proposals to the Diet on the general organization of the work of the Diet, as well as on the establishment, amendment, or abrogation of the law concerning the basis of the budget for the secretariat of the Diet, the order of work of the Diet, and provisions relating to the elections within the Diet according to the proportional system, as well as instructions for officials of the Diet.

Chapter V

Procedure for Business in Plenary Sitting and in the Grand Committee

Art. 55. It shall be the duty of the Speaker to issue the summons to plenary sittings; to present matters and conduct debates; to move resolutions; to maintain order at the sittings and to watch that nothing contrary to fundamental law be discussed; and to close the plenary sitting.

The Speaker should take part neither in the debates nor in the votes, nor make suggestions other than those which are necessary for enforcing fundamental laws, resolutions, or the order of work of the Diet.

The Speaker, in case of hindrance, shall be replaced by the first deputy speaker; and in case of hindrance for the latter, by the second deputy speaker.

Art. 56. The debates of a plenary sitting shall be public, unless the Diet has decided otherwise in the case in point.

Art. 57. Except for contrary provisions below, each representative shall have the right to gain the floor in the order in which he demands it, and to speak freely to the record and express his opinion on all questions submitted to debate and on the legality of all that occurs in the Diet. No person should speak before the floor has been granted to him, or outside of the record.

Art. 58. Every representative should preserve a serious and dignified bearing. No one should be permitted to express himself about the government or particular persons in a manner injurious, mocking, or otherwise unseemly. Anyone who violates these provisions will be called to order by the Speaker and, if he persists, will be deprived of the floor. In other respects it shall be the duty of the Diet to judge whether a representative who has disturbed the order should receive the admonitions and remonstrance of the Speaker; or whether he shall be excluded for a determined period not exceeding two weeks from the sittings of the Diet or be brought to justice, or whether there is no consequence to ascribe to the incident.

Art. 59. The members of the government and the chancellor of justice, in the same manner as the judicial delegate of the Diet, shall have the right to attend plenary sittings and to take part in the debates, but not in resolutions, unless, they are members of the Diet. If one of the above persons requests the floor; it shall be given to him by favored turn.

Art. 60. When a committee shall have elected, conforming to Article 45, a reporter for a special matter, he shall benefit, when he takes the floor in the same matter, by favored turn.

Art. 61. One who is not of the Evangelical Lutheran confession cannot take part in the consideration of proposals relating to the ecclesiastical law of the Evangelical Lutheran Church or to the ecclesiastical conditions of Evangelical Lutheran parishes in general.

Art. 62. A representative may take part in a discussion concerning a matter in which he is personally interested, but not in the decision taken on this subject.

Art. 63. The propositions of the government, in the same manner as

motions of law, should not be submitted to a final decision before the competent committee has given its opinion thereon.

Reports which, according to fundamental law, shall be submitted to the Diet are also subject to preparatory examination by a committee.

Finance motions and motions of vote which have not been rejected after having been on the table, should likewise be submitted for examination by a committee.

Art. 64. If a matter provided for in paragraphs 1 and 2 of Article 63 is not from its first presentation immediately referred unanimously to a committee, it should lie on the table until one of the following sittings, and should then be referred to a committee.

Art. 65. The opinion of a committee should at its first presentation be laid on the table. At the following presentation, it should, whether or not there has been a debate, be laid on the table anew if two or more members demand it, but at the third it can no longer be delayed.

The stipulations of the preceding paragraph shall not be concerned with the opinion of the grand committee, which should meanwhile, from its first presentation, be laid on the table if two or more representatives demand it.

Art. 66. If a committee opinion concerns the adoption or rejection of a bill, the question should pass three distinct readings in plenary sitting.

At the first reading, the opinion of the committee shall be read, and the right of pronouncing upon it is given to the representatives. After the debate has been declared closed, the matter is referred, without decision in points of substance, to the grand committee which is bound to give its opinion and make justified proposals.

At the second reading, the opinion of the grand committee shall be read, after which the Diet shall proceed to an examination of the bill and shall decide on each point of it. If the proposal of the grand committee is approved *in toto*, the second reading is declared ended. If the proposal of the grand committee is not approved without changes, the bill is recommitted in the wording it has received by the resolution of the Diet to the grand committee, which is bound to urge the bill without or with change or to propose its rejection. If the grand committee has proposed changes, the Diet shall decide on the adoption or rejection of these, after which the second reading is declared ended.

If the opinion of the grand committee contains a bill, the rejection of the bill in its entirety should not be proposed on the occasion of the second reading.

In the course of the second reading, the Diet shall have the right to demand a new opinion from the special committee which first prepared the matter or from another special committee. The grand committee has the same right.

At the third reading, which shall take place not earlier than the third day after the completion of the second reading, the matter is presented for final decision; the Diet can then either adopt the bill in the wording approved at the second reading, or reject it.

A bill which has obtained a majority from the third reading can never-

theless be left pending. A proposal in this sense should be made before the proposal tending toward the adoption or rejection of the bill has been made; in this case, unless the bill has been rejected by vote, the matter should be delivered at the following plenary sitting; if the proposal tending to leave the matter pending is then urged by a third of all members of the Diet, the bill should, in the text approved at the third reading, remain pending until the first ordinary session after elections.

Art. 67. In order to become a resolution of the Diet, every bill concerning the adoption, amendment, interpretation, or abrogation of a fundamental law should, after having been treated as provided in Article 66, at the third reading be approved by a majority of votes to be left pending until the first ordinary session after elections and should be adopted without change at this session by a resolution assembling at least two-thirds of the votes cast.

Nevertheless if a bill referring to a fundamental law has been declared urgent in plenary sitting by a resolution receiving at least five-sixths of the votes cast, the matter should be resolved without being left pending, and the resolution should be taken as stated in paragraph 1.

The above stipulations relating to fundamental laws shall be applied to the privileges of the estates.

Art. 68. The stipulations of Article 66 should likewise be observed when there is concerned an impost destined to be collected during a time either indeterminate or limited, or the contracting of a state loan, yet in such a way that a bill referring to a new or augmented impost, or to the indeterminate prolongation at the same rate of an impost fixed for a limited time, or to the contracting of a state loan may not be left pending, and that a bill referring to a new or augmented impost destined to be collected for a time exceeding one year, shall be considered dropped if it has not received two-thirds of the votes cast at the third reading.

In the case where a bill referring to a new or augmented impost destined to be collected during a time exceeding one year is dropped at the third reading, the matter should be re-committed to the finance committee, which is bound to give its advice on the question whether the impost should be fixed for one year, and to propose the text of a bill relating to the collection of the impost.

In the case where a bill referring to an augmented impost destined to be collected during a period of one year is dropped at the third reading, it shall be recommitted to the finance committee, which is bound to give its advice on the question whether the impost is to be prolonged at the same rate, and to propose the text of a bill relating to the prolongation of the impost.

The Diet shall decide at the third adjourned reading on the adoption or rejection of the bill drafted by the finance committee as provided in paragraphs 2 and 3; an opinion relating to it shall not be laid on the table, unless the Diet decides otherwise.

Stipulations herein provided for imposts shall be in force with relation to public encumbrances.

Art. 69. Proposals tending toward the adoption of such provisions

contained in a treaty concluded between Finland and a foreign power as are within the legislative sphere shall be considered, whether the provisions be included in a peace treaty or other treaty, according to Article 66 and, if fundamental law is concerned, according to paragraph 1 of Article 67. However, in these cases, a bill should not be left pending.

A proposal aiming at the adoption by the Diet of a provision, contained in a treaty, by which the State is bound to maintain during a certain time legal provisions in force, as well as a proposal aiming at the adoption of a treaty, or of a provision contained in a treaty, which, without touching the legislative domain, by the terms of the Constitution requires the consent of the Diet or in which the government desires the consent of the Diet, shall be considered without regard for the order stipulated in Article 66, and the matter shall be decided by the majority of votes. A proposal aiming at a change in the frontiers of the State which constitutes a reduction of territory must nevertheless be carried by at least two-thirds of the votes cast to be considered approved by the Diet.

Art. 70. At the examination of a bill relation to parliamentary indemnity, the provisions of Article 66 should likewise be observed, yet in such a way that a matter of this nature cannot be left pending and that the bill is considered dropped if it is not approved at the third reading by at least two-thirds of the votes cast.

Art. 71. The Diet has the right to refer also to the grand committee matters other than those provided for in Articles 66, 67, 68, and 70. In this case, the provisions of Article 66 shall be applied in such a way that the matter is submitted to only two readings and is decided at the second.

In a matter which has not been referred to the grand committee, the Diet can decide that the matter should be submitted to two readings and that the final decision should be taken at the second, which in this case shall take place not earlier than the third day after the first reading.

In matters of this nature a proposal to leave the matter pending should not be made.

Art. 72. A question introduced by a government proposition at an extraordinary session and which does not concern fundamental law cannot be left pending, but should be decided at the same session.

Art. 73. A bill which has been left pending, or which has not been sanctioned by the President of the Republic, should be introduced at the first ordinary session after the election and should, after an opinion by the competent committee, be either adopted without change or rejected.

The decision relative to the adoption or rejection shall be taken by majority vote, with the exception of the case provided for in paragraph 1 of Article 67.

Art. 74. The fact that a bill has been left pending, or that a bill adopted by the Diet has not been sanctioned, shall not constitute an obstacle to a new government proposition or motion on the same subject. If the Diet has, after such a proposition or motion, adopted a new bill, the bill left pending, or not sanctioned, shall be considered dropped.

Art. 75. A proposal aiming at the assessment of a new impost, or at the alteration of a previous impost, or at the prolongation of an impost

fixed for a limited time, or at the contracting of a state loan should, even if the amount in question is included in the budget bill, be considered in the Diet as a matter apart.

A proposal made by a representative and tending to bring to the budget a new appropriation not observed in the estimates of the budget bill, can be taken up for final consideration only if it has been duly made by financial motion which has been submitted to the examination of the finance committee and, in case of need, preparatively also to that of the special committee which the proposed appropriation particularly concerns.

Art. 76. If the Diet, in examining the proposal of the finance committee relating to the budget, has not adopted it without change, the bill, in the amended form approved by resolution of the Diet, shall be recommitted to the finance committee, which is bound to give its opinion on the changes brought by the Diet. If the finance committee proposes changes in the resolution of the Diet, the latter will decide on the adoption or rejection of the committee's proposal.

Art. 77. There should be no resolution on a matter debated until the Diet, on the proposal of the Speaker, shall have declared the debate closed.

Art. 78. When a question is to be decided, the Speaker shall put the matter to a vote, on the basis of the discussion, in such a way that "yes" or "no" shall express the resolution of the Diet.

If several proposals for resolution exist, one shall be placed against another until all have been voted upon. The text and order of the proposals should be approved by the Diet before they are put to a vote. Remarks on the text and order of the proposals can be made, but no later discussion on a point of substance is admissible.

There can be no vote on the question whether there should or should not be a vote.

Art. 79. A member who has not adhered to a resolution shall have the right to notify his divergent opinion on the record; but such a communication should not be debated.

Art. 80. The Speaker should not refuse to introduce for consideration a question raised or to put a proposal to vote, unless he deems it contrary to a fundamental law or to another law, or otherwise to a decision already taken by the Diet; the declaration of the committee shall be the proof.

Art. 81. A resolution cannot be changed at the verification of the record.

At the time of the verification of the record, the statement of any representative and the debate following can be removed with his consent and with that of the Diet, unless the resolution is obviously based upon the above.

Art. 82. A representative absent at the time of the resolution taken on a matter has the right to have entered later in the record the fact that he has not taken part in the resolution, but he cannot make any observation on it.

Chapter VI

Measures Relating to the Bank of Finland and the National Pensions Fund[1]

Art. 83. In order to exercise control over the administration and acti-

[1] Heading amended May 31, 1937.

vities of the Bank of Finland and over the funds found under the guarantee of the Diet, the latter shall name nine bank trustees and determine their instructions.

Among the trustees, three, who form the reduced committee of trustees, should handle all questions which by the terms of the instructions do not devolve upon the greater committee, comprising nine members. A quorum of the greater committee shall consist of six members.

If a member of the reduced committee is excused or resigns, he shall be replaced by a member of the greater committee.

Trustees shall be elected at the first ordinary session after the elections, and their mandate shall begin as soon as they have been elected and shall continue until the new election of trustees. They are elected by the electors of the Diet. There shall be designated at the time of the selection the three members of the reduced committee and two substitutes among the six other trustees who should replace each of the members of the reduced committee, as well as the order of this replacement. If no agreement is reached on the selection, the proportional vote shall be applied.

In the same manner as stipulated in the preceding paragraph for the selection of trustees, the electors shall select annually, at the ordinary session, five auditors in view of the revision for the current year in which the management of the bank and of the said funds should be submitted after the year has run out, and a substitute for each auditor.

Art. 83a.[1] In order to exercise control over the administration and activities of the national pensions fund, the Diet shall appoint twelve trustees and determine their instructions.

The trustees are selected at the first ordinary session of the Diet after the elections. Their mandate shall begin as soon as the selection has taken place and shall continue until the Diet has performed the new selection. There shall be appointed two substitutes for each trustee.

The election shall be performed by the electors of the Diet. If no agreement is reached on the selection, the proportional vote shall be applied.

Chapter VII

The Communication of Opinions and Resolutions of the Diet

Art. 84. A bill adopted by the Diet shall be delivered, with a letter of advice, to the President of the Republic in view of the sanction and promulgation of the law. If the bill is not sanctioned by the President, this fact should be brought to the attention of the Diet within three months counting from the sending for sanction of the bill. If the Diet is not assembled, notification of this fact should take place when the Diet has assembled.

Other resolutions of the Diet on propositions of the government, as well as petitions to address the government that the Diet otherwise has voted, should also be brought to the attention of the President in writing emanating from the Diet.

[1] Added May 31, 1937.

Art. 85. Writings emanating from, and the resolution of, the Diet shall be drawn up and forwarded by the secretariat of the Diet under the supervision of five examiners elected by the Diet from its midst. Examiners shall be elected for one session.

The examiners and the necessary number of substitutes shall be elected, if the Diet cannot reach an agreement, by proprotional vote.

No despatch should leave the Diet before being approved by the Diet or the five examiners provided for in the first paragraph.

Art. 86. The resolution of the Diet shall be signed by all the representatives, but the other writings by the Speaker and deputy speakers alone.

Chapter VIII

Particular Provisions

Art. 87. Government propositions should be treated in the first place as well in plenary sitting as in the midst of the committees.

Art. 88. In the transaction of business in the Diet, the Finnish or Swedish language shall be used.

The opinions and reports of committees as well as the written proposals of the Speakers' conference and of the committee for the secretariat, should be drawn up in these two languages.

Written communications addressed by the government to the Diet should likewise be drawn up in Finnish and Swedish.

Art. 89. The secretariat of the Diet shall be found under the supervision of the committee for the secretariat, composed of the Speaker, the deputy speakers, and four representatives who, if the Diet cannot agree on their selection, are elected by proportional vote.

The basis for the budget of the secretariat shall be prescribed by law.

Art. 90. The order of work of the Diet and provisions relating to elections within the Diet according to the proportional system, as well as rulings for the officials of the Diet, shall be determined by the Diet.

Art. 91. Government propositions, committee opinions, writings addressed by the Diet to the President of the Republic, the record and the resolution of the Diet should be published in print.

Art. 92. All expenses occasioned by the Diet shall be paid from the public funds.

Art. 93. If a day fixed by the present law for a special case fall upon a Sunday or public holiday, the following working day is understood.

If a delay fixed by the present law in view of a measure to be taken at a session of the Diet shall begin to run while the Diet is assembled, but expire during a recess, the remaining days of the fixed delay shall be counted from the day when the Diet meets anew. The fixed delay shall be counted in its totality from this day in case it began to run during a recess.

Final Provision

Art. 94. The present Diet Act, by which are abrogated the Diet Act of July 20, 1906, and the laws of December 31, 1917, May 29, 1918, October

22, 1918, and April 17, 1919, which amended the said Diet Act, carries in all its parts the force of fundamental law; it cannot be amended, interpreted, or abrogated, nor can deviations be made from it except in the order stipulated in general for fundamental law.

Provisions which in virtue of the laws are in force with relation to the Diet estates of Finland should be applied to the Diet in the composition that it has in virtue of the present law, unless the latter stipulates otherwise.

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