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YEARBOOK ON HUMAN RIGHTS FOR 1946

The Yearbook on Human Rights for 1946 has been prepared by the Human Rights Division of the Department of Social Affairs, United Nations Secretariat, in accordance with a resolution of the Economic and Social Council which requested the Secretary-General to arrange for "the compilation and publication of a yearbook on law and usage relating to human rights, the first edition of which should include all declarations and bills on human rights now in force in the various countries. . ." It is the first of a series of annual volumes which will record the changes in laws and usages relating to human rights throughout the world.

The *Yearbook* contains the texts of all Bills of Rights in effect on 31 December 1946, all other constitutional provisions relating to human rights in effect on 31 December 1946, and the most important ordinary laws relating to human rights promulgated during 1946. In addition, in the case of those

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countries liberated from enemy occupation during 1944 and 1945, the *Yearbook* includes the most important ordinary laws relating to human rights promulgated in those countries during 1945.

Since certain countries have no written constitutions and since the constitutions of other countries contain no general provisions relating to human rights, the *Yearbook* presents a series of statements, prepared by eminent authorities, relating to human rights in these countries. In addition the *Yearbook on Human Rights for 1946* contains a series of eleven studies which survey the question of the principles of human rights in a number of countries or which outline recent legal changes regarding human rights.

The remarkable scope of the *Yearbook* is indicated by the fact that it contains extracts from constitutions and other legislation, statements and studies for a total of seventy-three countries.

The *Yearbook on Human Rights for 1946* is provided with a full index as well as an up-to-date bibliography. The volume is a unique and authoritative compilation of source materials which will be of permanent value to government officials, lawyers, political scientists, students, and teachers, as well as to men and women throughout the world who have placed their trust in the United Nations, one of whose purposes is "to achieve international co-operation . . . in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion."



**YEARBOOK
ON
HUMAN RIGHTS
FOR 1946**

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INTRODUCTION

I

At its second session the Economic and Social Council, taking note of the recommendation of the Nuclear Commission on Human Rights, adopted a resolution requesting the Secretary-General to make arrangements for:

“(a) the compilation and publication of a yearbook on law and usage relating to human rights, the first edition of which should include all declarations and bills on human rights now in force in the various countries. . . .”¹

This issue of the Yearbook, prepared in compliance with that resolution, contains provisions concerning human rights *in force on 31 December 1946* taken from the constitutions of all countries, as well as various legislative texts on the same subject.

II

Human rights may be guaranteed by constitutional provisions, ordinary legislation (laws and regulations) and court decisions. The Yearbook deals only with constitutional provisions and ordinary legislation.

A. Constitutions

The constitutions written at the end of the eighteenth century had a twofold purpose: to proclaim human rights and to establish the framework of the organization of the State. Usually the declaration of human rights appeared at the beginning and the latter part of the constitution was devoted to the organization of the State. Subsequent constitutions generally followed this pattern. Some of the later constitutions, however, contained no bill of rights. Human rights were either not mentioned at all, or were included among other constitutional provisions. Even when there was a declaration of rights, additional references to human rights were often found in other parts of the constitution.

All constitutional provisions relating to human rights have been included in this Yearbook.

Certain countries, such as the United Kingdom of Great Britain and Northern Ireland, have no written constitution. The constitutions of some other countries, including Australia, Canada, New Zealand and the Union of South Africa, contain no general provisions concerning human rights. In these countries the observance of human rights is guaranteed by the ordinary law; i.e. common law, court decisions, Act of Parliament and codes, etc.² The Yearbook contains statements by qualified jurists on the law and usage relating to human rights in such countries.

B. Ordinary Legislation

Even where the constitution contains specific provisions relating to human rights and fundamental freedoms it is sometimes useful to supplement the study of these provisions by examination of the machinery established for their application and enforcement (ordinary laws, sometimes supplemented by decrees, by-laws, edicts, etc.). Thus the exercise of freedom of the press or freedom of association is often governed by elaborate rules. The decisions of courts also contribute to the development of the law.

The laws and regulations relating to human rights were found to be so numerous that only a selection could be included in the Yearbook. Since each issue relates to a single year, only those laws and regulations which came into force in 1946 would normally appear in this volume. However, some ordinary legislation adopted before 1946 has been added in the case of countries liberated in 1944 and 1945 in order to give a clear picture of the recent development of human rights in those countries.

The Yearbook contains statements and studies describing and commenting on the law relating to human rights in sixteen countries, and indicating any recent changes in the law. The statements are in lieu of written constitutional texts where none exist or where the constitution does not mention human rights. The studies, on the other hand, deal with certain countries where there are constitutional provisions relating to human rights. In addition to five statements, there are eight studies which deal with the principles of human rights in general, and five studies which deal with specific questions in this field or describe the recent evolution of the law governing human rights.

¹ *Journal of the Economic and Social Council*, First Year, No. 29, page 521.

² It was to cover the cases of countries which have no written constitution that the Economic and Social Council adopted the formula proposed by the United Kingdom delegate, Mr. Philipps, namely, “Law and usage relating to human rights” (document E/SOC/DC/3, p. 4, 13 June 1946).

The statements or studies relating to Australia, China, Czechoslovakia, New Zealand, Poland, Sweden, Union of Soviet Socialist Republics and United Kingdom were written by experts designated by these governments, or by delegates or officials of the government concerned. Those concerning Belgium, Canada, Cuba, France, Italy, Lebanon, Mexico, and the United States of America were prepared by experts selected by the Secretariat. These statements and studies, however, are to be considered as representing the personal views of their authors.

III

In the preparation of this Yearbook every effort has been exerted to make it as complete as the facilities available would allow, and strict impartiality and objectivity have been maintained throughout. It is recognized that the first issue represents an experiment; and any comments or suggestions for its improvement that Member States of the United Nations, the Economic and Social Council, or the Commission on Human Rights may care to make will be welcomed. It is hoped that the Yearbook will provide a useful working document for governments, national and international organizations, and agencies concerned with the promotion of respect for and observance of human rights and fundamental freedoms.

The Secretariat wishes to extend its warmest thanks to Professor B. Mirkine-Guetzévitch, who assumed the main burden of preparing and editing the Yearbook, and to Professor E. Hamburger, who shared in this task. The Secretariat further extends its thanks to the following persons who supplied information, suggestions, statements and studies:

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Lake Success, N. Y.

AFGHANISTAN

FUNDAMENTAL PRINCIPLES OF THE GOVERNMENT OF AFGHANISTAN¹ of 31 October 1931

GENERAL PRINCIPLES

Art. 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.

GENERAL RIGHTS OF AFGHAN SUBJECTS

Art. 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.

Art. 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.

Art. 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.

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

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

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

Art. 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 interests, the value of it will be paid to the owner according to Shariat law and the special code concerned, before it is taken over.

Art. 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.

Art. 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.

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

Art. 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.

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

Art. 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.

Art. 22. The public schools in 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

Art. 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.

Art. 24. The settlement of personal disputes and other matters between subjects falls within

¹ *British and Foreign State Papers*, Vol. 134, 1931, pp. 1192-1204; and Helen Miller Davis, *Constitutions, Electoral Laws, Treaties of States in the Near and Middle East* (Foreword by B. Mirkin-Guetzévitch), Duke University Publications, Durham, N.C., Duke University Press, 1947, pp. 4-17.

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.

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.

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

Art. 26. Nothing may be recovered from any

one beyond what is laid down in the Government codes.

MISCELLANEOUS PRINCIPLES

Art. 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.

ALBANIA

CONSTITUTION OF THE PEOPLE'S REPUBLIC OF ALBANIA¹

of 15 March 1946

PART I

FUNDAMENTAL PROVISIONS

Title 2

SOCIAL AND ECONOMIC STRUCTURE

Art. 5. In the People's Republic of Albania the means of production comprises all the wealth of the people owned by the State, the co-operative organizations of the people, and private individuals whether real or legal entities.

The wealth of the people includes mines and all other subsurface resources, as well as waterways, natural wealth, forests, pasture land, airways, postal service, telegraph, telephone, radio stations and banks.

Art. 6. In order to protect the vital interests of the people and to improve the standard of living, and in order to exploit all the economic forces, the State undertakes to direct economic life and development by an over-all planned economy. The State, by controlling its economy and the co-operatives, exercises a general control over private economy as well.

The State, in order to carry out the general economic plan, relies on the trade unions of the working men and civil servants, the co-operatives of the peasants, and other organizations of the labouring masses.

Art. 7. The State regulates and directs by law the use of the collective wealth of the people. The collective wealth of the people is especially favoured by the State.

Art. 8. The State is especially interested in the co-operative movement of the people, which it favours and assists.

Art. 9. Private property and private initiative are guaranteed by the State. Private inheritance is guaranteed. Nobody may use private property to the detriment of the public.

Private property may be limited and, when the general welfare of the community calls for it, it may be expropriated by a law, which shall provide in each case what shall be the amount of compensation to the owner.

Likewise other branches of economy or enterprise may also be nationalized whenever the interest of the people demands or requires it.

Monopolies, trusts, cartels, etc., created for the purpose of imposing prices and monopolizing markets to the detriment of national economy, are prohibited.

Art. 10. The land belongs to those who till it. The conditions under which an institution or a person can own land which they do not cultivate shall be established by law.

Large estates may in no circumstances be owned by private individuals.

The maximum amount of land that may be owned individually is determined by law.

The State especially favours and protects the small and middle peasants by its economic policy, by means of credit, and by its taxation system.

Art. 11. The State, by means of economic and other measures, encourages the working classes to unite and organize themselves against economic exploitation.

The State protects the workers by guaranteeing them the right to organize, by limiting their hours of work, and by establishing minimum wages. The State supports the workers by means of social security laws and vacations with pay at the expense of the employers.

The State especially protects minors by regulating their employment.

Title 3

RIGHTS AND DUTIES OF CITIZENS

Art. 12. All citizens are equal before the law. They must obey the Constitution and all laws of the land. No privilege because of family, position in life, wealth or cultural level is recognized.

Art. 13. All citizens are equal regardless of nationality, race, or religion. Any act which grants privileges or takes away rights from any citizen because of nationality, race or religion is unconstitutional and carries with it punishments as provided by law. It is unconstitutional and punishable by law to stir up hatred and dissension among nationalities, races, or religions.

Art. 14. All citizens who have reached the age of eighteen are eligible to elect and be elected in all organs of government, regardless of sex, nationality, race, creed, cultural level or residence.

Members of the armed forces also have these rights.

The right to vote is universal, equal, direct and by secret ballot.

¹ Albanian text in *Asambleja Kushtetuese. Statuti i Republikës Popullore të Shqipërisë*. Tirane 1946. English text through the courtesy of Mr. Behar Shtylla, Secretary-General of the Ministry of Foreign Affairs, Tirana.

The right to vote is forfeited by those who have been disqualified by law.

Art. 15. Women are equal to men in all walks of life, private, political, or social.

Women shall receive the same pay as men for the same work; and women have similar rights with regard to social security.

The Government especially protects the interests of mothers and young children, by assuring vacations with pay before and after childbirth, and also by building maternity hospitals and nurseries.

Art. 16. Freedom of conscience and religion is guaranteed to all citizens.

The church is separated from the State.

Religious communities are free to exercise and practise their creeds.

It is forbidden to use the church and religion for political purposes.

Likewise, political organizations based on religion are also forbidden.

The State may assist religious communities materially.

Art. 17. Marriage and family are protected by the State. The legal conditions of marriage and family are fixed by law.

Legal marriages can be performed only by competent representatives of the Government. After celebrating a civil marriage a citizen may celebrate a religious marriage according to the rules of his creed.

The courts of the State only are competent to determine all questions concerning marriage.

Parents have the same obligations towards their illegitimate children as to those born in wedlock. Illegitimate children have the same rights as those born in wedlock.

Art. 18. Freedom of speech, freedom of the press, freedom of organization, freedom of assembly and of public demonstration are guaranteed to all citizens.

Art. 19. Personal inviolability is guaranteed to all citizens. Nobody can be arrested for more than three days without a court warrant or without the approval of the district attorney.

No person shall be punished for a crime without the decision of a competent judge in conformity with the law which defines the crime and the competence of the court.

No punishment shall be determined and inflicted except as prescribed by law.

No person shall be punished without a hearing or without being summoned to defend himself according to law, except in a case where his absence is legally established.

The administrative organs of the State may give jail sentences for common law misdemeanours as prescribed by law.

No citizen may be exiled or interned within the State, except as prescribed by law.

The People's Republic of Albania protects the rights of its citizens in foreign lands.

Art. 20. A home cannot be violated.

No person can enter a house and search it against the wishes of the owner, except when he holds a court order in his hands.

No search can be made except in the presence of two witnesses. The owner of the house also has a right to be present.

Art. 21. The secrecy of mail and other correspondence cannot be violated except in cases of criminal investigation, military mobilization, or state of war.

Art. 22. In the People's Republic of Albania work is a privilege and a duty.

Every citizen has a right to be paid according to his work and to receive from society as much as he gives to it.

Art. 23. All citizens have a right to be employed in government work according to specific regulations laid down by law.

Citizens appointed or elected to public office are bound to perform their duties conscientiously.

Art. 24. It is the duty of the State adequately to support disabled soldiers at public expense and to enable them to resume their work. The State shall support the families of those who died in battle and of all war victims.

Art. 25. The State takes care of the health of the people by organizing and controlling health service, hospitals, and sanatoria.

Art. 26. The State takes care of the physical education of the people, especially that of the youth, with a view to improving health and increasing the capacity of the people for work and the defence of the State.

Art. 27. Freedom of scientific and artistic work is guaranteed. The State promotes science and the arts in such a way as to further the culture and welfare of the public.

The rights of authors are protected by law.

Art. 28. In order to raise the cultural level, the State gives to all classes of people every chance to attend schools and other cultural institutions.

The State is particularly interested in the education of the young.

Minors are protected by law.

The schools belong to the State. Private schools can be opened only by special permission. All their activities are supervised by the State. Elementary education is free and obligatory.

Schools are separate from the church.

Art. 29. Citizens have the right to petition State organs for redress of wrongs.

Citizens have the right to complain against any illegal or irregular decision of an administrative organ of the State.

Art. 30. Every citizen can complain in competent courts against officials who have acted unjustly in the discharge of duty.

Art. 31. Citizens are entitled to seek from the State or from an official compensation for damages incurred as a result of illegal or irregular punishment.

Art. 32. Defence of the country is the highest duty and greatest privilege of any citizen.

Treachery against the people is the greatest crime.

Military service is obligatory for all citizens.

Art. 33. Every citizen must pay taxes according to his income.

The State fixes taxes, and exemption from the same is determined by law.

Art. 34. Citizens cannot use the rights given

them by this constitution in order to change the constitutional regime of the People's Republic of Albania in an undemocratic manner. Any act of this kind is illegal and carries with it punishment as prescribed by law.

Art. 35. In the People's Republic of Albania national minorities enjoy all the rights enjoyed by other citizens, as well as freedom to use their own language and to develop their own culture.

Art. 36. The People's Republic of Albania gives the right of refuge to citizens of other countries who are persecuted for their activities on behalf of democracy, national liberation, rights of the workers, or scientific and cultural freedom.

ARGENTINA

CONSTITUTION OF THE ARGENTINE NATION¹

of 1 May 1853

FIRST PART

DECLARATIONS, RIGHTS AND GUARANTEES

Art. 2. The federal government supports the Roman Catholic Apostolic Church.

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, ensuring its administration of justice, municipal government, and primary education. Under these conditions, the federal government guarantees to each one of the provinces the enjoyment and exercise of its institutions.

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

Art. 14. All inhabitants of the nation enjoy the following rights, in accordance with the laws that regulate their exercise—namely, of working and practising any legal industry; of navigating and trading; of petitioning the authorities; of entering, remaining in, travelling through, and leaving 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. 16. In the Argentine nation there are no slaves; the few that exist today are free from the promulgation of this constitution; and a special law shall regulate whatever indemnifications this declaration may give rise to. Any contract for the purchase or sale of persons is a crime for which those committing it, and the notary or officer authorizing it, shall be responsible. And slaves, whatever the manner in which they shall be introduced, shall be free by the mere fact of setting foot on the territory of the Republic.

Art. 16. The Argentine nation does not admit prerogatives of blood or of birth; in it there are no personal privileges, nor titles of nobility. All its inhabitants are equal before the law, and admissible for employment without any other requisite than fitness. Equality is the basis of taxation and of the public burdens.

Art. 17. Property is inviolable, and no inhabitant of the nation can be deprived thereof except by virtue of a sentence founded on law. Expropriation for reasons of public utility must be authorized by law and previously compensated. The Congress alone imposes the taxes mentioned in Article 4. No personal service can be required except by virtue of a law or sentence based on law. All authors or inventors are exclusive proprietors of their work, invention, or discovery for the term granted them by law. The confiscation of property is stricken out for ever from the Argentine penal code. No armed body may make requisitions, or demand assistance of any kind.

Art. 18. No inhabitant of the nation may be punished without previous trial, based on a law passed earlier than the date of the offence, nor tried by special commissions, nor removed from the judges designated by law before the date of the trial. No one can be compelled to testify against himself or be arrested except by virtue of a written order from a competent authority. The defence, by trial, of the person and of rights is inviolable. The domicile is inviolable, as also epistolary correspondence and private papers; and a law shall determine in what cases and for what reasons their search and seizure may be allowed. The penalty of death for political offences, all kinds of torture, and whipping, are for ever abolished. The prisons of the nation shall be healthy and clean, for the safety and not for the punishment of the prisoners confined in them; and any measure that under pretext of precaution inflicts on them hardship beyond what the nation demands, will bring responsibility upon the judge who authorizes it.

Art. 19. The private actions of men that in no way offend public order or morality, nor hurt a third party, are subject only to the judgment of 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 deprived of what it does not forbid.

Art. 20. Aliens enjoy in the territory of the nation all the civil rights of the citizens; they may

¹Extracts from the translated constitutions of the Latin American States—with the exception of Ecuador and Haiti—are printed, by permission of the editors and publisher, from *The Constitutions of the Americas* (Russell H. Fitzgibbon, Editor-in-Chief; Cullen B. Gosnell, William A. Strozier, and William S. Stubbs, Associate Editors), to be published by the University of Chicago Press.

Spanish text of the Argentine Constitution in *Constitución de la Nación Argentina*. Buenos Aires, 1939.

exercise their industry, commerce, and profession; own landed property, purchase it and sell it; navigate the rivers and coasts; freely practise their religion; make their wills and marry in accordance with the laws. They are not obliged to assume citizenship, or to pay forced extraordinary taxes. They may obtain naturalization by residing for two continuous years in the nation; but the authorities may shorten this term in favour of anyone so requesting, on adducing and proving services to the Republic.

Art. 21. Every Argentine citizen is obliged to arm himself in defence of the fatherland and of this Constitution, in accordance with whatever laws the Congress shall enact for the purpose and with the decrees of the national executive. Citizens by naturalization are free to render this service or not for a term of ten years counting from the date on which they obtain their letters of citizenship.

Art. 22. The people do not deliberate or 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. 23. In case of internal commotion or foreign attack endangering the exercise of this constitution and of the authorities created by it, the province or territory in which the disturbance of order exists shall be declared in a state of siege, the constitutional guarantees there being suspended. But during this suspension the President of the Republic shall not condemn by himself nor 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 Argentine territory.

Art. 24. The Congress shall promote the amendment of the present legislation in all its branches, and the establishment of trials by juries.

Art. 25. The federal government shall develop

European immigration, and shall not be able to restrict, limit, or burden with any tax whatsoever the entrance into Argentine territory of aliens who arrive with the object of tilling the ground, improving the industries, and introducing and teaching the sciences and arts.

Art. 26. Navigation of the internal rivers of the nation is free for all flags, subject only to the regulations that are enacted by the national authority.

Art. 28. The principles, guarantees, and rights recognized in the foregoing articles shall not be altered by the laws that are to regulate their exercise.

Art. 29. The Congress shall not confer on the national executive, nor the provincial legislatures on the governors of the provinces, extraordinary powers, or the whole of the public authority, nor grant them submission or supremacy whereby the life, honour or fortunes of Argentines will be at the mercy of governments or of any person whatever. Acts of this nature are irreparably invalid, and will bring whoever performs, allows, or signs them, under the responsibility and penalties of infamous traitors to the Fatherland.

Art. 31. This constitution, the laws of the nation enacted by the Congress in consequence thereof, and treaties with foreign powers, are the supreme law of the nation; and the authorities of each province are obliged to conform to them, notwithstanding any provision to the contrary that the provincial laws or constitutions may contain, except, for the Province of Buenos Aires, the treaties ratified after the pact of 11 November 1859.

Art. 32. The federal Congress shall not enact laws that restrict the liberty of the press or that establish federal jurisdiction over it.

Art. 33. The declarations, rights, and guarantees that the Constitution enumerates shall not be considered as a denial of other rights and guarantees not enumerated, but which rise from the principle of the sovereignty of the people and of the republican form of government.

PROVINCES OF ARGENTINA

CONSTITUTION OF THE PROVINCE OF BUENOS AIRES¹ of 23 November 1934

SECTION I DECLARATIONS, RIGHTS AND GUARANTEES

Art. 6. The right of all men to worship Almighty God freely and publicly according to the dictates of their conscience is inviolable in the territory of the province.

¹ Spanish text in *Constitución de la Provincia de Buenos Aires*, 3ª edición oficial, La Plata, 1937. English translation from the Spanish text by the United Nations Secretariat.

Art. 7. The exercise of religious freedom, recognized in the foregoing article, is subject to the requirements of morality and public order.

Art. 8. The government of the province shall help to support the Roman Catholic Apostolic Church in accordance with the provisions of the national constitution.

Art. 9. All inhabitants of the province are, by their nature, free and independent and have a perfect right both to defend their lives, liberty,

reputation, security and property, and to have them protected. No one may be deprived of these rights except by way of penalty, in accordance with law enacted prior to the act with which he is charged, and legal sentence by a competent judge.

Art. 10. All inhabitants of the province are equal in the eyes of the law, which must be one and the same for all persons and have uniform effect and force.

Art. 11. Freedom to express thoughts and opinions by any means is a right guaranteed to all inhabitants of the province.

The legislature shall not enact preventive measures, or laws or regulations, which restrain, restrict or limit the freedom of the press.

Only acts constituting common law offenses may be considered as abuses of the freedom of the press. The determination of penalties for such acts shall rest with the legislature, and they shall be tried by the judges and the common courts. So long as no relevant law is enacted, the penalties provided by the National Penal Code shall be applied.

Offences committed through the medium of the press shall never be considered heinous. Printing presses and accessories shall not be subject to confiscation during proceedings as instruments of the offence. Justification shall always be an admissible defence, whenever the official conduct of public officials or employees is in question.

Art. 12. The right of peaceful assembly to discuss public or private affairs is guaranteed to all inhabitants of the province, provided that they do not disturb public order, as is also the right of individual or collective petitioning of all and each of their authorities, whether to request mercy or justice, to instruct their representatives, or to seek redress of injuries. In no case shall an assembly of persons be able to claim to represent or to hold the rights of the people, or petition on its behalf, and those doing so commit the crime of sedition.

Art. 13. No one may be arrested without previous summary investigation producing presumptive proof or strong evidence of the commission of an act punishable by imprisonment, except in case of *flagrante delicto*, in which case any offender may be arrested by any person and brought immediately before his judge; nor may he be imprisoned without the written order of a competent judge.

Art. 14. Every order for investigation, arrest of one or more persons, or attachment of property, must specify the persons or objects of such investigation or attachment, describing in detail the place to be searched, and no warrant of this kind shall be issued except for a punishable act and unless supported by oath or statement, without which requirements the order or warrant shall not be executable.

Art. 15. Judgment may not be passed by special commissions or courts, however they be denominated.

Art. 16. Every arrested person shall be informed of the reason for his detention within twenty-four hours.

Art. 17. Any arrested person may apply, himself or through a third party, to be brought before the nearest judge; and, even if the warrant has been issued by a competent authority, may not be detained against his will unless, before twenty-four hours have elapsed, he has been notified by a judge, also competent, of the reason for detention. Any judge, even of a collegiate court, must, when presented with such a petition or claim under the guarantee of the foregoing article, act within the period of twenty-four hours, reckoned from the time of its properly documented presentation, under pain of a fine of 1,000 Argentine pesos. Once a petition has been acted upon, any official detaining the arrested person or failing to comply with the requirements of the judge within the period indicated by him, shall incur a fine of 500 Argentine pesos, without prejudice to the execution of the warrant.

Art. 18. A person giving sufficient bail or surety may be released from prison or exempted from imprisonment.

The law shall decide the terms and conditions of the surety, due regard being had to the nature of the offence, its gravity, the dangerousness of the author, and other circumstances, and the manner and desirability of granting provisional liberty.

Art. 19. All inhabitants of the province have the right to enter and leave the country, and to come and go, taking their property with them, subject to third-party rights.

Art. 20. Private correspondence is inviolable.

Art. 21. A person's domicile may not be forcibly entered, except by written order of a judge or of the municipal authorities responsible for supervising the enforcement of public health regulations, and for this purpose only.

Art. 22. No inhabitant of the province shall be forced to do anything that the law does not order, nor shall he be prevented from doing anything that it does not prohibit.

Art. 23. The private acts of men which in no way offend against public order nor injure a third party are subject only to the judgment of God and not to the authority of the magistrates.

Art. 24. Freedom of work, industry and trade is the right of every inhabitant of the province, provided always that it neither offends against or prejudices morality or public health, nor contravenes the laws of the country or the rights of third parties.

Art. 25. No accused person shall be compelled to swear or testify against himself in a criminal action; nor shall he be tried twice for the same offence.

Art. 26. Prisons are established for the security and not for the affliction of prisoners. Penitentiaries shall be so governed as to be centres of work and moral regeneration. The authorities shall be held responsible for any unnecessary severity they may impose.

Art. 27. Property is inviolable, and no inhabitant of the province may be deprived of it except by virtue of a verdict in accordance with law. Expropriation for the public good must be authorized by law and compensated in advance.

Art. 28. The laws of birth into freedom and those prohibiting the slave trade, confiscation of property, torture, cruel punishments, perpetual infamy, the right of inheritance by primogeniture and entails of every kind, all property being alienable, are ratified in perpetuity.

Art. 29. No person shall be imprisoned for debt in a civil action, except in those cases of fraud or other offences specified by law.

Art. 30. Within the territory of the province aliens shall enjoy all the civil rights of the citizen, and such other rights as are granted by this constitution.

Art. 31. Freedom to teach and to study may not be restricted by preventive measures.

Art. 43. The declarations, rights and guarantees mentioned in this constitution shall not be interpreted as denying or impairing other rights and guarantees either not specifically mentioned herein or enjoyed in practice by the people, which derive from the principle of popular sovereignty and belong to man in his capacity as such.

Art. 44. Any law, decree or order contrary to

the foregoing articles, or which imposes on the exercise of the liberties and rights recognized in them, restrictions other than those permitted by these articles, or deprives citizens of the guarantees which they ensure, shall be unconstitutional and may not be applied by judges. Any person prejudiced by any order violating or impairing these rights, liberties and guarantees has cause for civil action for compensation for the damage caused him by such violation or impairment, against the employee or official authorizing or executing it.

SECTION VII

EDUCATION AND PUBLIC INSTRUCTION

Art. 190. Laws for the organization and regulation of education shall be subject to the following rules:

1. Public education is free and compulsory, under the conditions and subject to the penalties established by law;

2. Public education shall have among its principal aims that of forming the character of children so that they may venerate the national institutions, be imbued with the principles of Christian morality, and respect freedom of conscience.

Art. 191. Organic and administrative law on secondary and higher education shall conform to the following rules:

1. Secondary and higher education shall be the responsibility of universities to be established in the future;

2. Teaching shall be available to all inhabitants of the province and shall be free, within the limitations established by law.

CONSTITUTION OF THE PROVINCE OF CATAMARCA¹ of 27 June 1895

SECTION I

DECLARATIONS, RIGHTS AND GUARANTEES

Art. 2. The Roman Catholic Apostolic religion is the religion of the province; the government shall help to support it without prejudice to the toleration of religions guaranteed by the national constitution.

Art. 4. All inhabitants of the province are equal in the eyes of the law; this must be one and the same for all, and have uniform effect and force.

Art. 5. All inhabitants of the province are, by their nature, free and independent, and have a perfect right to defend themselves and to be pro-

tested in their life, liberty, reputation, security and property.

No person may be deprived of the enjoyment of these rights, except by sentence of a competent judge in accordance with law enacted prior to the act with which he is charged.

Art. 6. Property is inviolable, and no inhabitant of the province may be deprived of it, except by a sentence in accordance with law or expropriation for the public good, which must in every case be authorized by law and compensated in advance.

Art. 7. Freedom to teach and to study may not be restricted by preventive measures.

Art. 8. Freedom of the written or spoken word is a right guaranteed to the inhabitants of the province.

Art. 9. The legislature shall not enact laws restricting the freedom of the press, and cases of this kind must be tried by the jury prescribed by law, without prejudice to the jurisdiction of the common courts in penal offences.

¹Spanish text in *Constitución de la Provincia de Catamarca*. Catamarca, 1932. English translation from the Spanish text by the United Nations Secretariat.

Art. 10. Freedom of association, work, industry and trade is a right guaranteed to every inhabitant of the province, provided it is not harmful or prejudicial to morality or public health, and does not contravene the laws of the land or third-party rights.

Art. 11. Every author or inventor in the province is the owner of his work or invention for the period granted by the law.

Art. 12. Confiscation of property is hereby abolished. No armed force may make requisitions or demand assistance of any kind.

Art. 13. The right of individual or collective petitioning of their authorities is guaranteed to all inhabitants of the province, as is also the right of assembly to discuss public or private matters, provided that public order is not disturbed. In no case may an assembly of persons claim to represent the people, hold its rights or petition on its behalf; those doing so commit the crime of sedition.

Art. 14. Any measure adopted by the authorities in the presence, or on the demand, of an armed force or seditious meeting, is null and void and shall never have effect.

Art. 15. Every inhabitant of the nation has the right to enter and leave the territory of the province and to pass through it with his property, without prejudice to third parties.

Art. 16. It is the duty of every citizen domiciled in the province to take up arms when required to do so by the legally constituted authorities, subject to the exceptions prescribed by law.

Art. 18. The private acts of men which in no way offend against public order or prejudice a third party are subject only to the judgment of God and not to the authority of magistrates.

Art. 19. The civil status of persons shall be registered uniformly throughout the province by the civil authorities, without distinction of religious beliefs, in the manner prescribed by law.

Art. 20. No free service may be demanded, unless by virtue of a judgment in accordance with the law, except in the cases provided for in this constitution or which the law has declared to be a public charge.

Art. 21. Domicile is inviolable, and may not be forcibly entered except by written order of a competent authority, which must be specific and show cause; otherwise the person effecting entry shall be held liable.

Art. 22. Forcible entry of a domicile may be effected only by civil officials.

Art. 23. No person shall be obliged to do anything that the law does not order, nor deprived of anything that it does not prohibit.

Art. 24. Private correspondence is inviolable; it may be seized only in the cases prescribed by law.

Stolen letters and documents shall not be admitted in evidence.

Art. 25. The law regards as innocent anyone not found guilty by verdict.

Art. 26. No law shall be enacted implying judgment, prejudicing the position of accused persons on account of acts committed prior to the enactment of such law, or depriving them of acquired rights.

Art. 27. No person may be punished without previous sentence in accordance with a law enacted prior to the act with which he is charged, or judged by special commissions, or removed from the jurisdiction of the judges appointed by law before the act with which he is charged.

Art. 28. No statement obtained by unlawful means may be admitted in evidence or used as a basis for fresh proceedings of any kind.

Art. 29. Capital punishment may not be inflicted, except by unanimous vote of the members of the Court of Justice.

Art. 30. Freedom of defence and representation in trials is hereby established, in accordance with the relevant laws.

Art. 31. No person may be obliged to testify against himself in criminal proceedings, nor is it lawful for him to do so against his ascendants, descendants, spouse, brothers or sisters, relatives within the second degree, guardians or wards, and inversely. This prohibition does not cover evidence in case of an offence against the plaintiff, or against a person whose relationship with the plaintiff is closer than his relationship with the defendant. Nor may any person be compelled to testify against his other relatives up to and including the fourth degree.

Art. 32. Purely summary proceedings may not be instituted, trial time reduced, or the defence otherwise restricted in cases within the jurisdiction of the common courts of the province.

Art. 34. Imprisonment for debt in a civil action is hereby abolished, except for those cases of fraud or wrongdoing prescribed by law.

Art. 35. No person may be legally prosecuted more than once for the same offence, nor in any circumstances may a closed case be reopened.

Art. 36. No person may be arrested without previous summary investigation producing presumptive proof or strong evidence of the commission of an offence punishable by imprisonment; nor may he be imprisoned without written order of a competent judge, unless caught in *flagrante delicto*, in which case any offender may be arrested by any person whatever and brought by him immediately before his judge or the nearest authority.

Art. 37. No person shall be kept under arrest in a public prison for criminals, but must be lodged in another place appointed for this purpose.

Art. 38. No person may be kept under arrest for more than forty-eight hours, plus a longer period proportionate to the distance involved, without a competent judge being notified and the

accused placed at his disposal with an account of the circumstances leading to his arrest, nor afterwards may he remain for more than three days completely *incomunicado*.

Art. 39. Every arrested person shall be notified of the reason for his arrest or imprisonment within the first twenty-four hours.

Art. 40. Prisons are for the security and not for the affliction of prisoners. Penitentiaries established by law shall be so governed as to be centres of moral reform, education and work.

Authorities or officials shall be directly liable for any unnecessary severity they may impose.

Art. 42. Any person suffering arbitrary arrest or imprisonment or any other violation of his personal liberty may apply, himself or through his relatives, friends or other third party, to any competent judge, that the latter may inquire into the circumstances of such arrest, imprisonment or violation; and if it appear that constitutional requirements have not been fulfilled, may order his immediate release or that his rights be respected.

If the violation, arrest or imprisonment have been ordered by any judge, application must be made to the next higher instance.

Art. 43. Any warder or guard, on receiving a prisoner, must demand and retain in his possession the original order referred to in article 36, or a certified copy thereof, or the order for release or discharge, as the case may be, on pain of being held directly liable for unauthorized imprisonment or release. The same obligation to demand the first of the said orders, and with the same liability, devolves upon the person effecting the arrest or imprisonment.

Art. 56. In no case may the provincial author-

ities suspend this constitution on grounds of the maintenance of order or the public good.

Art. 58. Aliens enjoy, within the territory of the province, all the civil rights of the citizen, and the municipal rights granted them by this constitution.

Art. 60. Any law, decree or order contrary to the foregoing articles, or which imposes on the enjoyment of the freedoms and rights recognized in this constitution, restrictions other than those permitted by the same, or deprives citizens of the guarantees assured by it, shall be null and void and may not be applied by judges. Any person prejudiced by any order, decree or law violating or impairing these rights, freedoms and guarantees has a civil action for compensation for damage caused him by such violation or limitation, against the employee or official authorizing or effecting it.

Art. 61. The declarations, rights and guarantees mentioned in this constitution shall not be interpreted as denying or impairing other rights and guarantees not specifically mentioned, or enjoyed in practice by the people, which derive from the principle of popular sovereignty and belong to man in his capacity as such.

SECTION VII

PUBLIC EDUCATION

Art. 226. The legislature shall enact laws necessary for organizing a system of public education.

Art. 227. Laws for the organization and regulation of public education shall be subject to the following rules: . . .

4. Public education is free and compulsory, subject to the conditions and penalties prescribed by law.

CONSTITUTION OF THE PROVINCE OF CÓRDOBA¹ of 11 January 1883

DECLARATIONS, RIGHTS AND GUARANTEES

Art. 2. The Roman Catholic Apostolic religion is the religion of the province; the provincial government shall afford it the most staunch and effective protection, and all inhabitants of the province the greatest respect; nevertheless, the State shall respect and guarantee all other religions not conflicting with morality or natural reason.

Art. 5. All inhabitants of the province of Córdoba shall enjoy, within the province, the rights and guarantees granted to the inhabitants of the nation by the national constitution, Part I, and shall be subject to the obligations and restrictions it imposes on them.

Art. 6. Capital punishment may not be inflicted, except by unanimous vote of the members of the High Court of Justice.

Art. 7. No person may be prosecuted more than once for the same offence, nor on any pretext may a case closed by final judgment be reopened.

Art. 8. Purely summary proceedings may not be instituted, trial time reduced, or the defence otherwise restricted, in cases where imprisonment may be inflicted.

Art. 9. Any defence counsel may be employed in all trials, and evidence shall be heard in public, except in cases where, in the opinion of the judge or court concerned, publicity might be harmful to good morals. The reasons for any decision shall be stated.

Art. 10. No person may be obliged to testify against himself in criminal proceedings; nor is it

¹Spanish text in *Constitución de la Provincia de Córdoba*. Publicación oficial. Córdoba, 1937. English translation from the Spanish text by the United Nations Secretariat.

lawful for him to do so against his ascendants, descendants, spouse, brothers or sisters; nor may he be compelled to testify against his other relatives up to the fourth degree.

Art. 11. Stolen private letters and papers may not be used in evidence.

Art. 12. No person may be arrested without at least a previous summary investigation producing presumptive proof or strong evidence of the commission of a crime or offence; nor may he be imprisoned without previous written order of a judge, except in the case of *flagrante delicto*, in which case any offender may be arrested by any person and brought immediately before his judge.

Art. 13. No persons may be detained or kept under arrest in a public prison for criminals, but must be lodged in another place appointed for this purpose. The prisons of the province shall be secure, healthy and clean, and no measure may be taken which, on the pretext of precaution, inflicts greater hardship on prisoners than is required for their security.

Art. 14. Any warder or guard must, on receiving any prisoner, demand and retain in his possession the order referred to in article 12, under pain of being held liable for unjust imprisonment. The same obligation to demand the order referred to, with the same liability, devolves upon the person effecting the arrest or imprisonment.

Art. 15. No person may be kept under arrest for more than twenty-four hours without a competent judge being notified and the accused placed at his disposal with an account of circumstances leading to his arrest; nor afterwards may the accused remain for more than three days completely *incommunicado*.

Art. 16. If the fines referred to in this constitution are not paid, imprisonment as prescribed by law shall be substituted.

Art. 17. The law shall regard as innocent any person not found guilty by verdict.

Art. 18. Any person suffering arbitrary imprisonment may apply through his relatives, friends or any other person to the nearest judge in order that the latter may have him brought before him, examine the manner of his arrest, and if constitutional requirements have not been fulfilled, order his immediate release.

Art. 19. A domicile is inviolable and may not be forcibly entered without written order, which may only be issued by a civil authority and must be specific and show cause, as provided in article 12 regarding orders for imprisonment; otherwise the persons executing it shall be held responsible.

Art. 20. Except in extremely serious and urgent cases or where public order is thought to be endangered, violent and objectionable measures, such as the searching of private houses, are to be avoided, particularly at night; in any case their

execution should only be entrusted to civil officials whose character and antecedents guarantee their reliability.

Art. 21. In order to ensure the greater respect for property, it is hereby declared that all persons taking any part in the collection of relief, taxation or other constitutional requisitions, are jointly liable for any damage caused.

Art. 22. The same liability devolves on anyone ordering such requisitions, issuing decrees or sanctioning any measure that attacks property, prejudices acquired rights, suspends the fulfilment of contract obligations or the payment of legal debts or interest on them, or depreciates or impairs their value.

Art. 23. In general, any persons ordering or carrying out unconstitutional acts of any kind are jointly responsible for any damage caused.

Art. 24. The legislature may not enact laws that compromise these principles, or have retrospective effect, or are enacted *ex post facto*. Nor may it authorize a compulsory rate of exchange for banknotes, or allow their conversion into another form, or into a currency different from that promised.

Art. 35. No law or regulation shall be enacted in the province which renders the status of aliens inferior to that of nationals. No law shall oblige aliens to pay heavier taxes than those borne by nationals, or to pay forced or extraordinary levies.

Art. 36. Aliens domiciled in Córdoba are eligible for municipal and purely administrative positions.

Art. 38. The legislature shall not enact laws restricting the freedom of the Press; all cases of this nature must be tried by the jury established by the relevant law.

Art. 39. When an action is brought against a publication which has censured in decorous language the conduct of a person such as a magistrate or public figure, charging him with derelictions or offences the exposure and punishment of which are in the interests of society, evidence of the truth of such charges shall be admissible, and if they are proved, the defendant shall be exempt from all punishment.

Art. 42. The enumeration and recognition of rights contained in this constitution do not imply denial of other rights deriving from the democratic form of the government and the natural condition of man.

COMPETENCE OF THE LEGISLATIVE POWER

Art. 83. The legislative power is competent to:

4. Enact the organic law on primary education in accordance with the following principles:

(a) Primary education shall be free and compulsory. . . .

CONSTITUTION OF THE PROVINCE OF CORRIENTES¹ of 31 October 1913

GENERAL DECLARATIONS

Art. 6. Freedom of the spoken and written word is a right.

Every person may express his ideas and opinions freely and unrestrictedly, and criticize and censure the conduct of public authorities and officials, but shall be liable for any abuse of this freedom.

No law or measure of any kind shall be enacted which restricts the enjoyment of this freedom, and in actions resulting from its abuse, evidence of justification shall be admissible, provided the injured party is a public official or employee.

It is the duty of public officials and employees to bring an action against any publication in which offences or derelictions are imputed to them, the investigation of which is in the interests of society.

Art. 7. No law shall be enacted which limits the right of peaceful assembly to discuss public or private matters.

Any act or omission on the part of the provincial authorities due to coercion, the use of armed force, or a rebellious or seditious meeting, shall be null and void.

Art. 8. The right of *habeas corpus* shall in no circumstances be suppressed, suspended or impaired by any authority.

Art. 9. Any arrested person shall, on production of sufficient surety, be provisionally released in the circumstances, manner and conditions prescribed by law.

Art. 10. No person shall be kept under arrest in a prison for criminals, but must be lodged in places especially provided for that purpose, subject to the exceptions prescribed by law.

Prisoners shall not be removed from the province to serve their sentence in other prisons, nor shall prisoners from without the province be admitted to its prisons.

Art. 11. In a criminal action no person may be obliged to testify against himself or against his relatives up to and including the fourth degree.

Art. 12. A domicile may be forcibly entered only on the written order of a competent judge, or of the municipal authorities for reasons of public health. The law shall establish the manner and means of effecting forcible entry.

The order must be specific and show cause; otherwise both the person issuing it and the person executing it shall be held liable.

Art. 13. No person may be deprived of his liberty for debt.

Art. 23. Property is inviolable. No person may be deprived of it except as the result of a judgment in accordance with law.

Expropriation for the public good must be authorized by law and compensated in advance.

The legislature is empowered to authorize expropriation to the full extent required in the public interest.

Art. 25. Electoral freedom is inviolable, subject to the conditions and liabilities established by this constitution and by the law.

Art. 26. The private acts of men which neither disturb public order nor prejudice third parties are subject only to the judgment of God, and not to the authority of the magistrates.

Art. 27. The principles, guarantees and declarations established by this constitution may not be impaired by the laws regulating them; otherwise such laws shall become null and void.

Any law, decree, order or resolution emanating from the authorities which imposes on the principles, liberties and rights established by this constitution restrictions other than those which this constitution permits, or which deprives the inhabitants of the province of the guarantees which it provides, shall be void and of no effect.

Without prejudice to the claims on grounds of unconstitutionality, any person injured by such provisions may bring before the competent authority a legitimate action against the public officials or employees authorizing or applying such provisions, whether their terms of office have expired or not; such officials or employees may in no case disclaim liability by pleading the order or approval of a superior.

Art. 29. The rights, declarations and guarantees established by this constitution shall not be interpreted as impairing or denying others not specifically mentioned, or enjoyed in practice by the people, which derive from the principle of popular sovereignty and the republican form of government and belong to man in his capacity as such.

Art. 30. No person may be tried by special commissions or courts however they may be denominated.

Art. 31. Justice shall be administered in public and without delay. Secret trials in criminal cases are abolished, subject to the exceptions prescribed by law in the interests of public order.

PUBLIC EDUCATION

Art. 171. Laws for the organization and regulation of public education shall be enacted in accordance with the following principles:

1. Public education is compulsory and free, subject to the conditions and penalties prescribed by law. . . .

¹ Spanish text in *Recopilación de Constituciones de la Provincia de Corrientes*. Ed. oficial, Corrientes, 1921, pp. 201-272. English translation from the Spanish text by the United Nations Secretariat.

CONSTITUTION OF THE PROVINCE OF ENTRE RIOS¹ of 18 August 1933

SECTION I

DECLARATIONS, RIGHTS AND GUARANTEES

Art. 5. All inhabitants of the province enjoy, within its territory, all the rights and guarantees established by the national constitution in accordance with the laws governing them.

Art. 6. The rights, declarations and guarantees mentioned in the national constitution, which this constitution reaffirms, shall not be interpreted as denying other rights and guarantees not specifically mentioned, but which derive from the principle of popular sovereignty and from the republican form of government, and belong to man in his capacity as such.

Art. 7. The State may not enact laws or other measures which restrict or protect any religion. The right of every man to profess his religion freely and publicly according to the dictates of his conscience is inviolable within the territory of the province and subject to no other limitations than those imposed by morality, good behaviour and public order.

Art. 9. All inhabitants of the province enjoy the right to teach and to study, in accordance with the laws governing this right.

Art. 10. Freedom of the written or spoken word is the right of all inhabitants of the province; in no case may measures be enacted preventive of the enjoyment of this freedom; nor may it be restricted or limited in any way.

Anyone abusing this freedom shall be responsible to the common courts or jury, in the manner prescribed by law.

Proceedings shall always be summary, and the law governing them shall fix a maximum period for their duration.

Art. 11. The legislature shall enact special legislation on press offences, prescribing penalties and proceedings before a jury or the common courts, as the case may be, and rules for the admission of evidence of justification, which must always be heard when the official conduct or capability of public officials is in question.

Art. 24. No one may be arrested without written order of a competent authority and without previous summary investigation showing evidence of his participation in a punishable act, except in the case of *flagrante delicto*, when he may be

arrested by any inhabitant and brought immediately before the authority concerned. In no case may a person be kept under arrest or in preventive custody in the public prisons for convicted persons, or for more than twenty-four hours without the judge or competent authority being notified and the arrested person placed at his disposal together with the evidence of the offence.

Art. 25. Any person arrested without proper order of a competent judge, or by order of a judge who is not competent, or by any authority or individual, or who is denied any of the guarantees established by the national or provincial constitutions or the laws, may apply himself or through a third party, and using any medium of communication, to the nearest qualified judge without distinction of jurisdiction or instance, in order that his immediate release may be ordered, he may be brought before the competent judge or he may be granted the guarantee denied him, as the case may be. The judge or court to whom such application is made is empowered to demand any kind of information and to have the arrested person brought before him, and must reach a definite decision within the shortest possible period, which shall be fixed by law.

Art. 27. If an official or public corporation of an administrative nature commit acts expressly forbidden them by laws or regulations, the injured party may apply to the courts, by summary proceedings, for an injunction against the official or corporation.

Art. 28. A closed case may not be reopened, except in criminal proceedings when review would be favourable to the defendant and is authorized by law. Evidence shall be heard in public subject to the reservations prescribed by law. No law may attach greater evidential value to a confession made to the police than to circumstantial evidence. Proceedings shall be public, except while a defendant is held *incommunicado*, which shall not be for more than three days.

Art. 29. All forms of torture and affliction are hereby prohibited on pain of instant dismissal and without prejudice to the liabilities incurred by employees or officials applying, ordering or condoning them. The prisons and agricultural penal settlements of the province shall be healthy and clean, shall be designed for the security and not for the affliction of prisoners, and must be centres of industry.

Art. 35. The rights and guarantees confirmed by this constitution shall not be impaired by the laws governing them, or limited by other restrictions than those essential to ensure the existence of the State, the rights of third parties, morality and public order.

¹ Spanish text in *Constitución de la Provincia de Entre Ríos*. Publicación oficial, Parana, 1933. English translation from the Spanish text by the United Nations Secretariat.

SECTION II

ECONOMIC AND INDUSTRIAL SYSTEM

Art. 36. The State shall promote the economic and social well-being of the community by means of legislation.

Arts. 37-41. [Provisions regarding the encouragement of production, immigration, colonization, etc.]

Art. 42. It shall regulate by means of special laws the working conditions of workmen and employees resident in the province.

It shall regulate in particular:

- (a) Hours of work and safety provisions in connexion with health requirements and working conditions in industry, agriculture and stock-breeding.
- (b) Insurance and mutual assistance in case of illness, maternity, death, orphanhood, old age or infirmity.
- (c) Other forms of social insurance and assistance.
- (d) Minimum wages for state workers, which shall be based on the cost of living.
- (e) Inviolability of the home.
- (f) Encouragement of the building of healthy dwellings with State assistance, whether by direct grants, credits, guarantees, or exemption from taxes.
- (g) The trade union movement, which it must encourage and direct.
- (h) The operation of arbitration boards, in which legally authorized employer associations and trade unions shall be represented, for the purpose of settling disputes between employers and labour.

SECTION IX

PUBLIC EDUCATION

Art. 201. It is a fundamental duty of the State to provide for the establishment and organization of an educational system that includes public primary education. It may also organize and maintain primary, secondary and higher schools and special institutes.

Art. 202. The minimum primary education which the State is obliged to provide, and the inhabitants to receive, shall be imparted in official or private schools offering guarantees of educational stability and efficiency, which shall provide the official minimum of education and be subject to the educational laws.

Art. 203. Compulsory education covers the whole field of public primary education, subject to the conditions and penalties prescribed by law. Teaching in State schools shall be free, secular and compulsory. Free facilities may be extended to other grades of education provided by the State.

Art. 204. The State shall encourage the establishment of municipal and private schools and shall contribute to their support, provided that they are run in accordance with the conditions and guarantees provided for in article 202.

Art. 205. Public education shall be of an essentially national character, and shall have as its fundamental aim the gradual and systematic direction and strengthening of the moral, intellectual and physical development of pupils.

CONSTITUTION OF THE PROVINCE OF JUJUY¹

of 28 February 1935

SECTION I

DECLARATIONS, RIGHTS AND GUARANTEES

Art. 4. The Roman Catholic Apostolic religion being the religion of the majority of the inhabitants of the province, the government shall help to support it. Nevertheless, the State respects and guarantees all other religions which do not offend against morality and natural reason.

Art. 8. All inhabitants of the province are, by their nature, free and independent and have a perfect right to defend themselves and to be protected in their life, liberty, reputation, security and property. No one may be deprived of these rights, except by sentence of a competent judge in

accordance with law enacted prior to the offence in question.

Art. 9. Property is inviolable, and no inhabitant of the province may be deprived of it except by a judgment in accordance with law. Expropriation for the public good must be authorized by law and compensated in advance.

Art. 10. No personal service may be demanded, except as provided by law or by a judgment in accordance with it.

Art. 11. All inhabitants of the province are equal in the eyes of the law, which must be the same for all and have uniform effect and force.

Art. 12. Freedom to teach and to study may not be restricted.

Art. 13. Freedom of the written or spoken word is a right guaranteed to inhabitants of the province. All persons may publish their thoughts and opinions in the press without previous censorship; any offences and abuses committed shall be

¹Spanish text in *Constitución de la Provincia Jujuy*. Imprenta del Estado, Jujuy, 1935. English translation from the Spanish text by the United Nations Secretariat.

tried by the common courts according to civil law and punished by the penalties prescribed by the penal code or, when applicable, by those prescribed by the law governing the exercise of these rights, which may not order preventive measures against the enjoyment of this freedom, nor restrict or limit it in any way.

In actions resulting from the enjoyment of the freedom of speech and of the press, justification shall be an admissible defence whenever the official conduct of employees or the political capacity of public officials is in question.

Art. 14. All inhabitants of the province have the right of peaceful assembly to discuss public or private affairs, provided they do not disturb public order, and the right of individual or collective petitioning of the authorities, whether to ask mercy and justice or to instruct their representatives. In no circumstances may an assembly of persons claim to represent the people, or to hold its rights, or petition on its behalf, and those doing so commit the crime of sedition.

Art. 15. Freedom of work, industry and trade is a right guaranteed to every inhabitant of the province, provided it does not offend against morality or injure public health and does not conflict with the laws of the country or third-party rights.

Art. 16. All persons have the right to enter and leave the territory of the province and pass through it with their property, without prejudice to third parties.

Art. 23. No one may be compelled to testify against himself in a criminal action, or against his ascendants, descendants, spouse, brothers or sisters, or relatives.

Art. 24. No inhabitant of the province may be convicted without previous trial in accordance with law enacted prior to the act with which he is charged, or tried by special commissions, or removed from the jurisdiction of judges appointed by law enacted prior to the act with which he is charged.

Art. 25. Every order for search, arrest of one or more persons, or attachment of property, must specify the persons or objects of such search or attachment, describing in detail the place to be searched, and no warrant of this kind shall be issued except by a competent authority and supported by presumptive proof which must be mentioned in the said order; except in the case of *flagrante delicto*, when any offender may be arrested by any person whatever and brought immediately before the authorities.

Art. 26. Any person responsible for the custody of prisoners must, on receiving a prisoner, demand and retain in his possession the order referred to in the foregoing article, on pain of being held liable for unjust imprisonment. The same obligation to demand the said order, and the same

liabilities, are incurred by the person effecting the arrest or imprisonment.

Art. 27. No person may be kept under arrest for more than twenty-four hours without the competent judge being notified and the arrested person placed at his disposal with an account of the events leading to his arrest. Nor afterwards may the arrested person remain *incommunicado*, and without being informed of the reason for his arrest, for a longer period than that prescribed by law.

Art. 28. Any person arbitrarily arrested or imprisoned may apply himself, or through a third party, for his case to be notified to the legally appointed judge, so that the latter may have him brought before him, inquire into the manner of his arrest, and if it appear that constitutional requirements have not been fulfilled or imprisonment was not ordered by a competent authority, order his immediate release.

Art. 29. No one may be kept under arrest in the public prison for criminals, but must be lodged in another place to be appointed for this purpose. The provincial prisons shall be secure, healthy and clean, and no measures may be taken which, on the pretext of precaution, lead to the infliction of further hardships than are required for security.

Art. 30. Imprisonment for debt in civil actions is hereby abolished, except when deceit, false pretences or fraud by the debtor are proved.

Art. 31. A person's domicile may not be forcibly entered, except by written order of a competent judge, or of the municipal authorities when it is a question of ensuring compliance with public health regulations.

Art. 32. Private correspondence is inviolable and may be seized only in the circumstances prescribed by law.

Art. 33. No inhabitant of the province shall be obliged to do anything the law does not order, nor deprived of anything it does not prohibit.

Art. 34. Those actions of men which in no way offend against morality or public order, or prejudice third parties, are subject only to the judgment of God and not to the authority of magistrates.

Art. 39. In no circumstances may the provincial authorities suspend this constitution or that of the nation or the respect of the guarantees established by both, on the pretext of maintaining order or by invoking the public good.

Art. 40. The declarations, rights and guarantees mentioned in this constitution may not be interpreted as denying or impairing other rights and guarantees not specifically mentioned, and enjoyed in practice by the people, which derive from the principle of popular sovereignty and belong to man in his capacity as such.

SECTION VII

PUBLIC EDUCATION

Art. 137. The legislature shall give priority to the enactment of the necessary laws for the establishment and organization of a system of public education, subject to the following rules:

1. Public education is free and compulsory,

subject to the conditions and penalties prescribed by law;

2. The sole purpose of the primary school is to promote and direct, gradually and simultaneously, the moral, intellectual and physical development of the child.

3. In every district there shall be a public school, which shall be open for at least six months in the year.

CONSTITUTION OF THE PROVINCE OF LA RIOJA¹

of 31 May 1933

PART I

Chapter I

DECLARATIONS, RIGHTS AND GUARANTEES

Art. 5. The provincial government shall help to support the Roman Catholic Apostolic religion in accordance with the provisions of the national constitution. Nevertheless, the right of every man to practise his religion freely and fully according to the dictates of his conscience is inviolable throughout the territory of the province, provided that no offence against morality or public order is thereby committed.

Art. 6. No one shall be obliged to do anything the law does not order, or deprived of anything it does not prohibit. The civil status of persons shall be registered uniformly throughout the province by the civil authorities, without distinction of religious belief and in the manner prescribed by law.

Art. 7. All inhabitants are equal in the eyes of the law, which must be one and the same for all and have uniform effect and force. There shall be no fiscal privileges in the province. Equality is the basis of taxation and public charges.

Art. 8. In no case may a person or assembly of persons petition on behalf of the people; or claim to represent the people or hold its rights; or exercise the functions of a constitutional authority or perform any act of government or administration which does not ensue from the normal application of this constitution and laws enacted under it. Any measure enacted by the provincial authorities under coercion, or on the demand of an armed force, or of seditious persons or groups, or of a popular meeting, is unlawful and shall be void and of no effect.

Art. 12. In no case may the provincial authorities suspend this constitution or the enjoyment of the rights and guarantees established by it, on the pretext of maintaining order or by invoking the public good. The legislature may not enact laws

with retrospective effect or *ex post facto*, or which impair contractual obligations.

Art. 18. It is the duty of the government to promote the prosperity of the province, by encouraging morality, work, industry and trade through liberty, order and security. It is also the duty of the government to protect immigration, colonization, the building of railways, telegraphs, public roads, canals, or other means of irrigation, the import of capital, the introduction and establishment of new industries and sources of public wealth, the exploration of the territory and the association of private persons, by means of protective laws and the grant of all kinds of facilities, by shortening formalities and proceedings, and by every constitutional means within the sphere of the provincial government.

Art. 20. Within the territory of the province, aliens shall enjoy all the civil rights of the citizen. No law or regulation shall be enacted in the province which renders the civil status of aliens inferior to that of the citizen. No law shall oblige aliens to pay heavier taxes than those borne by nationals.

Art. 21. All inhabitants of the province have the right of peaceful assembly to discuss public or private matters, to form associations for useful purposes, to petition the authorities individually or collectively for mercy or justice, to denounce crimes, to bring accusations against employees, to lay information before the authorities or seek redress of wrongs, to enter, remain in, pass through and leave the territory; to use and dispose of their property; to voice and publish their opinions; to teach and to study; to work, trade and engage in any lawful industry.

Art. 22. All inhabitants of the province have the right to defend their life, liberty, reputation, security and property. No one may be deprived of this right, except by way of penalty in accordance with law enacted prior to the act in question and after legal sentence by a competent judge. These rights, as well as all civil rights, may be personally exercised by any inhabitant who is of age or a major in the eyes of the law, if he so desires. Only third-party rights, good morals, public order and public interest, previously established by a competent authority, may limit the free enjoyment of civil rights.

¹Spanish text in *Constitución de la Provincia de La Rioja*. La Rioja (no date). English translation from the Spanish text by the United Nations Secretariat.

Art. 24. No one may be removed from the jurisdiction of his natural judges, who are those appointed by law prior to the act with which he is charged, nor tried by special commissions or courts, however they may be denominated. The law regards as innocent any person not found guilty by verdict of a competent judge in accordance with law enacted prior to the act with which he is charged. The verdict in criminal proceedings must be absolute and final, finding the accused guilty or not guilty.

Art. 25. Criminal proceedings may not be taken against a person not present in court. No laws may be enacted which imply a judgment or prejudice the position of accused persons on account of previous acts. Imprisonment for debt may not be imposed in civil proceedings, except in those cases of fraud or guilt prescribed by law.

Art. 26. Proceedings in all trials shall be public, except when, in the opinion of the judge or court concerned, publicity would endanger good morals, in which case such ruling shall be explicitly stated and always made known to the parties concerned.

In criminal proceedings no one may be compelled to testify against his ascendants, descendants, spouse, brothers or sisters, or relatives. The defence may not be restricted.

Art. 27. This constitution ratifies the laws prohibiting the infliction of the death penalty for political reasons, and perpetual infamy; the penalties of torture and flogging are also prohibited and may not be inflicted by any authority or as a disciplinary measure. So long as capital punishment is legal in the republic, it may be inflicted only by unanimous vote of the High Court of Justice. No one may be legally prosecuted more than once for the same offence, nor on any ground may cases closed by final judgment be reopened.

Art. 28. The person is inviolable. No one may be arrested without presumptive proof or strong evidence of the commission of an offence and previous written order of a competent authority, except in the case of *flagrante delicto*, when any person may arrest the offender. No person shall be kept under arrest in a public prison for criminals, but must be lodged in another place to be appointed for this purpose.

Art. 29. No one may be imprisoned without written order of a competent authority. Any prison governor, warder or guard receiving a prisoner must demand and retain the said order in his possession under pain of being held liable for unjust imprisonment.

Art. 30. Any person arbitrarily deprived of his liberty or suffering unlawful violations of it may himself, or through a third party, bring the facts to the notice of the legally appointed judge, so that the latter may have him brought before him and inquire into the manner of his arrest, and if it appear that constitutional requirements have not been fulfilled, or his imprisonment was not ordered by a competent authority, order his im-

mediate release or put an end to such violation.

Art. 31. All provincial prisons shall be secure, healthy and clean, and no measure may be taken which, on the pretext of precaution, inflicts further hardship on prisoners than security requires. Prisons shall be centres of industry and moral reform.

It shall be an implied condition of every conviction that if the province establish a penitentiary in common with other provinces, or by any concession or agreement obtain the right to send its convicts to the national or provincial prisons, the sentence shall be served wherever may be decided by the authorities concerned.

Art. 32. Domicile is inviolable, and may not be entered by anyone against the will of its proprietor. No order for entry may be issued except by a competent authority, and with the sole purpose of arresting an offender, searching for or seizing objects or enforcing municipal regulations. No such order may be issued except on reasonable grounds and supported by oath or statement; it must specify what is to be done as well as the civil official who is to execute it, and shall not be executed at night, except in case of extreme importance and urgency, in order to prevent a crime that would otherwise be committed.

Art. 33. Private letters and documents are inviolable; stolen papers may never be used in evidence; others may be removed or seized only by judicial order, which may be issued only in the cases prescribed by law. Judges ordering the removal or seizure of private correspondence or documents shall entrust this duty to civil officials, and specify the place to be searched, execution of the order being by day in all cases.

Art. 34. Property is inviolable, and no inhabitant of the province may be deprived of it, except by a sentence in accordance with law. Expropriation for the public good must be authorized by law and compensated in advance. Any author or inventor is the sole proprietor of his work, invention or discovery for the period granted him by law.

Art. 36. Freedom of the press is guaranteed, and no provisions of the powers or authorities shall be applied which restrict it by imposing censorship or previous financial guarantees, taxation or fines disproportionate to the capital of the firm. Writings subversive of morality or public order, or containing personal insults or allegations, are liable to prosecution; but where the conduct of an individual in his capacity as an employee or public figure is criticized, and he is charged with derelictions or offences, justification shall be a valid defence; the same shall apply when the political capacity of public persons is questioned.

In the three foregoing cases, if the author of the work subject to prosecution, or the publisher, director or editor of the publication, is convicted, the latter shall be obliged to publish such conviction.

Art. 37. The declarations, rights and guarantees mentioned in this constitution shall not be interpreted as denying or impairing other rights and guarantees not specifically mentioned or enjoyed in practice by the people, which derive from the principle of popular sovereignty belonging to man in his capacity as such. Nor shall this constitution be construed as a denial of all the rights and guarantees granted to the inhabitants of the nation by the national constitution, which rights are incorporated in this constitution and shall be respected and preserved as part of it.

PART II
Chapter VII
PUBLIC EDUCATION

Art. 137. It is the duty of the government to make available to all the inhabitants of the province, primary education, which shall be compulsory and free, subject to the conditions and penalties prescribed by law. In every city, town, district or agglomeration with more than thirty children of school age, at least one school shall be provided.

CONSTITUTION OF THE PROVINCE OF MENDOZA¹
of 11 February 1916

SECTION I

GENERAL DECLARATIONS, RIGHTS AND
GUARANTEES

Art. 6. The right of every man to worship God or profess any religion freely and publicly according to the dictates of his conscience, without other restrictions than those prescribed by morality and public order, is inviolable within the territory of the province.

Art. 7. All inhabitants of the province are equal in the eyes of the law, which must be one and the same for all and have uniform effect and force.

Art. 8. All inhabitants of the province are by their nature free and independent, and have a perfect right to defend their life, liberty, reputation, security and property, and to be protected in the enjoyment of these rights. No person may be deprived of them, except by way of penalty in accordance with law enacted prior to the act in question and after legal sentence by a competent judge.

Art. 9. The people shall not deliberate or govern, except through its representatives and authorities established in accordance with this constitution.

Art. 10. All inhabitants of the province have the right to assemble to discuss public or private matters, provided they do not disturb public order; they also have the right individually or collectively to petition each and all of the authorities, whether to request mercy or justice, to instruct their representatives or to seek redress of wrongs; but no assembly may usurp the representation or the rights of the people.

The right of petition may not be exercised collectively by any kind of armed force, or individu-

ally by members of it, except in accordance with the laws.

Any provision made by the authorities when confronted by, or on the demand of, an armed force or seditious meeting claiming the rights of the people, is null and void and shall never have effect.

Art. 11. All inhabitants of the province are guaranteed the right to express their ideas and opinions freely, orally or in writing, by means of the press or other similar method, without other liability than that resulting from abuse of this right by an offence or contravention, and no law or provision prescribing preventive measures in respect of this right, or restricting or limiting it in any way, shall be enacted.

Nor shall any law or provision be enacted which imposes on a director or editor conditions incompatible with the full enjoyment of his rights as a civilian.

In actions resulting from the exercise of the freedom of the press, justification shall be a valid defence, whenever the official conduct of public officials or employees is in question, and in cases of libel generally.

Actions of this kind shall be tried by the common courts exclusively.

Art. 14. A domicile is inviolable, and may be forcibly entered only by written order of a competent judge or municipal or health authority, for reasons of public health.

The law shall determine the circumstances and manner of effecting forcible entry.

The order must show cause and be specific; otherwise both the person issuing it and the person executing it shall be held liable.

Art. 15. Correspondence by letter, telegraph or other similar means of communication is inviolable, and may not be seized or interfered with, except by a competent legal authority and in the cases specified by law.

Art. 16. Property is inviolable, and no inhabitant of the province may be deprived or

¹Spanish text in *Constitución de la Provincia de Mendoza*. Edición oficial, Mendoza, 1936. English translation from the Spanish text by the United Nations Secretariat.

dispossessed of it except by judgment in accordance with law or for the public good, as authorized by the legislature in every case and compensated in advance.

Art. 17. No person may be arrested without previous summary investigation producing presumptive proof or strong evidence of an act punishable by corporal punishment, except in the case of *flagrante delicto*, when any offender may be arrested by any person whatsoever and brought immediately before his judge or the nearest police authority; nor may any person be imprisoned without written order of a competent judge.

Art. 18. Every order for investigation, arrest of one or more persons, or attachment of property, must specify the persons or objects of such investigation or attachment, and the place to be searched, and no warrant of this kind shall be issued except for a punishable action and unless supported by oath or statement, without which requirements the order or warrant shall not be executable.

Art. 19. Every arrested person shall be informed of the reason for his detention within twenty-four hours, after which he may not be held completely *incomunicado* for more than three days.

Art. 20. Any warden or guard shall, on receiving any prisoner, be responsible for demanding and retaining in his possession the order stating the reason for imprisonment.

The person effecting the arrest or imprisonment shall be responsible for demanding the same order.

Art. 21. Any arrested person may apply, himself or through a third party on his behalf, to be brought before the nearest judge; and even if the warrant has been issued by a competent authority, he may not be detained against his will, unless, before twenty-four hours elapse, he has been notified by a judge, also competent, of the reason for his detention. Any judge, even of a collegiate court, must, when presented with such a petition or claim under the guarantee of article 19, act within the period of twenty-four hours reckoned from the time of its properly documented presentation, under pain of a fine of 1,000 Argentine pesos. Once a petition has been acted upon, any official detaining the arrested person or failing to comply with the requirements of the judge within the period indicated by him, shall incur a fine of the same amount, without prejudice to the execution of the warrant.

Art. 22. When the act for which a person has been arrested is punishable only by fine or imprisonment not exceeding, on an average, two years, or by both, provisional liberty may be granted, subject to the limitations prescribed by law for habitual offenders or where an offence has been repeated, and provided that some form of prescribed surety is forthcoming.

Art. 23. Prisons are established for the security and not for the affliction of prisoners; both prisons and penal colonies shall be so governed as to be centres of work and moral regeneration.

The authorities shall be liable for any unnecessary severity they may inflict.

Art. 24. No person shall be kept under arrest in prisons for convicted criminals, but shall be lodged in places especially appointed for that purpose.

Prisoners shall not be removed from the province to serve their sentences in other prisons; nor shall prisoners from without the province be admitted to its prisons, subject to the exceptions prescribed by law.

Art. 25. No person may be convicted without first being sentenced in accordance with law enacted prior to the act for which he is prosecuted, or tried by special commissions or courts however they may be denominated.

Art. 26. No person may be compelled to give evidence or testify under oath against himself in criminal proceedings, nor be prosecuted twice for the same offence.

The verdict in a criminal case must be final, acquitting or convicting the accused.

Art. 27. No person may be deprived of his liberty for debt, except in case of an offence.

Art. 28. No compulsory recruiting may be carried out in the province for police or garrison duties, which shall be performed by persons enlisted or engaged at the expense of the provincial treasury.

Art. 31. Within the territory of the province, aliens shall enjoy all the civil rights of the citizen, and such others as are granted them by the constitution and the laws.

Art. 32. Equality shall be the basic principle of taxation and public expenditure.

Art. 33. This constitution guarantees to all inhabitants of the province freedom of work, industry and trade, provided they do not conflict with morality, security, public health, the laws of the country or third-party rights.

The legislature may not impose taxation in any form upon essential commodities, unless it is in the public interest.

Art. 34. No inhabitant of the province shall be compelled to do that which the law does not order, or deprived of that which it does not prohibit.

The private actions of men which in no way offend against morality or public order, or prejudice a third party, are exempt from the authority of magistrates.

Art. 35. Any inhabitant of the province may establish and maintain an educational institution without previous permit, subject to inspection by

a competent authority for reasons of health, morality and public order.

Art. 47. The mention and recognition of rights contained in this constitution does not imply denial of other rights deriving from the republican form of government and the natural condition of man.

Art. 48. Any law, decree, statute or provision contrary to the provisions of this constitution, or which imposes on the exercise of the liberties and rights recognized in it, restrictions other than those permitted by the articles of this constitution, or deprives the inhabitants of the guarantees which it ensures, shall be unconstitutional and may not be applied by the judges.

Any person injured thereby shall have, in addition to a right of action for annulment, the right to claim compensation for damage caused him by such violation or impairment, against the employee or official authorizing or effecting it.

SECTION VIII PUBLIC EDUCATION

Art. 211. The legislature shall enact laws necessary for the establishment and organization of a system of public education, and may also organize secondary, higher, industrial and university education, and teachers' training, when considered advisable.

Art. 212. Laws for the organization and regulation of education shall be based on the following principles:

1. Education shall be secular, free and compulsory, subject to the conditions and penalties prescribed by law.

2. Teaching of the national language and history and of the national and provincial constitutions is compulsory in all educational establishments, whether public or private.

CONSTITUTION OF THE PROVINCE OF SALTA¹ of 10 October 1929

SECTION I DECLARATIONS, RIGHTS AND GUARANTEES

Art. 6. The right of every man to practise his religion freely and publicly according to the dictates of his conscience is inviolable within the territory of the province, and subject to no other limitations than those imposed by morality and public order.

Art. 13. All inhabitants of the province are by their nature free and independent and have a perfect right to defend themselves and to be protected in their life, liberty, reputation, security and property. No one may be deprived of the enjoyment of these rights, except by sentence of a competent judge in accordance with law enacted prior to the act in question.

Art. 14. No one is obliged to do anything that the law does not order; nor shall he be prevented from doing anything it does not prohibit.

Art. 15. The private acts of men which in no way offend against morality or public order, or prejudice a third party, are subject only to the judgment of God and not to the authority of the magistrates.

Art. 16. The inhabitants of the province are equal in the eyes of the law, which must be one and the same for all and have uniform effect and force.

Art. 17. All inhabitants of the province are

eligible for employment, subject to no other conditions than capability and citizenship, the latter requirement being excepted in the case of technical duties.

Art. 18. Freedom of the written or spoken word is the right of all inhabitants of the province. All persons may publish their thoughts and opinions in the press without previous censorship, and offences and abuses committed shall be tried by the common courts, according to common law procedure, and subject to the penalties prescribed by the penal code, or when applicable, to those prescribed by the law governing the enjoyment of these rights, which may not order preventive measures against the enjoyment of this freedom, nor restrict or limit it in any way.

Art. 19. Freedom of work, industry and trade is the right of all inhabitants of the province, provided it does not offend or prejudice morality or public health, or conflict with the national laws or the rights of third parties.

Art. 20. Freedom to teach or study may not be restricted by preventive measures.

Art. 21. Every person has the right to enter or leave the territory of the province, and to remain in it or pass through it with his property, without prejudice to third parties.

Art. 22. Property is inviolable, and no inhabitant of the province may be deprived of it, except by sentence in accordance with law. Expropriation for the public good must be authorized by law and compensated in advance.

Art. 23. All inhabitants of the province have the right of peaceful assembly to discuss public or private matters, provided they do not disturb public

¹ Spanish text in *Constitución de la Provincia de Salta*. Edición oficial, Salta, 1934. English translation from the Spanish text by the United Nations Secretariat.

order, as well as the right of individual or collective petitioning of all or each of the authorities, whether to request mercy or justice, to instruct their representatives or to seek redress of wrongs. In no case may an assembly of persons claim to represent the people or to hold its rights, or petition on its behalf.

Art. 24. Domicile is inviolable. It may be forcibly entered only by written order of a competent authority in the circumstances and for the reasons specified by law, and by the authorities concerned in order to ensure compliance with public health regulations.

Art. 25. Correspondence by letter and telegraph and private papers are inviolable and may not be seized, except in the circumstances specified by law.

Art. 26. Legal defence of the person and of rights is inviolable.

Art. 27. No one may be removed from the jurisdiction of his natural judges, or tried by special commissions or courts, however they may be denominated.

Art. 28. No one may be compelled to testify against himself in criminal proceedings, nor against his ascendants, descendants, spouse, brothers or sisters, relatives up to the second degree, guardians or wards; nor shall he be tried twice for the same offence.

Art. 29. No one may be deprived of his liberty without written order of a competent authority supported by presumptive proof cited in the said order. Any order for investigation, arrest or attachment must specify the places, persons or property to be investigated, arrested or attached. Failing these conditions, the order shall be null and void and the official issuing it shall be liable to a fine of from 100 to 500 pesos, payable to the General Educational Council, and liable for all damages and injury caused. In case of *flagrante delicto*, any offender may be arrested by any person and brought immediately before the authorities.

Art. 30. Every arrested person shall be informed in writing of the reason for his imprisonment within twelve hours, and placed at the disposal of a competent judge within twenty-four hours. Employees or officials failing to comply with this procedure shall, on the first occasion, incur a fine of 100 to 500 pesos, payable to the General Educational Council, and on the second occasion be liable to dismissal. It is the duty of judges and the chief of police to maintain the effectiveness of this guarantee, and to punish those infringing it, on pain of incurring the same liability.

Art. 31. Any person suffering restriction of his liberty, or arbitrary arrest or imprisonment, may apply, himself or through a third party, to the legally appointed judge, so that the latter may inquire into the reason for his imprisonment, and who ordered it, and if it appears that constitutional requirements have not been fulfilled, may

order his immediate release in accordance with legal procedure.

Art. 32. No laws shall be enacted which imply a judgment, prejudice the position of persons accused on account of previous acts, alienate rights acquired or impair contractual obligations.

Art. 33. Any accused person who has been placed in preventive custody for an offence punishable by imprisonment not exceeding three years and six months shall be eligible for provisional release. Release shall be granted on bail given by the defendant or by a third party, covering the damages and injury resulting from the offence and the cost of proceedings. Any accused person known to be poor may be excused bail. Preventive custody shall be imposed only for offences punishable by imprisonment.

Bail may not, however, be granted to habitual offenders or where an offence has been repeated, or more than one offence committed.

Art. 34. The provincial prisons are for the security and not for the affliction of prisoners. Penitentiaries shall be so governed as to be centres of industry and moral reform. The authorities are liable for any unnecessary severity they may impose.

Art. 35. Aliens shall enjoy, within the province, all the civil rights of the citizen and the municipal rights granted them by this constitution.

Art. 40. The State shall seek to improve conditions of life, public health and social welfare by means of suitable laws, and promote and protect production, co-operation, mutual assistance and thrift. It shall fix the maximum working day and minimum wages; establish safety and health regulations for workshops and factories; regulate the work of women and children and set up arbitration and conciliation boards to settle disputes between capital and labour.

Art. 41. The State shall establish popular banks or friendly societies.

Art. 42. Sunday rest is hereby declared compulsory, subject to the exceptions specified by law.

Art. 43. No personal service may be demanded, except as provided by law or by a judgment in accordance with law.

Art. 44. The declarations, rights and guarantees mentioned in this constitution shall not be impaired by the laws governing them, nor interpreted as a denial of other rights and guarantees not specifically mentioned, but which derive from the principles of popular sovereignty and the republican form of government.

SECTION VII

EDUCATIONAL SYSTEM

Art. 188. It is the duty of the State to maintain public education throughout the territory of the province under the system and organization established by the relevant laws.

Art. 189. The aims and purposes of public education are to be considered under its three aspects; mental, physical and moral development. It shall be subject to the following principles.

1. Considered as primary education it shall be compulsory and free and may be given in government schools, private schools or in the home. The penalties applicable shall be prescribed by law.

CONSTITUTION OF THE PROVINCE OF SAN JUAN¹ of 10 February 1927

SECTION I

DECLARATIONS, RIGHTS AND GUARANTEES

Art. 2. The State guarantees all its inhabitants the free practice of any religion which does not conflict with morality and good behaviour or the political and civil system established by the provincial constitution and laws.

Art. 4. All inhabitants of the province are equal in the eyes of the law, which must be one and the same for all and have uniform effect and force.

Art. 5. Every person is free to express his thoughts in the press without any liability for the views uttered, unless his writings contain personal insults or are contrary to morality and public order. In actions arising from the freedom of the press, justification shall be admissible as a valid defence whenever the official conduct of public employees is in question.

Art. 6. Actions arising from abuse of the freedom of the press shall be tried by jury in accordance with the law.

Any publication affecting persons not holding a public position or employment, or not referring to their conduct while holding such position or employment, though they have since ceased to hold it, shall not be considered as coming under the provisions of the foregoing paragraph and is therefore subject to the ordinary laws.

Art. 8. No one may be arrested without previous summary investigation producing presumptive proof of the commission of an offence punishable by imprisonment, or imprisoned without previous written order of a judge, except in the case of *flagrante delicto*, when any offender may be arrested by any person whatsoever, who must bring him immediately before his judge.

Art. 9. Every arrested person shall be informed within twenty-four hours of the reason for his imprisonment.

Art. 10. Any person imprisoned or arrested by an authority other than a common court judge may apply himself, or through a third party, to the nearest judge, so that the latter may have him brought before him, inquire into the case, and if it appear that legal requirements for his

arrest have not been fulfilled, or that it was not ordered by a competent authority, order his immediate release.

Art. 11. No one may be kept under arrest for more than forty-eight hours without being placed at the disposal of a competent judge, together with an account of the events leading to his arrest, or afterwards held completely *incomunicado* for more than five days.

Art. 12. No one shall be imprisoned for debt in a civil action, except in the cases of fraud prescribed by law.

Art. 14. All persons are considered innocent until found guilty by verdict of a competent judge.

Art. 15. Every order for forcible entry of a domicile must be issued by a competent judicial authority, according to the procedure prescribed in article 7, on searches.

Art. 16. Letters may only be seized by written order of a judge, in the circumstances and subject to the procedure prescribed by law.

Art. 17. No accused person shall be obliged to testify under oath or act as a witness at his own trial; he shall not be prosecuted twice for the same offence, and may not be condemned without his defence being heard.

Art. 18. Criminal proceedings may not be taken against a person who is not present in court. The verdict in a criminal action must be absolute and final, finding the accused guilty or not guilty, and the proceedings shall be public after fifteen days have elapsed from their institution.

No convicted person may be taken to a prison outside the province.

Art. 19. The right of individual or collective petitioning of their authorities is guaranteed to all inhabitants of the province; as is also the right of assembly to discuss public or private matters, provided they do not disturb public order. In no case may an assembly of persons claim to represent the people, or to hold its rights, or petition on its behalf; those doing so commit the crime of sedition.

Art. 20. All inhabitants are guaranteed the right to form associations for whatever purpose, provided it does not conflict with morality or public order.

Art. 21. No inhabitant of the province may be deprived of his property, except by a sentence in accordance with law, or when it is necessary for the public good; in the latter case he must be compensated in advance. Circumstances in which

¹Spanish text in *Provincia de San Juan, Constitución de la Provincia*. Edición oficial, San Juan, 1935, pp. 15-45. English translation from the Spanish text by the United Nations Secretariat.

the public good justifies expropriation must be prescribed by law.

Art. 22. Every person has the right to enter, leave and pass freely through the territory of the province, taking his property with him, subject to the rights of third parties.

Art. 29. The mention of rights and guarantees in this constitution must not be interpreted as denying other rights and guarantees not specifically mentioned, provided the latter derive from the spirit of free institutions and the established form of government.

Art. 31. The right of all inhabitants of the province to a minimum of economic security is recognized. With this object in view, the law shall establish a working day in accordance with the requirements of healthy living and the state of development of industry, agriculture and stock-breeding; a minimum wage proportionate to the cost of living; a system of insurance against illness, old age, infirmity, maternity, widowhood and orphanhood, for which compulsory contributions may be fixed; schemes for encouraging the building of healthy dwellings with State assistance either in the form of direct grants, liberal credits or relief from taxation; the regulation of trade unions; and proper control of relations between capital and labour by legal provisions which give the authorities the necessary powers to render effective the guarantees mentioned in this article.

Art. 32. A family home is not subject to distraint. Every person now in possession of rural or urban land which is or may become unencumbered, and who is not in arrears with rates or taxes, shall have the right to declare before the authorities his choice of a lot, which shall be regarded as his home. Such declaration shall have the effect of making the home not only not subject to distraint, but also inalienable and non-transferable, being transferable to another family only with the consent of the executive power. So long as there are minors or unmarried women in a family they shall have a right to the home lot. When all have attained their majority, the home lot may be divided in accordance with civil law. Lots granted by the State in accordance with law shall be recognized as home lots, provided they comply with the conditions prescribed by the law on homes. Owners of larger lots obtained by concession from the State shall be obliged to select a home lot within the concession. The home site shall be liable to taxation only in return for services.

SECTION VIII

PUBLIC EDUCATION

Art. 154. Primary education is compulsory, subject to the conditions and penalties prescribed by law. In State schools it is also secular and free. Clothing, material and food shall be provided for penniless pupils.

CONSTITUTION OF THE PROVINCE OF SAN LUIS¹ of 19 October 1927

CHAPTER I

DECLARATIONS, RIGHTS AND GUARANTEES

Art. 3. In no case may the provincial authorities suspend this constitution, or that of the nation, or the effectiveness of the guarantees established by both, on the pretext of maintaining public order.

Art. 6. The province shall help to support the Roman Catholic Apostolic religion. Nevertheless, the right of every man to worship God freely and publicly according to the dictates of his conscience is inviolable, and subject to no other limitations than those imposed by morality, good behaviour and public order. Civil registration of persons shall be carried out by civil officials throughout the province without distinction of religious belief, and in the manner prescribed by law.

Art. 7. All inhabitants of the province are equal in the eyes of the law. The same principle

of equality shall govern the allocation of public positions which do not require citizenship in persons competent to fill them, and shall serve as a basis for taxation and all public charges.

Art. 8. All inhabitants of the province have the right to defend themselves and be protected in their life, liberty, reputation, security and property. No person may be deprived of the enjoyment of these rights, except by sentence of a competent judge in accordance with law enacted prior to the act in question.

Art. 9. Property is inviolable, and no inhabitant of the province may be deprived of it except by a sentence in accordance with the law or by expropriation for the public good, which must be authorized by law and compensated in advance. No law may be enacted which impairs existing contractual obligations or deprives anyone of acquired rights.

Art. 11. Every inhabitant of the province has the right to enter and leave its territory and pass through it with his property without hindrance of any kind, and without prejudice to third parties.

Art. 12. Every citizen domiciled in the province must take up arms when required to do so by the

¹ Spanish text in *Constitución de la Provincia de San Luis*. Publicación oficial, Buenos Aires, 1929. English translation from the Spanish text by the United Nations Secretariat.

authorities, with the exceptions prescribed by law; and every inhabitant shall contribute to the public charges in the manner prescribed by law. No compulsory recruitment may be effected for police or garrison duties, which must be performed by persons enlisted or engaged at the expense of the provincial treasury.

Art. 19. Freedom of the written or spoken word is the right of every inhabitant of the province. The legislature may not enact preventive laws against the enjoyment of this freedom, nor restrict or limit it. No bond may be demanded for the publication of daily papers or periodicals. In actions resulting from the enjoyment of this right, a plea of justification shall be a valid defence, wherever the official conduct of employees or the political capacity of public officials is in question.

Art. 21. The principles, rights and guarantees recognized in this chapter may not be impaired by laws regulating them. Any law, decree or order contrary to this constitution or which imposes on the enjoyment of the freedoms and rights recognized in it and in the national constitution, restrictions other than those which they permit, or deprives citizens of the guarantees which they assure, shall be null and void and may not be applied by judges.

Any person prejudiced by any order, decree or law violating or impairing these rights, liberties and guarantees has a civil action for damages.

Art. 23. The rights, declarations and guarantees mentioned in this constitution shall not be interpreted as denying other rights not specifically mentioned, or enjoyed by the people, which derive from the form of government adopted, and the declarations, rights and guarantees of the federal constitution.

Art. 24. The inviolability of domicile and private correspondence, freedom of assembly and contract, the right to work and freedom to teach and study without restriction by preventive measures, are ensured to all inhabitants of the province, provided they do not offend against, prejudice or attack morality, health or public order, and are not exercised in a manner contrary to the law and to the rights of third parties.

Art. 25. All inhabitants of the province have the right to meet peacefully to discuss public or private matters, provided they do not disturb the peace, without obtaining permission from the authorities; they also have the right of individual and collective petitioning of all the authorities, whether to ask mercy or justice or to seek redress of wrongs. But in no case may an assembly of persons claim to represent the people or enjoy its rights. The right of petitioning shall not be enjoyed by an armed force of any kind.

Art. 26. The law regards as innocent any person not found guilty by verdict of a competent

judge. No law shall be enacted which implies a judgment or prejudices the position of accused persons on account of previous acts. No person may be deprived of his liberty without previous sentence in accordance with law enacted prior to the act with which he is charged, or to be tried by special commissions or removed from the jurisdiction of judges appointed by law prior to the act with which he is charged. There is freedom of defence in all trials, and proceedings shall be public, except when an explicit ruling is given that a public hearing might be harmful to good morals. No one may be prosecuted more than once for the same offence; nor on any pretext may a case closed by executory judgment be reopened. No one may be compelled to testify against himself in criminal proceedings.

Art. 27. The death penalty may be inflicted only by unanimous decision of all instances.

Art. 28. No person may be arrested without previous summary investigation producing presumptive proof or strong evidence of the commission of an act punishable by imprisonment, except in the case of *flagrante delicto*, when any offender may be detained by any person whatever and brought immediately before his judge or the police authority concerned; nor may anyone be imprisoned without written order of a competent judge.

Art. 29. Any order for investigation, detention or arrest of one or more persons, or for attachment of property, must specify the persons or objects of such investigation or attachment, describing in detail the place to be searched; and no warrant of this kind shall be issued except by a competent judge and supported by oath or statement and by presumptive proof which shall be mentioned in the said order.

All prison wardens or guards shall demand and retain this order on pain of being held liable for unjust imprisonment; the same obligation and liability apply to the person making the arrest.

Art. 30. Every arrested person shall be notified of the reason for his detention within twenty-four hours. Within forty-eight hours of his preliminary statement being taken, a writ shall be issued, either for his protective custody or for his release. No person shall be kept under arrest in a public prison for criminals. Any arrested person may apply, himself or through a third party, who need not hold a power of attorney or representation, to be brought before the nearest judge; and even if the writ has been issued by a competent authority, his detention may not be continued if, after twenty-four hours have elapsed, he has not been notified by a judge, also competent, of the reason for such detention. Any judge, even of a collegiate court, when presented with such a petition or claim under the guarantee of the foregoing

article, must act within twenty-four hours, reckoned from its properly documented presentation, on pain of a fine of 300 pesos. Once the petition has been acted on, any official detaining the prisoner, or failing to comply with the judge's order within the time-limit indicated by him, shall incur a fine of 200 pesos without prejudice to the execution of the order. If these fines are not paid, imprisonment at the rate of one day for every four pesos may be substituted.

CONSTITUTION OF THE PROVINCE OF SANTA FÉ¹ of 24 December 1907

SECTION I

GENERAL DECLARATIONS, RIGHTS AND GUARANTEES

Art. 5. The religion of the province is the Roman Catholic Apostolic religion, to which it shall give the staunchest protection and its inhabitants the greatest respect.

Art. 7. All inhabitants of Santa Fé, both nationals and aliens, enjoy, within the territory of the province, all the rights and guarantees granted them by the national constitution.

Art. 8. The private acts of men which in no way offend against public order and morality, nor prejudice a third party, are subject only to the judgment of God. No inhabitant of the province is obliged to do anything the law does not order; nor may he be deprived of anything it does not prohibit.

Art. 9. No inhabitant of the province may be arrested without written order of a competent authority, except in the case of *flagrante delicto*, when he may be arrested by any person on his own responsibility and brought immediately before the authority concerned.

Art. 10. No warrant for arrest shall be issued except for specific persons and unless there is strong evidence against them, which evidence must be stated.

Art. 11. No one may be kept under arrest for more than twenty-four hours without the judge or competent authority being notified, and the arrested person placed at his disposal together with the facts of the case, nor may the arrested person remain completely *incommunicado* for more than two days after being placed at the disposal of the competent judge.

Art. 12. No person may be kept under arrest in the public prison for criminals, but must be lodged in another place appointed for that purpose.

¹ Spanish text in *Constitución de la Provincia de Santa Fé*. Santa Fé. Imprenta de la Provincia (no date). English translation from the Spanish text by the United Nations Secretariat.

CHAPTER XVII

EDUCATION COUNCIL

Art. 175. The legislature shall enact the necessary laws for the establishment and institution of a permanent and progressive system of public education, which shall be free and compulsory, and shall ensure that every city, town, district or agglomeration has at least one school for its school-population.

Art. 13. The death penalty for political offences, and all kinds of torture, are abolished in the province. Any persons, such as judges or officers of the law, inflicting them for any reason, shall be held personally responsible. Prisons should be healthy and clean, and are for the security, not for the affliction of prisoners; any person authorizing, on grounds of precaution, any measure which is not necessary for the security of a prisoner, shall be held responsible.

Art. 14. Any person arbitrarily arrested may apply through his relatives, friends or any third party, to the nearest qualified judge, to be brought before him so that he may inquire into the manner and reason of his arrest, and order his immediate release if it appear that legal requirements have not been fulfilled.

Art. 15. No citizen may be individually forced into military service on the ground that he is a member of the National Guard.

Art. 16. Summary proceedings may not be instituted for capital offences, nor closed proceedings be reopened, except for review favourable to the defendant in a criminal action, and in accordance with the laws of procedure.

Art. 17. The defence in trials is sacrosanct, and evidence shall be heard in public, subject to the restrictions prescribed by law.

Art. 18. Domicile is inviolable, as also are letters and private papers, and the circumstances and reasons justifying forcible entry and seizure shall be prescribed by law.

Art. 19. Property is inviolable, and no inhabitant of the province may be deprived of it except by a judgment in accordance with law. Expropriation for the public good must be authorized by law and compensated in advance.

Art. 20. Any author, inventor or person perfecting or first introducing an industry or art to be developed only in the province, shall be the sole owner of his work for the period prescribed by law, without prejudice to the powers of the Federal Government.

Art. 21. All inhabitants of the province enjoy the right of petition and peaceful assembly; but in no case may an assembly of persons claim to

represent the people or to hold its right, or petition on its behalf.

Art. 24. The competence of provincial officials and employees is strictly limited by this constitution and the relevant laws, and in no circumstances may they exercise extraordinary powers or other functions foreign to their duty and jurisdiction. The province is not responsible for action performed by its officials outside their competence. The higher authorities and humbler employees are nevertheless all individually responsible for any error of omission or offence committed in the performance of their duties. Any act, contract, provision, decree or order contravening, violating or impairing the provisions of this constitution and

the laws, is null and void, and the injured party may take legal action against the authors or agents, who are jointly liable for any consequent damage.

SECTION VIII

EDUCATION

Art. 134. Public education in the province shall be compulsory, free and complete. The law shall prescribe the means of putting this provision into effect.

Art. 136. In every city, town or rural district in which there are thirty children of school age, there shall be at least one school for boys and one for girls.

CONSTITUTION OF THE PROVINCE OF SANTIAGO DEL ESTERO¹

of 2 June 1939

PART I

Section I

DECLARATIONS, RIGHTS AND GUARANTEES

Art. 6. All inhabitants of the province are equal in the eyes of the law, which must be one and the same for all persons and have uniform effect and force. Equality shall be the basic principle of taxation and of all public expenditure.

Art. 7. All persons have the right to enter, remain in, pass through and leave the territory of the province, taking their property with them, without prejudice to third parties.

Art. 8. Freedom of assembly, work, industry and trade is the right of all persons, provided it neither offends, prejudices nor subverts morality, health or public order, and is not so exercised as to contravene the law or the rights of third parties.

Art. 9. Freedom to study and to teach may not be restricted by preventive measures.

Art. 10. The right of all inhabitants to practise their religion freely and publicly according to the dictates of their conscience, without other restriction than that imposed by morality, good behaviour and public order, is inviolable in the territory of the province.

The government of the province shall help to support the Roman Catholic Apostolic Church.

Art. 11. Property is inviolable. No person may be deprived of it, except by a verdict in accordance with law or expropriation for the public good, which must be authorized by law and compensated in advance.

Art. 12. Freedom of the spoken or written word is a right guaranteed within the territory of the province. All persons may publish their thoughts and opinions in the press, and the legislature may in no case enact preventive measures against the enjoyment of this freedom, or restrict or limit it in any way.

Only acts constituting common law offences may be considered as abuses of the freedom of the press, and they shall be tried by the judges and the common courts according to the penal code.

Offences committed through the medium of the press shall never be considered heinous. Printing presses and their accessories shall not be subject to confiscation as instruments of the crime during legal proceedings.

Art. 13. A domicile is inviolable, and may not be forcibly entered except by written order of a competent judge or of the municipal authorities for reasons of public health; the order must be specific and show cause; otherwise the person issuing or executing it, or both, as the case may be, shall be held responsible.

Art. 14. Private correspondence is inviolable and may be seized only in the cases provided by law.

Art. 15. Aliens domiciled in the province are eligible for all posts and employments for which this constitution does not require citizenship.

Art. 16. The right of assembly to discuss public or private affairs is guaranteed to all persons, provided that public order is not disturbed; as is also the right of individual and collective petitioning of all and each of the authorities to request mercy or justice, or to instruct representatives or seek redress of injuries; but in no case may such an assembly of persons claim to represent or to hold the rights of the people, or petition on its behalf.

¹Spanish text in *Constitución de la Provincia de Santiago del Estero*. Publicación oficial, 1939. English translation from the Spanish text by the United Nations Secretariat.

Art. 17. The State shall legislate on the right of the inhabitants to health, and especially on the right of children to health and education.

Art. 18. No inhabitant of the province may be punished without previous sentence, based on law enacted prior to the act with which he is charged, nor tried by special commissions, nor removed from the jurisdiction of judges appointed by law prior to the act with which he is charged.

Art. 19. The law shall regard as innocent any person not found guilty by verdict of a competent judge. No law incorporating judgment, prejudicing the position of accused persons on account of previous acts, or depriving them of rights acquired, shall be enacted in the province. There is freedom of defence in all trials. No person may be prosecuted more than once for the same offence; nor on any pretext or in any form may a case closed by judgment be reopened, except for review in favour of the defendant in a criminal action, and in accordance with the laws of procedure. No person may be compelled to testify against himself in a criminal action; nor is it lawful for him to do so against his ascendants, descendants, spouse, brothers or sisters; nor may he be compelled to testify against his other relatives up to and including the fourth degree.

Art. 20. No person may be arrested except on written order of a competent authority and on strong evidence of the commission of an offence, except in case of *flagrante delicto*, in which case any offender may be arrested by any person and brought immediately before the judge.

Art. 21. No person may be kept under arrest for more than twenty-four hours without a competent judge being notified and the accused placed at his disposal with an account of the circumstances leading to his arrest; nor afterwards may the accused remain for more than twenty-four hours *incommunicado* or without being informed of the reason for his detention by duly acknowledged notification in writing.

No person may be detained or kept under arrest in a public prison for criminals, but must be lodged in another place appointed for this purpose; minors and women shall be lodged in special establishments. The prisons of the province shall be secure, healthy and clean, and no measures may be taken which, on the pretext of precaution, inflict greater hardship upon prisoners than is required for their security. All forms of torture and provocation are specifically prohibited, under pain of instant dismissal and without prejudice to the penal liability incurred by officials or employees inflicting, ordering, instigating or condoning them.

Art. 22. Any person detained either without proper order of a competent judge or by a judge who is not competent, or by any other authority, or who is denied, or hindered in the exercise of, any of the individual rights established by the

national or provincial constitution, may apply, himself or through a third party, and by any medium of communication, to any judge or court, without distinction of jurisdiction or instance, for an order for his immediate release or for the enjoyment of the right denied, as the case may be. The judge or court shall have power to require any kind of information and have the detained person produced, and must give a definite decision within the shortest possible time, which shall be fixed by law.

Art. 23. The legislature shall enact reform of the laws of procedure, on the basis of oral verdicts for offences subject to public prosecution.

The summary of evidence shall cease to be secret from the parties immediately the accused has made a statement under examination before the judge.

Art. 26. Any law, decree or order contrary to the foregoing articles, or which imposes on the exercise of the liberties and rights recognized in this constitution restrictions other than those permitted by this constitution, or deprives citizens of the guarantees which it ensures, shall be null and void and may not be applied by judges. Any person injured by any order, decree or law violating or infringing these rights, liberties and guarantees has cause for civil action for compensation, appropriate to the damage caused him by such violation or infringement, against the employee or official authorizing or executing it.

Art. 27. The rights, declarations and guarantees enumerated in this constitution shall not be interpreted as a denial of others not enumerated, but which belong to the people or derive from the form of government adopted or which are inherent to man.

Section II

SOCIAL, ECONOMIC AND FINANCIAL POLICY

Art. 28. The State shall promote the economic well-being of the community, by encouraging production, and especially basic industries and those for the conversion of rural products, by means of temporary concessions, premiums, bonuses, exemption from rates and taxes, and other benefits compatible with this constitution; and may provide initial capital or add to existing capital, participating in management and the distribution of profits.

It may also encourage and direct the application of any system or procedure designed to facilitate the commercial disposal of production.

Arts. 29 and 30. [Provisions regarding the encouragement of immigration, colonization and production, etc.]

Art. 31. Work in its various forms is a duty of the individual to society, and shall enjoy special protection by the laws, which shall ensure the worker decent living conditions.

PART III

EDUCATIONAL POLICY

Art. 144. It is the duty of the State to provide for the establishment of an educational system including, first and foremost, primary education, which shall be given preference over all other forms.

Art. 145. Laws for the organization and regulation of public education shall be subject to the following principles and rules.

1. Public education shall be compulsory, and that given by the State shall be free and secular, subject to the conditions and penalties established by law.

2. It shall be of an essentially national character,

its aim being to satisfy the individual and collective needs of real life.

In addition to primary education, instruction shall be given in practical knowledge of agriculture, stock-breeding or industrial activities, according to the predominance of one or other of these activities in the locality concerned. . . .

Art. 152. There shall be a public school in every place where there are at least thirty children of school age. Any person outside the school areas giving children of school age a minimum of elementary education may be remunerated.

Art. 154. The State shall encourage the establishment of popular libraries, being itself obliged to establish one in any village of more than a thousand inhabitants which does not possess one established by private enterprise.

CONSTITUTION OF THE PROVINCE OF TUCUMÁN¹

of 24 June 1907

SECTION I

DECLARATIONS, RIGHTS AND
GUARANTEES

Art. 4. Public officials and employees shall be directly liable to the courts for offences committed in the performance of their duties, and for any damage caused thereby.

Where there are several offenders, they shall be jointly liable.

Art. 21. No law or regulation shall be enacted in the province which renders the status of aliens inferior to that of citizens, or which obliges aliens to pay heavier taxes than those borne by nationals.

Art. 22. The inhabitants of the province, as inhabitants of the Argentine nation under the protection of the national constitution, enjoy all the rights established by the latter, without denial or limitation of other rights not mentioned, or enjoyed in practice by the people.

Any law, decree or order which, on the pretext of regulation by law, impairs the enjoyment of recognized liberties and rights, or deprives citizens of the guarantees ensured, shall be unconstitutional and may not be applied by judges.

Art. 25. The right of every man to worship God freely and publicly, according to the dictates of his conscience and subject to the limitations imposed by morality and public order, is inviolable in the territory of the province.

Art. 26. No person may be prosecuted more

than once for the same offence; nor on any pretext may a case closed by judgment be reopened except for review.

Art. 27. Trials shall be held in public, and there shall be freedom of defence. A law shall define exceptions based solely on the secrecy of the summary of evidence and cases where publicity would be harmful to good morals.

Art. 29. All inhabitants of the province may publish their thoughts and opinions in the press, and the law may not prescribe preventive measures against the enjoyment of this freedom.

In actions resulting from the freedom of speech and of the press, justification shall be an admissible defence whenever the official conduct of employees or the political capacity of public officials is in question.

Art. 30. A domicile may not be forcibly entered without the order of a judge, in writing and showing cause, for an offence or dereliction; or for reasons of public health, that of a competent health authority, also in writing and showing cause, in the manner and form prescribed by law.

Art. 31. No person may be imprisoned without at least some summary investigation producing presumptive proof or strong evidence of the commission of an offence, nor be kept in prison without previous written order of a judge, except in cases of *flagrante delicto*, when any offender may be arrested by any person whatever and brought immediately before his judge.

Art. 32. No person may be kept under arrest for more than twenty-four hours without a competent judge being notified and the accused placed at his disposal with an account of the circumstances leading to his arrest; nor afterwards may

¹ Spanish text in *Constitución de la Provincia de Tucumán*. Tucumán, 1940. English translation from the Spanish text by the United Nations Secretariat.

the accused remain for more than three days *incommunicado*.

Art. 33. Any person suffering arbitrary imprisonment may apply, himself or through a third party, to any judge, in order that the latter may have him brought before him, examine the manner of his arrest and, if constitutional and legal requirements have not been fulfilled, order his immediate release.

Art. 34. The legislature shall regulate labour and health conditions in factories, and especially the work of women and children.

Art. 35. Aliens are eligible for all public positions, except those for which the constitution requires citizenship or nationality.

SECTION VII

PUBLIC EDUCATION

Art. 141. Laws for the organization and regulation of education shall be subject to the following rules.

1. Public education is free and compulsory, subject to the conditions and penalties prescribed by law. . . .

AUSTRALIA

PROTECTION OF HUMAN RIGHTS IN AUSTRALIA

There is probably no country in the world in which human rights, whether of individuals or groups, are more extensive or better protected than they are in the Commonwealth of Australia. This state of affairs, however, owes more to the inherited traditions of British liberalism, strengthened by Australia's own history and economic circumstances, than to any formal system of constitutional guarantees. The convicts, and later the immigrants, who founded the Australian nation and established its political traditions, were rejects of or in revolt from the aristocratic and oligarchical systems of the old world. English Chartism had a particularly strong influence in the constitution-making era which began in the 1850's. Australians have passionately defended democracy in two world wars, in each case participating from the beginning by their own free choice and with the unqualified approval of the overwhelming majority of the people. Economic circumstances have helped to maintain a social system in which respect for human rights is high. The absence of extreme disparities of wealth, and a general living standard better than that of any country in the world, with the possible exception of New Zealand, have tended to preserve a mutual tolerance, and to reduce the bitterness of political conflict. It is probable that the high degree of racial homogeneity has also assisted in the preservation of social attitudes favourable to civil liberties. With this heritage, Australians have never felt the need to express in formal documents the fundamental human rights which their system of government in fact protects. The expressions "constitutional guarantee" and "fundamental rights" are unfamiliar to most Australians.

Australia is a federal commonwealth, in which the power to govern is divided between the parliaments and executive governments of six states—New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania—which prior to federation were separate British colonies, and the federal or Commonwealth parliament and executive government. The scheme of distribution of powers resembles that of the U.S.A., from which indeed it was adapted. The Commonwealth Parliament and Government possess a number of defined and—in peacetime—relatively narrow legal powers; the states possess the undefined residue of governmental power. In time of war, the Commonwealth, by virtue of its defence power, becomes dominant, and even in peacetime, its superior financial

position gives it greater practical authority than a scrutiny of its legal powers would suggest. But it remains true that the greater part of the law concerning ordinary civil liberties is the domain of the states.

The constitutions of the Commonwealth and the states are in documentary form. Each of them was in origin a statute of the parliament of Great Britain, and some of them still retain that form, but the British Parliament has abdicated any power to interfere with these constitutions save at the request of and with the consent of the parliaments and governments concerned. These constitutions do not contain a complete code of constitutional law; much of that law has to be found in decisions of the courts, in statutes having no special standing or authority, and in conventions. The Constitution Acts themselves are all capable of amendment in Australia, and all of them have been amended from time to time. They vary greatly in the method of amendment required, and consequently in their degree of rigidity. The federal constitution is the most rigid; its most important provisions can be amended only by an act of the Commonwealth Parliament assented to at a referendum by a majority of the electors—who are, generally speaking, Australians of both sexes over the age of twenty-one—and by a majority of electors in each of the four states. The state constitutions are in general amendable by act of the state parliament concerned, though in New South Wales and Queensland certain amendments also require the approval of the electors at a referendum. These state constitutions, however, are all potentially rigid; there is no legal obstacle to the writing in of amendments in such a way as to prevent ready parliamentary interference with human rights, if such a course commended itself to the electors and their representatives. Hence the federal and state constitutions can if necessary be made the repository of formal declarations of human rights, in such a manner as to require some special procedure—such as a referendum—for their removal or restriction.

At present, the only state constitution containing formal provision respecting human rights is that of Tasmania, which contains a guarantee of religious toleration; since, however, this constitution is flexible, the guarantee could be repealed at any time by simple act of parliament. The federal constitution—the Commonwealth of Australia Constitution Act, 1900—contains three provisions

which were intended to give direct protection to the individual. Section 51 (xxxi) requires that Commonwealth laws for the acquisition of property should provide just compensation to the persons affected. This section has been strictly enforced by the courts, which interpret the word "just" in accordance with the principles of a society based upon the private ownership of property. Section 80 seems at first sight to be a guarantee of trial by jury in criminal prosecutions, but the section as at present interpreted by the courts has little value. It has been treated as requiring a jury only if the procedure of trial is that known as "indictment"; hence if another procedure is prescribed, such as summary trial by magistrates, no jury is required. Section 116 prohibits the Commonwealth from establishing any religion, from imposing any religious observance, from prohibiting the free exercise of any religion, and from requiring any religious test as a qualification for Commonwealth office. The courts have interpreted "free exercise of religion" as referring to beliefs and activities which are generally accepted as religious in character. Hence the section does not prevent the enforcement of military service on conscientious objectors, or the suppression of religious bodies whose teachings are fundamentally subversive of the existing structure of government or inimical to the defence of the nation. These three sections restrict only the activities of the Commonwealth Parliament and Government; they do not apply to the states. They are amongst the rigid provisions of the constitution, and can be removed or extended only by the referendum procedure described above.

The federal constitution contains many other prohibitions or conditions on the exercise of power, addressed to the Commonwealth or the states or both, but these are concerned with the distribution of power between Commonwealth and states, or with the maintenance of the federal structure of government. However, these provisions do operate indirectly to prevent certain kinds of governmental interference with individuals. The most important section of this kind is section 92, which requires that inter-state trade, commerce and intercourse shall be absolutely free. Judicial interpretation of this section has varied, and is still not settled. At one time, the section was given a highly individualist interpretation, but treated as restricting only the states. It is now treated as restricting both Commonwealth and states, but as permitting a considerable degree of governmental regulation of trade, commerce and intercourse, so long as the law in question is not specifically directed against, or does not discriminate against, inter-state activities.

It should also be observed that the mere existence of a federal scheme of government imposes restrictions on possible government interference with the individual. The Commonwealth and the states in collaboration could impose, on an Australia-wide scale, most of the restrictions on the

individual which are legally competent to a fully sovereign unitary parliament, such as that of Great Britain. But this degree of collaboration between Commonwealth and states is rarely achieved, even when—as rarely happens—the same or similar parties have majorities in all the seven parliaments. Without such collaboration, individual state governments are sometimes hampered by the impracticability of pursuing certain policies in state alone, and the Commonwealth by its limited legal powers. These indirect obstacles to positive governmental policies provide some immunity for individual rights—chiefly rights connected with the ownership of property.

But notwithstanding the federal character of the Australian constitutional system, its dominating feature is responsible parliamentary democracy on the British model. Each of the seven executive governments consists of a cabinet drawn from the majority party or coalition in the relevant parliament, and headed by a chief minister called the Prime Minister (in the case of the Commonwealth) or Premier (in the case of the states). The Governor-General of the Commonwealth, and the governors of the states, who formally represent the King, exercise their extensive legal powers on the advice of these cabinets. Thus the cabinets represent a high degree of concentration of power. Through the discipline of party control they dominate the parliaments, and through the permanent civil services they supervise the execution of government policy. As shown above, the formal restrictions on the competence of these parliaments and executives are few, and consequently the formal possibility of destruction of human rights is considerable. The states in particular could, if they wished, go far towards the destruction of security of the person, freedom of expression and freedom of association.

But the fact is that freedom of the person is at least as secure as in any country in the world, freedom of expression is exceedingly wide—at least in time of peace—and freedom of association correspondingly wide. To give some practical illustrations. It is generally impossible in Australia for any person to be kept in detention in time of peace for more than forty-eight hours without being brought before a court of law, and the cases in which he may be further detained, or ultimately on conviction imprisoned, executed or otherwise punished, are defined by law and interpreted by the courts. These courts possess the highest degree of independence and impartiality. Freedom of expression is restricted by the usual laws relating to defamation, obscenity and sedition. In time of peace there is no domestic press censorship, but films and imported publications are censored by executive officials without appeal to the courts. The laws relating to sedition are rarely invoked in peacetime, and liberty of expression on political matters is especially wide. The corresponding degree of liberty of association is shown by the

legal existence on the one hand of the Communist and Trotskyist parties, and on the other hand of groups advocating doctrines akin to fascism. Australia has its public meeting places, like Hyde Park in London, where every variety of doctrine on every conceivable subject is advocated to crowds of people without any attempt at official suppression. As a matter of law, meetings and processions in streets and parks are usually either a common law nuisance or an offence against local by-laws, but nevertheless they are extensively permitted.

An aspect of freedom of association which is particularly important today is the position of trade unions and employers' associations. These are numerous and powerful in Australian life, and both conduct their affairs substantially in accordance with their own rules. Industrial tribunals possess limited powers of disallowing their rules as they conflict flagrantly with the principles of member control or of natural justice, but these powers are rarely exercised. There is no settled national policy on the question of strikes and lockouts. At present, no federal law prevents either strikes or lockouts in the wide sphere of industry coming under the control of the Federal Arbitration Court, but from time to time federal and state laws have made strikes and lockouts illegal under certain conditions, since the general opinion of both employees and employers favours arbitration of industrial disputes. Trade union opinion is divided on the question whether secret ballots of unionists should be required by law on such issues as calling a strike. In Queensland, a Labour government has enacted such a law. But neither unions nor employers' associations have become in any sense instruments of government policy.

It is evident that this state of affairs can be explained, as in Great Britain, only by reference to the habits and traditions of the people, to the working of a rule of law which is supported by public opinion, to a social and economic climate which favours mutual tolerance, and finally by the working of parliamentary democracy. Australia was a pioneer in the development of adult suffrage, the secret ballot, votes for women, and preferential systems of voting. Voting is also, in general, compulsory. Any person entitled to vote is entitled to present himself as a candidate for election to parliament, and independents without party backing are frequently elected. Admission to the major political parties, and transfer from one party to another, are equally easy—a matter of great importance since these parties dominate the political life of the country. The domestic organization of these parties is their own affair; Australia has not adopted the American system of direct primaries, or any similar control methods, but the democratic spirit of the community compels all parties to proceed on the general principle of member control over policy and the selection of

party candidates. No Australian would claim that his country has completely carried out the principles of political democracy. In the states of Victoria, South Australia, Western Australia and Tasmania, the upper houses of the bicameral parliaments are elected on a restricted franchise and represent only about a third of the adult population. From time to time, branches of political parties are dominated by cliques or bosses, though this has never happened over a large area or for a long period. The aboriginals are in general denied the vote; they are a small minority, but the position is indefensible on democratic principles. So is the position of another minority—the residents of federal territories such as Canberra and the Northern Territory, who have either no representation at all or quite inadequate representation in the national government and in the control of their local affairs. These shortcomings, however, do not prevent the federal and state governments from being fairly representative of the majority view in Australia at any particular time, and very sensitive to well-marked trends of public opinion. In particular, the general opinion favouring a high degree of security of the person and liberty of political opinion and action is strongly represented, and has compelled the maintenance of human rights more effectively than any formal system of constitutional guarantees.

We have considered so far the rights of the individual and the group which British principles of private and constitutional law have in especial degree been designed to protect; they are largely negative rights—freedom from arbitrary interference with security of the person, liberty of expression and liberty of association, whether by governments or other persons. The most important positive human rights of this system are the right to vote and to stand for parliament. But it is a commonplace of modern political thought that such rights, while essential to human dignity and happiness, are insufficient unless accompanied by another right—the right to economic security. A great deal of the economic and political history of Australia in this century, and especially since the great depression of 1931, is taken up with the search for this right. No Australian would claim that his social system has as yet guaranteed it. Certain aspects of the problem have been tackled. Thus the Commonwealth now provides invalid and old age pensions, child endowment, allowances to persons involuntarily unemployed, and a wide range of medical benefits. The states also provide a wide series of social services, including free hospital attention. The states also provide complete education systems, in which tuition is free to the age of fourteen, and in the case of Western Australia is free up to and including the university. The trend is constantly to extend the range of these social services and the classes of the community entitled to their benefits. All these measures are accepted as in substance palliatives, rather

than radical solutions of the problems of poverty and economic insecurity. A more radical approach is that initiated by the Commonwealth in recent years, both in domestic policy and in international negotiations—the policy of government regulation of the economic system to ensure full employment. These positive human rights of freedom from want and freedom from economic insecurity are no more embodied in formal Australian constitutional law than are the fundamental freedoms mentioned earlier, but they have a large and growing support in popular opinion and are accordingly tending to become a part of the settled aims of government policy.

However, it would be misleading to suggest that the political and economic implications of a more positive governmental policy on these problems of economic rights are accepted cheerfully by decisive majorities of Australians, and still more misleading to suggest that the existing constitutional structure of Australia makes the pursuit of such policies at all easy. In peacetime, the Commonwealth has to rely largely on its financial resources rather than on legal regulation to stabilize employment. The states, which have most of the legal powers of regulation required, are handicapped by their territorial restrictions and their lesser financial resources. The complexities of a federal system, to which we have already referred, have their value in protecting one aspect of human rights; but obstruct the protection of the economic rights we are now dealing with. Policies of governmental regulation of industry also introduce the problems of bureaucracy; they frequently require the vesting of regulative and discretionary powers in civil servants who are not directly answerable to the people. It is significant that when the Commonwealth proposed in 1944 that a list of constitutional guarantees be incorporated in the federal constitution, it included among them a provision that all regulations made by the executive Government be subject to disallowance by resolution of either house of the parliament. Provisions to this effect are already part of the statute law of the Commonwealth, and of each of the states except Victoria. They provide some, but by no means a complete, answer to the possibilities of petty oppression which any considerable system of bureaucratic control involves. Hence while all the major Australian parties accept a considerable degree of government ownership or provision of essential services and social services, of governmental regulation of property rights and the rights to pursue various trades and professions, and of government direction of the general trend of economic policy, there are considerable differences of opinion as to the degree to which such measures shall be carried out. In the past, the development of these policies has interfered chiefly with the

liberty of property owners. The drastic economic controls made necessary by the Hitler-Hirohito war, carried out for the most part by a Labour Party Commonwealth government, have compelled the trade unions to realize that their liberties, and the liberties of the individual worker, may also be involved. Hence the search for the right to security has raised three problems. Can this right be achieved under existing Australian and world economic conditions? Can it be achieved under the existing constitutional system of Australia? Can it be guaranteed without impairing the individual liberty and political rights already achieved?

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SURVEY OF WARTIME LEGISLATION AND ITS REPEAL IN 1946

Although individual liberty is traditional in Australia, it was necessary during the war for the Commonwealth Parliament in its overriding power in providing for defence to restrict individual liberty by formal legislative enactment in so far as restriction was necessary in the interests of more effectually prosecuting the war.

These express restrictions on the liberty of the individual have for the most part been removed during the year 1946. The control of manpower, including the registration of all the civilian population and the compulsory direction of persons to work in specified industrial establishments, were essential for the general good, and were yet among the most irksome regimentations imposed on the individual by law. These laws were repealed early in 1946.

Another temporary wartime law provided for the arrest of deserting seamen. No warrant from any judicial officer was necessary, and the arrested person could be kept in custody until he accepted employment on some other vessel. This provision was likewise repealed early in 1946.

In addition, the power of the Commonwealth Government to intern persons suspected of subversive activities; to requisition private property, both real and personal; and to restrict the possession by individuals of apparatus such as wireless transmitters, have all been removed by legislation passed during the year 1946.

Individual liberty has, then, in large part returned to its normal unwritten tradition, unencumbered by any statutory restrictions such as subsisted during the war years in the interests of national security.

Geoffrey SAWER

AUSTRIA

NOTE ON THE CONSTITUTIONAL SITUATION

In December 1945, the first Legislative Assembly to convene after the liberation of Austria adopted unanimously a constitutional law which restored the Federal Constitution of 1929.

However, under the regulations of the Allied Control Commission for Austria, every constitutional law has to be approved unanimously by the

four occupying Allied Powers in order to become valid. Up to the present this approval has not been given.¹

¹Information through the courtesy of Dr. Ludwig Kleinwaechter, Minister Plenipotentiary L, representative of the Austrian Federal Government, Washington, D.C.

BELGIUM

CONSTITUTION OF THE KINGDOM OF BELGIUM¹ of 7 February 1831

TITLE II

BELGIAN CITIZENS AND THEIR RIGHTS

Art. 4. Belgian citizenship is acquired, maintained 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 in the State.

Belgian citizens 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 in the case of flagrant offence no one may be arrested without a warrant issued by a magistrate which ought to be shown 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 in pursuance of law.

Art. 10. The private domicile is inviolable; no search of premises can take place except in cases provided for by law and according to the form therein prescribed.

Art. 11. No one may be deprived of his property except for the public good 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 re-established.

Art. 14. Religious liberty and the freedom of public worship, as well as free expression of opinion in all matters, are guaranteed, unless crimes are 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 religion, or 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 religion whatever, nor shall it forbid them to correspond with their superiors or publish their proceedings, subject 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. There shall be freedom of opinion in teaching; all measures preventing this are forbidden; the repression of offences shall be regulated only 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 caution money shall be exacted of writers, publishers, or printers.

In case the writer is known and is a resident of Belgium, the publisher, printer or distributor cannot be prosecuted.

Art. 19. Belgian citizens have the right to assemble peaceably, and without arms, when conforming to the laws which regulate this right, and without previous authorization.

This provision does not apply to assemblies in the open air, which remain entirely under the police laws.

Art. 20. Belgian citizens have the right of association; this right shall not be restricted by any preventive measure.

Art. 21. Any one has the right to address petitions to the public authorities, signed by one or more persons.

The constituted authorities alone have the right to address petitions in the name of the people collectively.

Art. 22. The privacy of correspondence is inviolable. The law shall determine who are the

¹ French text in *La Constitution belge*. Bruxelles, English text in J. M. Vincent, *Constitution of Belgium* (Annals of the American Academy of Political and Social Science, 1896).

agents responsible for the violation of the secrecy of letters entrusted to the post.

Art. 23. The use of the languages spoken in Belgium is optional. This may be regulated only by law and only for acts of public authority and for judicial proceedings.

Art. 24. No previous authorization is necessary

to bring action against public officials for the acts of their administration except as provided for cabinet ministers.

TITLE VI

GENERAL PROVISIONS

Art. 130. The Constitution cannot be suspended, either in whole or in part.

BELGIAN CITIZENS AND THEIR RIGHTS¹

GENERAL OBSERVATIONS

Chapter II of the Belgian Constitution, which was promulgated by decree on 7 February 1831, and revised in 1893 and 1920-21, embodies the principles enshrined in the Declaration of the Rights of Man and of the Citizen during the French Revolution. The Belgian Constitution thus established a system of guarantees of public liberties "consisting essentially in reserving to individuals a certain field of activity in which the public authorities are not entitled to intervene; this sphere of liberty is determined by the Constitution itself, which enumerates . . . the natural rights and freedoms enjoyed by individuals, and guarantees their maintenance by barriers against the omnipotence of the State. With one exception, concerning public meetings in the open air, all preventive measures are forbidden. If [illegal] acts are committed, as is possible in the exercise of any freedom, the judicial power alone may punish them." (H. Van Mol, *Manuel de droit constitutionnel de la Belgique*, second edition, Liège, 1945, p. 31-32.)

It is, however, not only in articles 12 to 24 that the Belgian Constitution embodies the principles of freedom introduced by the French Revolution. Those principles are not all included in the Declaration of Rights, although they might well appear there too. There is, for instance, the principle that all powers are derived from the nation (art. 25), the principle of the separation of powers (art. 26 to 30), the principle that taxes must be voted by Parliament (art. 110), and that the Constitution may not be suspended (art. 130).

Besides the texts included in the Constitution, there are legal provisions ensuring the defence of democracy against action by certain parties. Thus the penal code contains provisions penalizing, in a general manner, crimes and offences against the security of the State; and these provisions have been adapted to the circumstances resulting from the war by the decree law of 26 May 1944.

Finally, there are the provisions of chapter II of book 2 of the penal code, prescribing penalties for crimes and offences against rights guaranteed

by the Constitution. These provisions relate to: (1) offences connected with the exercise of political rights (elections, and the drawing up of electoral lists), (2) offences connected with freedom of worship, (3) infringements by officials of rights guaranteed by the Constitution (e.g. illegal or arbitrary arrest, violation of the home, opening or suppression of letters in the post and, in general, all arbitrary acts or infringements of the freedoms and rights guaranteed by the Constitution, ordered or done by an official or civil servant, by a person entrusted with, or agent of, the authority or the power of the State, etc.).

Certain rights recognized in recent constitutions, such as the right to work, protection of the family, etc., do not appear in the Belgian Constitution.

As regards the right to work, it should be noted that the report to the Regent introducing the decree law of 28 December 1944 on the social security of workers, recognizes the existence of a desire for a system embodying the right to work. That decree law constitutes a framework of general rules applying to old age pensions, health and disability insurance, family allowances, and workers' leisure. It also institutes a provisional system of unemployment assistance, while reserving for the future the question of the right to work.

As regards protection of the family, there has long been in existence in Belgium a system of family allowances.

In addition, there is now a Ministry of Public Health and Family Welfare.

The above are indications of a movement of ideas which may culminate in the addition of new texts to the Constitution on the subject of the right to work, the right to social security, and the protection of the family. Up to the present, however, the provisions governing these aspects of social evolution in Belgium have not been established by the Constitution.

COMMENTARY

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 in the case of flagrant offence, no one may be arrested without a warrant issued by a

¹ English translation from the French text by the United Nations Secretariat.

magistrate, which ought to be shown at the time of arrest, or at the latest within twenty-four hours thereafter.

ad Art. 7. The law of social protection of 9 April 1930 prescribed safety measures in connexion with mental defectives, and measures of elimination in the case of habitual offenders. "Such measures undeniably represent serious limitations of the individual freedom of citizens." It is a fact that whereas the Constitution lays down as an inviolable rule that the hearing of a trial shall be conducted in public (art. 96 of the Constitution) articles 5 and 9 of the above-mentioned law make the publicity of the proceedings dependent on a formal request by the accused. Further, by the provisions of the new law, courts conducting preliminary investigations are given the right to pass final sentence on alleged crimes or offences. Finally, as a result of the powers conferred on the examining magistrate by this new law, art. 98 of the Constitution, which gives the jury the exclusive right to judge crimes, has been partially overridden. (Braas and Dor, *La Constitution*. Brussels, 1935, No. 123.)

Cf. observations ad art. 23, *in fine*.

Art. 8. No person shall be removed against his will from the jurisdiction of the judge to whom the law assigns him.

ad Art. 8. From the use of the expression "against his will" in this article, it should not be concluded that the consent of the parties concerned is sufficient to legalize action by certain courts in matters which the law has not placed within their competence. It is not permissible to derogate, by private agreement, from laws affecting public order; and laws which govern the competence of the courts do affect public order. However, the law provides for certain cases where the consent of the parties is sufficient to extend such competence. It is to these particular and clearly specified cases that the words "against his will" as used in article 8 of the Constitution, apply. (J. J. Thonissen, *La Constitution belge annotée*, third edition, 1879, p. 29.)

A distinction can be drawn in penal law between formal infringements—those arising, for instance, from failure to observe regulations governing traffic control, Sunday rest, the display of certain posters, etc.—and infringements of an anti-social nature, which threaten the very foundations of the constitution of the community. Under the present system, judges trying formal infringements, tend to inflict light penalties. This attitude has been regarded as a weakness on the part of the courts, and to guard against the consequences of that weakness a new practice has recently been introduced which Attorney-General Cornil qualifies as dangerous—"that of adding to or substituting for the penalties imposed by the judicial power, administrative penalties imposed by the executive power. Such a practice, which com-

pletely disregards the separation of powers, not only infringes a constitutional principle, but endangers that which we all hold most dear, that for which the best of us were willing to make the supreme sacrifice—individual freedom." (Leon Cornil, *Propos sur le droit criminel*, Brussels, 1946, p. 26.)

Art. 11. No one may be deprived of his property except for the public good and according to the forms established by law, and in consideration of a just compensation previously determined.

ad Art. 11. Under the pressure of needs arising from social evolution which had not made themselves felt at the time when the Constitution was voted, the right of property has been restricted, in certain cases, with a view to satisfying general interests of far wider scope than that covered by expropriation on the grounds of public utility; no such notion could have been entertained in 1830. That is so in the case of the series of laws on rentals, prohibiting owners of certain real property from making unrestricted use of their property.

The law on commercial property, of 30 May 1931, is a further example.

Finally, the law of 7 August 1931, on the protection of sites, enables the State to establish, on aesthetic grounds, something in the nature of territorial reserves, where owners are forbidden to build, to quarry, to establish industries, or, in short, to change the character of the landscape.

The law provided for compensation, but not for expropriation in the true sense.

Art. 14. Religious liberty and the freedom of public worship, as well as free expression of opinion in all matters, are guaranteed, unless crimes are committed in the use of these liberties.

ad Art. 14. The exercise of the right to express an opinion on any subject has led to abuses, in that it has made it possible for "absolutely subversive extremist opinions" to be expressed. The legislature can make an offence of this type of expression of opinion, e.g. insults to the flag. (Macar, *La Constitution*, in *Nouvelles lois politiques et administratives*, Vol. II, Brussels, 1935, No. 199, p. 91).

The freedom to express opinions may be restricted in the case of foreigners. Article 128 of the Constitution does not debar such action, on condition that the measures to be adopted be decided by the legislature (cf. article of law of 12 February 1897).

Propaganda by broadcasting could obviously not have been foreseen by the authors of the Constitution, from either the political or the moral point of view. "In Belgium, the legislature has attempted to find a satisfactory solution for the problem by conferring on the executive a kind of right of supreme police control over all broadcasts." (Bras and Dor, *La Constitution*, No. 202. Law of 18 June 1930; Royal Decree of 28 June 1930.)

Under this system, "The State claims the power to restrict, in a general and permanent fashion, and even in cases not provided for by the penal law, the right of uttering opinions by broadcasting.

"It does, however, endeavour to establish a certain number of guarantees so that this power should not degenerate into an arbitrary one: e.g. action by persons recruited with very special regard to impartiality, and action by a Minister responsible to Parliament.

"However ingenious and tempting such a system may appear at first sight, it nevertheless gives rise to grave apprehensions in certain circles, which are greatly alarmed by the threat which it offers to a principle which has remained inviolable since 1831." (Braas and Dor, *La Constitution*, No. 203.)

It must also be remembered that broadcast propaganda in Belgium conducted from abroad raises a delicate problem—that of the control of the right to listen to communications coming from abroad. That problem, which was solved by the occupying Power during the period 1940–1944 by an absolute ban, has not yet been studied since the war.

Art. 20. Belgian citizens have the right of association; this right shall not be restricted by any preventive measure.

ad Art. 20. With regard to the right of association, it should be pointed out that a law of 24 May 1921 confirmed the individual's right to refuse to associate.

"One can see in the law of 24 May 1921 a sort of defence of the individual against the associationist phenomenon, even though its advocates appear to have been inspired by other motives also" (Braas and Dor, *La Constitution*, No. 322), in particular by the desire to repeal article 310 of the Belgian penal code, which made combination a punishable offence.

Complete trade union freedom exists in Belgium. Notwithstanding the existence of a law of 31 March 1898 on professional unions, which grants legal personality to associations fulfilling certain conditions, such as depositing lists of members, the immense majority of Belgian workers' unions are *de facto* associations, without legal personality or any special legal status.

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.

ad Art. 22. The principle of the inviolability of the secrecy of letters is subject to certain exceptions:

1. The authorities may open correspondence which has become dead because the addressee cannot be found (article 8 of the law of 30 May 1879 and Royal Decree of 14 October 1893);

2. The authorities may open correspondence

which has been refused acceptance (Royal Decree of 4 January 1896);

3. The authorities may open letters thought to contain securities or forbidden objects, articles of value, jewellery, inflammable products, etc. (article 56 of the law of 30 May 1879);

4. Examining magistrates may confiscate letters sent by or addressed to an accused person (Royal Decree of 30 July 1945). (Van Mol, *Manuel le droit constitutionnel de la Belgique*, 1945, pp. 63–64.)

The principle of the inviolability of the secrecy of letters was endangered after the 1914–1918 war by the need for watching the activities of foreign propagandists in Belgium, and espionage in general. Certain secret police organizations also assumed the right of opening the correspondence of private individuals (Royal Decree of 28 December 1921, establishing a Higher Supervisory Committee amended by the Royal Decree of 21 November 1932).

Art. 23. The use of the languages spoken in Belgium is optional. This may be regulated only by law and only for acts of public authority and for judicial proceedings.

ad Art. 23. The purpose of article 23 is to protect citizens against abuses by agents of the executive power using in dealings with them a language which is not theirs.

Exceptions to this rule may, however, be decided by the legislature, provided they come under the following heads:

Acts of the State authorities, or judicial matters.

Of the laws dealing with the use of languages in the spheres of justice and administration, the following may be mentioned;

Laws of 3 May 1889, 4 September 1891 and 22 February 1898 on the use of the Flemish language in punitive and disciplinary proceedings;

Law of 18 April 1898, amended by the law of 28 December 1909, on the use of the Flemish language in official publications (laws are voted, approved, promulgated and published in French and Flemish);

Law of 28 June 1932 concerning the use of languages in administrative matters;

Law of 14 July 1932 relating to the use of languages in primary and intermediate education;

Law of 15 June 1935 relating to the use of languages in judicial matters (Van Mol, *Manuel du droit constitutionnel de la Belgique*, 1945, p. 67).

The linguistic problem did not occur to the authors of the Constitution of 1831. The position existing in their day resulted from the Germanic invasions at the end of the Roman Empire. They did not foresee that one of the two linguistic groups in Belgium would attempt to eliminate the other. "They did not even think of formulating constitutional rules regarding the use of languages

in teaching. The text of article 23 contains nothing whatsoever on this subject. Hence the difficulties which have appeared, and which have been aggravated by the democratic factor coming into play." (Braas and Dor, *La Constitution*, No. 367.)

The law of 14 July 1932 prescribes in principle that the language of instruction in the primary and intermediate schools should be Flemish in the Flemish districts of the country, French in the Walloon districts, and German in the German-speaking communes. Children whose native or habitual language is not that of the district have the right to be taught in their mother tongue. However, communes and the free primary school authorities remain judges of the real existence of such linguistic needs, and of the advisability of satisfying them.

In the intermediate schools, there will provisionally be special sections for pupils whose habitual

or mother tongue is not the language of the district. These sections may gradually be abolished.

It may be noted that this system interferes with the freedom enjoyed by the father of a family to have his children taught in the language of his choice. It is also an interference with individual freedom (article 7 of the Constitution). Indeed "in its widest sense, individual freedom includes freedom of the person and freedom of action, freedom of thought and of its expression, freedom of conscience and freedom of worship." (Thonissen, *La Constitution belge annotée*, 1879, p. 23).

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BOLIVIA

POLITICAL CONSTITUTION OF THE STATE OF BOLIVIA¹ of 28 October 1938

FIRST SECTION THE NATION

Art. 2. The State recognizes and supports the Roman Catholic Apostolic religion, guaranteeing the public exercise of all religions.

Art. 4. The people shall not deliberate or govern except by means of their representatives and by the authorities created by law.

Any armed force or association of persons usurping the rights of the people commits the crime of sedition.

SECOND SECTION RIGHTS AND GUARANTEES

Art. 5. Slavery does not exist in Bolivia. No kind of servitude is recognized and no person shall be obliged to render personal service without just retribution and without his complete consent.

Personal services shall be exacted only as they may be established by the laws.

Art. 6. Every person has the following fundamental rights in conformity with the laws that regulate their exercise.

1. To enter the national territory, remain there, move about, or leave.

2. To engage in work, commerce, or industry under conditions that do not injure the collective welfare.

3. To express freely his ideas and opinions by any means of diffusion.

4. To meet and associate for various purposes not contrary to the security of the State.

5. To make individual or collective petitions.

6. To receive instruction.

7. To teach under the supervision of the State.

Art. 7. No person 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, it is required that the latter shall be issued by the proper authority and be recorded in writing.

Art. 8. Every person who believes he is illegally arrested, prosecuted or imprisoned may himself or by means of some other person in his name, with or without power of attorney, have

recourse to the superior court of the district or to the corresponding judge, as he prefers, to require that the legal formalities be preserved. The judicial authority shall decree immediately that the individual be brought to his presence, and his decree shall be obeyed, without objection or excuse, by those in charge of the jail or place of detention. Informed of the antecedents, the judicial authority shall decree his liberty and have the legal proceedings complied with or shall place the individual at the disposal of the proper judge within twenty-four hours. The decision that is pronounced shall be subject to an appeal of annulment before the Supreme Court of Justice, an appeal that shall not suspend execution of the sentence.

Public officials or private individuals who resist the judicial decisions in the cases covered by this article shall be guilty at all times of offence against constitutional guarantees, and the plea of having obeyed superior orders shall not serve as an excuse.

Art. 9. Any offender *in flagrante delicto* may be apprehended, even without an order of arrest, by any person, for the sole purpose of bringing him before an authorized judge, who shall take his deposition within not more than twenty-four hours.

Art. 10. Wardens of prisons shall not receive into custody either arrested or detained persons without copying in the register the corresponding order of arrest. Nevertheless, they may receive in the precinct of the prison individuals brought for the purpose of being presented to the authorized judge within twenty-four hours.

Art. 11. Attacks against personal security make their immediate authors liable, and the plea of having committed them under superior orders shall not serve as an excuse.

Art. 12. The public officials who, without having declared a state of siege, take measures for the persecution, confinement, or exile of citizens and have them executed, as well as those who suspend printing or other means of expression of free thought, shall be subject to the payment of a civil indemnification for damages and injury, provided that it is proved, by legal means, that such measures or acts were performed without justifiable motive and in contravention of constitutional laws that guarantee the rights of citizens.

¹ Spanish text in Andrés María Lazcano y Mazón *Constituciones Políticas de América. La Habana, Cuba, 1942. Vol. I, pp. 251-280.* English translation in *The Constitutions of the Americas* (cited above, page 6).

The manner of receiving satisfaction for the injury caused shall be determined by a special law.

Art. 13. No person shall be tried by special commissions or submitted to judges other than those previously designated for such suits.

Art. 14. No person is obliged to testify against himself in criminal cases; nor shall his relatives to the fourth degree of consanguinity inclusive or to the second of affinity be so required.

In no case shall torture or any other kind of inhuman punishment be employed.

Art. 15. Confiscation of property shall never be applied as a political punishment.

Epistolary correspondence and private papers are inviolable; they shall not be seized except in the cases determined by law and by virtue of written orders issued by the proper authority. Letters and private papers intercepted or sequestered have no legal effect.

Art. 16. Every house is an inviolable asylum; no person may enter at night without the consent of its inhabitant, and by day entrance without permission may be effected only by a written order issued by the proper authority except in cases in *flagrante delicto*.

Art. 17. Property is inviolable provided it fulfils a social function; expropriation may be effected for purposes of public utility as determined by law and with previous just indemnification.

Art. 18. Foreign subjects and enterprises are, in respect to property, in the same position as Bolivians, and can in no case plead an exceptional situation or appeal through diplomatic channels unless in case of a denial of justice.

Art. 19. Aliens shall not, within fifty kilometres of the frontiers, acquire or own, directly or indirectly, individually or collectively, soil or subsoil, by any kind of title, under penalty of forfeiting, to the benefit of the State, the property acquired, except in case of national necessity stated by a special law.

Art. 20. No tax is obligatory unless it has been established by the Legislature in conformity with the prescriptions of this constitution. Plaintiffs may establish suit before the respective judicial authority against illegal taxes. Municipal taxes are obligatory when the requirements formulated by this constitution have been observed in their establishment.

Art. 21. All persons are equally obliged to pay taxes and public charges. Their creation, distribution, and abolition shall have a general character and should be determined in relation to the financial capacity of those contributing.

Art. 22. The property of the Church and of religious and charitable associations shall enjoy the same guarantees as that belonging to private individuals and shall be subject to the obligations and limitations that the law establishes.

Art. 23. Every person enjoys civil rights; their exercise is regulated by civil law.

Art. 24. Only the Legislature has power to amend and modify the codes, as well as to enact regulations and provisions regarding judicial proceedings.

Art. 25. Punishment by disgrace or by loss of civil rights shall not exist.

Capital punishment shall be applied only in cases of assassination, parricide, and treason to the Fatherland; by treason, complicity with the enemy during a state of foreign war is understood.

Art. 26. Roads opened by private individuals shall be available for public use. A special law shall regulate the exercise of this right, as well as the collaboration of the State with the private individuals for their maintenance.

Art. 27. Acts of persons who usurp functions not belonging to them are null, as well as the acts of those who exercise jurisdiction or power that does not emanate from the law.

Art. 28. The principles, guarantees, and rights recognized in this constitution cannot be altered by the laws that regulate their exercise.

Art. 29. No person shall be obliged to do what the constitution and the laws do not require, nor be deprived of what they do not prohibit.

Art. 30. Those who violate constitutional rights and guarantees shall be subject to ordinary jurisdiction.

Art. 31. The law provides only for future circumstances and does not have retroactive effect.

Art. 32. Every public, civil, military, or ecclesiastical official, before taking possession of his office, is obliged to declare expressly and specifically the property or income he may have, which shall be verified in the form that the law determines.

Art. 33. The declarations, rights, and guarantees that this constitution enumerates shall not be understood as a denial of other rights and guarantees not mentioned, which may originate in the sovereignty of the people and in the republican form of government.

THIRD SECTION

PRESERVATION OF PUBLIC ORDER

Art. 34. In cases of grave danger by reason of internal disturbance or foreign war, the chief of the executive power may, with the affirmative action of the Council of Ministers, declare a state of siege in the part of the territory where it may be necessary.

If the Congress is convened in regular or extraordinary session while the Republic or a part thereof is under state of siege, continuation of the latter shall be the object of legislative authorization. If the decree of a state of siege is enacted by the Executive while the Chambers are in session, he shall proceed in the same manner.

If the Executive does not suspend the siege within ninety days, this time having lapsed, the siege shall automatically cease unless international war is declared or a civil war breaks out. Those who have been subject to judicial restraint shall be placed at liberty unless they have been submitted to the jurisdiction of authorized tribunals.

The Executive shall not prolong the state of siege by a new decree beyond ninety days or declare another state of siege within the same year unless with the consent of the Congress. The latter shall be assembled in extraordinary session for this purpose if this circumstance arises during the recess of the Chambers.

Art. 35. The declaration of a state of siege produces the following results:

(1) The Executive may increase the permanent army and call to service the reserves he may deem necessary.

(2) He may set aside necessary funds from national taxes and income, and negotiate or obtain by means of a loan sufficient resources, provided expenses cannot be covered by the ordinary income. In case of a forced loan, the Executive shall assign the quotas and distribute them among the taxpayers in accordance with their financial capacity.

(3) The guarantees and rights sanctioned by this constitution shall not in general be suspended with the declaration of a state of siege; but they may be so with respect to designated persons fundamentally accused of plotting against the tranquillity of the Republic, according to the provisions of the following paragraphs.

(4) Legal authorities may issue orders for citation or arrest against accused persons, within the maximum period of forty-eight hours, but they shall be placed at the disposal of the authorized judge, who shall examine the documents motivating the arrest.

If preservation of public order requires the removal of accused persons, their confinement to a departmental or provincial capital that is not unhealthy may be ordered.

Exile for political motives is prohibited; but the person who is confined, prosecuted, or arrested for these reasons may request his passport for abroad, which shall not be denied for any cause; the authorities shall grant him the necessary guarantees for this purpose.

Persons who execute orders violating these guarantees may be sued after the state of siege has ended, as perpetrators of attacks against constitutional guarantees, and the plea of having complied with superior orders shall not excuse them.

(5) Likewise, censorship of correspondence in general may be imposed and the use of transit passports be required for persons who enter or leave the territory in siege.

In case of international war, censorship shall be

established over correspondence and all methods of publicity.

Art. 36. The Government shall give an account to the next Congress of the reasons that gave rise to the declaration of the state of siege and the use that has been made of the powers conferred by this section, reporting the result of the judicial proceedings instituted and indicating the measures necessary to satisfy the credits that were contracted either by direct loans or by anticipation of taxes.

Art. 37. The Congress shall devote its first session to an examination of the report referred to in the preceding article, giving its approval or declaring the responsibility of the Executive.

The Chambers may, for this purpose, make the investigations that they deem necessary, and may require from the Executive an explanation and justification of all acts related to the state of siege even though they have not been mentioned in the report rendered.

Art. 38. Neither the Congress nor any association or popular assembly may grant the Executive extraordinary powers, the total of the public power, or accord him supremacy by which the life, honour and property of Bolivians are placed at the mercy of the Government or of any person.

Personal inviolability and the immunities established by this Constitution for the national representatives shall not be suspended during the state of siege.

THIRTEENTH SECTION

ECONOMIC AND FINANCIAL ORGANIZATION

Art. 106. The economic system must correspond essentially to the principles of social justice that tend to secure for all inhabitants a standard of living proper for a human being.

Art. 107. Besides the property which at present constitutes the domain of the State according to law, the following also have this title: all substances of the mineral kingdom, unoccupied lands with all their natural resources, and lake, river, and medicinal waters, as well as all physical forces susceptible of economic utilization. The law shall establish the conditions of this domain, as well as the manner of transferring it to private parties.

Art. 108. The State may, by law, regulate the exercise of commerce and industry when public security or necessity imperatively requires it. It may also assume the superior direction of national economy in these circumstances. This intervention shall be exercised in the form of control, of stimulation, or of direct promotion.

Art. 109. The exportation of petroleum that is the property of the Treasury or of a private individual shall be made only by means of the State or an entity representing it.

Art. 110. All enterprises established for exploitation, profitable utilization, or business in the

country are considered national and are subject to the sovereignty, to the laws, and to the authorities of the Republic.

FOURTEENTH SECTION SOCIAL ORGANIZATION

Art. 121. Work and capital, as factors of production, enjoy the protection of the State.

Art. 122. The law shall regulate obligatory insurance for sickness, accidents, involuntary unemployment, physical disability, old age, maternity, and death, eviction from lodgings and indemnifications to working men and day labourers, the work of women and minors, the maximum number of working hours, minimum wage, rest on Sundays and holidays, annual and puerperal vacations with pay, medical and hygienic care, and other social benefits for the protection of workers.

Art. 123. The State shall develop, by means of adequate legislation, the organization of all kinds of co-operatives.

Art. 124. The State shall enact measures for protecting the health and life of working men, employees, and farm labourers; it shall see that these have healthy lodgings and it shall promote the construction of cheap houses; it shall also provide technical education for manual labourers.

The authorities shall likewise control the conditions of security and public health that must be maintained in professions or trades, as well as work on farms and in mines.

Art. 125. Free professional and trade union association is guaranteed, and the collective bargaining contract is recognized.

Art. 126. The right to strike, according to law, is recognized as a means of defence for labourers.

Art. 127. The law shall determine the system of participation of employees and workers in the profits of concerns.

Art. 128. The State shall, by means of tribunals and special organs, settle conflicts between employers and workers or employees.

Art. 129. The rights and benefits recognized by law in favour of labourers and employees may not be renounced. Agreements to the contrary or which tend to contravene its effects are void.

Art. 130. Social aid is a function of the State. The law shall delimit the conditions of this assistance. Sanitation is of a coercive and obligatory character.

FIFTEENTH SECTION THE FAMILY

Art. 131. Matrimony, the family, and maternity are under the protection of the law.

Art. 132. The law does not recognize inequality among children; all have the same rights.

Art. 133. The laws shall organize the family patrimony so that it cannot be seized.

Art. 134. Defence of the physical, mental, and moral health of infancy is the prime duty of the

State. The State defends the rights of the child to a home, to education, and to ample assistance when it is abandoned, sick, or in trouble. The State shall commit the fulfilment of the provisions of this article to adequate technical organizations.

EIGHTEENTH SECTION EDUCATIONAL SYSTEM

Art. 154. Education is the highest function of the State. Public instruction shall be organized according to the single school system. School attendance for children between the ages of seven and fourteen years is obligatory. Primary and secondary instruction by the State is free.

Art. 155. The State shall economically aid apt students who do not have access to higher education for lack of funds, so that vocation and capacity may be the conditions that prevail over the social or economic position of individuals.

Art. 156. Schools of a private character shall be subject to the same authorities, plans, programmes, and official rules. Liberty of religious instruction is recognized.

Art. 157. Schools maintained by charitable institutions shall have the co-operation of the State.

Art. 158. Primary, secondary, normal, and special education shall be regulated by the national council of education, which shall have technical and administrative autonomy. The law shall determine its organization and duties.

Art. 159. Public universities are autonomous and equal in hierarchy. Autonomy consists in the free administration of their funds, appointment of their rectors, teaching, and administrative personnel, formation of statutes and curricula, approval of their annual budgets, acceptance of legacies and gifts, the negotiation of contracts and the undertaking of obligations to realize their objectives and maintain and improve their institutions and faculties. They may negotiate loans, using their property and funds as guarantee, with previous legislative approval.

Art. 160. Only public universities are authorized to grant academic diplomas. The Government shall grant degrees in the name of the State by national decree.

Art. 161. It is an obligation of the Treasury to subsidize public universities with national funds, independently of departmental, municipal and their own funds that are already created or shall be created in the future.

Art. 162. Education is subject in all grades to the protection of the State, exercised by mediation of the Minister of Education.

Art. 163. Artistic, historic, and archaeological wealth and that proceeding from religious worship is the cultural treasure of the nation; it shall be under the protection of the State and may not be exported. Buildings and places declared to have historic or artistic value shall be preserved by the State.

Art. 164. The State shall promote the culture of the people.

BRAZIL

CONSTITUTION OF THE UNITED STATES OF BRAZIL¹

of 18 September 1946

TITLE IV

DECLARATION OF RIGHTS

Chapter II

CONCERNING INDIVIDUAL RIGHTS AND GUARANTEES

Art. 141. The Constitution assures Brazilians and aliens resident 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 the law.
3. The law shall not prejudice any right acquired, any juridical act accomplished, or anything judged.
4. The law shall not exclude any injury to individual rights from consideration by the judiciary.
5. The manifestation of thought is free, and shall not be dependent upon censorship, except as regards public spectacles and amusements, and each of these shall be responsible, in the cases and in the form which the law may establish, for any abuses they may commit. Anonymity is not permitted. The right of reply is assured. The publication of books and periodicals shall not be dependent upon licence from the public power. However, propaganda for war, or violent processes to subvert the political and social order, or prejudices of race 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, except that 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 establish as substitutes for those duties in order to meet an excuse of conscience.
9. Religious ministration shall be rendered by a Brazilian to the armed forces, and likewise when-

ever solicited by interested parties or their legal representatives, in establishments of collective internment, so long as in neither case there be constraint of the ones favoured.

10. Cemeteries shall have a secular character and shall be administered by the municipal authorities. All religious confessions shall be permitted to practise their rites therein. Religious associations may maintain private cemeteries, in the form of the law.

11. All may assemble, without arms, and the police shall not intervene except to assure public order. With this object in view, the police may designate the place of the assembly, provided that by thus proceeding they do not hamper the assembly or render it impossible.

12. Freedom of association for legitimate purposes is guaranteed. No association may be compulsorily dissolved except by virtue of judicial sentence.

13. The organization, registration, or functioning of any political party or association, the programme or action of which may be contrary to the democratic regime, based upon plurality of parties and guaranty of the fundamental rights of men, is prohibited.

14. The practice of any profession shall be free, observing the conditions of capacity that the law may establish.

15. The home is the inviolable asylum of the individual. No one may enter therein at night, without the consent of the dweller, unless it be to succour the victims of crime or disaster, or by 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 for social interest, with prior and just indemnification in money. The competent authorities may use private property, in case of imminent peril, such as war or domestic commotion, if the public good so requires, with the right to later indemnification being, nevertheless, assured.

17. Industrial inventions belong to their authors, to whom the law shall guarantee temporary privilege, or, if divulging of the invention should be in the collective interest, it shall grant a just reward.

18. Ownership of industrial and commercial trademarks is assured, as well as monopoly in the use of a commercial name.

¹Portuguese text in *Constituição dos Estados Unidos do Brasil*. Rio de Janeiro, 1946. English translation in *The Constitutions of the Americas* (cited above, page 6).

19. The exclusive right of reproduction shall belong to the authors of literary, artistic, or scientific works. The heirs of authors shall enjoy this right for such time as the law may determine.

20. No one shall be imprisoned except *in flagrante delicto* or by written order of a competent authority, in the cases expressed in the law.

21. No one shall be taken to prison or detained therein if, when the law permits, he offers bond.

22. The imprisonment or detention of any person shall be immediately communicated to a competent judge, who, if it should not be legal, shall give release, and, in the cases provided for by law, shall hold the restraining authority responsible.

23. *Habeas corpus* shall be given whenever anyone shall suffer or be threatened with suffering violence or restraint in his freedom of movement, by illegality or abuse of power. *Habeas corpus* shall not apply in disciplinary transgressions.

24. Mandate of security shall be granted to protect clear and certain rights not covered by *habeas corpus*, whatever may be the authority responsible for the illegality or abuse of power.

25. Accused persons are assured of full defence, with all the means and resources essential to it, from the time of the charge of guilt, which, signed by a 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 contestable.

26. There shall be no privileged court or exceptional judges and tribunals.

27. No one shall be prosecuted or sentenced except by a competent authority and in the form of a previous law.

28. The institution of the jury is maintained with the organization that 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 defence of the accused and the sovereignty of the verdicts. The judgment of treacherous crimes against life shall obligatorily be within its competence.

29. Penal law shall regulate punishment on the basis of individual responsibility and shall be retroactive only 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 case of failure to

fulfil one's obligation of maintenance or of unfaithful bondsman, provided by law.

33. Extradition of an alien shall not be granted for political crimes or crimes of opinion, nor extradition of a Brazilian, in any case.

34. No tax shall be demanded or increased except as the law shall establish; and none shall be collected without previous budgetary authorization in each fiscal year, excepting, however, the customs tariff and taxes levied by reason of war.

35. Public authorities shall grant judicial assistance to the needy in the manner that the law may establish.

36. The law shall assure:

(1) The rapid prosecution of cases in public departments.

(2) Advice to persons affected by orders and by the information referred to in them.

(3) The issuance of certificates required for the defence of rights.

(4) The issuance of certificates required for the clarification of administrative affairs, except when the public interest shall demand secrecy.

37. The right is assured to any person whatsoever to make representation against abuses by authorities and 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, of the municipalities, of autarchic entities, and of corporations of mixed economy.

Art. 142. Any person may, in time of peace, enter the national territory with his goods and remain therein or depart therefrom, respecting the precepts of the law.

Art. 143. The federal Government may expel from the national territory an alien injurious to the public order, unless he has married a Brazilian and has a Brazilian child dependent upon paternal support.

Art. 144. The specification of the rights and guarantees expressed in this constitution does not exclude other rights and guarantees flowing from the regime and from the principles which it adopts.

TITLE V

CONCERNING THE ECONOMIC AND SOCIAL ORDER

Art. 145. The economic order shall be organized in conformity with principles of social justice, conciliating the liberty of initiative with the value of human labour.

Everyone is assured work that enables a dignified existence. Work is a social obligation.

Art. 146. The Union may, by means of a special law, intervene in the economic sphere or monopolize specified industries or activities. The inter-

vention shall be based upon the public interest, and shall be limited by the fundamental rights assured by 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, paragraph 16, promote the just distribution of property, with equal opportunities for everyone.

Art. 148. The law shall restrain all forms of abuse of economic power, including unions or groups of concerns, either individual or social, regardless of their nature, which have as a purpose the domination of national markets, elimination of competition, and arbitrary increase of 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 establishments for the aid of agriculture and cattle raising.

Art. 151. The law shall make provisions respecting the regime of concerns holding concessions for federal, state, or municipal public services.

The supervision and revision of tariffs of the services carried on under concession shall be determined, so that the profits of the concessionaries do not exceed a just remuneration of their capital, but may permit them to meet the need for improvement and expansion of these services. The law shall apply to the concession granted in the previous regime, 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 employment 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 corporations organized in the country, the landowner being assured preference for the development. The preferential rights of the landowner shall be regulated in accordance with the nature of the mines or deposits.

(2) The use of hydraulic power of reduced capacity shall not depend upon authorization or concession.

(3) Once the conditions required 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) The Union, in the cases of general interest indicated by law, shall assist the states in studies pertaining to thermo-mineral waters of medicinal application, and in the equipment of resorts intended for their use.

Art. 154. Usury, in all forms, shall be punished by law.

Art. 155. Coastwise navigation for the transport of goods is the exclusive prerogative of national ships, except in case of public necessity.

The owners, charterers, and commanders of national ships, as well as at least two-thirds of the members of their crews, shall be native Brazilians.

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, nationals, and among them, those living in poor zones and the unemployed, shall have preference.

(1) The states shall, in the concession of ceded lands, assure to squatters (*posseiros*) who habitually dwell thereon, the preference for the purchase of the land, up to twenty-five hectares.

(2) No sale or concession of public lands exceeding an area of 10,000 hectares may be effected without the previous authorization of the federal Senate.

(3) Any one, who not being either a rural or an urban landowner, occupies for ten uninterrupted years, without opposition or 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 means of a declaratory sentence duly transcribed.

Art. 157. Labour legislation and that of social welfare shall obey the following precepts, in addition to others aiming to improve the conditions of workers:

(1) A minimum wage capable of satisfying, in conformity with the conditions of each region and the normal needs of the worker and his family.

(2) Prohibition of salary differences for the same work by reason of age, sex, nationality, or civil status.

(3) A wage for night work higher than that for day work.

(4) Obligatory and direct participation of the worker in the profits of concerns, under the terms and in the form determined by law.

(5) Daily work not exceeding eight hours, except in the cases and conditions provided by law.

(6) 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 the local tradition.

(7) Annual leave, with pay.

(8) Sanitation and safety of labour.

(9) Prohibition of work for minors under fourteen years of age; of work in unhealthful industries, for women and for minors under eighteen years of age; and of night work, for minors under

eighteen years of age; respecting, in every case, the condition established by law and the exceptions granted by a competent judge.

(10) The right of an expectant mother to rest before and after childbirth, with no prejudice to her job or wage.

(11) Fixation of the percentages of Brazilian employees in the public services granted under concession, and in establishments in specified branches of commerce and industry.

(12) Security of employment, in concerns or in rural developments, and indemnification of the dismissed worker, in the cases and under the conditions that the law may establish.

(13) Recognition of collective labour agreements.

(14) Sanitation assistance, including hospitalization and preventive medicine to the worker, and to the expectant mother.

(15) Assistance to the unemployed.

(16) 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, and death.

(17) Obligation of the employer to establish insurance against labour accidents.

Labour legislation shall not admit any distinction between manual and technical and intellectual work, nor among the respective professions, with respect to rights, guarantees, and benefits.

Art. 158. The right to strike is recognized, the exercise of which the law shall regulate.

Art. 159. Professional or trade union association is free, the form of organization, the legal representation in the collective labour 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 aliens. Neither the latter, nor juridical persons, except the national political parties, may be shareholders of the corporations owning such concerns. The principal responsibility for these, as well as their intellectual and administrative orientation, shall be the exclusive prerogative of Brazilians.

Art. 161. The law shall regulate the exercise of the liberal professions, and the revalidation of diplomas issued by foreign educational institutions.

Art. 162. The selection, entry, distribution, and settlement of immigrants shall be subject, in the form of the law, to the requirements of the national interest.

Sole paragraph. A single organ of federal administration shall orient those services, and coordinate them with those of naturalization and colonization, making use of the nationals.

TITLE VI CONCERNING THE FAMILY, EDUCATION AND CULTURE

Chapter I

CONCERNING 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 performance gratuitous. Religious marriage shall be equivalent to civil marriage, if performed with observance of the impediments prescribed by law, and request to this effect be made by the celebrant or any party at interest, provided that the act is inscribed in the public registry.

2. Religious marriage performed without the formalities of this article shall have civil effects if, at the request of the betrothed, it is inscribed in the public registry after rehabilitation before a competent authority.

Art. 164. Assistance to motherhood, to infancy, and to adolescence is obligatory in all the national territory. The law shall provide assistance to families with numerous offspring.

Art. 165. The right to inherit the property of an alien located [i.e., the property] in Brazil, shall be regulated by Brazilian law and in the benefit of the spouse or of the Brazilian children, provided that the national law of the decedent is not the more favourable.

Chapter II

CONCERNING 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 the different branches shall be administered by the public authorities, and private initiative is free, provided the laws that regulate teaching are respected.

Art. 168. Teaching legislation shall adopt the following principles:

(1) Primary schooling is obligatory and may be given only in the national language.

(2) Primary schooling is official and gratuitous for everyone; the official schooling subsequent to the primary shall be free for whoever proves lack or insufficiency of means.

(3) Industrial, commercial and agricultural establishments in which more than a hundred persons work are obliged to maintain gratuitous primary teaching for their employees and the children of the latter.

(4) Industrial and commercial concerns are obliged to administer, in co-operation, teaching to minor workers, in such form as the law may establish, respecting the rights of the teachers.

(5) Religious instruction shall be a part of the teaching schedule of official schools, 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.

(6) A competition based on degrees and examinations shall be demanded for the filling of teaching positions, in official secondary schools or in the free or official high schools. Professors admitted by competition of degrees and examinations shall be assured tenure for life.

(7) Liberty of teaching posts is guaranteed.

Art. 169. The Union shall apply annually not less than ten per cent, and the states, the federal district, and the municipalities not less than twenty per cent, of their revenues derived from taxes, to the maintenance and development of teaching.

Art. 170. The Union shall organize the federal teaching system, and that of the territories.

The federal teaching system has a supplementary character, extending throughout the country within the strict limits of the local deficiency.

Art. 171. Each state and the federal district shall organize its own teaching system.

The Union shall co-operate, by means of pecuniary aid, for the development of these systems, which, with respect to primary teaching, shall be provided from the respective national fund.

Art. 172. Each teaching system shall obligatorily have services of educational assistance to assure conditions of scholastic efficiency to the pupils needing it.

Art. 173. The sciences, letters, and arts are free.

Art. 174. Support of culture is a duty of the State.

The law shall promote the creation of research institutes, particularly in connexion with establishments of higher education.

Art. 175. Works, monuments, and documents of historical and artistic value, as well as natural monuments, landscapes, and places endowed with peculiar beauty, are under the protection of the public authorities.

TITLE VIII

PUBLIC OFFICIALS

Art. 194. Juridical persons of public law are civilly responsible for any harm that their employees, as such, may cause to third parties.

These persons shall enjoy recourse of action against the employees causing the harm, if the latter are found to have been guilty.

TITLE IX

GENERAL PROVISIONS

Art. 206. The National Congress may decree a state of siege in the following instances:

(1) Serious internal disturbance, or facts evidencing its imminence.

(2) Foreign war.

Art. 207. The law decreeing a state of siege in the case of foreign war or in the case of serious internal disturbance with the character of civil war, shall establish the standards its execution should follow, and shall indicate the constitutional guarantees that will continue in effect. It shall also specify the cases in which crimes against the security of the nation or its political and social institutions become subject to military jurisdiction and legislation, even though committed by civilians, but outside of the zones of operation only when related to the latter and having a bearing on their development.

When the law has been published, the President of the Republic shall designate by decree the persons to whom the execution of the state of siege is committed, and the zones of operation that, in accordance with the aforesaid law, shall be submitted to military jurisdiction and legislation.

Art. 208. It shall be incumbent upon the President of the Republic, in the interval between legislative sessions, to decree or extend the state of siege, observing the provisions of the preceding article.

When the state of siege has been decreed, the president of the Senate shall immediately convoke the National Congress, to assemble within fifteen days, to approve or disapprove the law.

Art. 209. During the state of siege decreed on the basis of article 206 (1), only the following measures may be taken against persons:

(1) The obligation to remain in a determined locality.

(2) Detention in a building not intended for common criminals.

(3) Removal to any locality, populated and healthful, in the national territory.

The President of the Republic may, moreover, determine:

(1) Censorship of correspondence or publicity, including that of radio broadcasting, the cinema, and the theatre.

(2) Suspension of the liberty of assembly, including that carried on among associations.

(3) Search and arrest in homes.

(4) Suspension from the exercise of office or employment, of any public official or employee of any autarchy, or entity of mixed economy, or concern holding a concession for public services.

(5) Intervention in public service concerns.

Art. 210. The state of siege, in the case of article 206 (1), may not be decreed for more than thirty days; nor may it be extended, in either instance, for more than this period. In the case of (2), it may be decreed for the whole time that the foreign war shall last.

Art. 211. When a state of siege is decreed by the President of the Republic, he shall, as soon as

the National Congress is assembled, report to the latter, in a special message, the reasons determining the decree, and shall justify the measures that may have been adopted. The National Congress shall, in secret session, deliberate upon the decree issued, in order to revoke it or maintain it; the Congress may also consider the steps of the Government of which it may have cognizance, and, when necessary, it may authorize 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 any deputies and senators whose liberty becomes manifestly incompatible with the defence of the nation or with the security of political or social institutions, may be suspended by means of a vote of two-thirds of the members of the Chamber or of the Senate.

Authorization shall, in the interval between legis-

lative sessions, be given by the president of the Chamber of Deputies, or by the vice-president of the federal Senate, depending upon whether it refers to members of one or the other chamber, but subject to referendum of the competent chamber, which shall be immediately convoked to assemble within fifteen days.

Art. 214. When the state of siege has expired, its effects shall also cease.

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. Non-observance of any of the provisions of articles 206 to 214 shall make the restraint illegal, and shall allow the parties restrained to appeal to the judiciary.

Art. 216. The possession of lands by aborigines (silvicolas) who may be permanently dwelling there shall be respected, provided that they do not transfer them.

BULGARIA

NOTE ON THE CONSTITUTIONAL SITUATION

According to an authoritative source, the Constitution of Bulgaria of 29 April 1879, as revised in 1893, 1911, and 1927, is no longer applied.¹

On 8 September 1946, the people of Bulgaria expressed themselves by a referendum for

the Republic and against the Monarchy. On 15 September 1946, the twenty-sixth National Assembly proclaimed Bulgaria a People's Republic.

On 27 October, a Great National Assembly was elected for the purpose of drawing up a new constitution. The National Committee of the Patriotic Front presented a draft constitution to serve as the basis for the deliberations of the Assembly.

¹Information through the courtesy of Dr. Boyan Choukanoff, Press Secretary, Bulgarian Political Mission, Washington, D.C.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

CONSTITUTION OF THE BYELORUSSIAN SOVIET SOCIALIST REPUBLIC of 19 February 1937

CHAPTER I

THE ORGANIZATION OF SOCIETY

Art. 1. The Byelorussian Soviet Socialist Republic is a socialist state of workers and peasants.

Art. 2. The soviets of Working People's Deputies, which grew and attained strength as a result of the overthrow of the landlords and capitalists, the achievement of the dictatorship of the proletariat, the liberation of the Byelorussian people from the national oppression by Tsarism and by the Russian imperialist bourgeoisie, and the destruction of the Byelorussian nationalist counter-revolution, constitute the political foundation of the Byelorussian Soviet Socialist Republic.

Art. 3. In the Byelorussian SSR all power belongs to the working people of town and country as represented by the soviets of Working People's Deputies.

Art. 4. The socialist system of economy and the socialist ownership of the means and instruments of production firmly established as a result of the abolition of the capitalist system of economy, the abrogation of private ownership of the means and instruments of production and the abolition of the exploitation of man by man, constitute the economic foundation of the Byelorussian SSR.

Art. 5. Socialist property in the Byelorussian SSR exists either in the form of State property (the possession of the whole people), or in the form of co-operative and collective farm property (property of a collective farm or property of a co-operative association).

Art. 6. The land, its natural deposits, waters, forests, mills, factories, mines, rail, water and air transport, banks, post, telegraph and telephones, large State-organized agricultural enterprises (State farms, machine and tractor stations and the like) as well as municipal enterprises and the bulk of the dwelling houses in the cities and industrial localities, are State property—that is, belong to the whole people.

Art. 7. Public enterprises in collective farms and co-operative organizations, with their livestock and implements, the products of the collective

farms and co-operative organizations, as well as their common buildings, constitute the common, socialist property of the collective farms and co-operative organizations.

In addition to its basic income from the public collective farm enterprise, every household in a collective farm has for its personal use a small plot of land attached to the dwelling and, as its personal property, a subsidiary establishment on the plot, a dwelling house, livestock, poultry and minor agricultural implements, in accordance with the statutes of the agricultural artel.

Art. 8. The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time—that is, in perpetuity.

Art. 9. Alongside the socialist system of economy, which is the predominant form of economy in the Byelorussian SSR, the law permits the small private economy of individual peasants and handicraftsmen based on their personal labour and precluding the exploitation of the labour of others.

Art. 10. The right of citizens to personal ownership of their incomes from work and of their savings, of their dwelling houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

Art. 11. The economic life of the Byelorussian SSR is determined and directed by the State national economic plan with the aim of increasing the public wealth, of steadily improving the material conditions of the working people and raising their cultural level, of consolidating the Byelorussian SSR and strengthening the defensive capacity and the independence of the USSR.

Art. 12. In the Byelorussian SSR work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the Byelorussian SSR is that of socialism: "From each according to his ability; to each according to his work."

CHAPTER IX

THE ELECTORAL SYSTEM

Art. 109. Members of all soviets of Working People's Deputies, of the Supreme Soviet of the Byelorussian SSR, area, district, city, town, village

¹ *The Constitutions of the Soviet Socialist Republics.* Published by the People's Commissariat of Justice. Moscow, 1937. (In Russian.) Translation based on *Constitution (Fundamental Law) of the Union of Soviet Socialist Republics.* Ogiz, State Publishing House of Political Literature, 1938.

and settlement soviets of Working People's Deputies, are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 110. Elections of deputies are universal: all citizens of the Byelorussian SSR who have reached the age of eighteen, irrespective of race or nationality, religion, educational and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Art. 111. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 112. Women have the right to elect and be elected on equal terms with men.

Art. 113. Citizens serving in the Red Army have the right to elect and be elected on equal terms with all other citizens.

Art. 114. Elections of deputies are direct: all soviets of Working People's Deputies, from rural and city soviets of Working People's Deputies to the Supreme Soviet of the Byelorussian SSR, inclusive, are elected by the citizens by direct vote.

Art. 115. Voting at elections of deputies is secret.

Art. 116. Candidates for election are nominated according to electoral areas.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 117. It is the duty of every deputy to report to his electors on his work and on the work of the soviet of Working People's Deputies, and he is liable to be recalled at any time in the manner established by law upon decision of a majority of the electors.

Art. 118. [Deals with rules for elections of deputies to provincial soviets, soviets of administrative districts, city soviets, village soviets, etc.]

CHAPTER VIII

FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Art. 93. Citizens of the Byelorussian SSR have the right to work—that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

Art. 94. Citizens of the Byelorussian SSR have the right to rest and leisure.

The right to rest and leisure is ensured by the reduction of the working day to seven hours for the overwhelming majority of the workers, the institution of annual vacations with full pay for workers and employees and the provision of a wide network of sanatoria, rest homes and clubs for the accommodation of the working people.

Art. 95. Citizens of the Byelorussian SSR have the right to maintenance in old age and also in case of sickness or loss of capacity to work.

This right is ensured by the extensive development of social insurance of workers and employees at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

Art. 96. Citizens of the Byelorussian SSR have the right to education.

This right is ensured by universal, compulsory elementary education; by education, including higher education, being free of charge; by the system of State stipends for the overwhelming majority of students in the universities and colleges; by instruction in schools being conducted in the native language, and by the organization in the factories, State farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

Art. 97. Women in the Byelorussian SSR are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, pre-maternity and maternity leave with full pay, and the provision of a wide network of maternity homes, nurseries and kindergartens.

Art. 98. Equality of rights of citizens of the Byelorussian SSR, irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an infeasible law.

Any direct or indirect restriction of the rights of, or conversely, any establishment of direct or indirect privileges for citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art. 99. In order to ensure to citizens freedom of conscience, the Church in the Byelorussian SSR is separated from the State, and the school from the Church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

Art. 100. In conformity with the interests of the working people, and in order to strengthen the socialist system the citizens of the Byelorussian SSR are guaranteed by law:

- (a) Freedom of speech;
- (b) Freedom of the press;
- (c) Freedom of assembly, including the holding of mass meetings;
- (d) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations, printing presses, stocks of paper, public buildings, the streets, communication facilities and other material requisites for the exercise of these rights.

Art. 101. In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the Byelorussian SSR are ensured the right to unite in public organizations, trade unions, co-operative associations, youth organizations, sport and defence organizations, cultural, technical and scientific societies; and the most active and, politically, most conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union, which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and state.

Art. 102. Citizens of the Byelorussian SSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 103. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Art. 104. The Byelorussian SSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

Art. 105. It is the duty of every citizen of the Byelorussian SSR to abide by the Constitution of the Byelorussian Soviet Socialist Republic, to observe the laws, to maintain labour discipline,

honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 106. It is the duty of every citizen of the Byelorussian SSR to safeguard and strengthen public, socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, as the source of the prosperous and cultured life of all the working people.

Persons committing offences against public, socialist property are enemies of the people.

Art. 107. Universal military service is law.

Military service in the Workers' and Peasants' Red Army is an honourable duty of the citizens of the Byelorussian SSR.

Art. 108. To defend the Fatherland is the sacred duty of every citizen of the Byelorussian SSR. Treason to the country—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, espionage—is punishable with all the severity of the law as the most heinous of crimes.

CHAPTER VII

THE COURTS

AND THE PROCURATOR'S OFFICE

Art. 85. People's Courts are elected by the citizens of the district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 86. Judicial proceedings in the Byelorussian SSR are conducted in the Byelorussian language, persons not knowing this language being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Art. 87. In all courts of the Byelorussian SSR cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to be defended by counsel.

Art. 88. Judges are independent and subject only to the law.

CANADA

THE CANADIAN CONSTITUTION AND HUMAN RIGHTS

Canada is a federal State, whose present constitution was established in 1867 by the Parliament of Great Britain in a statute called the British North America Act. This statute, with its later amendments, is the organic law from which all authority in the federal and provincial governments and legislatures is derived. In this constitution certain minority rights are guaranteed, and no federal or provincial statute derogating from them is valid. They operate as limitations upon the legislative sovereignty of Canadian legislatures, and can be changed only by the process of constitutional amendment.

There is, however, no "bill of rights" in the B.N.A. Act, in the form of an express declaration guaranteeing personal civil liberties, and no definition of social and economic rights such as is contained in some modern constitutions. Within their spheres of jurisdiction the federal and provincial legislatures are supreme and can make any laws they please, subject to the minority rights mentioned above. The protection of individual civil liberties—such as freedom of speech and the press, freedom of religion and of association—is left in Canada, as it is in England, to the ordinary law and to the courts. Such rights are therefore extended or reduced at the decision of the legislatures within whose jurisdiction they lie, and are not placed beyond reach of parliamentary majorities.¹ Parliament is free to delegate its legislative power to the executive and, increasingly, is doing so.

To give a general picture of the laws protecting human rights in Canada it will be necessary to deal first with the minority rights guaranteed in the B.N.A. Act, and then to consider the situation with regard to the individual civil liberties and social and economic rights.

1. MINORITY RIGHTS IN THE B.N.A. ACT

The presence in Canada of a large minority of French-speaking Catholics necessitated the writing of special linguistic and religious rights into the B.N.A. Act. Amongst these the most important are:

(a) Rights to language. Section 133 of the B.N.A. Act provides that:

"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 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 Legislature of Quebec shall be printed and published in both those languages."

Thus Canada is not completely bilingual; in the legislatures and courts of provinces other than Quebec, English is the only official language.

(b) Right to religion. The free practice of the Roman Catholic religion was promised to Canadians when Canada was ceded by France to Britain by the Treaty of Paris in 1763, and was reaffirmed by the Quebec Act of 1774. This right, being firmly established, was not expressly included in the B.N.A. Act, but section 93 of that Act secures to the Protestant and Roman Catholic minorities certain rights to separate schools. The section is in the following terms:

"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 pro-

¹ It is possible that the Canadian courts will consider that the use of the word "Parliament" in the B.N.A. Act implies freedom of assembly and of the press: see 1938 Supreme Court of Canada Reports, p. 100.

visions 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."

Since the legal rights to separate schools differed in the various provinces at the time of the Union, this guarantee has a different effect in each province. It is most complete for Quebec and Ontario, but rights to separate schools exist also in Manitoba, Saskatchewan, and Alberta.

(c) Right to equality of representation in the two Houses of the federal Parliament. The Canadian Senate is composed of ninety-six senators, twenty-four nominated from each of the four main regions of the country—the Maritime Provinces, Quebec, Ontario and the Western Provinces. The French minority in Quebec thus has its quota of senators. In the House of Commons representation is based proportionately on the population of each province. Hence the English-speaking majority of the population of Canada cannot deprive the French-speaking minority of its fair share of representatives.

(d) Other minority protections. Since the subjects of property and civil rights in the province and the solemnization of matrimony are exclusively within provincial jurisdiction under section 92 of the B.N.A. Act, these provisions enable Quebec to provide for the continuance of the French civil law and the Catholic form of marriage ceremony. In other provinces the English common law prevails.

PROVINCIAL STATUTES GIVING RACIAL AND RELIGIOUS GUARANTEES

In Manitoba a special statute provides for an injunction to prevent "the publication of a libel against a race or creed likely to expose persons belonging to the race or professing the creed to hatred, contempt or ridicule, and tending to raise unrest or disorder among the people." (Revised Statutes of Manitoba, 1940, cap. 119, sec. 14.) In Ontario a statute of 1944 (cap. 51) prohibits the publishing or displaying of any notice or sign "indicating discrimination or an intention to discriminate against any person or class of persons for any purpose because of the race or creed of such person or class of persons". In Quebec a statute (Revised Statutes of Quebec, 1941, cap. 307, sec. 1) guarantees "the free exercise and enjoyment of religious profession and worship, without discrimination or preference, provided the same be not made an excuse for acts of licentiousness, or a justification of practices inconsistent with the peace and safety of the province".

2. INDIVIDUAL CIVIL LIBERTIES

The preamble of the B.N.A. Act declares that Canada is to have a constitution "similar in principle" to that of Great Britain. That similarity is well exemplified in the field of civil liberties. As has been said, the written constitution does not contain a declaration of human rights, and the principle of parliamentary sovereignty enables the federal and provincial legislatures to alter at will such of them as come within their jurisdictions. Yet a belief in and respect for freedom of speech and of worship, freedom of association, freedom of assembly and of the press, the right to equal treatment before the law and to a presumption of innocence until guilt is proved, are part of a long constitutional tradition stretching back through Canadian history—with some periods of reaction—to their background in England's victorious Parliamentary struggles and to the Magna Carta of 1215.

Canada's federal Parliament, through its jurisdiction over the criminal law, has many of these rights in its keeping. The writ of *habeas corpus* is established by law to prevent arbitrary arrest. Freedom of association, of which churches, political parties and trade unions are examples, is limited only by the penalties against sedition and unlawful assembly. Freedom of speech and of the press are limited by the crimes of sedition, blasphemy, obscenity and libel, but the criminal code narrows the limitations by the two following provisions:

"133 A. No one shall be deemed to have a seditious intention only because he intends in good faith,

(a) To show that His Majesty has been misled or mistaken in his measures; or

(b) To point out errors or defects in the Government or Constitution of the United Kingdom, or of any part of it, or of Canada or any province thereof, or in either House of Parliament of the United Kingdom or of Canada, or in any legislature, or in the administration of justice; or to excite His Majesty's subjects to attempt to procure, by lawful means, the alteration of any matter in the State; or,

(c) To point out, in order to their removal, matters which are producing or have a tendency to produce feelings of hatred and ill-will between different classes of His Majesty's subjects.

198. Everyone is guilty of an indictable offence and liable to one year's imprisonment who publishes any blasphemous libel.

Whether any particular published matter is a blasphemous libel or not is a question of fact: provided that no one is guilty of a blasphemous libel for expressing in good faith and in decent language, or attempting to establish by arguments used in good faith and conveyed in decent language any opinion whatever upon any religious subject."

The procedure in criminal trials creates a general presumption of innocence in the accused, and

allows him to refuse to give testimony that might incriminate him.

The legal sanction for these and similar rights lies in what is called "the rule of law", and in the power of the courts to enforce observance of the law by use of certain prerogative writs and other measures. Any person interfering with another in the lawful exercise of his rights is liable to an action in personal damages. This action is available against everyone, including government officials of every degree, and no plea of Act of State, or orders from a superior, are admitted as a defence if the violation occurred on Canadian territory or against a Canadian citizen. In appropriate cases writs of *mandamus*, prohibition, *quo warranto*, injunction, and *certiorari* are available to protect private rights. In recent years there has been a tendency to exempt certain government agencies from the control of the ordinary courts, and in the field of administrative law the injured citizen is frequently subjected to special procedures under which his rights are less secure than many would wish to see; but these are still exceptional cases. Canada, in common with other modern States, is slowly adapting ancient legal principles for the protection of civil liberties to the new conditions created by the rapid growth of State activities. It cannot be said that the adaptation has been as yet successfully accomplished, and the problem is receiving increasing attention from constitutional students. It is a problem especially acute where, as in Canada, the delegation of authority from the legislature to the executive is unrestricted.

Two examples may be given of recent Canadian legislation which raises in acute form the danger to civil liberties. The small minority of Japanese in Canada, most of them Canadian citizens, were removed from the coast of British Columbia during the war, and their property taken by the Government. They may not yet return to the coast, and, although full citizens, are subject to numerous severe restrictions. The other example, affecting freedom of speech and of the press, comes from Quebec, where a statute prohibits the use of any building for the dissemination of communist propaganda (undefined), and forbids any publication which propagates or tends to propagate "communism or bolshevism" (also undefined). Both these types of law have been the subject of lively controversy in the country. Despite the latter statutes the Communist Party still operates as a legitimate party in Quebec as elsewhere in Canada.

3. ECONOMIC AND SOCIAL RIGHTS

The B.N.A. Act, drafted when Canada was primarily an agricultural country, makes no reference to labour questions or to modern concepts of social welfare. An amendment of 1940, however, places unemployment insurance in federal hands, and a comprehensive system covers the majority of industrial workers. Various federal and provincial statutes provide for other forms of social security. The federal Criminal Code exempts trade unions from the operation of the anti-trust laws, allows peaceful picketing during strikes, and makes it a crime for an employer to discharge a worker because of membership in a trade union. The certification of bargaining units, and compulsory collective bargaining, are generally accepted principles of federal and provincial laws. The right to strike exists, though limited with respect to public utilities and to the requirements of methods of conciliation during disputes. There is no national labour code since such matters fall for the most part within provincial jurisdiction. Freedom to choose an occupation, and to change from one job to another, are allowed, the wartime restrictions on these rights having been repealed.

The status of women depends mostly on provincial law, and in all provinces except Quebec married women have the same rights as their husbands to own property and to contract; in Quebec the old French legal subordination of the wife to the husband continues with minor modifications. Women in industry are not guaranteed equal pay for equal work, and discrimination exists. Under the new federal citizenship law, enacted in 1946, women do not automatically take the nationality of the husband, and may choose their status. Throughout Canada women have the vote in federal and provincial elections. The system of family allowances introduced by the federal government in 1945 provides for payment of the monthly cheques to the mothers of families.

Compulsory education is provided under all provincial laws. Hospital insurance exists by law in Saskatchewan only. Industrial accidents are regulated by workmen's compensation laws in eight provinces. Old age pensions are provided from federal and provincial funds for all citizens in need at age seventy, and pensions for the blind at age forty. Under various provincial laws widows and orphans receive a minimum of assistance.

It will seem that there is no systematic protection of social and economic rights for Canadians, but rather a variety of laws covering broadly but incompletely the field in which these rights are formulated and maintained.

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CHILE

POLITICAL CONSTITUTION OF THE REPUBLIC OF CHILE' of 18 September 1925

CHAPTER III CONSTITUTIONAL GUARANTEES

Art. 10. The Constitution ensures 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. The slave traffic may not be engaged in by Chileans. The alien who does so cannot live in Chile nor be naturalized in the Republic.

2. Practice of all beliefs, liberty of conscience and the free exercise of all religions that may not be contrary to morality, to good usage, or to public orders; therefore, the respective religious bodies have the right to erect and maintain houses of worship and their dependencies under the conditions of security and hygiene fixed by the laws and regulations.

The churches, creeds, and religious institutions of whatever faith shall have those rights in respect to their property as the laws now in force may grant and recognize; but they will be subject, within the guarantees of this constitution, to the common law in the exercise of ownership of their future acquired property.

Churches and their dependencies, intended for the service of any sect, are exempt from taxation.

3. Freedom to express their opinions without previous censorship, by word or in writing, through the medium of the press or in any other form, without prejudice to the liability of answering for offences and abuses that may be committed in the exercise of this liberty, in the form and in the cases determined by law.

4. The right of assembly without previous permission 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 previous permission 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 other limitation than that of using respectful and suitable language.

7. Freedom of instruction. Public education is

preferentially an affair of the State. Primary education is obligatory.

There shall be a superintendency of public education in the charge of which 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 graduation or form as fixed by law; and the equal apportionment of other public charges.

Direct or indirect taxes may be imposed only by law, and without its special authorization every authority of the State and every individual is prohibited from imposing them, 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 may be exacted except by virtue of a decree by a competent authority founded upon a law that authorizes the said exaction.

No armed body may make requisitions or exact any kind of aid except through the civil authority and by decree of the latter.

A special law will determine the means for recruitment and replacement of the sea and land forces.

All Chileans in condition to bear arms shall be inscribed in the military registers unless they are especially exempted by law.

10. Inviolability of all property, without any distinction.

No one may be deprived of property under his control, or of any part thereof, or of the right he may have to it, except by virtue of a judicial sentence or of an expropriation by reason of public interest, conformable to a law. In this case, indemnification, as may be agreed on, or as may be fixed by a corresponding judicial sentence, shall be paid the owner previously.

The exercise of the right of property is subject to the limitations or rules that the maintenance and advancement of the social order demand, and in this sense, the law may impose obligations or servitudes for public benefit in favour of the general interests of the State, of the health of the citizens, and of the public welfare.

¹ Spanish text in *Constitución Política de la República de Chile*. Edición oficial, 1944. English translation in *The Constitutions of the Americas* (cited above, page 6).

11. Exclusive property in every discovery or production, for the time that 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 may be forcibly entered only for a special purpose, determined by law, and by virtue of an order from a 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 labour, industry, and the works of social welfare, especially as referring to sanitary dwellings and economic conditions of living, in a form to give to each inhabitant a minimum of well-being adequate for the satisfaction of his personal necessities and those of his family. The law will regulate this organization.

The State shall incline toward the suitable division of estates and the creation of family holdings.

No kind of labour or industry may be prohibited unless it is contrary to good usage, the public security, or public health, or as the national interest 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. It must provide each year an amount of money sufficient to maintain a national health service, and

15. The liberty to dwell at any point in the Republic, to remove from one place to another, or to leave the territory, under the condition that police regulations be observed, and excepting always injury to a third party; otherwise, no one may be detained, prosecuted, arrested, or deported except in the manner determined by the laws.

Art. 11. No one may be sentenced unless he is legally tried and by virtue of a law promulgated prior to the act upon which the sentence rests.

Art. 12. No one may be tried by special commissions, nor otherwise than by the tribunal the law appoints and has previously constituted.

Art. 13. No one may be arrested except by the order of a public official expressly empowered by law, and after such order has been made known to him, in legal form; unless he is surprised *in flagrante delicto*, and in this same case for the sole purpose of being conducted before the proper judge.

Art. 14. No one may be arrested, subjected to preventive detention, or imprisoned except in his house or in public places intended for this purpose.

Those in charge of prisons cannot receive in them anyone in the character of arrested, indicted, or imprisoned persons without transcribing in their registers the corresponding order, issued by an authority having legal power. 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 with the obligation of giving an account to the latter within twenty-four hours.

Art. 15. In case an authority orders the arrest of any person, he must, within the forty-eight hours following, give a report to the proper judge, placing at his disposal the person detained.

Art. 16. Every individual who may be arrested, indicted, or imprisoned in violation of the provisions of the foregoing articles may apply, for himself or by anyone in his name, to the judicial authority designated by law, demanding that the legal formalities be observed. This judicial authority shall decree that the individual be brought to his presence and his decree shall be exactly obeyed by all those having charge of prisons and places of detention. Informed of the antecedents, he shall declare his immediate liberty, or cause the legal defects to be corrected, or place the individual at the disposition of the proper judge; in all, proceeding briefly and summarily, himself correcting the defects or pointing them out to whomsoever it falls to to correct them.

Art. 17. No order of incommunication shall prevent the official in charge of a house of detention from visiting the detained, indicted, or imprisoned person who is located in it.

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 demand that he be given said copy, or himself give a certificate that such a person is arrested, if, at the time of his arrest, this requirement was omitted.

Art. 18. The accused person shall not be obliged in criminal cases to testify under oath about his own actions; nor may his ascendants, descendants, spouse, or relatives within the third degree of consanguinity or the second of affinity, inclusive, be obliged so to testify.

Torture shall not be applied; nor in any case may the penalty of confiscation be imposed, except forfeiture in the cases established by law.

Art. 19. One who is not answerable for an offence to which the law attaches corporal punishment shall not be detained or subjected to preventive imprisonment if he is sufficiently bonded personally, or in indemnification of the action, in the form and according to the nature of the cases determined by law.

Art. 20. Every person in favour of whom sentence of acquittal is rendered or prosecution finally abated, shall have the right to indemnification in the form determined by law for the pecuniary or merely moral injuries that he may have unjustly suffered.

Art. 22. The public forces are essentially obedient. No armed body may deliberate.

Art. 23. Every decision that the President of the Republic, the Chamber of Deputies, the Senate,

or the tribunals of justice may agree to in the presence or on demand of an army, an officer 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 in law and cannot produce any effect.

CHAPTER V

THE PRESIDENT OF THE REPUBLIC

Art. 72. Special attributes of the President are:

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 one or several points of the Republic in case of foreign attack.

In case of interior 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 guarantees granted to deputies and senators.

CHINA

HUMAN RIGHTS IN CHINA

Human rights in the form of provisions stipulated and guaranteed by a formal written instrument as in the Western countries, did not exist in China before the end of the nineteenth century. It was only after the impact of Western culture made itself felt that China began to turn to constitutional guarantees of human rights as a part of the movement for constitutional forms of government.

To understand the reasons why no written document for guaranteeing human rights ever existed in China throughout her four thousand years of history requires at least some explanation of her philosophy and culture. As we all know, the Chinese have developed a civilization of their own, distinct and apart from that of the West. The Chinese philosophy, like all Oriental philosophies, is primarily in terms of the aesthetic component of things (Western philosophy primarily in terms of the theoretic component of things), and the Chinese have developed their political as well as religious and other cultural forms in terms of such a philosophy.

The Chinese philosophy, being primarily in terms of the aesthetic component of things, is based upon an empirical and positivistic conception of human knowledge which chiefly concerns the realm of the immediately apprehended. It thus tends to reject all indirectly verified, theoretically known factors. Furthermore, the positivistic thesis of Chinese philosophy holds that all determinate things or determinate relations between things are only relative to the individual and to circumstance, and therefore are transitory.

This philosophy, as applied to politics and government, made it difficult for the Chinese to generate the widespread spirit of agreement necessary to construct a constitutional form of government or to have human rights stipulated and guaranteed by a written document.

Secondly, the traditional Chinese conception of a good society and a good government is entirely different from that of the West. As taught by Confucius, the traditional Chinese conception of the ordering principle in society involves the establishment of five relationships: (1) between ruler and subject; (2) between father and son; (3) between husband and wife; (4) between the elder and the younger brother; and (5) between friend and friend. These five relationships are not upon the same level. There is the tremendous primary emphasis upon the family, because the

family relationship can be positivistically and biologically apprehended. Therefore, according to Confucius, a proper filial relation in the family is prior to, and the necessary prerequisite for, any wider social or political organization.

The result is that the traditional Chinese theory of state and government is primarily an ethical one. In the realm of ethical philosophy or moral principles, the rules of propriety, and not legal doctrines, are to govern all interpersonal relations, including the relations between a ruler and his subjects. Thus Confucius said:

"In the art of government, 'li' (propriety) comes first . . . it is the means by which we establish the forms of intercourse at the court and a sense of piety or respect between the ruler and the ruled. It revives or resuscitates the social and political life from a condition of disgraceful confusion. Therefore 'li' is the foundation of government."

Lastly, the Chinese, in their way of achieving the good life in society, put emphasis upon individual duties rather than rights. The Chinese think, perhaps not without good reason, that if everybody acts according to 'li' and is dutiful to his fellow men, the problem of protecting individual rights against encroachment naturally will not arise.

Rights and duties are only relative terms. The Chinese recognizes the fact that in the discharge of his duties he is at the same time respecting the corresponding rights of the others. Certainly, any Western jurist or political scientist would recognize the fact that in the exercise of one's constitutional rights he must be limited by the rights of others and by the just requirements of the State. These limitations represent his duties towards his fellow men and the State.

On the whole, throughout Chinese history, the Chinese way of achieving the good life in society has not fared badly, if we consider their sense of charity, open-mindedness, tolerance and fellow-feeling for all men irrespective of their race and religion.

The great influx of occidental influence in the latter part of the nineteenth century marked the beginning of China's constitutional movement. Since 1842, China under the Manchu dynasty had suffered several disastrous defeats at the hands of foreign countries. By the year 1905, when Russia was defeated by Japan, the Chinese constitution-

alists were strongly convinced that the reason for Japan's success was her efficiency of government under the new constitution of 1899, and that the introduction of a constitutional form of government in China could not be, and should not be, further postponed.

In 1908, the first constitution in China made its appearance. It was called the "Principles of Constitution", promulgated by the Manchu government, to establish a constitutional monarchy. As provided by this instrument, the people were guaranteed: (1) the right to hold public office if properly qualified; (2) freedom of speech, press and assembly; and (3) the right to appeal to judiciary officials and to be judged only by legally appointed judges. They were also guaranteed protection against (a) illegal arrest, imprisonment, and punishment; (b) deprivation of property without due process of law; (c) arbitrary taxation; and (d) unlawful military conscription. This document was, however, modelled after the constitution of the Japanese Empire of 1899; the sovereign had complete power over all the legislative, executive and judicial branches. Furthermore, it was not discussed, drafted, or passed by any representative assembly.

The "Nineteen Articles" promulgated by the same government in November 1911 were only an emergency measure and the last effort to save the dynasty. They contained no provision about rights or duties of the people. They did renounce, however, all the powers of the sovereign as provided in the "Principles of Constitution".

With the establishment of the Republic, a provisional constitution, passed by the Council of Representatives, was promulgated in March 1912. The first constitutional document under the newly founded Chinese Republic naturally paid more attention and gave more space to the guarantees of the rights of the people. These rights were not only all more specifically defined, but were also augmented to include the following guarantees:

Art. 5. Citizens of the Chinese Republic are all equal, and there shall be no racial, class or religious distinctions.

Art. 6. 2. The habitations of citizens shall not be entered or searched except in accordance with law.

3. Citizens shall enjoy the right of the security of their property and the freedom of trade.

5. Citizens shall have the right of the secrecy of their letters.

6. Citizens shall have the liberty of residence and removal.

7. Citizens shall have freedom of religion.

Art. 7. Citizens shall have the right to petition the National Assembly.

Art. 8. Citizens shall have the right of petitioning the executive officials.

Art. 10. Citizens shall have the right of suing officials in the administrative courts for violation of law or offences against their rights.

Art. 12. Citizens shall have the right to vote and to be voted for.

The limitation or modification of these rights was justified only when "necessary for the promotion of public welfare, for the maintenance of public order or on account of extraordinary exigency," but such curtailment had to be carried out in accordance with law (art. 15.).

Between 1912 and 1925, five drafts of the permanent constitution were completed. The "Constitutional Compact" of 1914 under Yuan Shih-K'ai and the constitution promulgated by Ts'ao K'un in October 1923 were either short-lived or never put into operation, because they were not considered legal by the Chinese people. The Temple of Heaven Draft of 1913, the draft constitution of 1919, and the draft constitution of 1925 had no chance of being brought before the Chinese Parliament.

The Temple of Heaven Draft of 1913, in its provisions on the rights of citizens, was practically the same in substance as the Provisional Constitution, with the exception of two additions. They were the right of choice of profession and the obligation to undergo primary education. Under article 5, there was this specific provision: "When people have been detained in confinement, they may in accordance with the law send petitions for protection, requesting the judicial court to summon them to court for an investigation of the cause of the matter." Another interesting provision was: "In the education of citizens, the doctrine of Confucius shall be adopted as the great principle for the regulation of persons."

The Constitutional Compact of 1914 and the draft constitution of 1919 had nothing to add, but the constitution of 1923 had an additional provision: "Liberties of the citizens of the Republic of China other than those provided for in this chapter [chapter IV—Citizens] are recognized; provided that such liberties are not contrary to the principles of constitutional government."

It was, however, in the draft constitution of December 1925 that we find, for the first time, elaborate and important provisions on economic life and education. Chapter XII of this draft constitution had four articles on economic life, while chapter XIII contained six articles on education.

As provided in this draft, the organization of national economic life was to provide a decent livelihood for all, and the economic liberty of the individual was guaranteed only within this limit (art. 146). The national legislation relating to private properties, private contracts and enterprises should conform to the principles: (1) the Republic might restrict the right of ownership and use of land, in order to protect the farming population, to promote reclamation and colonization, etc.; (2) the Republic might impose a progressive tax on the lands, the value of which was increased independent of any greater application of labour or

capital; (3) large-scale enterprises for the utilization of natural resources were, in principle, owned by the Republic or by the community; (4) in the case of inheritance of property, the Republic might levy a progressive tax and impose restrictions; and (5) usury and excessive rent for the use of immovable property were prohibited (art. 147). Citizens, in pursuing their intellectual and physical activity, could not violate the public morality. Old age, infirmity or other disabilities should be given relief. Citizens unemployed through no fault of their own should be given opportunity or other assistance (art. 148). Finally, the Republic should encourage authorship, inventions, fine arts, designs and other forms of intellectual activity (art. 159).

With regard to education, this draft provided that the aim of the educational system was to develop moral character and technical efficiency as well as the inculcation of the spirit of democracy (art. 150). School education should not be burdened with religious rites (art. 151). Nor should it be made the centre of propaganda for the doctrines of any party (art. 152). All citizens should receive free elementary education (art. 153). The national and local expenditures on education should not be less than one fifth of the entire administrative expenditure. Public property could be appropriated as school property; the same would not be used for any other purpose (art. 154). Lastly, the national and local governments should provide suitable opportunity for those in poor circumstances who were considered deserving to obtain further education in intermediate and higher schools (art. 155).

These provisions on economic life and education in the draft constitution of 1925 were good indications of the trends of the time. In 1918, Dr. Sun Yat-sen established a southern government in Canton. In 1924, the first party congress of the Kuomintang, held in Canton, permitted the admittance of communists to the party. Forces were moving fast in China in those days. The political gospels preached by Dr. Sun had captured the imagination of the Chinese intelligentsia and students. The very fact that he was invited to the north in the winter of 1924 to consult with Tuan Ch'i-jui, then head of the northern government, on the reorganization and unification of the government, proved his strength and influence. Though he died in Peking in March 1925, his influence remained. It was under the influence of his teachings that the draft constitution of 1925 was completed.

Another interesting provision in the draft constitution of 1925 was: "Citizens of the Republic of China shall have the right to initiate a bill in the National Assembly in the interests of the community at large, if the same has been approved by the highest local self-governing body or professional association." This is another evidence of the wide-spread influence of Dr. Sun's political doctrines. The provision that citizens of the

Republic of China should have the right to secrecy not only of letters, but also of telegrams and telephones, only indicated the increasing usage in China of these means of modern communications.

After 1925, the futile attempts by the northern government to write a permanent constitution for China ended. The northern expedition led by General Chiang Kai-shek advanced rapidly and the National government was established in Nanking two years later. In 1928, the military stage of the Kuomintang government came to a close and the period of political tutelage began, following the programme for the reconstruction of China laid down by Dr. Sun before his death.

The Provisional Constitution of the Political Tutelage Period was promulgated and went into effect on 1 June 1931, after being adopted by the National People's Convention which met in Nanking and was called by the Central Executive Committee of the Kuomintang.

In the Provisional Constitution of the Political Tutelage Period several new features appeared under the chapter on rights and duties of the people. Citizens were equal before the law, irrespective of sex (art. 6). They should enjoy in all completely autonomous districts (Hsien) the rights of election, initiative, recall and referendum (art. 7). When a person was arrested or detained on a criminal charge, the organ responsible for his (or her) arrest or detention should send him (or her) to the competent court for trial within twenty-four hours. The party concerned might himself petition, or some other person might petition on his behalf, that he be brought (before the court) for trial within twenty-four hours (art. 8). Except in accordance with law, no person other than those in active military service should be subject to trial by a military court (art. 9). Where public interest necessitated, the property of the people might be expropriated in accordance with law (art. 18). All persons should have the right to inherit property in accordance with law (art. 19). Finally, they should have the duty of performing compulsory labour (art. 26), and the duty to obey the measures adopted by government organs (art. 27).

The provisions in the Provisional Constitution of the Political Tutelage Period dealing with people's livelihood and education of the citizens, followed Dr. Sun's political theories. Chapter IV on people's livelihood provided: The State should afford every encouragement and protection to the productive enterprises of the people (art. 33). In order to develop rural economy, to improve the living conditions of farmers and peasants, the State should carry out the following measures: (1) reclamation of all waste land and development of farm irrigation; (2) establishment of agricultural banks and encouragement of co-operative enterprises; (3) enforcement of the (public) granary system and replenishment of the people's food supplies; (4) development of agricultural education

and enterprises, and increase of agricultural produce; and (5) encouragement of road-building in the rural villages (art. 34).

Furthermore, the State should develop all coal, gold and iron mines, and should undertake State shipping enterprises. The State should also encourage and protect private mining and shipping enterprises (art. 35 and art. 36). All persons were free to choose their profession or occupation (art. 37), and free to make contracts (art. 38). The people might form occupational organizations (art. 39); both capital and labour should develop productive enterprises in accordance with the principle of co-operation and mutual benefit (art. 40). The State should enact laws to protect labour, and should afford special protection to child and women workers (art. 41). A labour insurance system should be established for the benefit of both workers and peasants (art. 42). The State should encourage and promote various co-operative enterprises (art. 43). The production or sale as well as the market price of daily necessities might be controlled or regulated by the State (art. 44). Usury and exorbitant rents for the use of immovable properties were prohibited (art. 45). And lastly, the State should give relief to members of the national forces disabled in the course of active service (art. 46).

Chapter V on education of the citizens provided: the three principles of the people (livelihood, democracy and nationalism) should be the basic principles of education (art. 47). Equal opportunity for education should be provided for both sexes (art. 48). All educational institutions should be subject to State supervision and should carry out the educational policies of the State (art. 49). Those who did not receive free elementary education in their youth should receive a special type of adult education (art. 51). The central and local governments should provide adequate funds for necessary educational expenses (art. 52). The State should give encouragement and grants to private educational institutions (art. 53), and for the education of the overseas Chinese (art. 54). The State should encourage and safeguard members of the administrative or teaching staffs of the schools (art. 55). Scholarships should be established in all public and private educational institutions (art. 56). Finally, the State should encourage and protect research and discoveries in science and arts (art. 57), and should protect and preserve historic remains and ancient relics (art. 58).

The period of political tutelage, according to Dr. Sun's teachings, should be followed by the period of constitutional government, which is the final stage in his programme for the reconstruction of China. Since January 1933, the Legislative Yuan of the national government had been labouring on the task of drafting a permanent constitution for the country. After sounding out public opinion with two preliminary drafts, the Legislative Yuan

passed the Revised Draft of Constitution in October 1934, which was in turn submitted to the plenary sessions of the Central Executive Committee and the National Congress of the Kuomintang. As a result, this revised draft of constitution was again twice revised, and the final draft was not proclaimed until 5 May 1936.

In this draft of 5 May 1936, the provisions on rights and duties of the citizens were substantially the same as those embodied in the Provisional Constitution of the Political Tutelage Period (1931). A few additional features were inserted: When a citizen was arrested or detained on a criminal charge, the authority responsible for such action should immediately inform the citizen himself and his relatives of the cause of his arrest or detention. The court should not reject a petition asking it to demand from the authority responsible for such action the surrender, within twenty-four hours, of the person to the court for trial; nor should the responsible authority refuse to execute such a writ (art. 9). Except in accordance with law, private property should also not be requisitioned or expropriated (art. 17). Only laws imperative for safeguarding national security, averting national crisis, maintaining public peace and order or promoting public interest, might restrict the citizens' liberties and rights (art. 25). And any public functionary who illegally infringed upon any private liberty or right should, besides being subject to disciplinary punishment, be responsible under criminal and civil law. The injured person might also claim indemnity from the State for damages sustained (art. 26).

In the same draft (1936), chapter VI dealt with national economic life in detail. The economic system of the Republic of China should be based upon the principle of livelihood and should aim at national economic sufficiency and equality (art. 116). The land within the territorial limits of China belonged to the people as a whole. Any part thereof lawfully owned by an individual or individuals should be protected by and subjected to the restrictions of law. Every landowner was amenable to the duty of utilizing his land to the fullest extent (art. 117). All subterranean minerals and natural forces which were economically utilizable for public benefit belonged to the State, and should not be affected by private ownership of the land (art. 118). The unearned increment should be taxed (art. 119). In readjusting the distribution of land, the State should be guided by the principle of aiding and protecting the land-owning farmers and the land-utilizing owners (art. 120). The State might regulate private wealth and enterprises when such wealth and enterprises were considered detrimental to the balanced development of national economic life (art. 121).

Furthermore, the State should encourage, guide and protect the citizens' productive enterprises and the nation's foreign trade (art. 122). All public utilities and enterprises of a monopolistic

nature should be operated by the State, except in case of necessity, when the State might specially permit private operation (art. 123). The State might regulate the production and distribution of agricultural products, both in kind and in quality (art. 126). Relief or compensation was to be accorded to those who suffered disability or loss of life in the performance not only of military, but also of public services (art. 127). Lastly, within the territorial limits of China all goods should be permitted to circulate freely, and should not be seized or detained. The various grades of government should not collect any dues on goods in transit within the country, with the exception of tolls levied for the purpose of improving the waterways and roads, on vessels and vehicles making use of them (art. 130).

Other provisions in chapter VI of this draft, such as the right of the State to tax or expropriate private land, enforcement of labour protective policies, development of productive enterprises by labour and capital together, in accordance with the principle of mutual help and co-operation, improvement of rural economic and living conditions by increasing farming efficiency, government relief to the aged, feeble, or disabled persons, etc., were merely repetitions of those which appeared in the draft constitution of 1925, completed by the northern government, or in the Provisional Constitution of the Political Tutelage Period of 1931, promulgated by the National government in Nanking.

Chapter VII of the draft of 1936 dealt with education. It provided that the educational aim should be to develop a national spirit, to cultivate a national morality, to train the people for self-government and to increase their ability to earn a livelihood, etc. (art. 131). Every citizen should have an equal opportunity to receive education (art. 132). In establishing universities and technical schools, the State should give special consideration to the needs of the respective localities (art. 136). Educational appropriations should constitute no less than fifteen per cent of the total amount of the budget of the central government, and no less than thirty per cent of the total amount of the provincial, district and municipal budgets respectively. Finally, educational expenditure in needy provinces should be subsidized by the central treasury (art. 137). Other provisions which were mere duplications of those provisions in the provisional constitution of 1931 do not need more than casual mention. They were: State supervision over all public and private educational institutions; the carrying out of the educational policies of the State by all educational institutions; free elementary education for all children between six and twelve years of age; State encouragement and subsidy to private educational institutions, education of the overseas Chinese, discoverers or inventors in academic or technical fields, teachers or administrative officers of educational institutions,¹

and students of high records and good character; etc.

The draft of 1936 was to be submitted to the National People's Convention (the National Assembly) which was scheduled to be convened on 12 November 1937, but the war with Japan broke out four months before that date, and the National People's Convention was therefore not called. Instead, a People's Political Council was organized in July 1938, which held its first session in Hankow, then the seat of the Chinese Government. The function or the mission of the People's Political Council was to give the people a better opportunity to participate in the affairs of the State and to pave the way for a constitutional form of government. The Council consisted of members chosen by the Government to represent the people; spokesmen of all minor political parties, including the Communist Party, were included. At its fourth session in September 1939, the People's Political Council organized a Constitutionalism Promotion Committee which proceeded immediately to revise the draft of 5 May 1936, because the said draft was the work of the government party (Kuomintang) alone. The revision was completed by the end of March 1940.

In November 1943, a committee for the establishment of constitutional government was inaugurated by the People's Political Council, upon the recommendation of President Chiang Kai-shek. This committee, consisting of members of the Kuomintang Central Executive and Central Supervisory Committees, members of the People's Political Council, and experts, was to further the study of the constitution. When the war with Japan ended in the autumn of 1945, a Political Consultation Conference was formed, which again appointed a committee to study and iron out the different opinions of the various political parties on the constitution.

When the National Assembly (or the National People's Convention) finally met at Nanking in November 1946, the draft submitted by President Chiang for its discussion and adoption was the one agreed to by the Political Consultation Conference. After lengthy discussions and spirited debates, the present constitution, consisting of one hundred and seventy-five articles, was finally adopted by the National Assembly on 25 December 1946, and promulgated by the national government on 1 January 1947 to become effective on 25 December of the same year.¹

Article 5, under General Provisions, stipulates that all racial groups of the Republic of China shall enjoy equality. Article 43 provides: "In case of natural calamity . . . the President, during the recess of the Legislative Yuan, may, by

¹ Since the new constitution was promulgated on 1 January 1947, it will not be included in the *Year-book on Human Rights* for 1946. It will appear in the *Human Rights Yearbook* for 1947.

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." These are entirely new provisions.

Chapter II on rights and duties of the people contains practically the same provisions as embodied in the 1936 draft, except a few additions. All citizens shall be equal before the law, irrespective not only of sex, religion, race or class, but also of party affiliation (art. 7). Any arrest, detention, trial or punishment, if conducted not in accordance with legal procedure, may be refused. When a person is arrested or detained illegally, he or any other person may petition the court to demand from the organ concerned the surrender of the said person to the court not only for trial, but also for investigation (art. 8). The people also shall have freedom of academic instruction (art. 11). The right of existence and the right to work shall also be guaranteed to the people (art. 15). Lastly, besides averting an imminent crisis, maintaining social order or advancing public interest, the preventing of infringement of the liberties of other persons may also form a sufficient reason for the State to restrict by law the liberties and rights of the citizens (art. 23).

Articles 142-151 deal with the national economy, and articles 152-157 deal with social security. Most of the provisions in these articles are the same as those which were provided in chapter VI (on national economic life) of the 1936 draft. New provisions are: 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. 142). In the distribution and adjustment of land, the State shall also regulate the appropriate areas of operation (art. 143). 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. 146). The central government shall extend appropriate aid to undeveloped provinces; the provinces to undeveloped *hsien* (art. 147). Private financial institutions shall be subject to State control (art. 149), and the State shall extensively establish financial institutions for the people to relieve unemployment (art. 150). The State shall foster and ensure the development of the economic enterprises of Chinese nationals residing abroad (art. 151).

Furthermore, the State shall provide opportunity of employment to people who are capable

of work (art. 152). Mediation and arbitration of disputes between capital and labour shall be stipulated by law (art. 154). The State shall enforce a social insurance system, and shall extend assistance and relief also to victims of unusual calamities (art. 155). The State shall protect motherhood, and promote the welfare of women and children (art. 156). Finally, the State shall extensively establish sanitation and infant health protection enterprises and a system of socialized medical service (art. 157).

Again, as compared with chapter VII (on education) of the 1936 draft, the present constitution, in dealing with education and culture, does not have much to add: 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 (art. 163). Expenditure for educational, scientific and cultural purposes shall, in the case of the central government, be not less than fifteen per cent of the total national budget, in the case of the province, not less than twenty-five per cent of the total provincial budget; and in the case of the *hsien*, not less than thirty-five per cent of the total *hsien* budget (art. 164). The State shall safeguard the livelihood of those who work in the education fields of sciences and arts (art. 165).

From the above discussion, it is evident that great progress and improvement have been made in China during the last forty years in the constitutional provisions and guarantees of the rights of the citizens. In the principles of constitution, promulgated by the Manchu Government in 1908, only a few fundamental human rights were stipulated. The first provisional constitution of the Republic, promulgated in 1912, gave a more detailed and elaborate list of fundamental human rights which were to be guaranteed by that constitution. The "Temple of Heaven Draft" of 1913, the constitutional compact of 1914, the draft constitution of 1919, and the Ts'ao K'un constitution of 1923 had none of them much to add in this respect. It was not until 1925, after the new constitutions of the European countries, including that of the Union of Soviet Socialist Republics, had been completed, and after the political doctrines of Dr. Sun Yat-sen had gained a widespread influence in China, that important and elaborate provisions on economic life and education appeared for the first time in the draft constitution of that year.

The most important result of the success of the northern expedition under General Chiang Kai-shek was the establishment of the national government by the Kuomintang. The Kuomintang government, being faithful followers of Dr. Sun, wrote into the Provisional Constitution of the

Political Tutelage Period Dr. Sun's political and economic theories (the three principles of the people). The draft constitution of 5 May 1936, prepared by the Legislative Yuan of the national government, followed Dr. Sun's political and economic theories even more closely. They both embodied detailed provisions, not only on rights and duties of the people, but also on people's livelihood or national economic life, and education. They definitely marked a new stage in the development of China's constitutional provisions for human rights.

The provisions on human rights in the present constitution do not differ very much from the corresponding provisions in the 1936 draft, although the present constitution was adopted by the National Assembly which included members of the minor political parties, as well as the independents. The most important difference in this respect is perhaps the present constitution's provisions and emphasis on social security. Other relevant provisions in the present constitution which did not appear in the 1936 draft, and which indicate the joint workmanship of both the minor political parties and the independents, are few; they are: citizens' equality before the law irrespective of party affiliation, freedom of academic instruction, safeguard by the State of the livelihood of workers in the educational fields, etc.

In conclusion, it may be noticed that constitutional provisions alone, no matter how well and specifically written, are not sufficient to safeguard the rights of the people. In 1920, Mr. Vinacke, in discussing modern constitutional development in China, said that "constitutional government is nothing more than a phrase to many of the Chinese, as has been demonstrated beyond question since the establishment of the Republic". President Chiang Kai-shek, in discussing the same

subject, and commenting upon the situation in China before 1928, lamented: "The supreme law of the State was manipulated by the politicians and warlords so as to cover up their own evil doings. In the name of democracy numerous barriers to democracy were set up and untold sins against democracy were committed."

Both statements are undoubtedly true; they represent the study and knowledge of a constitutional lawyer on the one hand, and the wisdom of a statesman on the other. The question is why such a situation existed and why it was possible. In my opinion, it is the traditional Chinese philosophy of life and the traditional Chinese theory of state and society, as stated above, which were largely responsible; for any constitutional provision (in fact, the constitution itself), in order to be really effective, has to be cherished by the people, who must be ready to fight for it against any violation.

Since the days which formed the subject of discussion and comment of both President Chiang and Mr. Vinacke, China has, indeed, made great strides on the path of democracy and constitutionalism. Nevertheless, the extent to which the present Bill of Rights will become effectual, and whether or not the individual rights enumerated will be guarded against encroachments, will still be determined, in the future, in no small measure by the indoctrination of the people with constitutionalism, and by the disposition of the administration in power. Moreover, there is always the possibility that future legislative acts and judicial decisions may or may not, in effect, impose certain limitations upon those rights.

Chung-fu CHANG

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COLOMBIA

POLITICAL CONSTITUTION OF THE REPUBLIC OF COLOMBIA¹

of 5 August 1886

TITLE III CONCERNING CIVIL RIGHTS AND SOCIAL GUARANTEES

Art. 16. The authorities of the Republic are instituted to protect the lives, honour, and property of all persons residing in Colombia, and to ensure fulfillment of the social duties of the State and of private persons.

Art. 17. Labour is a social obligation and shall enjoy the special protection of the State.

Art. 18. The right to strike, except in public services, is guaranteed. The law shall regulate its exercise.

Art. 19. Public relief is a function of the State. Those lacking means of subsistence and without the right of demanding it from other persons, and those physically incapacitated for work, should be aided.

The law shall determine the form of administering relief and the cases in which it should be given directly by the State.

Art. 20. Private persons are responsible to the authorities only for infraction of the Constitution or of the laws. Public officials are also responsible for the same infractions and for exceeding their powers or for omissions in the exercise of them.

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 on active service are excepted from this provision. The responsibility with respect to them shall devolve solely upon the superior who gave the order.

Art. 22. There shall be no slaves in Colombia. Any slave who sets foot on the territory of the Republic shall be free.

Art. 23. No one shall be molested in his person or his family, imprisoned, arrested, or apprehended, or have his domicile searched, except by virtue of a written warrant from a competent authority, with all legal formalities, and for an offence previously defined in the law.

In no case shall detention, imprisonment, or arrest be made for purely civil debts or obligations, except by judicial decision.

Art. 24. An offender caught in *flagrante delicto* may be arrested and taken before a 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, but if he seeks asylum in the dwelling of another person, the consent of the owner or tenant thereof must be previously obtained.

Art. 25. No one shall be obliged, in criminal, correctional, or police proceedings, to testify against himself or against his relatives within the fourth civil degree of consanguinity or the second of affinity.

Art. 26. No one shall be tried except in conformity with laws antedating the offence with which he is charged, and before a competent tribunal, observing in full the forms proper to each case.

In criminal matters, the law favourable to the defendant, even if enacted after the commission of the alleged offence, shall be applied in preference to the restrictive or unfavourable law.

Art. 27. The preceding provision shall not prevent the following persons from inflicting punishment, without previous trial, in the cases and within the exact limits established by law:

(1) Public officials exercising authority or jurisdiction, who shall have power to punish with fines or imprisonment any person who may injure or offend them with respect to an action that they may perform in discharging the functions of their office;

(2) Military officers, who may inflict instant punishment to subdue insubordination or a military mutiny, or to maintain discipline in the presence of the enemy;

(3) Captains of vessels, who have the same power, when not in port, to repress offences committed on board their ships.

Art. 28. No person shall, even in time of war, be punished *ex post facto* except in accordance with a law, order, or decree in which the act has been previously prohibited and corresponding punishment determined.

If there are serious reasons to fear a disturbance of the public order, this provision shall not prevent, even in time of peace, the arrest and detention, by order of the Government upon previous advice of the Ministers, of any person suspected

¹Spanish text in *Constitución Política de la República de Colombia*. Bogota, 1945. English translation in *The Constitutions of the Americas* (cited above, page 6).

with good reason of attempting to disturb the public peace.

Art. 29. The legislature may not impose capital punishment in any case.

Art. 30. Private property and other rights acquired by just title by natural or juridical persons are guaranteed, in accordance with the civil law, and may not be disavowed or injured by later laws. When the application of a law enacted for reasons of public benefit or social interest results in a conflict of the right of private persons with the necessity recognized by the same law, the private interest must give way to the public or social interest.

Property is a social function that implies obligations.

Expropriation may be undertaken, for reasons of public benefit or social interest defined by the Legislature, by means of a judicial decision and with previous indemnification.

Nevertheless, the Legislature, for reasons of justice, may determine the cases in which there is no ground for indemnification, by a favourable vote of an absolute majority of the members of each Chamber.

Art. 31. No law that establishes a monopoly may be applied until the persons who by virtue of it would be deprived of the exercise of a lawful industry, have been fully indemnified.

No monopoly may be established except as a financial expedient and by virtue of a law.

The only privileges that may be granted are those relating to useful inventions and means of communication.

Art. 32. The State may intervene, by means of law, in the exploitation of industries or public and private enterprises, for the purpose of regulating the production, distribution, and consumption of wealth, or of giving the worker the just protection to which he has a right.

This function may not be exercised by use of the powers of article 76, clause 12, of the Constitution.

Art. 33. In case of war, and only for the purpose of re-establishing public order, the need of expropriation may be decreed by authorities who do not belong to the judiciary, and without previous indemnification.

Real estate alone may be temporarily occupied, in the case mentioned, either to meet the necessities of war or to reserve its products for war, as a pecuniary penalty imposed on its owners in accordance with the law.

The nation shall always be responsible for expropriations made by the Government directly or by means of its agents.

Art. 34. The penalty of confiscation shall not be inflicted.

Art. 35. Literary and artistic property shall be protected as transferable property, during the life-

time of the author and for eighty years thereafter, by means of the formalities prescribed by law.

The same guarantee shall be extended to the owners of works published in countries using the Spanish language, provided that the respective nations recognize in their legislation the principle of reciprocity, and without the necessity of concluding any international conventions for this purpose.

Art. 36. The intention of gifts made during a lifetime or testamentarily, in accordance with the law, for purposes of social interest, may not be changed or modified by the Legislature. The Government shall regulate the management and investment of such gifts.

Art. 37. No real estate shall be inalienable or obligations irredeemable in Colombia.

Art. 38. Private correspondence by mail or telegraph is inviolable. Letters and private papers shall not be intercepted or examined, except by authority, by means of an order by a competent official, and in the cases and with the formalities that the law may establish, and for the sole purpose of seeking legal evidence.

Presentation of account books and other papers relating thereto may be required for levying taxes and in cases of intervention by the State.

The circulation of printed matter through the mails may be taxed, but may never be prohibited in time of peace.

Art. 39. Every person is free to choose a profession or trade. The law may require certificates of competence and may regulate the exercise of professions.

The authorities shall inspect professions and trades in matters relating to morality, safety, and public health.

The law may restrict the production and consumption of liquors and alcoholic beverages.

The law may also order the revision and supervision of rates and regulations for transportation enterprises and other public services.

Art. 40. Only those who have a professional degree may in the future be inscribed as attorneys.

No one may legally represent his own or another's case if he is not an inscribed attorney. Nevertheless, the law may establish exceptions.

Art. 41. The freedom of instruction is guaranteed. However, the State shall inspect and maintain the greatest vigilance over institutions of learning, both public and private, in order to attain the fulfilment of the social purposes of culture and for the better intellectual, moral, and physical development of students.

Primary instruction shall be free in the schools of the State and obligatory to the degree that the law prescribes.

Art. 42. The press shall be free in times of peace; but responsible, in accordance with the law,

when it may attack personal honour, the social order, or public tranquillity.

No newspaper publication shall, without the permission of the Government, receive a subvention from other governments or from foreign corporations.

Art. 43. Only the Congress, the departmental assemblies, and the municipal councils may, in time of peace, impose taxes.

Art. 44. The formation of companies, associations, and foundations that are not contrary to the legal order is permitted. Associations and foundations may obtain recognition as juridical persons.

Religious associations must, in order to remain under the protection of the laws, file before the civil authority the authorization issued in their favour by their respective ecclesiastical superiors.

Art. 45. Any person shall have the right to present respectful petitions to the authorities, on subjects either of general or private interest, and obtain a prompt decision.

Art. 46. Any number of people shall be permitted to assemble or congregate peacefully. The authorities may dissolve any assembly that degenerates into disorder or tumult or obstructs the public roads.

Art. 47. Popular political organizations of a permanent character are prohibited.

Art. 48. The Government alone shall import, manufacture, and possess arms and munitions of war.

No person within a town shall be permitted to carry arms without permission from the authorities. This permission shall in no case be given in cases of attendance at political meetings, elections, or sessions of assemblies or public corporations, whether as members or spectators.

Art. 49. All new emission of paper money of forced tender is absolutely prohibited.

Art. 50. The law shall determine matters relative to the civil status of persons and their consequent rights and duties. Likewise, family patronies, which are inalienable and free from attachment, may be established.

Art. 51. The law shall determine the responsibility incurred by public officials of all classes who violate the rights guaranteed by this title.

Art. 52. The provisions of the present title shall be incorporated into the civil code as the preliminary title and shall not be changed except by an act amending the Constitution.

TITLE IV

CONCERNING RELIGION AND THE RELATIONS BETWEEN THE CHURCH AND THE STATE

Art. 53. The State guarantees liberty of conscience.

No person shall be molested by reason of his religious opinions, or be compelled to profess beliefs or observe practices contrary to his conscience.

Liberty is guaranteed for all forms of worship that are not contrary to Christian morals or to the laws. Acts contrary to Christian morality or subversive of the public order, engaged in on the occasion or under the pretext of the exercise of religion, shall be subject to the common law.

The Government may negotiate conventions with the Holy See, subject to the subsequent 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. The profession of the priesthood is incompatible with the discharge of public office. Nevertheless, Catholic priests may be employed in public instruction and social work.

COSTA RICA

POLITICAL CONSTITUTION OF COSTA RICA¹

of 7 December 1871

TITLE III

Section I

CONCERNING NATIONAL GUARANTEES

Art. 19. Public officials are not masters but trustees of authority. They are subject to the laws and can never consider themselves superior to them.

Art. 20. Public officials are responsible for the infraction of the Constitution or of the laws. Action in order to accuse them is open to the public.

Art. 22. Military force shall be subordinated to the civil power, is essentially passive, and must never deliberate.

Art. 23. The Republic does not recognize hereditary titles, or venal positions, nor permit the establishment of entailed estates. Monopolies, privileges, and whatever other act, although it may have originated in a law, that impairs or menaces the freedom of business, agriculture, or industry, are also prohibited in the Republic, except those that the State may have established up to date, or those that it may establish in the future for its stability, in order to prevent social evils, in order to stimulate genius, for the execution of works, or for the development of enterprises of indisputably national interest that without monopoly or privilege could not be executed or accomplished, on the advice of the Legislature, by a majority of two-thirds of the total number of its members, and except also those that the municipalities may have established up to date or those that they may establish in the future for the same ends, with the authorization of the Legislature, given by the majority indicated.

Art. 24. The penalty of infamy is not communicable. The use of torture and the penalty of confiscation are prohibited.

Section II

CONCERNING INDIVIDUAL GUARANTEES

Art. 25. All men are equal before the law.

Art. 26. The law has no retroactive effect.

Art. 27. All men are free in the Republic; he who is under the protection of its laws cannot be a slave.

Art. 28. Every Costa Rican can move to any point in the Republic or outside of it, provided

that he is free of all responsibility, and may return when he desires.

Art. 29. Property is inviolable; no one can be deprived of his if it is not legally proved to be in the public interest and without previous indemnification in conformity with the law. In case of war or internal disturbance, it is not necessary that the indemnification be paid previously.

The Congress may, for reasons of public necessity, by the vote of two-thirds of all of its members, impose limitations on property in the interest of society.

Art. 30. The domicile of the inhabitants of the Republic is inviolable, and one cannot enter a house forcibly except in the cases and with the formalities that the law prescribes.

Art. 31. The private papers of the inhabitants of the Republic may in no case be seized or even examined.

Art. 32. The secrecy of written and telegraphic correspondence is inviolable, and whatever is removed cannot be exhibited for legal purposes.

Art. 33. All of the inhabitants of the Republic have the right to gather peacefully and without arms, whether with the object of occupying themselves with private affairs, or with that of discussing political matters and examining the public conduct of officials.

Art. 34. No person or group of persons can take the privilege or authority of the people, deny their rights, or make petitions in their name. The infraction of this article is sedition.

Art. 35. The right of petition may be exercised individually or collectively.

Art. 36. No one can be disturbed or prosecuted for any act that does not infringe the law, or for the declaration of his political opinions.

No one, however, may deliver, in any form, political propaganda, through clergymen or laymen, invoking motives of religion or making use, as a means, of the religious beliefs of the people.

Art. 37. Everyone can communicate his thoughts by word of mouth or by writing and publish them by means of the press, without previous censorship, remaining responsible for the abuses that he may commit in the exercise of this right, in the cases and in the manner that the law establishes.

¹Spanish text in *Constitución Política de Costa Rica*. Edición oficial, Imprenta Nacional, 1944. English translation in *The Constitutions of the Americas* (cited above, page 6).

Art. 38. Jurisdiction in civil and criminal trials is exclusive in the authorities established by law. No commission, tribunal, or judgeship may be created for specified trials, nor shall anyone be subjected to military jurisdiction except individuals of the army and only for the crimes of sedition and rebellion, and for those who commit them while being in active service or when required to lend such service; also for offences against discipline, and any others committed in campaign, in which cases they shall be judged according to the military ordinance.

Art. 39. In a criminal matter, no one is obliged to testify against himself; nor can he testify in the status of a witness against his mate, ancestors, descendants, or other relatives within the third degree of consanguinity or the second of affinity.

Art. 40. No one can be arrested without a proved indication of having committed a crime, and without a written order from a judge or authority in charge of public order, except when the defendant may be declared a fugitive from justice or a delinquent in *flagrante delicto*; but in every case he must be placed at the disposition of a competent judge within the definite period of twenty-four hours.

Art. 41. Every inhabitant of the Republic has the right of *habeas corpus*.

Art. 42. No one shall be made to suffer any punishment without having been heard, and convicted on trial, and without an executory sentence passed on him by a judge or competent authority. Bodily restraint, non-appearance, and other matters of this nature in civil cases, and those of fine or arrest in police cases, are excepted.

Art. 43. Punishment can be imposed on no one except by a pre-existent law that names the crime or offence committed.

Art. 44. No person can be subjected to prison for debt, except only in the case of legally proved fraud.

Art. 45. Human life is inviolable in Costa Rica.

Art. 47. All Costa Ricans or aliens having recourse to the law shall find a remedy for injuries or damages that they may have received in their persons, property, or honour. Justice must be rendered promptly, completely, and without hesitation, and in strict conformity with the law.

Art. 48. All Costa Ricans and aliens have the right of terminating their differences in civil matters by means of arbitration, whether before or after a lawsuit has begun.

Art. 49. The same judge cannot serve in various appeals, provided that the decision deals with the same point.

Art. 50. Private actions that do not touch public morality or order, or that do not produce harm or injury to a third party, are outside the jurisdiction of the law.

Section III

CONCERNING SOCIAL GUARANTEES

Art. 51. The State will work for the greatest well-being of Costa Ricans, protecting in a special way the family, the basis of the nation; assuring aid to mothers, children, the aged, and the destitute ill; and organizing and stimulating production and the most adequate distribution of wealth.

Art. 52. Labour is a social duty and enjoys the special protection of the law with the purpose that, in its fulfilment, it gives the individual the right to a suitable existence and agrees with his abilities and aptitudes.

Art. 53. All manual or intellectual labour has the right to a minimum wage or salary that shall cover the material, moral, and cultural necessities of his home, and that shall be fixed periodically, with reference to the nature of his work and to the particular conditions of each region and of each activity, intellectual, industrial, commercial, stock-raising, or agricultural.

Art. 54. The regular working period shall not exceed eight hours in the daytime, six hours at night, and forty-eight hours a week. Work for additional hours shall be remunerated with fifty per cent more of the stipulated wage or salary. Nevertheless, these provisions shall not be applied in exceptional cases, very limited, determined by law.

All manual or intellectual workers shall have the right to paid annual vacations, the extent and time of which shall be regulated by law, but the duration of which may not be fixed in a proportion less than two weeks for each fifty weeks of continuous service.

Art. 55. All employers, as well as all workers, may organize freely for the exclusive purposes of their economic-social activities, in accordance with the law.

Art. 56. The right of employers to the lockout and of workers to the strike is recognized, except in the public services, in accordance with the specification that the law makes regarding them, and in conformity with the regulations that the law itself establishes, which must disavow all acts of coercion or violence.

Art. 57. Collective labour agreements and contracts that are negotiated in accordance with the law between employers and legally organized workers' unions shall have the force of law.

Art. 58. The State shall promote the creation of co-operatives as a means of facilitating better living conditions for workers.

Art. 59. The State shall assist in the construction of cheap houses for urban workers and shall create a family patrimony for the rural worker.

Art. 60. Every employer must adopt conditions necessary for hygiene and the safety of the worker in his enterprises.

Art. 61. The State shall watch over the technical training of workers, for the purpose of obtaining the greatest efficiency in their labour and of gaining an increase in national production.

Art. 62. An equal wage or salary shall be paid for equal work under identical conditions, without distinction of person or sex.

The rural worker shall enjoy the same essential rights as the urban worker.

Under equality of conditions employers and public or private enterprise have the obligation of giving preference to Costa Rican workers. In the cases occurring, the law shall fix the minimum proportion of native workers, giving consideration not only to their number, but also to the total amount of salaries or wages paid them.

Art. 63. Social insurance for the benefit of manual and intellectual workers is established, regulated by a system of compulsory triple contributions by the State, by the employer, and by the worker, for the purpose of protecting the latter against the hazards of illness, invalidity, maternity, old age, death, and other contingencies determined by law.

The administration and regulation of social insurance shall be under the charge of a permanent institution, with its own sphere of action, called the Costa Rican office of social insurance, that shall discharge its functions with absolute independence of the Executive.

The funds or reserves of social insurance may not be transferred or employed for different purposes than those that caused their establishment, and their management shall be undertaken by the office, in accordance with its constitutive law.

Insurance against professional hazards shall be the exclusive obligation of employers and shall be governed by special provisions.

Art. 64. There shall be a special jurisdiction of labour for the better solution of conflicts that may arise in the relations between employers and workers. All labour tribunals shall be subordinate to the judiciary, and the law shall determine their number and organization; in greater part they shall be composed of a representative of the State, who shall preside over them, a representative of the employers, and another of the workers.

Art. 65. The rights and benefits to which this section refers are irrenunciabile. Their enunciation does not exclude others derived from the Christian principle of social justice that shall be applicable equally to all elements participating in the process of production and regulated by a social and labour code, for the purpose of attaining a permanent policy of national solidarity.

TITLE IV

CONCERNING RELIGION

Art. 66. The Roman Catholic Apostolic religion is that of the State, which contributes to its maintenance, without preventing the free ministry in the Republic of any other worship that is not opposed to universal morality or good customs.

TITLE V

CONCERNING EDUCATION

Art. 67. Primary instruction is obligatory, free, and sustained by the nation. The direction of it belongs to the Executive.

The State will maintain the schools of primary instruction and academies of secondary education that the necessities of the country may require, and will create revenues for the support of the University.

Art. 68. Every Costa Rican or alien is free to give or receive instruction that he may desire in establishments that are not sustained with public funds.

TITLE VIII

THE LEGISLATIVE POWERS

Section II

POWERS OF THE CONGRESS

Art. 82. The exclusive powers of the Congress are:

(7) To suspend, by two-thirds vote of those present, the individual guarantees designated in articles 28, 30, 31, 32, 33, 36, 37, 40 and 41 of the fundamental law itself, in case the Republic finds itself in imminent danger, whether it be because of foreign aggression, or by reason of internal uprising. This suspension shall be of all these guarantees or of only part of them, for all the territory of the Republic or for a part of it, and for seventy days or less. The Executive may not, with respect to persons, do more than impose arrest in a place not assigned for common criminals, or to decree their confinement in inhabited places. In no case may they be tortured.

The Executive shall give a report to the Congress in its next meeting, of the means taken to preserve public order or to maintain the security of the State, which shall cease immediately when the guarantees are re-established.

Sole section. The suspension to which this provision refers shall never include the guarantees designated in title III, section 2, article 45, of this constitution.

CUBA

CONSTITUTION OF THE REPUBLIC OF CUBA¹ of 5 July 1940

TITLE IV FUNDAMENTAL RIGHTS

First Section

CONCERNING INDIVIDUAL RIGHTS

Art. 20. All Cubans are equal before the law. The Republic does not recognize exemptions or privileges.

Any discrimination by reason of sex, race, colour or class, and any other kind of discrimination destructive of human dignity, is declared illegal and punishable.

The law shall establish the penalties that violators of this provision shall incur.

Art. 21. Penal laws shall have retroactive effect when favourable to the offender. This advantage is denied in cases of perpetration of fraud by public officials or employees who may be delinquent in the exercise of their office, and of persons responsible for electoral crimes and crimes against the individual rights guaranteed by this constitution. The penalties and qualifications of the law in force at the moment of the offence shall be applied to those found guilty of these crimes.

Art. 22. No other laws shall have retroactive effect unless the law itself so provides for reasons of public order, social utility, or national necessity, as may be expressly stipulated in that law by a vote of two-thirds of the total number of members of each co-legislative body. If the basis of the retroactivity should be challenged as unconstitutional, it shall be within the jurisdiction of the tribunal of constitutional and social guarantees to decide upon the same, without the power of refusing to render decision because of form or for any other reason.

In every case the same law shall concurrently establish the degree, manner, and form of indemnification for injuries, if any, and of retroactivity affecting rights legitimately acquired under the protection of prior legislation.

The law giving the protection afforded by this article shall not be valid if it produces effects contrary to the provisions of article 24 of this constitution.

Art. 23. Civil obligations arising from contracts, or from other acts either of commission or omission, may not be annulled or altered by the Legislature or by the Executive, and consequently laws shall have no retroactive effect in respect to the aforesaid obligations. The exercise of actions resulting from these obligations may be suspended in case of grave national crises, for the time considered reasonably necessary, by means of the same requisites, and subject to the condition to which the first paragraph of the preceding article refers.

Art. 24. Confiscation of goods is forbidden. No one may be deprived of his property except by competent judicial authority and for a cause justified by public utility or social interest, and with mandatory prior payment of the proper indemnification in cash, in the amount judicially determined. In case of failure in compliance with these requirements, the person whose property has been expropriated shall have the right of protection by the tribunals of justice, and as the case may warrant, that of the restoration of his property.

In case of contradiction, the tribunals of justice shall have the power to decide upon the necessity of expropriation, for reasons of public utility or social interest.

Art. 25. The penalty of death may not be imposed. However, crimes of a military character committed by members of the armed force, and treason or espionage in favour of the enemy in time of war with a foreign nation, are excepted.

Art. 26. The penal process law shall establish the necessary guarantees that all guilt shall be proved independently of the testimony of the accused, of the spouse, and also of relatives within the fourth degree of consanguinity and second of affinity. All accused persons shall be deemed innocent until found guilty.

In all cases the authorities and their agents shall make a record of detention that shall be signed by the detained person, who will be notified of the authority ordering the detention, the reason for it, and the place to which the person in custody is to be conducted, placing an affidavit as to all these details in the record.

Registration of detained persons and prisoners shall be open to public inspection.

¹Spanish text in *Constitución de la República de Cuba*. Habana, 1944. English translation in *The Constitutions of the Americas* (cited above, page 6).

Officials approaching or guarding a person in custody shall be liable for every act against the personal integrity, security, or honour of any detained person, unless such officials shall prove their innocence of such act. A subordinate may refuse compliance with orders that infringe upon this guarantee. A guard employing arms against a detained person or a prisoner attempting to escape shall be accused and held responsible according to the laws, for the crime that may have been committed.

Persons under arrest, and political or social prisoners, shall be detained in compartments separate from common offenders, and shall not be subjected to any labour or to the penal regulations for common prisoners.

No person under arrest or imprisoned shall be held *incommunicado*.

Infractions of this provision shall be taken up only in ordinary jurisdiction, regardless of the place, circumstances, or persons involved in the detention.

Art. 27. Every detained person shall be placed at liberty or delivered to a competent judicial authority within twenty-four hours following the act of his detention.

Every detained person shall be released from custody, or committed to prison by a judicial writ, within seventy-two hours after having been placed at the disposition of a competent judge. Within the same period the detained person shall be notified of the writ issued.

Preventive imprisonment shall be maintained in places distinct and completely separate from those designed for the serving of sentences, and persons kept in said preventive imprisonment may not be subjected to any labour or to penal regulations designed for persons serving sentences.

Art. 28. There shall be no prosecution or sentence except by a competent judge or tribunal, acting under laws enacted prior to the commission of the crime, and with the formalities and guarantees that these laws may establish. No sentence shall be pronounced against any prosecuted person in his absence, nor shall anyone be condemned in a criminal matter without being heard. Neither shall any person be obliged to testify against himself, or against his spouse, or his relatives within the fourth degree of consanguinity or the second of affinity.

No violence or coercion of any kind shall be practised on persons in order to force them to testify. Any statement obtained in violation of this provision shall be null, and those responsible shall incur the penalties fixed by law.

Art. 29. Any person detained or imprisoned in circumstances not foreseen in the Constitution and the laws, and without the formalities and guarantees provided by them, shall be placed at liberty upon his own petition or upon the petition of any other person, without the necessity of power or direction of an attorney, by means of

summary proceedings of *habeas corpus* before the ordinary tribunals of justice.

The tribunal may not decline jurisdiction or admit question as to competence in any case or for any reason, or defer its decision, which shall have preference over all other matters.

The presentation of every detained or imprisoned person before the tribunal issuing the writ of *habeas corpus* is absolutely obligatory, regardless of the authority or official, person or body, holding custody of said detained person, and said authority is without power to deny obedience to said writ.

All provisions that may impede or retard the appearance of a person deprived of his liberty, as well as any provisions causing delay in the *habeas corpus* proceedings, shall be null and shall be so declared by the office of the judicial authority.

In case the person detained or imprisoned should not be brought before the tribunal granting the writ of *habeas corpus*, the latter shall order the arrest of the detaining officer, who shall be judged in accordance with the provisions of the law.

Judges or magistrates who refuse to admit application for the writ of *habeas corpus*, or who do not comply with the other provisions of this article, shall be dismissed from their respective offices by the chamber of government of the Supreme Tribunal.

Art. 30. Any person may enter and remain in the national territory, leave it, move from one place to another, and change residence without the necessity of a letter of security, passport, or other similar requirement, except for what is provided in the laws on immigration and the duties of the authorities in cases of criminal responsibility.

No person shall be obliged to change his domicile or residence, except by order of a judicial authority and in the cases, and subject to the requirements, stipulated by law.

No Cuban may be expatriated or be prohibited entrance into the territory of the Republic.

Art. 31. The Republic of Cuba offers and recognizes the right of asylum to those persecuted for political reasons, provided that persons thus sheltered respect the national sovereignty and the laws.

The State shall not authorize the extradition of persons guilty of political crimes, nor shall it attempt to extradite Cubans guilty of these crimes who may have taken refuge in foreign territory.

In case of the expulsion of an alien from national territory, in conformity with the Constitution and the law, such expulsion shall not be made to the territory of the State that may reclaim him if political asylum is involved.

Art. 32. The secrecy of correspondence and other private documents is inviolable, and neither the former nor the latter may be held or examined except by officials or official agents in pursuance

of a written order from a competent judge. In all cases secrecy shall be maintained regarding matters not pertaining to the object of the seizure or examination. Under the same provisions, the privacy of telegraphic, telephonic, and cable communication is also declared inviolable.

Art. 33. All persons shall have freedom to express their thoughts by speech, writing, or any other graphic or oral means of expression without subjection to previous censure, utilizing for this purpose any and all means of dissemination available.

Editions of books, pamphlets, disks, films, periodicals, or publications of whatever nature, that attack the good reputation of persons, the social order, or the public peace, may be suppressed only after prior determination thereof by competent judicial authority, without affecting the responsibilities consequent upon the criminal act committed.

In the cases referred to in this article, the use and enjoyment of places, equipment, or instruments that the organ of publicity in question may utilize may not be withheld or interrupted, except under civil liability.

Art. 34. The domicile is inviolable and, in consequence, no person may make entry at night into the domicile of another person without the consent of its resident, except in order to succour victims of a crime or disaster, or during the day except in the cases and in the form determined by law.

In case of suspension of this guarantee, it shall be indispensably required that entry into the domicile of a person be made by proper competent authority, upon written order or resolution, an authentic copy of which shall be presented to the resident, his family, or nearest neighbour, according to the case. When authority is delegated to any of his agents the same procedure shall be followed.

Art. 35. The profession of all religions is free, as well as the exercise of all kinds of worship, without other limitation than respect for Christian morality and public order.

The Church shall be separated from the State, which shall not grant a subvention to any religion.

Art. 36. Every person has the right to direct petitions to the authorities, and the right to have said petitions heeded and determined within a period not longer than forty-five days, with the further right to be apprised of the decision thereon.

At the expiration of the legal period, or in default of the above stipulations, the interested party may seek redress in the manner authorized by law as if his petition had been denied.

Art. 37. The inhabitants of the Republic have the right to assemble peaceably and without arms, and the right to hold processions and associate with one another for all the legitimate purposes of

life, in conformity with the corresponding legal standards, without further limitation than may be necessary to assure public order.

The formation and existence of political organizations contrary to the democratic representative system of government of the Republic, or which in any way seek to subvert complete national sovereignty, is unlawful.

Art. 38. All acts by which a citizen is prohibited or limited in his participation in the political life of the nation are declared punishable.

Art. 39. Public functions that imply jurisdiction shall be discharged only by Cuban citizens.

Art. 40. Provisions of a legal, governmental, or any other nature that regulate the exercise of the rights guaranteed by this constitution shall be null if they abridge, restrict or corrupt said rights.

Adequate resistance for the protection of individual rights previously guaranteed is legitimate.

Violations of this title shall be prosecuted by public action, without precaution or formality of any kind, and by simple denunciation.

The enumeration of the rights guaranteed in this title does not exclude others established in this constitution, or other rights of an analogous nature, or those that are derived from the principle of the sovereignty of the people and from the republican form of government.

Second Section

CONCERNING CONSTITUTIONAL GUARANTEES

Art. 41. The guarantee of the rights recognized in articles 26, 27, 28, 29, 30 (first and second paragraphs), 32, 33, 36, and 37 (first paragraph) of this constitution may be suspended in all or in part of the national territory, for a period not greater than forty-five calendar days, whenever the security of the State may require it, or in case of war or invasion of the national territory, grave disturbance of order, or other happenings profoundly disturbing the public tranquillity.

Suspension of the constitutional guarantees may be carried out only by means of a special law enacted by the Congress, or by means of a decree of the Executive; however, in the latter case, and in the same decree of suspension, the Congress shall be convened within a period of forty-eight hours and assembled as a single body to ratify or refuse the suspension, balloting by name and by a majority of votes. In case the Congress, thus assembled, should vote against the suspension, the guarantees shall automatically stand re-established.

Art. 42. The territory in which the guarantees referred to in the preceding article may have been suspended, shall be governed by the law of public order previously enacted; however, neither in the said law, nor in any other, may there be suspension of any guarantees other than those mentioned. Likewise, no statement of new crimes shall be made, or any penalties imposed, other than those established by law at the time of the suspension

Those arrested for reasons that may have been stipulated in the suspension must be confined in special places designated for persons prosecuted or punished for political or social crimes.

The Executive is forbidden to hold any person in arrest for more than ten days without delivering him to judicial authority.

TITLE V CONCERNING THE FAMILY AND CULTURE

First Section

FAMILY

Art. 43. The family, motherhood, and marriage are under the protection of the State.

Only marriages authorized by officials having legal capacity to effect them are valid. Civil marriage is gratuitous and shall be recognized by the law.

Marriage is the legal basis of the family, and rests upon absolute equality of rights of both husband and wife. The economic relationship between husband and wife shall be regulated in accordance with this principle.

The married woman enjoys the full advantages of equal civil capacity, with no necessity for marital permission or authorization in order to manage property, freely to engage in trade, to enter industry or a profession, to practice an art, to hold office, and to dispose of the product of her labour.

Marriage may be dissolved by agreement of the husband and wife, or in the petition of either of the two, for the reasons and in the form established in the law.

The tribunals shall determine the cases in which, for reasons of justice, the union between persons with legal capacity to contract marriage shall be deemed comparable, in stability and special status, to civil marriage.

Allowances for support in favour of the woman and the children shall enjoy preference with respect to all other obligations, and this preference may not be derogated by any condition of unattachability of property, salary, pension, or economic investment of any kind whatever.

Unless the woman shall be proved to possess adequate means of subsistence, or unless she shall be declared at fault, periodic payments shall be fixed for her benefit proportionate to the economic position of the husband, and at the same time taking into account the necessities of social life. These payments shall be made and guaranteed by the divorced husband, and shall continue until his former spouse shall contract a new marriage, without detriment to the allowance that shall be fixed upon each child and which must also be guaranteed.

The law shall impose adequate penalties upon those who, in case of divorce, separation, or any other circumstance, shall try to flout or evade this responsibility.

Art. 44. Parents are obliged to support, tend, educate, and instruct their children, and the latter to respect and assist their parents. The law shall assure the fulfilment of these duties with guarantees and adequate penalties.

Children born out of wedlock to a person who at the time of conception may have been able to contract marriage, have the same rights and duties as are stipulated in the preceding paragraph, except for what the law prescribes in regard to inheritance. For this purpose, children born out of wedlock, of married persons, when the latter acknowledge the children, or when the filiation is established by declaration, shall also have equal rights. The law shall regulate the investigation of paternity.

All qualifications on the nature of filiation are abolished. No statement may be made differentiating between births, either upon the civil status of the parents in the written records of the latter, or in any registry of baptism or certificate referring to the filiation.

Art. 45. Budget, insurance, and social assistance shall be employed in accordance with standards of protection for the family, established in this constitution.

Childhood and youth are protected from exploitation and from moral and material neglect. The State, the provinces, and the municipalities shall organize adequate institutions for this purpose.

Art. 46. Within the restrictions stipulated in this constitution, Cubans shall be free to bequeath one-half of their inheritance.

Second Section

CULTURE

Art. 47. Culture in all its manifestations constitutes a primary interest of the State. Scientific investigation, artistic expression, and the publication of their results, as well as education, are in this regard free, without prejudice to the inspection and regulation by the State, established by law.

Art. 48. Primary instruction is obligatory for minors of school age, and its dispensation shall be the obligation of the State, without lessening the co-operative responsibility falling to municipal initiative.

Both primary and pre-primary instruction shall be gratuitous when imparted by the State, province, or municipality. The necessary teaching materials shall likewise be gratuitous.

Secondary basic instruction and all higher instruction imparted by the State or the municipalities, exclusive of specialized pre-university and university studies, shall be gratuitous.

In institutes created, or which may be created in the future in the pre-university category, the law may maintain or establish the payment of a

moderate co-operation fee for matriculation, that shall be designated for the upkeep of each establishment.

As far as possible, the State shall offer fellowships for the enjoyment of non-gratuitous official instruction to students who, having determined their vocations and having exceptional aptitudes, are prevented by insufficiency of resources from carrying on such studies on their own account.

Art. 49. The State shall maintain a system of schools for adults, especially dedicated to the elimination and prevention of illiteracy; rural schools predominantly practical, organized with a view to the interest of small communities of agricultural, maritime, or any other type; art schools, and technical institutes of agriculture, industry, and commerce, oriented in a manner to respond to the necessities of the national economy. All these kinds of instruction shall be gratuitous and the provinces and municipalities shall collaborate in their maintenance to the extent of their means.

Art. 50. The State shall maintain the normal schools necessary for the technical preparation of the teachers in charge of primary instruction in the public schools. No other educational centre may issue degrees for primary teachers, with the exception of the schools of pedagogy of the universities.

The previous provisions do not exclude the right of schools created by law, to issue pedagogical degrees relating to special matters that may be the subject of their instruction.

Holders of these pedagogical degrees of special capacity shall have the right, with full preference, to occupy vacant positions or those that may be created in the respective schools and specialized fields.

The degrees of Master of Economy, Arts, Domestic and Industrial Sciences, issued by the school of the household are required for the instruction of women in domestic economy, cutting and needlework, and women's industries.

Art. 51. Public instruction shall be organized in an organic form, so that adequate articulation and continuity may obtain for all grades, including the higher. The official system shall provide vocational stimulus and development in the light of the multiplicity of the professions, and taking into account the cultural and practical necessities of the nation.

All instruction, public or private, shall be inspired by a spirit of Cubanism and human solidarity, tending to form in the minds of those being educated a love for their Fatherland, its democratic institutions, and for all those who have fought for one or the other.

Art. 52. All public instruction shall be provided for in the budgets of the State, the provinces, or the municipalities, and shall be under the technical and administrative direction of the Minister of Education, with the exception of

departments of instruction that, because of their special character, are subordinate to other ministries.

The budget of the Ministry of Education shall not be less than the normal budget of any other ministry except in case of emergency declared by law.

The monthly salary of a teacher of primary instruction must not be, in any case, less than a millionth part of the total budget of the nation.

Persons holding official teaching positions have the rights and duties of public officials.

Appointments, promotions, transfers, and dismissals of public teachers and professors, inspectors, technicians, and other school officials, shall be regulated in such a manner that no considerations other than strictly technical ones may apply, but this stipulation shall not affect the vigilance over the moral conduct to which such officials must conform.

All directorial and supervisory positions in official primary instruction shall be discharged by technical graduates of the corresponding university faculties.

Art. 53. The University of Havana is autonomous and shall be governed in accordance with its statutes, and with the law upon which the said statutes must be based.

The State shall contribute to the creation of university endowment funds and to the support of said university, appropriating for this purpose the amount fixed by law in its national budgets.

Art. 54. Official or private universities and any other institutions and centres of higher learning may be created. The conditions by which they may be regulated shall be determined by law.

Art. 55. Official instruction shall be laic. Centres of private instruction shall be subject to regulation and inspection by the State; however, in all cases the right shall be preserved of imparting, separate from technical instruction, the religious education that may be desired.

Art. 56. In all teaching centres, public or private, the teaching of Cuban literature, history and geography, civics and the constitution, must be imparted by teachers who are Cuban by birth, and by means of textbooks by authors who have the same qualification.

Art. 57. In order to exercise the teaching profession it is necessary to prove one's qualifications in the form stipulated by law.

The law shall determine what non-teaching professions, arts, or offices require degrees for their practice, and the manner in which such degrees must be obtained. The State shall assure employment preference in positions of public service to citizens officially prepared with the proper specialized training.

Art. 58. The State shall regulate, by means of a law, the preservation of the cultural treasures

of the nation and its artistic and historical riches, and shall likewise give special protection to the national monuments and to places notable for their natural beauty or for their recognized artistic or historical value.

Art. 59. A national council of education and culture shall be created which, presided over by the Minister of Education, shall be in charge of the encouragement, technical direction, or inspection of the educational, scientific, and artistic activities of the nation.

The opinion of this body shall be heard by the Congress on every bill relating to matters within its competence.

Positions on the national council of education and culture shall be honorary and uncompensated.

TITLE VI

CONCERNING LABOUR AND PROPERTY

First Section

LABOUR

Art. 60. Labour is an inalienable right of the individual. The State shall employ all the resources in its power to provide an occupation for everyone who lacks one, and shall assure the economic conditions necessary for a proper existence to every worker, manual or intellectual.

Art. 61. Every worker, manual or intellectual, in public or private enterprise of the State, province, or municipality shall have a guaranteed minimum salary or wage, which shall be determined in keeping with the conditions of each region and the normal necessities of the worker, from material, moral and cultural considerations, and considering him as the head of the family.

The law shall establish the manner of periodically regulating the minimum salaries or wages by means of committees with equal representation for each branch of labour, according to the standards of living, the peculiarities of each region, and each industrial, commercial, or agricultural activity.

In labour performed by the complete task, it shall be obligatory that the minimum wage for a day's work be reasonably assured.

The minimum of all salaries or wages is unattachable, except in case of responsibilities for payment of allowances in support of other persons in the form that the law may establish. The tools of labour belonging to workers are also unattachable.

Art. 62. For equal work under identical conditions, an equal salary shall always be paid regardless of persons.

Art. 63. No discount not authorized by the law may be made on any wage or salary of manual time.

Amounts owing to workers for services and wages earned in the past year shall have preference over any others.

Art. 64. Payment in tickets, tokens, merchandise or any other article by which an attempt is made to replace money of legal tender is absolutely prohibited. Violations of this prohibition shall be punishable by law.

Day labourers shall receive their salary within a period not longer than one week.

Art. 65. Social insurance benefits are established as irrenunciabile and imprescriptible rights of workers, with the equitable co-operation of the State, the employers, and the workers themselves, for the purpose of protecting the latter in an effective manner against illness, old age, unemployment, and the other exigencies of labour, in the form that the law may determine. The rights of old-age pensions and death benefits are likewise established.

The administration and governing of the institutions to which the first paragraph of this article refers shall be the duty of organizations elected with equal representation by employers and workers, with the participation of a representative of the State, in the form determined by law, except in the case of that created by the State for the bank of social insurance.

Insurance covering accidents of work and for occupational diseases, at the exclusive expense of the employer and under the control of the State, is declared equally obligatory.

Social insurance funds or reserves may not be transferred, and may not be used for any purposes other than those that determined their creation.

Art. 66. The maximum working day shall not exceed eight hours. This maximum may be reduced to six hours a day for persons more than fourteen and less than eighteen years of age.

The maximum working week shall be forty-four hours, equivalent to forty-eight hours in pay with the exception of industries which, because of their nature, must carry on uninterrupted production within a certain period of the year, until the specific regulation in these exceptional cases is determined by law.

Labour and apprenticeship are prohibited to persons less than fourteen years of age.

Art. 67. The rights of all manual and intellectual workers to one month of vacation with pay for every eleven months of work in every natural year is established. Those who, on account of the type of work or other circumstances, may not have worked the eleven months, shall have the right to vacation on pay for a period proportional to the time worked.

When workers stop work on account of a national holiday or mourning, employers must guarantee them the corresponding wages for this time.

There shall be only four days of national holiday or mourning on which the closing of industrial or commercial establishments or those of public entertainment is obligatory. The remaining official

holiday or mourning days shall be celebrated without suspension of the economic activities of the nation.

Art. 68. No wage differential may be established between married women and single women.

The law shall regulate the protection of motherhood of women in manual work, extending this protection to women who are clerical workers.

A pregnant woman may not be dismissed within three months before child-birth, or be required to do work that may require considerable physical effort.

During the six weeks immediately preceding childbirth and the six weeks following, a woman shall enjoy obligatory vacation from work on pay at the same rate, retaining her employment and all the rights pertaining to such employment and to her labour contract. During the nursing period, two extraordinary daily rest periods of half an hour each shall be allowed her to feed her child.

Art. 69. The right of organization is recognized for employers, private employees, and workers, for the exclusive purposes of their economic-social activity.

The competent authority shall have a period of thirty days in which to admit or refuse to admit the registry of a workers' or employers' association. The registration shall determine the juridical personality of the workers' or employers' association. The law shall regulate everything concerned with the recognition of the association by the employers and by the workers respectively.

Associations may not be finally dissolved until a provisional decision has been made by the tribunals of justice.

The officials of these associations shall be exclusively Cubans by birth.

Art. 70. Official obligatory collective organization is established in the practice of university-trained professions. The law shall determine the form of the organization and functioning of such bodies, by a higher organization of national character, and by the local organizations that may be necessary, in a manner such that they may be regulated with full authority by the majority of their colleagues.

The law shall also regulate the obligatory collective organization of the other professions recognized officially by the State.

Art. 71. The right of workers to the strike and the right of employers to the lockout is recognized, in conformity with the regulations that the law may establish for the exercise of both rights.

Art. 72. The law shall regulate the system of collective contracts of labour, the fulfilment of which shall be obligatory for both employers and workers.

Stipulations implying renunciation, diminution, impairment, or relinquishment of any right in favour of the worker that is recognized in this Constitution or in the law, even if expressed in a

labour contract or in any other pact, shall be null and shall not obligate the contracting parties.

Art. 73. The working population shall be preponderantly Cubans by birth as regards the total amount of wages and salaries as well as that of each separate category of labour, in the form determined by law.

Protection shall also be extended to naturalized Cubans with families born in the national territory, with preference over naturalized citizens who do not meet these conditions and over aliens.

The stipulations in the preceding paragraphs concerning aliens shall not be applied in the filling of indispensable technical positions, subject to the prior formalities of the law, and with provision that apprenticeship in the technical work in question be facilitated for native Cubans.

Art. 74. The ministry of labour shall take care, as an essential part, among others, of its permanent social policy, that discriminatory practices of no kind shall prevail in the distribution of opportunities for labour in industry and commerce. In personnel changes and in the creation of new positions, as well as in new factories, industries, or businesses that may be established, it shall be obligatory that opportunities for labour be distributed without distinction on a basis of race or colour, provided that requirements of ability are satisfactorily met. It shall be established by law that any other practice shall be punishable and may be prosecuted officially or at the instance of the aggrieved party.

Art. 75. The formation of co-operative enterprises, whether commercial, agricultural, industrial, of the consumer, or any other type, shall be subject to regulation by the law; but the latter shall regulate the definition, constitution, and functioning of such enterprises in order that they shall not serve to evade or abridge the provisions that this constitution establishes for the regulation of labour.

Art. 76. The law shall regulate immigration in keeping with the national economic system and with social necessities. The importation of contract labour, as well as all immigration tending to debase the condition of labour, is prohibited.

Art. 77. No enterprise may discharge a worker except for good reason and with the other formalities that the law which determines the just causes for dismissal shall establish.

Art. 78. The employer shall be responsible for compliance with the social laws, even when labour is contracted by an intermediary agency.

In all industries and kinds of labour in which technical knowledge is required, apprenticeship shall be obligatory in the form that the law may establish.

Art. 79. The State shall support the creation of low-cost dwellings for workers.

The law shall determine the enterprises that,

by employing workers outside of population centres, are obliged to provide adequate housing for workers, as well as schools, infirmaries, and other services and advantages in behalf of the physical and moral well-being of the worker and his family.

The conditions which shops, factories, and places of work of all kinds must maintain shall likewise be regulated by law.

Art. 80. Social assistance shall be established under the direction of the Ministry of Health and Social Assistance: this assistance shall be organized by special legislation, which shall appropriate funds to provide for the necessary reserves.

Hospital, sanitary, medical examiners', and other positions that may be necessary in organizing the corresponding official services in an adequate manner, shall be established.

Charitable institutions of the State, province, and municipality shall offer services of a gratuitous character only to the poor.

Art. 81. Reciprocity is recognized as a social principle and practice.

The law shall regulate its operation in such a manner that persons of modest means may enjoy its benefits, and at the same time so that it shall render a fair and adequate protection to the professional.

Art. 82. Only Cubans by birth and naturalized Cubans who have held their status as such for five years or more prior to the date of their seeking authorization to practise, may practise professions that require official title, except as provided in article 57 of this constitution. However, the Congress may, by special law, grant temporary suspension of this provision when, for reasons of public utility, the co-operation of foreign professionals and technicians shall be necessary or convenient in the development of public or private undertakings of national interest. Such a special law shall fix the limits and period of the authorization.

In the fulfilment of this provision, as well as in cases in which, by any law or regulation, the practice of any new profession, art or office may be regulated, the working rights acquired by persons who until that time may have practised the profession, art or office in question, shall be respected, and the principles of international reciprocity shall be observed.

Art. 83. The law shall regulate the manner in which factories and shops may be transferred for the purpose of avoiding debasement of the conditions of labour.

Art. 84. Problems arising from the relations between capital and labour shall be submitted to committees of conciliation, composed of equal representation of employers and workers. The law shall stipulate the judicial officials who shall preside over the said committees, and the national

tribunal before which their decisions are appealable.

Art. 85. In order to assure compliance with social legislation, the State shall provide for the supervision and inspection of enterprises.

Art. 86. The enumeration of the rights and benefits to which this section refers shall not exclude others arising from the principle of social justice, and they shall be equally applicable to all elements involved in the process of production.

Second Section

PROPERTY

Art. 87. The Cuban State recognizes the existence and legitimacy of private property in the fullest concept of its social function, and with no further limitations than those that may be established by law for reasons of public necessity or social interest.

Art. 88. The subsoil belongs to the State, which may make concessions for its exploitation, in conformity with what the law may establish. Mining property granted and not exploited within the period that the law may fix shall be declared null and shall revert to the State.

Land, forests, and concessions for the exploitation of the subsoil, utilization of waters, means of transportation, and every other enterprise of public service, must be exploited in a manner favourable to the social welfare.

Art. 89. The State shall have the right to be a party in all auctions or forced sales of real property and of things representative of values in immovable property.

Art. 90. Latifundia are outlawed, and in order to effect their disappearance the law shall stipulate the maximum extent of property that each person or corporation may possess for each type of exploitation for which the land may be employed, at the same time taking into account individual circumstances.

The law shall restrictively limit acquisition and possession of land by foreign persons and companies, and shall adopt measures tending to revert the land to Cuban ownership.

Art. 91. The father of a family who lives upon, cultivates, and directly exploits a rural property that he owns, provided that the value of the latter does not exceed 2,000 pesos, may declare it of irrevocable character as family property as soon as it may be essential for his living and subsistence, and said property shall be exempt from taxes and shall be unattachable and inalienable except for responsibilities incurred prior to this constitution. Improvements that exceed the sum above mentioned shall pay the corresponding taxes in the manner that the law may establish. In order to exploit the said property the owner may mortgage it, or give sowings, plantings, fruits, or products of the same as guarantees.

Art. 92. Every author or inventor shall enjoy exclusive ownership of his work or invention, with the limitations stipulated by law as to time and form.

Concessions of industrial and commercial trademarks, and other recognition of mercantile credits with indications of Cuban origin, shall be null if such concessions are used in any way for protecting or covering articles manufactured outside of the national territory.

Art. 93. No perpetual charges on property in the character of perpetual interest payments or other charges of an analogous nature may be imposed, and, furthermore, the establishment of such charges is prohibited. The Congress shall approve a law regulating the liquidation of the existing charges within a period of three legislative terms.

Perpetual interest payments, or charges established, or which may be established, to the benefit of the State, province, or municipality, or in favour of public institutions of all kinds or of private institutions of beneficence are excepted from the stipulations of the preceding paragraph.

Art. 94. It is the obligation of the State to take a census of population at least every ten years, that shall reflect all the economic and social activities of the country. The State shall also publish a statistical yearbook regularly.

Art. 95. The property of charitable institutions is declared to be imprescriptible.

Art. 96. Those areas of land given by persons of old Spanish nobility for the founding of a town or community, and effectively employed for this purpose, acquiring the character of a municipal government, though afterwards occupied or held by the heirs or inheritors of the donor, are declared to be in the nature of a public utility and therefore subject to expropriation by the State, the province, or the municipality.

The inhabitants of such a town or city, who possess buildings or occupy lots in the settled part, may obtain ownership or possession of the estates or sections of land that they may be occupying, by payment of a fair proportionate price through the expropriating body empowered to transfer the said property to them.

HISTORICAL SURVEY OF THE CUBAN CONSTITUTIONS'

The present constitution of 1940, promulgated on 5 July and published in the Official Gazette for 8 July of that year, has a long historical development which we regard as having started with the Spanish Constitution of Cadiz, 1812, and also a doctrinal tradition deeply rooted in the earliest manifestations of the political, liberal and individualist philosophy of the eighteenth century, the most distinguished original exponents of which were Father José Agustín Caballero (1771-1835) and the priest Félix Varela (1788-1853).

In the political evolution of Cuba we find the interesting case that four revolutionary constitutional texts preceded the final consolidation of the State in 1901. The four constitutional texts in question are: the Constitution of Guaimaro (1869); the Constitution of Baraguá (1878); the Constitution of Jimaguayú (1895) and the Constitution of La Yaya (1897), all promulgated by the nation under arms, in the course of its various historic struggles; the earlier ones were abortive, but the final victory was achieved in 1895, when the nation declared itself independent of metropolitan Spain and was constituted as a sovereign State. The autonomous Constitution of 1897 is not mentioned here, because it was merely a statute giving Cuba colonial dominion status but not statehood; nor is the provisional constitution of Santiago of 1898 cited, because it was nothing more than a political regulation for a nation suffering intervention.

The characteristic feature of all the constitutions preceding the definitive foundation of the Cuban State is that they were inspired by the enlightened tradition of the eighteenth century, and especially by North American individualism and the Constitution of the United States of America. They contained the usual declarations of the rights of man and of the citizen, and, since they were constitutions designed for a nation in arms, almost all of them provided for a solid structure of presidential and executive power so as to make the consecrated and energetic prosecution of war possible. None of them, however, failed to create legislative bodies safeguarding representative democracy, and under all of them the newly emerging State was republican in form.

The Cuban State was definitively founded in 1901 and was given a republican constitution with a form of government emphasizing the presidential office, and a two-chamber Legislature (Chamber and Senate) not absolutely independent of the judiciary, and a broad charter of human rights, inspired by the declarations of the Constitution of the United States of America and hence by its individualist liberal tradition.

This constitution remained in force until 1928, when it was revised in technical but not structural respects; the fundamental principles on which the political organization of the Cuban Republic was founded in 1902 were unaffected. As a result of the successive political and revolutionary crises in Cuba between 1933 and 1940, a series¹ of occa-

¹ English translation from the Spanish text by the United Nations Secretariat.

¹ Decree No. 1298 of 24 August 1933 re-establishing the Constitution of the Republic of Cuba of 1901; Statutes for the Provisional Government of Cuba (1933); Constitutional Law of the Republic of Cuba (1934); Joint Resolution of 8 March 1935 of the Provisional Governments, repealing the Constitutional Law of 1934; Constitutional Resolutions of the Provisional Government of Cuba (1935); Constitutional Law of the Republic of Cuba (1935) and the Reforms of 25 January and 16 December 1936.

sional and highly centralized texts was produced, providing for a strong Executive; these gave the Cuban nation a provisional political structure, until the restoration of public order made it possible to hold elections for a Constituent Assembly which finally drew up the definitive constitution.

This Assembly met in 1940 and terminated its work on 5 July of the same year, promulgating a text which, whilst not changing the basic structure of the State as established in 1902, nevertheless introduced an innovation by dropping the tradition for strong presidential power and replacing it by a semi-parliamentary regime; in practice, however, this has not yet functioned. Under the conditions of our political life, the Head of the State is invested with such wide powers that the structure of the Executive Power, with a Council of Ministers and a Prime Minister and Ministers

without Portfolio, is hardly effective. The judiciary has been strengthened and has become more independent under the 1940 constitution, which also contains safeguards for the social function of property, and provisions making large estates illegal, establishing the social rights of man and the cultural function of the State, and relating to social justice and family life. It is a very advanced charter, which, as soon as the various executive and supplementary laws required to make its principles fully valid have been passed, will bring about the improvement, advancement and justice of our country.

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CZECHOSLOVAKIA

THE CONSTITUTIONAL CHARTER OF THE CZECHOSLOVAK REPUBLIC¹ of 29 February 1920

SECTION V RIGHTS, LIBERTIES AND DUTIES OF THE CITIZEN

Equality

Art. 106. 1. Privileges due to sex, birth or occupation shall not be recognized.

2. All persons residing in the Czechoslovak Republic shall enjoy within its territory, in equal measure with the citizens of this Republic, complete and absolute security of life and liberty without regard to origin, nationality, language, race or religion. Exceptions to this principle may be made only so far as is compatible with international law.

3. Only such titles may be conferred as designate official rank or a profession. This enactment in no way affects academic honours.

Personal Freedom and Freedom of Property

Art. 107. 1. Personal freedom shall be guaranteed. Details shall be laid down by an enactment which shall form part of this constitutional charter.

2. No person shall be deprived of personal liberty or restricted in the enjoyment of the same except upon legal grounds. Public authorities can demand personal services from a citizen only on legal grounds.

Art. 108. 1. Every citizen of the Czechoslovak State may take up his abode wheresoever he will in the Czechoslovak Republic, may acquire there real property and carry on any calling for the purpose of earning profits within the limits of the law.

2. This right shall suffer restriction only in the public interest and on the basis of law.

Art. 109. 1. Private ownership may be restricted only by law.

2. Expropriation is possible only on the basis of law. Compensation shall be given in all cases unless it is or shall be provided by law that no compensation be given.

Art. 110. The right to emigrate abroad may be restricted only by law.

Art. 111. 1. Taxation and public levies generally may be imposed only by law.

2. Likewise only by law may fines and punishment be prescribed and imposed.

Domestic Liberty

Art. 112. 1. Domestic rights are inviolable.

2. Details shall be laid down by a law which shall form part of this constitutional charter.

Freedom of the Press, the Right of Free Assembly and Association

Art. 113. 1. Freedom of the press as well as the right to assemble peaceably and without arms and to form associations, is guaranteed. It is therefore in principle inadmissible to place the press under preliminary censorship. The manner in which the right of forming associations and the right of free assembly shall be exercised shall be determined by law.

2. An association may be dissolved only when its conduct violates the law of the land or disturbs public peace and order.

3. Restrictions may be imposed by law especially in cases of assembly in places which serve as public thoroughfares, in cases of the establishment of associations for the purpose of profit, and in cases of the participation of foreigners in political associations. The law shall also state what restrictions shall be placed on the principles of the foregoing paragraphs in time of war or in case of events taking place within the State seriously threatening the republican form of government, the Constitution or public peace and order.

Art. 114. 1. The right of association to safeguard and ameliorate conditions of employment and economic conditions shall be guaranteed.

2. All acts of individuals or societies which constitute an intentional violation of this right are prohibited.

The Right of Petition

Art. 115. The right of petition shall be enjoyed by every person. Legal persons and corporations shall enjoy this right only within the bounds of their competence.

Postal Inviolability

Art. 116. 1. Inviolability of matter entrusted to the mail is guaranteed.

2. Details shall be determined by enactment.

¹The Constitution of the Czechoslovak Republic, Czechoslovak Government Information Service, New York, 1944.

*Liberty of Instruction and of Conscience.**Liberty of Expressing Opinion*

Art. 117. 1. Every person may within the limits of the law express his or her opinion by word, in writing, in print, by picture, etc.

2. The same applies to legal persons within the limits of their competence.

3. No one shall suffer in the sphere of his work or employment for exercising this right.

Art. 118. Scientific research and the publication of its results, as well as art, are free so far as they do not violate the penal code.

Art. 119. Public instruction shall be given so as not to be in conflict with the results of scientific investigation.

Art. 120. 1. Private establishments for instruction and education are permitted to be set up only within the limits of the law.

2. The supreme authority and control over all instruction and education shall be in the hands of the State.

Art. 121. Liberty of conscience and religious creed is guaranteed.

Art. 122. All inhabitants of the Czechoslovak Republic enjoy, in the same degree as the citizens of the Republic, the right to profess and exercise publicly and privately any creed, religion or faith whatsoever, so far as the exercise of the same is not in conflict with public law and order or with morality.

Art. 123. No one shall be compelled either directly or indirectly to take part in any religious rite or ceremony whatsoever, rights pertaining to paternal or guardian authority being nevertheless respected.

Art. 124. All religious confessions shall be equal before the law.

Art. 125. The performance of specific religious rites may be prohibited if they are in conflict with public order or public morals.

Marriage and Family

Art. 126. Wedlock, family, and motherhood shall be under the special protection of the law.

Military Service

Art. 127. 1. Every able-bodied citizen of the Czechoslovak Republic shall undergo military training and shall obey the summons when called upon for the defence of the State.

2. Details shall be settled by enactment.

SECTION VI

PROTECTION OF NATIONAL, RELIGIOUS AND RACIAL MINORITIES

Art. 128. 1. All citizens of the Czechoslovak Republic shall be in all respects equal before the law and shall enjoy equal civic and political rights whatever be their race, their language or their religion.

2. Difference in religion, belief, confession or language shall within the limits of the common

law constitute no obstacle to any citizen of the Czechoslovak Republic, particularly in regard to entry into the public services and offices, to attainment to any promotion or dignity, or in regard to the exercise of any trade or calling.

3. Citizens of the Czechoslovak Republic may, within the limits of the common law, freely use any language they choose in private and business intercourse, in all matters pertaining to religion, in the press and in all publications whatsoever, or in public assemblies.

4. This, however, does not affect the rights conferred on the State organs in these matters by laws already in force or to be passed in the future with a view to public order, the security of the State or effective control.

Art. 129. The principles on which the rights as to language in the Czechoslovak Republic are based shall be determined by a special enactment which shall form part of this constitutional charter.

Art. 130. In so far as citizens of the Czechoslovak Republic are entitled by the common law to establish, manage and administer at their own cost philanthropic, religious, or social institutions, they are all equal, no matter what be their nationality, language, religion or race and may, in such institutions, make use of their own language and worship according to their own religious ceremonies.

Art. 131. In towns and districts in which there lives a considerable fraction of Czechoslovak citizens speaking a language other than Czechoslovak, the children of such Czechoslovak citizens shall, in public instruction and within the bounds of the general regulations relating thereto, be guaranteed a due opportunity to receive instruction in their own tongue. The Czechoslovak language at the same time may be prescribed as a compulsory subject of instruction.

Art. 132. In towns and districts where there is living a considerable fraction of Czechoslovak citizens belonging to some minority, whether in respect of religion, or nationality or language, and where specific sums of money from public funds are set out in the State budget or in the budget of local or other public authorities to be devoted to education, religion, or philanthropy, a due share in the use and enjoyment of such sums shall be secured to such minorities within the limits of the general regulations for public administration.

Art. 133. The method of carrying out the principles embodied in articles 131 and 132 and especially the interpretation to be assigned to the expression "considerable fraction" shall be determined by special enactment.

Art. 134. Every manner whatsoever of forcible denationalization is prohibited. Non-observance of this principle may be proclaimed by law to be a punishable act.

CZECHOSLOVAK LEGISLATION AND THE RIGHTS OF MAN¹

Articles 106 to 134 of the Constitutional Act contain two sorts of provision, as indicated by their division into two chapters entitled "Rights and Liberties, together with Duties, of Citizens", and "Protection of National, Religious and Racial Minorities".

These two types of provision are regarded from different angles. In principle, all provisions relating to the rights, freedoms and duties of citizens are regarded as being in force. The years of occupation by Germany, having brought a complete disregard of those rights, made them still more precious to every Czechoslovak. Similarly, the provisions relating to the protection of religious and racial minorities are regarded as valid.

The position is, however, very different with regard to the protection of national minorities. Although Czechoslovakia had given the widest possible protection to the minority rights of nationality groups, the latter did not hesitate to contribute to the dismemberment of the Czechoslovak State in 1938 and 1939. Hence the leaders of the national revolution, in statements both at home and abroad, demanded that after the war national minorities should be expelled from the country. The programme drawn up at Kosice and published on 5 April 1945 as the programme of the first government on the liberated territory of the State, deals in detail with this question in chapter VII, and promises that the German and Magyar minorities which were guilty *vis-à-vis* the Czechoslovak people will be expelled.

It was in conformity with this programme that the Czechoslovak Government asked the great Powers for the transfer of the German minority, and obtained it by the Potsdam decision. Negotiations took place and are still going on in connexion with a similar solution in respect of the Hungarian minority. In accordance with the Kosice programme, the Czechoslovak Republic has become a national State of Czechs and Slovaks. Consequently, even before this state of affairs is expressed in the new constitution, now in preparation, the provisions of the Constitution of 1920 with regard to national minorities have become pointless.

With regard to religious minorities and the question of religion in general, nothing has been changed; it is considered that this question has been settled in its essentials. The question of race has never played a part in Czechoslovakia.

Let us now turn to the various freedoms of man and of the citizen guaranteed by the Constitution.

The principle of equality of citizens, established by article 106 of the Constitution, has undergone

no change. The same applies to the freedom of the individual guaranteed by article 107. The last sentence of article 107, which stipulates that the public authorities may require personal labour service only by virtue of a law, will serve as a basis for the provisions of the law which is being prepared on the subject of compulsory labour. Article 108 of the Constitutional Act lays down that a Czechoslovak citizen may acquire a building at any place in Czechoslovak territory, and that this right cannot be limited except by law.

This article and the following one (article 109) guarantee private property. Article 109 declares that private property cannot be subject to limitation except by law, and expropriation may only take place in virtue of the law and in return for compensation, unless, in certain exceptional cases, the law provides otherwise. It is in conformity with this provision that the decree-laws on nationalization of 11 October 1945, No. 50 of 24 October 1945, No. 100 of 24 October 1945, Nos. 101, 102 and 103, subsequently confirmed by the National Assembly by the law of 28 May 1946, were passed. The provisions regarding the right to emigrate abroad, taxes and duties, penalties and the inviolability of the home (articles 110 to 112 of the Constitutional Act) remain unchanged as regards their application.

The right of association, guaranteed by articles 113 and 114, was dealt with by the decree of the President of the Republic, No 80 of 25 September 1945, which abrogates the decrees and measures passed during the occupation, under which several societies were suppressed. It thus re-establishes freedom of association as it existed before the war. It excepts, however, societies which were suppressed as a result of the fusion of trade union organizations, and those with a programme contrary to the present political organization of public life. We find here again the tendency to embody in rules of law what has been achieved by the revolution.

Article 114, which deals especially with the freedom of association to defend economic interests, has been supplemented by law No. 144 of 16 May 1946, on a single trade union organization. It stipulates that workers shall be organized in a single trade union, established in the form of an association grouping all wage-earners on the basis of freedom to join, complete equality and mutual solidarity. Its main purposes are to unite the workers, to induce them to collaborate actively in the construction of a democratic popular State, to guarantee them the rights arising from such activity, and to defend their economic, social and cultural interests.

¹ English translation from the French text by the United Nations Secretariat.

In article 113, the Constitutional Act guarantees the freedom of the press. That provision has remained in force. The Ministry of Information is preparing a number of bills on the subject of the press: for instance, a bill on the profession of newspaper editor, etc.

The other provisions under this head have undergone no change.

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DENMARK

CONSTITUTION OF DENMARK¹

of 5 June 1915

III

Art. 25. In particularly urgent cases, the King may, in between the sessions of the Rigsdag, decree provisional laws, which may never conflict with the Constitution and must in all cases be presented to the Rigsdag at its next meeting, without sanction of which the law shall not be considered as having force. Provisional laws shall be discussed first of all by the Folketing.

VII

Art. 73. Legislation shall prescribe the constitution of the national church.

Art. 74. Citizens have the right of forming themselves into communities for the worship of God in accordance with their convictions, provided that they teach or practise nothing opposed to morality or public order.

Art. 75. No person may be compelled to contribute personally to any religion other than his own.

Art. 76. Legislation shall deal with all matters relating to dissenting religious bodies.

Art. 77. No person may, because of his religious opinions, be deprived of the full enjoyment of his civil and political rights, nor avoid fulfilling his duties as a citizen.

VIII

Art. 78. Every individual who is arrested shall, within twenty-four hours, be brought before a judge. If he cannot be immediately released, the judge shall decree by an order stating the reason and made as soon as possible (and at the latest within three days), whether he should be detained. If he should be released on bail, the nature and amount of such bail shall be fixed by the judge.

A special appeal by the interested party from the order so made by the judge may at once be taken to the Superior Court.

No person may be subject to preventive detention for a crime which entails punishment only by fine or imprisonment.

Art. 79. The dwelling is inviolable. Domiciliary search or seizure or examination of letters and other documents is forbidden save in consequence

of a legal judgment, provided that exceptions may be specially prescribed by law.

Art. 80. Property is inviolable. No person may be deprived of his property save where the public good requires it. Expropriation can only take place in consequence of legislation and on payment of full indemnity.

When a bill dealing with expropriation of property has been passed, one-third of the members of the Folketing may, not later than fourteen days after the final passing of the bill, demand that it be not presented for confirmation to the King until new elections to the Rigsdag have been held, and the bill has also been passed by the new Rigsdag in joint session.

Art. 81. All restrictions prejudicial to the free exercise of the professions by all, which are not based on grounds of public good, shall be abolished by law.

Art. 82. Any person unable to provide for his upkeep and that of his dependants has, if the duty of supporting him does not lie on any other person, the right to State help on condition that he submits to the duties which the law prescribes in such matter.

Art. 83. Children whose parents have not the means to ensure their education have the right to free education in the public schools. Parents or guardians who themselves undertake the instruction of children according to the standard generally required by the public schools are not obliged to send their children to school.

Art. 84. Every person has the right to publish his opinions in the press, but remains liable to legal proceedings in connexion therewith. Censorship and other preventive measures may never be re-introduced.

Art. 85. Citizens have the right, without preliminary authority, of forming associations for every lawful purpose. No association may be dissolved by governmental action. Nevertheless, an association may be temporarily forbidden, but proceedings to effect its dissolution should at once be taken against it.

Art. 86. Citizens have the right of meeting unarmed. Police may be present at public meetings. Meetings in the open air may be forbidden when they become a danger to the public peace.

Art. 87. In case of civil tumult the armed forces, if they are not attacked, may only intervene

¹ *Select Constitutions of the World*, Dublin, 1922, pp. 297-308.

when the mob has been three times ineffectually summoned to disperse in the name of the King and the law.

Art. 88. Every man fit to bear arms is personally obliged to take part in the defence of the Fatherland, in accordance with the special rules prescribed by law.

Art. 89. The right of communes to the free administration of their affairs under State supervision shall be determined by law.

Art. 90. All privileges attaching by law to nobility, titles and rank are abolished.

Art. 91. No fee, manor inalienable or trust in realty shall be created henceforth; where those tenures exist at present, the manner of their conversion into free holdings shall be determined by a special law.

Art. 92. The provisions of articles 78, 85 and 86 apply to the Army subject to the restrictions imposed by military laws.

DOMINICAN REPUBLIC

CONSTITUTION OF THE DOMINICAN REPUBLIC¹ of 10 January 1942

TITLE II

CONCERNING INDIVIDUAL RIGHTS

Art. 6. The following are established as inherent to the human personality.

1. Inviolability of life. The penalty of death cannot be established, nor any other that implies the loss of the physical integrity of the individual. The law will be able, nevertheless, to establish the penalty of death for those who, in time of war with a foreign nation, become guilty of crimes opposing the fortune of the national forces, or of treason or espionage in favour of the enemy.

2. Freedom of labour, prohibiting, consequently, the establishment of monopolies for the benefit of private persons. The law may, as the general interest may require, establish the maximum working day, days of rest and vacation, minimum wages and salaries and their methods of payment, social insurance, preponderant participation of nationals in all labour, and, in general, all the measures of protection and assistance of the State that are considered necessary in support of the workers.

3. Freedom of conscience and of worship, without any other limitation than the respect owed to public order and good customs.

4. Freedom of education. Primary instruction will be subject to the supervision of the State and will be obligatory for the scholastic minor, in the form that the law establishes. This instruction will be gratuitous in official institutions, the same as with that which is given in schools of agriculture, manual arts, and domestic economy.

5. The right to express thoughts without subjection to previous censorship. The law will establish penalties applicable to those who act against the honour of persons, the social order, or the public peace.

6. Freedom of association and of assembly for pacific ends.

7. The right of property. This, however, can be taken for a duly justified reason of public utility or social interest, and with previous just indemnification. In cases of public calamity, the indemnification need not be given previously. General confiscation of goods remains prohibited, except as a penalty for persons guilty of treason

or espionage in favour 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 by means of legal proceedings in the substantiation of matters that are examined in the courts. Secrecy of telegraphic, telephonic, and cable communication is equally inviolable.

9. Inviolability of the home. No search of a house may be carried out except in cases foreseen by the law, and with the formalities that it prescribes.

10. Freedom of transit, except for restrictions that result from the execution of penalties imposed judicially, or of immigration and health laws.

11. The exclusive ownership, for the time and in the form that the law determines, of inventions and discoveries, as well as scientific, artistic, and literary productions.

12. Individual security. Therefore: (a) bodily restraint for a debt that does not arise from fraud or violation of penal laws will not be permitted; (b) no one may be sentenced to prison or restricted in his liberty without an order issued and written by a competent judicial official, except in cases *in flagrant delicto*; (c) no one may be tried twice for the same cause, or be obliged to testify against himself, or be condemned to any punishment, whatever may be the nature of it, unless he has been heard in a public session, or unless he has been subpoenaed in regular form. Cases for which the law creates disciplinary tribunals are excepted from being heard in a public session; (d) each person deprived of his liberty will be submitted to a competent judge or tribunal within forty-eight hours of his arrest, or placed at liberty. Each arrest will be left without effect or will be changed to imprisonment within forty-eight hours of having submitted the arrested person to the competent judge or tribunal, the person concerned, having been notified within the same time, of the judgment that is issued to this end; (e) each person deprived of his liberty without cause or without legal formalities or outside of the cases foreseen by the laws, will be placed immediately at liberty at his request or at that of some other person. The law will determine the manner of proceeding summarily in this case.

Art. 7. The enumeration contained in article 6 is not restrictive and therefore does not exclude the existence of other rights of similar nature.

¹ Spanish text in *Constitución de la República Dominicana*. Edición oficial, 1942. English translation in *The Constitutions of the Americas* (cited above, page 6).

TITLE VI

CONCERNING THE CONGRESS

Art. 33. The powers of the Congress are:

7. To declare a state of siege, in case of disturbance of the public peace, and to suspend, where that disturbance exists and for the time of its duration, individual rights established in article 6, clauses 5, 6, 10 and 12 (*b*), (*d*) and (*e*).

8. In case the national sovereignty is found exposed to serious or imminent danger, the Congress may declare that a state of national emergency exists, suspending the individual rights established in clause 2 to clause 12, both inclusive, of article 6 of this constitution. If the Congress shall not have convened, the President of the Republic may order the same measure, with the obligation of summoning the Congress, by the same act, so that it shall meet within the next

ten days, in order to decide upon the maintenance or revocation of the said measure. If it opposes, or if the Congress does not convene, said measure will cease automatically.

TITLE XV

GENERAL PROVISIONS

Art. 88. No one can be obliged to do that which the law does not command, or be impeded from doing that which the law does not prohibit.

Art. 103. The organization of political parties and associations is free, in accordance with the law, providing their tendencies conform with the principles established in the second article of this constitution.¹

¹ Article 2: The government is essentially civilian, republican, democratic and representative.

ECUADOR

POLITICAL CONSTITUTION OF THE REPUBLIC OF ECUADOR¹ of 31 December 1946

PART ONE

ORGANISATION

Chapter VI. *The Executive Function*

SECTION II. POWERS AND DUTIES OF THE PRESIDENT OF THE REPUBLIC

Art. 94. In the event of the imminent threat of foreign invasion or of international conflict or internal disturbance, the Executive shall apply to Congress, if it is in session, and if not to the Council of State, in order that, after considering the urgency of the situation, according to the information available and appropriate supporting documents, it may grant or refuse, with the restrictions it shall deem fit, some or all of the following extraordinary powers:

8. To arrest any persons suspected of favouring foreign invasion or internal disturbance, or of participating in such; but within a maximum of six days he shall place them at the disposal of the competent judge, with a report of the investigations made and other documents in justification of the arrest, or else he shall sentence them to imprisonment within the same six days.

Persons thus arrested shall be detained in accommodation other than common prisons.

9. To imprison any persons suspected of favouring war, and of taking part in internal disturbance. . . .

On the cessation of the extraordinary powers, prisoners and expatriates shall *ipso facto* regain their liberty and may return to their place of residence without safe-conduct or passport. . . .

10. To establish prior censorship, exclusively of news items in the press and radio; and

11. To declare the whole or part of the national territory to be a security zone, and to decree martial law.

Art. 96. The powers granted to the President of the Republic under Art. 94 shall be limited to the time, place and objects indispensable to the restoration of the peace or security of the Republic; all of which shall be specified in the decree granting such powers.

As soon as the circumstances necessitating the granting of extraordinary powers cease to exist, the Council of State shall withdraw such powers on its own responsibility.

The President of the Republic may delegate his extraordinary powers only to provincial governors and with the consent of the Council of State. Governors may imprison no one without the express order of the President of the Republic.

The President of the Republic and the civil authorities which carry out his orders shall be directly responsible for any abuse of power they may commit.

The authorities referred to in the foregoing clause shall also be held responsible for executing any orders which the President of the Republic may give in excess of his powers.

Art. 97. When Congress meets, the President of the Republic shall cease to exercise his extraordinary powers and shall submit to that body, within the first eight days of its session, a detailed report of the use he has made of such powers.

Congress shall take a decision approving the Government's procedure or declaring its responsibility.

Art. 99. Special responsibility shall be incurred by the President of the Republic or his deputy, in particular for treason to the country or conspiracy against the Republic.

He shall also bear special responsibility for infringement of the Constitution and the laws; violation of the constitutional guarantees; encroachment upon other State functions; refusal of the sanction of the law when he is obliged to give it, or impeding its promulgation; provocation of unjust war and exercise of extraordinary powers not constitutionally granted, or abuse of such powers.

PART TWO

RULES OF CONDUCT

Chapter I. *Fundamental Precepts*

Art. 159. All persons inhabiting national territory shall respect and obey the Constitution, laws and authorities of the Republic.

Art. 160. No authority in Ecuador shall be exempt from responsibility for the discharge of its functions.

Art. 161. No contract shall be valid which places one person at the disposal of another, in an absolute and indefinite manner; nor may the law prescribe conditions to the detriment of human dignity.

Art. 162. The State shall provide maternity

¹ Spanish text in *Registro Oficial*, Quito, 31 December 1946. English translation from the Spanish text by the United Nations Secretariat.

assistance and protect mother and child, without regard to antecedents.

The State shall make adequate arrangements for the protection and development of children under fourteen years of age who lack family and economic protection.

Art. 163. Marriage, the family and family property shall be protected by the State and governed by law.

Art. 164. Not only legitimate, but also illegitimate children shall have the right to be brought up and educated by their parents, and to inherit their estate in accordance with the provisions laid down by law.

In the event of dispute with legitimate children, each illegitimate child shall receive a portion of the inheritance equal to half that allotted to each legitimate child.

Art. 165. The law shall govern all aspects of filiation and its rights, and paternity investigation. On registration of birth, no statement need be made as to the quality of filiation.

Art. 166. The family estate shall be inalienable and immune from encumbrance, and the law shall govern its amount and other conditions.

Art. 167. The right to make a will and the right of inheritance are guaranteed within the limits prescribed by law.

Art. 168. Freedom of conscience is guaranteed in all its forms and aspects, in so far as it is compatible with morality and public order. The law shall make no discrimination on religious, ideological or racial grounds.

Art. 169. In seeking legal protection, all persons shall be held equal in the eyes of the law. No one may have rights granted him or obligations imposed on him which place him at an advantage or disadvantage compared with others.

No one may be removed from the jurisdiction of his proper judges; nor punished without previous trial, in accordance with a law passed prior to the act committed; nor judged by special commissions; nor deprived of the right of defence at any stage of his trial.

Art. 170. Work shall be compulsory for all members of the Ecuadorian community, subject to considerations of age, sex, health, etc., and allowing freedom of choice.

Art. 171. Children's education shall be the primary duty and right of parents or guardians. The State shall supervise the fulfilment of this duty and facilitate the exercise of this right.

Education and instruction, in so far as they are compatible with morality and republican institutions, shall be free.

Municipalities may subsidize private instruction given free of charge. Such subsidies shall not exceed twenty per cent of the revenue allotted to education. The Executive shall obtain the ap-

proval of the Council of State for any such assistance it may wish to provide.

Elementary education and public instruction in arts and crafts shall be free. Elementary education, either public or private, shall be compulsory.

In private or public free establishments, school social services shall be available, without discrimination, to pupils who require them.

In every grade of education the moral and civic training of pupils shall receive special attention.

Both public and private instruction shall pay special attention to the native race.

The country's entire teaching staff, both public and private, shall be represented on the national bodies responsible for the control of education, as prescribed by law.

Public education, whether Government, provincial or municipal, shall be secular; that is, the State, as such, shall neither teach nor attack any religion.

The State shall respect the right of parents or guardians to give their children the education they think fit.

Art. 172. Universities, both public and private, shall be autonomous.

In order to ensure the autonomy of the public universities, the law shall provide for the creation of university estates.

Art. 173. The State shall found and maintain special free training establishments for arts and crafts, trade, agriculture, and other types of remunerative work, which shall at the same time give moral and civic instruction. In schools and colleges, special sections for practical instruction shall develop the aptitudes of students for remunerative work.

In public establishments for elementary education and training in arts and crafts, the State shall provide the equipment necessary for apprenticeship free of charge to pupils who do not possess it.

Art. 174. It shall also be the duty of the State:

(a) To provide work for the unemployed.

(b) To protect production.

(c) To promote effectively the culture of natives and peasants.

(d) To maintain the Poor Law Administration.

(e) To effect, in accordance with social requirements, by means of expropriation if necessary, the allotment and development of uncultivated land.

Art. 175. No real estate in Ecuador shall be perpetually inalienable or indivisible.

Similarly, there shall be no perpetual or irredeemable servitudes.

Art. 176. State debts shall be paid in conformity with their respective contracts and with the Public Credit Law, which shall classify them according to origin and other circumstances.

The State may assign specific revenues as security for its obligations; but in no case may it grant

the creditor the right to collect the revenue so assigned.

Art. 177. Any contract made between a foreign person or company and the Government of Ecuador or any Ecuadorian natural or legal person shall always carry the express or tacit condition of renouncement of any claim through the diplomatic channel.

Art. 178. Public officials or employees violating any of the guarantees specified in this constitution shall be liable with their own property for any damages and injuries caused; and with regard to offences committed in violation of such guarantees, the following provisions shall be observed:

1. Accusation may be brought by any person.

2. Penalties imposed on a guilty official or employee may not be rescinded, reduced or commuted during the constitutional period in which the offence was committed; nor later, unless at least half the sentence has been served, and

3. The legal proceedings for such offences, together with the penalties imposed on those responsible for them, shall not lapse or begin to lapse until after the said constitutional period.

Civil liability shall be independent of criminal liability.

This article is without prejudice to the provisions of articles 46 and 50 concerning high officials.

Art. 179. No one may simultaneously hold two or more salaried public offices for any reason, with the exception of university professors and persons performing strictly technical duties or posts acceptance of which is compulsory; such persons may hold not more than two offices with the corresponding remuneration.

Similarly, no person may hold a post in the Central Bank, in the Credit Supply System banks and in the Savings Banks Institute, concurrently with a salaried public office, apart from the exception contained in the previous paragraph. Nevertheless, the president of the National Savings Institute, the provincial managers or delegates of savings banks and the managers of the above-named banks may not hold any salaried public office.

In the cases of incompatibility of office referred to in this article, dismissal shall not be regarded as a ground for claim to compensation.

No Ecuadorian may hold permanent office in the public service without the requisite appointment or evidence of election, nor may he make a labour contract to serve in a public office.

The performance of the legislative function is not a public office, but a democratic mandate. Other duties and functions compatible with such a mandate may continue to be exercised simultaneously.

Chapter II. Guarantees

SECTION I. GENERAL GUARANTEES

Art. 180. Aliens in Ecuador shall enjoy the same right as Ecuadorians in accordance with the

law, with the exception of political rights and the guarantees established by the Constitution in favour of Ecuadorians alone.

Art. 181. The freedom of exercising professions is guaranteed as prescribed by law, which shall also specify the cases requiring a licence and the method of obtaining it.

Art. 182. Taxes or other public charges may be levied only by virtue of a law and in proportion to the economic capacity of the taxpayer.

Art. 183. The right of private property is guaranteed in so far as this is compatible with the social function of such property. Confiscation of property is prohibited. Should such confiscation nevertheless occur, it shall in no way affect the rights of the injured party, nor shall it give rise to any prescriptive rights, and a summary action for damages shall lie against the authority which issued the order and against the Treasury.

No one may be deprived of the ownership or possession of his estate, save by virtue of a judicial mandate or by legally confirmed expropriation on grounds of public expediency.

Only the Treasury, the municipalities and other public law institutions may effect expropriation on grounds of public expediency.

Expropriation for the construction, widening and improvement of roads, railways, aerodromes and townships shall be governed by special laws.

Only the authorities exercising judicial functions in any sphere emanating from the law may pronounce judgment to impede or obstruct the free negotiation, transfer and conveyance of property. No order issued by any other authority shall have effect or be obeyed.

Art. 184. The law shall determine the frontier zone in which aliens shall be prohibited from acquiring, holding rights over or managing real estate, under penalty of forfeiting such rights to the State.

This prohibition shall not preclude aliens from serving on the staff of national institutions, or of institutions which may be established in frontier regions for reasons of national interest, by agreement or contract with the Executive; provided that the director and legal representative of such institutions be Ecuadorians.

Art. 185. The State shall see that justice is done in relations between employers and workers, that the dignity of the worker is respected, that he is ensured a decent existence and given fair wages to meet his personal and family requirements.

The law shall govern all working conditions, in conformity with the following basic rules:

(a) A working contract shall be compulsory between employers and workers, in the form prescribed by law.

(b) The worker's rights are inalienable, and any stipulation to the contrary shall be null and void.

(c) The State shall fix minimum wages for the various branches of work and establish family allowances.

(d) Remuneration for work shall be immune from encumbrance, save for the payment of alimony, and may not be paid in bonds, vouchers or other form which is not legal tender. Pay periods shall not exceed one month. Wages shall not be subject to rebates or deductions, unless legally authorized.

(e) The maximum working day shall be eight hours; no work shall be done on Saturday afternoon, so that the weekly total shall not exceed forty-four hours, save the exceptions prescribed by law. Night work shall be paid as overtime, and may not be performed by women, or minors under eighteen years of age. For underground work, the maximum daily time shall be six hours, and the total working day shall in no case exceed seven hours.

(f) Every worker shall enjoy a weekly rest of forty-two continuous hours, and also annual holidays. Wages shall be paid for these vacations, as well as for weekly days of rest and legal holidays. Regulations shall be established for the application of this paragraph.

(g) Both employers and workers are guaranteed the right to form unions for purposes of professional advancement. No one may be compelled to join a union. Public servants, as such, may not form unions.

(h) Collective agreements receive special protection.

(i) The right of workers to strike, and of employers to order lockouts, is recognized and regulations shall be established for their exercise. Workers of public service undertakings and institutions may not strike except in conformity with special regulations.

(j) Working mothers shall be subject to particular care. Women in pregnancy shall not be obliged to work during the period prescribed by law, before and after birth, but shall be entitled to full remuneration. In addition, nursing mothers shall be allowed the necessary time off work for feeding their children.

(k) Work shall be prohibited for minors under fourteen, except as prescribed by law, and regulations shall be established for the employment of minors under eighteen.

(l) It shall be compulsory for employers to establish apprenticeship, as prescribed by the law on industries and trades requiring technical knowledge.

(ll) For the settlement of labour disputes, boards of conciliation and arbitration shall be constituted, composed of workers and employers and presided over by a labour official.

(m) In order to safeguard the health and lives of the workers, hygiene and safety measures shall be prescribed.

(n) All workers shall receive a share of the net profits of their respective firms, at a percentage fixed by law, which may not be lower than five per cent. The distribution shall be governed by law.

(o) Sums owed by an employer to workers for wages, salaries, indemnities or retirement pensions shall constitute a privileged claim of the first order, with preference even over mortgages.

(p) Agricultural labour, particularly that performed by natives, shall be the subject of special regulations in regard to working days and other matters. There shall also be regulations for other types of work, in particular artisan work, mining, domestic service, and work performed at home.

(q) Deprivation of the *huasipungo*¹ without due cause shall be considered as improper dismissal.

(r) There shall be equal pay for equal work without distinction of sex, race, nationality or religion. However, special knowledge and practical experience shall be taken into account in the determination of such pay.

(s) The administrative career of public servants shall be governed by law.

It shall be the duty of the public authorities to promote, in the most suitable manner, the moral, intellectual, economic and social advancement of natives and dwellers in the coastal jungle (*montuvios*) to encourage their incorporation in national life and their acquisition of property, to develop the construction of hygienic living accommodation for workers on country estates, and to procure the eradication of alcoholism, especially in rural districts.

Art. 186. The conclusion of contracts shall be free, apart from the restrictions prescribed by law.

SECTION II. COMMON INDIVIDUAL GUARANTEES

Art. 187. The State shall guarantee to the inhabitants of Ecuador:

1. The sanctity of human life: there shall be no death penalty. Mutilation, flogging and other tortures and degrading procedures are categorically forbidden whether as penalties, corrective measures, or means of investigating offences.

2. The right of every individual to protect his good reputation and to be considered innocent unless proved guilty according to the laws.

3. Personal freedom. No one may be imprisoned for debts, whether they be termed costs, fees, taxes, fines or anything else. This provision does not apply to debts for payment of compulsory alimony.

4. The right of *habeas corpus*. Save in cases of *flagrante delicto*, police contravention or military offence, no one may be detained, arrested or imprisoned without a warrant signed by the competent authority, stating the reason, which must be one specified by law.

¹ Piece of land allotted by estate-owners to native workers.

Application for a writ of *habeas corpus* shall be made to the President of the Council, or his deputy, of the canton in which the prisoner is held. On receipt of the application, the aforesaid authority shall order the immediate appearance of the prisoner in court, and the production of the warrant for deprivation of liberty, within a specified time-limit.

If the prisoner does not appear, or if the warrant is not produced, or if it does not fulfil the previously specified requirements, the President of the Council shall forthwith order the immediate release of the applicant. Any person disobeying this order shall be dismissed *ipso facto* from his post or office by the said President of the Council, who shall notify such dismissal to the Comptroller and to the authority responsible for providing a substitute.

The dismissed employee may appeal against the sentence to the President of the Higher Court of the district concerned, within twenty-four hours of the notification of dismissal; but, in order to be able to present this appeal, he must previously release the prisoner.

The above does not affect the latter's right to bring any action to which he may be entitled.

5. Freedom to travel throughout the Republic's territory, to change their residence, to leave and return to Ecuador, including removal of belongings, without prejudice to what the law may prescribe in regard to the national artistic heritage and the protection of the currency.

6. Inviolability of the home: no one may enter a house against the owner's will, unless presenting a warrant signed by the competent authority; and, without such warrant, only in cases expressly laid down by law.

7. Inviolability of correspondence, postal or other. Consequently it is forbidden to intercept, open or examine another person's correspondence, except in the cases prescribed by law.

8. The right of every citizen not to be compelled to declare, for any purpose, his political convictions or religious beliefs, nor to be molested for those professed, except in the cases specified in the Constitution and the laws.

9. The right of every citizen not to be compelled to give evidence in criminal trial against his spouse, ascendants, descendants or collaterals to the fourth degree of consanguinity or the second of affinity; nor to be compelled by oath or coercion to incriminate himself in matters involving penal responsibility; nor to be held *incommunicado* for more than twenty-four hours.

10. Freedom of work, trade and industry. Everyone shall enjoy the right to his own discoveries, inventions and scientific, literary or artistic works, in the conditions prescribed by law. No one may be compelled to give free or remunerated services which are not imposed by law, save in cases of extreme urgency or of necessity of immediate assistance. Apart from such cases, no one shall be compelled to work without a contract and the corresponding remuneration.

11. Freedom of expression of thought, and of speech, through the press or other means of utterance or diffusion, provided that such statements imply no abuse, calumny, personal insult, or meaning which is immoral or contrary to the national interests; otherwise the offender shall be liable to the penalties and proceedings prescribed by law.

The law shall govern the exercise of this freedom, bearing in mind that the primary aim of journalism is to defend the national interests and that it constitutes a social service worthy of the respect and support of the State.

12. Freedom of petition in writing, individual or collective, to any authority or corporation, with the right to obtain a decision, and

13. Freedom of assembly and association, without weapons, for purposes not prohibited by law.

SECTION III. SPECIAL GUARANTEES FOR ECUADORIANS

Art. 188. With respect to Ecuadorians, the following special guarantees shall be established:

1. The right to elect freely and to be elected for public office, according to the law;

2. The right of petition to the Government verbally and collectively, by processions or other public demonstrations, peaceful and unarmed, with the previous permission of the competent authority;

3. The right of State assistance to invalids lacking means of subsistence, if they are unable to procure them by working and there is no person legally bound and able to provide for them;

4. The right to join parties and other political associations which are not contrary to the constitution, with the purpose of taking part in national politics.

5. The penalty of exile is forbidden, and in no circumstances may an Ecuadorian be expatriated against his will.

An Ecuadorian shall require no passport to return to his country, and no consul of the Republic may refuse the request of an Ecuadorian to return to Ecuador. On no account shall the extradition of an Ecuadorian be permitted.

EGYPT

ROYAL RESCRIPT NO. 42 OF 19 APRIL 1923 ESTABLISHING THE CONSTITUTIONAL REGIME OF THE EGYPTIAN STATE¹

CHAPTER II

RIGHTS AND DUTIES OF EGYPTIANS

Art. 2. Egyptian nationality shall be determined by law.

Art. 3. All Egyptian subjects are equal before the law. They shall equally enjoy civil and political rights and shall equally be subject to public charges and duties without distinction of race, language or religion. They shall be admissible to public, civilian and military offices. Aliens shall not be admitted to such offices, save in exceptional cases determined by law.

Art. 4. The freedom of the individual is guaranteed.

Art. 5. No person may suffer arrest and detention, save in accordance with the provisions of the law.

Art. 6. No offence and no penalty may be established, save in pursuance of the law. Penalties may be inflicted only in respect of offences committed after the law providing for them has been promulgated.

Art. 7. Egyptians may not be expelled from Egyptian territory.

They may not be prohibited from staying in any particular locality, or compelled to reside in a specified place, save in the cases prescribed by law.

Art. 8. The sanctity of the home shall be inviolable. No search may be carried out in the home, save in the cases provided for and in accordance with the procedure prescribed by law.

Art. 9. Property shall be inviolable. No person may be deprived of property except for reasons of public utility in the cases and in the manner prescribed by law and in consideration of fair compensation.

Art. 10. Punishment by general confiscation of property is prohibited.

Art. 11. The privacy of letters, telegrams and communications by telephone shall be inviolable, except in the cases prescribed by law.

Art. 12. Freedom of conscience is absolute.

Art. 13. The State protects, in conformity with the customs established in Egypt, the free practice of all religions and beliefs, provided that they are not prejudicial to public order and morals.

Art. 14. Freedom of opinion is guaranteed. Within the limits of the law, every person has the right to express his thoughts freely, in word, in writing, pictorially, or otherwise.

Art. 15. The press is free within the limits laid down by law. Preventive censorship is prohibited. Warnings, suspension or suppression of newspapers by administrative procedure are likewise prohibited, except where it may be necessary to have recourse to these measures for the protection of the social order.

Art. 16. No restriction may be imposed on the free use of any language in private relations, commerce, religion, the press or publications of any kind or at public assemblies.

Art. 17. The right to give instruction is free to all in so far as the instruction given is not contrary to public order or morals.

Art. 18. Public education shall be regulated by law.

Art. 19. Elementary education is compulsory for young Egyptians of both sexes. It is given free of charge in the public *maktabs*.

Art. 20. Egyptians have the right to assemble peaceably and without arms. The police shall not be entitled to attend assemblies, and it shall not be necessary to give notice thereof to the police.

This provision shall not apply to public assemblies which are subject to statutory provisions, and shall not preclude or restrict the taking of any measures requisite for the protection of the social order.

Art. 21. Egyptians have the right of association. The law shall lay down rules governing the exercise of this right.

Art. 22. Egyptians have the right to apply to the public authorities by means of signed petitions. Constituted authorities and bodies corporate alone have the right to address petitions collectively.

GENERAL PROVISIONS

Art. 149. Islam shall be the State religion; Arabic shall be the official language.

Art. 151. The extradition of political refugees is prohibited, without prejudice to the international agreements aiming at the protection of social order.

Art. 154. The application of the present constitution cannot prejudice the obligations of Egypt

¹ French text in *Journal Officiel*. Le Caire, No. 112, 1935, pp. 1-13. English translation from the French text by the United Nations Secretariat.

towards foreign States, or other rights which aliens may have acquired in Egypt in pursuance of laws, treaties or recognized custom.

Art. 165. No provision of the present constitution may on any pretext be suspended, except

temporarily in time of war, during a state of siege, and in accordance with the procedure prescribed by law. In no case may the meeting of Parliament in the conditions laid down by the present constitution be impeded.

DECREE-LAW NO. 117 OF 1946 ADDING CERTAIN CLAUSES TO THE PENAL CODE¹

Art. 1. The following clauses are hereby added to the Penal Code after article 98:

Art. 98(a). Any person who shall establish, found, organize or direct in Egypt associations purposing to place one social class under the domination of another or to destroy any social class or to overthrow the basic social or economic institutions of the State, shall be punished by forced labour for a period not exceeding 10 years and a fine ranging from £E.100 to £E.1,000 if he has used violence, intimidation or other illegal means.

The same penalties shall be imposed on any person who shall establish, found, organize or direct in Egypt associations purposing to destroy the basic institutions of society if violence, intimidation or other illegal means have been used.

Any person affiliated to the associations referred to in the two preceding paragraphs shall be punished by imprisonment and a fine ranging from £E.50 to £E.200.

Imprisonment and a fine not exceeding £E.100 shall be imposed on any person who joins or takes part in, in Egypt, or is affiliated to such associations having headquarters abroad, or who participates in their activities in any manner whatsoever.

Art. 98(b). Penalty of imprisonment for a period not exceeding five years and a fine ranging from £E.50 to £E.500 shall be imposed on any person who in Egypt advocates or propagates, in any manner, doctrines tending to subvert the fundamental principles of the Constitution or the established order of society, or to place one social class under the domination of another, or to destroy any social class, or to overthrow the basic social or economic institutions of the State, or to undermine any of the basic institutions of society where violence, intimidation or other illegal means have been used.

The same penalties shall be imposed on any person who shall, by whatever means, advocate or encourage such acts.

Art. 98 (c). Any person who shall establish, found, organize or direct in Egypt, without Government authorization, a society, association or institution of any sort, of an international nature, or an agency of any such society, shall be punished by imprisonment for a period not exceeding six months or by a fine not exceeding £E.50.

The maximum penalty shall be doubled if authorization has been obtained on false declarations.

Penalty of imprisonment for a period not exceeding three months or a fine not exceeding £E.30 shall be imposed on any person who joins any of the aforesaid societies or institutions, or any Egyptian living in Egypt who becomes affiliated to or participates in, in any manner whatsoever, without Government authorization, any of the aforesaid institutions having headquarters abroad.

Penalty of imprisonment for a period not exceeding five years and a fine ranging from £E.50 to £E.1,000 shall be imposed on any person who shall receive or obtain directly or through the intermediary of a third party, in any manner whatsoever, sums of money or gifts of any description, from any person or institution abroad, with the purpose of furthering the accomplishment of the acts specified in the three preceding articles and in article 174 of this code.

The same penalties shall be imposed on any person who encourages, by material or financial assistance, the perpetration of any of the offences specified in the three preceding articles, without intent to participate directly in the perpetration.

Art. 98(d). In the event of conviction in the cases provided for by article 98(a), the court shall order the said institutions to be dissolved and their premises to be closed. It may, in the cases provided for by articles 98(b), 98(c), 98(d) and 174, order the confiscation of funds, furniture, documents and other articles used in the perpetration of the offence.

¹ Official Journal No. 84 of 19 August 1946 (published in Arabic only). French translation published in the *Journal des tribunaux mixtes* (9/10 September 1946). English translation from the French text by the United Nations Secretariat.

EIRE

CONSTITUTION OF EIRE¹ of 29 December 1937

FUNDAMENTAL RIGHTS

PERSONAL RIGHTS

Art. 40. 1. All citizens shall, as human persons, be held equal before the law.

This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.

2. (1) Titles of nobility shall not be conferred by the State.

(2) No title of nobility or of honour may be accepted by any citizen except with the prior approval of the Government.

3. (1) The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.

(2) The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen.

4. (1) No citizen shall be deprived of his personal liberty save in accordance with law.

(2) Upon complaint being made by or on behalf of any person that he is being unlawfully detained, the High Court and any and every judge thereof shall forthwith inquire into the same and may make an order requiring the person in whose custody such person shall be detained to produce the body of the person so detained before such court or judge without delay and to certify in writing as to the cause of the detention, and such court or judge shall thereupon order the release of such person unless satisfied that he is being detained in accordance with the law.

(3) Nothing in this section, however, shall be invoked to prohibit, control, or interfere with any act of the defence forces during the existence of a state of war or armed rebellion.

5. The dwelling of every citizen is inviolable and shall not be forcibly entered save in accordance with law.

6. (1) The State guarantees liberty for the exercise of the following rights, subject to public order and morality:

I. The rights of the citizens to express freely their convictions and opinions.

The education of public opinion being, however, a matter of such grave import to the common good, the State shall endeavour to ensure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression, including criticism of Government policy, shall not be used to undermine public order or morality or the authority of the State.

The publication or utterance of blasphemous, seditious, or indecent matter is an offence which shall be punishable in accordance with law.

II. The right of the citizens to assemble peaceably and without arms.

Provision may be made by law to prevent or control meetings which are determined in accordance with law to be calculated to cause a breach of the peace or to be a danger or nuisance to the general public and to prevent or control meetings in the vicinity of either House of the Oireachtas.

III. The right of the citizens to form associations and unions.

Laws, however, may be enacted for the regulation and control in the public interest of the exercise of the foregoing right.

(2) Laws regulating the manner in which the right of forming associations and unions and the right of free assembly may be exercised shall contain no political, religious or class discrimination.

THE FAMILY

Art. 41. 1. (1) The State recognizes the family as the natural primary and fundamental unit group of society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.

(2) The State therefore guarantees to protect the family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the nation and the State.

2. (1) In particular, the State recognizes that by her life within the home, woman gives to the State a support without which the common good cannot be achieved.

(2) The State shall therefore endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.

¹ Published by the Stationery Office, Dublin, 1937.

3. (1) The State pledges itself to guard with special care the institution of marriage, on which the family is founded, and to protect it against attack.

(2) No law shall be enacted providing for the grant of a dissolution of marriage.

(3) No person whose marriage has been dissolved under the civil law of any other State but is a subsisting valid marriage under the law for the time being in force within the jurisdiction of the government and parliament established by this constitution shall be capable of contracting a valid marriage within that jurisdiction during the lifetime of the other party to the marriage so dissolved.

EDUCATION

Art. 42. 1. The State acknowledges that the primary and natural educator of the child is the family, and guarantees to respect the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children.

2. Parents shall be free to provide this education in their homes or in private schools or in schools recognized or established by the State.

3. (1) The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or to any particular type of school designated by the State.

(2) The State shall, however, as guardian of the common good, require in view of actual conditions that the children receive a certain minimum education, moral, intellectual and social.

4. The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative, and, when the public good requires it, provide other educational facilities or institutions, with due regard, however, for the rights of parents, especially in the matter of religious and moral formation.

5. In exceptional cases, where the parents for physical or moral reasons fail in their duty towards their children, the State, as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.

PRIVATE PROPERTY

Art. 43. 1. (1) The State acknowledges that man, in virtue of his rational being, has the natural right, antecedent to positive law, to the private ownership of external goods.

(2) The State accordingly guarantees to pass no law attempting to abolish the right of private ownership or the general right to transfer, bequeath, and inherit property.

2. (1) The State recognizes, however, that the

exercise of the right mentioned in the foregoing provisions of this article ought, in civil society, to be regulated by the principles of social justice.

(2) The State, accordingly, may as occasion requires delimit by law the exercise of the said rights with a view to reconciling their exercise with the exigencies of the common good.

RELIGION

Art. 44. 1. (1) The State acknowledges that the homage of public worship is due to Almighty God. It shall hold His name in reverence, and shall respect and honour religion.

(2) The State recognizes the special position of the Holy Catholic Apostolic and Roman Church as the guardian of the faith professed by the great majority of the citizens.

(3) The State also recognizes the Church of Ireland, the Presbyterian Church in Ireland, the Methodist Church in Ireland, the Religious Society of Friends in Ireland, as well as the Jewish congregations and the other religious denominations existing in Ireland at the date of the coming into operation of this constitution.

2. (1) Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed to every citizen.

(2) The State guarantees not to endow any religion.

(3) The State shall not impose any disabilities or make any discrimination on the ground of religious profession, belief or status.

(4) Legislation providing State aid for schools shall not discriminate between schools under the management of different religious denominations, nor be such as to affect prejudicially the right of any child to attend a school receiving public money without attending religious instruction at that school.

(5) Every religious denomination shall have the right to manage its own affairs, own, acquire and administer property, movable and immovable, and maintain institutions for religious or charitable purposes.

(6) The property of any religious denomination or any educational institution shall not be diverted save for necessary works of public utility and on payment of compensation.

DIRECTIVE PRINCIPLES OF SOCIAL POLICY

Art. 45. The principles of social policy set forth in this article are intended for the general guidance of the Oireachtas. The application of those principles in the making of laws shall be the care of the Oireachtas exclusively, and shall not be cognisable by any court under any of the provisions of this constitution.

1. The State shall strive to promote the welfare of the whole people by securing and protecting as

effectively as it may a social order in which justice and charity shall inform all the institutions of the national life.

2. The State shall, in particular, direct its policy towards securing

I. That the citizens (all of whom, men and women equally, have the right to an adequate means of livelihood) may through their occupation find the means of making reasonable provision for their domestic needs.

II. That the ownership and control of the material resources of the community may be so distributed amongst private individuals and the various classes as best to subserve the common good.

III. That, especially, the operation of free competition shall not be allowed so to develop as to result in the concentration of the ownership or control of essential commodities in a few individuals to the common detriment.

IV. That in what pertains to the control of credit the constant and predominant aim shall be the welfare of the people as a whole.

V. That there may be established on the land in economic security as many families as in the circumstances shall be practicable.

3. (1) The State shall favour and, where necessary, supplement private initiative in industry and commerce.

(2) The State shall endeavour to secure that private enterprise shall be so conducted as to ensure reasonable efficiency in the production and distribution of goods and as to protect the public against unjust exploitation.

4. (1) The State pledges itself to safeguard with special care the economic interests of the weaker sections of the community, and, where necessary, to contribute to the support of the infirm, the widow, the orphan, and the aged.

(2) The State shall endeavour to ensure that the strength and health of workers, men and women, and the tender age of children shall not be abused and that citizens shall not be forced by economic necessity to enter avocations unsuited to their sex, age or strength.

ETHIOPIA

CONSTITUTION OF 16 JULY 1931¹

CHAPTER III

OF THE RIGHTS RECOGNIZED TO THE NATION BY THE EMPEROR, AND THE DUTIES OF THE NATION

Art. 18. The law shall lay down the conditions required for holding Ethiopian nationality.

Art. 19. All Ethiopian subjects, provided they fulfil the conditions laid down by the law and satisfy the decrees promulgated by His Majesty the Emperor, may be appointed officers in the Army or civil servants or be called upon to assume any other duties or functions in the service of the State.

Art. 20. All those belonging to the Ethiopian Army owe allegiance and absolute obedience to the Emperor in accordance with the provisions of the law.

Art. 21. The nation shall be bound to pay legal taxes.

Art. 22. Ethiopian subjects have the right to

move freely from one place to another within the limits prescribed by law.

Art. 23. No Ethiopian subject may be arrested, sentenced or imprisoned, except as prescribed by law.

Art. 24. No Ethiopian subject may, against his will, be deprived of the right to trial by the legally established tribunal.

Art. 25. Except in the cases provided for by law, no search may be carried out in the home.

Art. 26. Except in the cases provided for by law, no person shall be entitled to violate the privacy of the correspondence of Ethiopian subjects.

Art. 27. No person shall have the right to take from an Ethiopian subject any real or personal property in his possession, except in cases of public expediency specified by law.

Art. 28. All Ethiopian subjects have the right to address petitions to the Government in due legal form.

Art. 29. The provisions of this chapter shall not preclude the taking of any measures by the Emperor in virtue of his supreme power in the event of war or public disaster threatening the interests of the nation.

¹ French text in F. R. Dareste et P. Dareste: *Les Constitutions modernes*. Quatrième édition entièrement refondue par Joseph Delpech et Julien Laferrrière, 6 vol., Paris, 1928-1934. English translation from the French text by the United Nations Secretariat.

FINLAND

CONSTITUTION OF THE REPUBLIC OF FINLAND¹

of 17 July 1919

CHAPTER II

GENERAL RIGHTS AND CONSTITUTIONAL PROTECTION OF FINNISH CITIZENS

Art. 5. Finnish citizens shall be equal before the law.

Art. 6. Every Finnish citizen shall be protected by law as to life, honour, 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 travelling 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, 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 right 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 of persons in the military or naval service, at any time.

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 of 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

¹ English translation from *British and Foreign State Papers*, Vol. 120, 1924, Part II, pp. 311-327.

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.

Art. 82. 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.

DECREE ON THE PRESS AND OTHER PUBLICATIONS¹

No. 898 of 30 December 1946

Art. 1. If a publication contains statements or news which refer to Finland's relations to other States, and which are of a nature that might endanger the external security of the State or other basic interests, it may be confiscated and, if the publication is a periodical, temporarily suspended.

The same applies to such periodicals as are published as a substitute for any suspended publication.

CHAPTER IX RELIGIOUS COMMUNITIES

Art. 83. The organization and the 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 of them.

New religious communities may be established subject to the provisions of the law.

CHAPTER X PUBLIC OFFICES

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.

Art. 2. The order of confiscation or suspension referred to in article 1 shall be issued by the Cabinet.

Art. 3. If there is no heavier penalty involved for the violation of the foregoing provisions, the guilty parties shall be punished by a fine or imprisonment.

DECREE REGARDING RESTRICTIONS OF PERSONAL FREEDOM²

No. 899 of 30 December 1946

Art. 1. A person who is guilty of an activity which has contributed to an aggravation of the relations of the State with other States, may be obliged to change his domicile or to live in a specified locality and may be placed under special surveillance, or if these measures are not considered sufficient, may be placed under detention.

Art. 2. The Minister of the Interior may undertake the measures contemplated in article 1.

In cases requiring speedy action, even the provincial authorities and the chief of the State

police may proceed or cause an action of this kind in conformity with article 1. These cases, however, must be submitted immediately to the Ministry of the Interior for confirmation.

Art. 3. The Ministry of the Interior must submit immediately to the Cabinet for its final decision, whether a measure contemplated in article 1 shall remain in force, and for what time.

Art. 4. Measures taken on the basis of this decree cannot be appealed against.

Art. 5. In case of need, the Cabinet may issue more detailed provisions regarding this decree.

¹ Finnish text in *Suomen Asetuskokoelma*, 1946, p. 1522. English translation from the Finnish text by Professor John Wuorinen, Department of History, Columbia University. New York.

² Finnish text in *Suomen Asetuskokoelma*, 1946, pp. 1522-1523. English translation from the Finnish text by Professor John Wuorinen, Department of History, Columbia University. New York.

FRANCE

CONSTITUTION OF THE FRENCH REPUBLIC¹ of 27 October 1946

PREAMBLE

On the morrow of the victory of the free peoples over the regimes that attempted to enslave and degrade the human person, the French people proclaim once more that every human being, without distinction of race, religion or belief, possesses inalienable and sacred rights. It solemnly reaffirms the rights and freedoms of man and of the citizen consecrated by the Declaration of Rights of 1789,² and the fundamental principles recognized by the laws of the Republic.

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

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

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

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

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

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

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

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

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

It guarantees to all, and notably to the child, the mother and the aged worker, protection of health, material security, rest and leisure. Every human being who, because of his age, his physical or mental condition, or because of the economic

situation, finds himself unable to work, has the right to obtain from the community the means to lead a decent existence.

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

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

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

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

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

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

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

TITLE VIII

THE FRENCH UNION

Section III

THE OVERSEAS DEPARTMENTS AND TERRITORIES

Art. 80. All nationals of the overseas territories shall have the status of citizens, in the same capacity as French nationals of metropolitan France or the overseas territories. Special laws shall determine the conditions under which they may exercise their rights as citizens.

Art. 81. All citizens and nationals of territories within the French Union shall have the status of

¹ French text in *Journal officiel*. Paris, 28 October 1946. Official English translation by the French Press and Information Service, New York.

² See text on page 106.

citizens of the French Union, which ensures them the enjoyment of the rights and liberties guaranteed by the preamble of the present constitution.

Art. 82. Those citizens who do not possess

French civil status shall retain their personal status so long as they do not renounce it.

This status may in no case constitute a ground for refusing or restricting the rights and liberties pertaining to the status of French citizens.

DECLARATION OF THE RIGHTS OF MAN AND OF THE CITIZEN¹ of 26 August 1789

(The preamble of the Constitution of 27 October 1946 expressly mentions this declaration.)

Art. 1. Men are born and remain free and equal in respect of rights. Social distinctions shall be based solely upon public utility.

Art. 2. The purpose of all civil associations is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression.

Art. 3. The nation is essentially the source of all sovereignty; nor shall any body of men or any individual exercise authority which is not expressly derived from it.

Art. 4. Liberty consists in the power of doing whatever does not injure another. Accordingly, the exercise of the natural rights of every man has no other limits than those which are necessary to secure to every other man the free exercise of the same rights; and these limits are determinable only by the law.

Art. 5. The law ought to prohibit only actions hurtful to society. What is not prohibited by the law should not be hindered; nor should any one be compelled to do that which the law does not require.

Art. 6. The law is an expression of the common will. All citizens have a right to concur, either personally or by their representation, in its formation. It should be the same for all, whether it protects or punishes; and all, being equal in its sight, are equally eligible to all honours, places, and employments, according to their different abilities, without any other distinction than that of their virtues and talents.

Art. 7. No one shall be accused, arrested, or imprisoned, save in the cases determined by law, and according to the forms which it has prescribed. All who solicit, promote, execute, or cause to be executed, arbitrary orders, ought to be punished, and every citizen summoned or apprehended by virtue of the law, ought immediately to obey, and becomes culpable if he resists.

Art. 8. The law should impose only such penalties as are absolutely and evidently necessary; and no one ought to be punished but by virtue of a law promulgated before the offence, and legally applied.

Art. 9. Every man being counted innocent until he has been convicted, whenever his arrest becomes indispensable, all rigour more than is necessary to secure his person ought to be provided against by law.

Art. 10. No man is to be interfered with because of his opinions, not even because of religious opinions, provided his avowal of them does not disturb public order as established by law.

Art. 11. The unrestrained communication of thoughts or opinions being one of the most precious rights of man, every citizen may speak, write, and publish freely, provided he be responsible for the abuse of this liberty, in the cases determined by law.

Art. 12. A public force being necessary to give security to the rights of men and of citizens, that force is instituted for the benefit of the community, and not for the particular benefit of the person to whom it is entrusted.

Art. 13. A common contribution being necessary for the support of the public force, and for defraying the other expenses of government, it should be divided equally among the members of the community, according to their abilities.

Art. 14. Every citizen has a right, either of himself or his representative, to a free voice in determining the necessity of public contributions, the appropriation of them, and their amount, mode of assessment, and duration.

Art. 15. The community has the right to demand of all its agents an account of their conduct.

Art. 16. Every community in which a security of rights and a separation of powers is not provided for needs a constitution.

Art. 17. The right to property being inviolable and sacred, no one shall be deprived of it, except in cases of evident public necessity, legally ascertained, and on condition of a previous just indemnity.

¹ English translation in *France-Amerique 1776-1789-1917*. Paris, R. Helleu, 1918.

THE PURGING OF THE PRESS¹

Ordinance No. 45-307 of 2 March 1945

Art. 1. The Commission on Professional Journalists' Identity Cards set up by the Law of 29 March 1935 and by the Decree of 17 January 1936, and constituted for the year 1945 according to the conditions prescribed by the decree, shall sit as a national commission on the purging of the profession.

It may, with respect to professional journalists and others of like standing as defined in art. 29b of Book 1 of the Labour Code, take any one of the measures restricting professional activity provided for by art. 1 of the Ordinance of 16 October 1944 on the purging of undertakings.

Art. 2. The measures provided for in art. 1, paragraphs *b* and *d*, of the Ordinance of 16 October 1944, and introduced by the Commission on Professional Journalists' Identity Cards in its capacity as purging authority, shall terminate:

1. Either at the expiry of the period for which they were prescribed,

2. Or on the date on which penal proceedings instituted in pursuance of the provisions of art. 75 and following of the Penal Code, or of the ordinances of 6 October 1943, 26 June and 26 August 1944, shall have resulted in a final decision.

Where no penal proceedings are instituted within six months after such decision, the person concerned may again apply to the Commission, which shall decide either to terminate such measures or to extend their application for a like period.

Art. 3. The Commission on Professional Journalists' Identity Cards, in its capacity as purging authority, may take cognizance of matters either *ex officio* on information supplied by one of its members or upon the request, supported by reasons, of any person concerned.

Any denunciation found to be false shall involve its author in civil and criminal liability at common law.

Art. 4. The Commission is empowered to call upon any public body or private undertaking to transmit any document required for establishing the truth; its members may, if necessary, call for the assistance of a judicial police officer.

¹ French text in *Journal officiel*, Paris, 3 March 1945. English translation from the French text by the United Nations Secretariat.

² French text in *Journal officiel*, Paris, 12 May 1946. English translation from the French text by the United Nations Secretariat.

It may subpoena any person whose evidence may appear useful in the establishment of the truth. It may inflict on any person failing to appear as witness the penalties provided for in art. 60 of the Code of Criminal Procedure and art. 236 of the Penal Code.

Art. 5. The Commission's rules of procedure shall make provisions entitling the accused to defend himself, either in writing or orally, and to have the assistance of counsel.

Art. 6. Members of the Commission and any other persons called upon to take part in their work shall be bound to observe professional secrecy according to common law.

Art. 7. Proceedings before the Commission on Professional Journalists' Identity Cards, in its capacity as purging authority, shall be absolutely free of charge. All material and documents submitted to it or produced by it shall be exempt from stamp and registration duty.

Art. 8. Persons concerned may appeal against any decision of the Commission on Professional Journalists' Identity Cards in its capacity as purging authority to the Higher Commission created by art. 10 of the decree of 17 January 1936.

The appeal shall be sent by registered letter to the Minister of Information, who shall transmit it forthwith to the President of the Higher Commission and to the Minister of Labour, who may offer observations.

The Higher Commission may confirm the decision or annul it, and in so doing may cancel, reduce or increase the penalties inflicted.

Art. 9. Articles 4, 5, 6 and 7 of this ordinance shall be applicable to proceedings before the Higher Commission.

Art. 10. An appeal may be made from the decision of the Higher Commission to the Council of State.

Art. 11. Any infringement of the measures and prohibitions referred to in art. 1 and 8 above shall be punishable by imprisonment ranging from six months to five years, and by a fine ranging from 100 to 10,000 francs, or by one of these penalties only.

Art. 12. The present ordinance shall be published in the *Journal officiel* of the French Republic and be given the effect of law.

TRANSFER AND CONVEYANCE OF PROPERTY AND ASSETS OF PRESS AND INFORMATION UNDERTAKINGS²

Law No. 46-994 of 11 May 1946

TITLE I TRANSFER

Art. 1. There shall be transferred to the State, as from the promulgation of this law, the material and non-material property representing the assets of the undertakings hereinafter enumerated and

the resources of all kinds employed in the operation of the said undertakings:

1. Undertakings for the publication of newspapers or periodicals which first appeared after 25 June 1940 or which, having appeared previously, continued to appear for more than fifteen

days after 25 June 1940 in territories which during enemy occupation formed the northern zone, and for more than fifteen days after 11 November 1942 in territories forming the southern zone, as well as printing presses which during the same periods were used mainly for the purpose of such publications;

2. Information, advertising, or photographic agencies and generally all *de jure* or *de facto* press, information, or advertising undertakings, associations, companies and unions which began operations after 25 June 1940 or which, having operated previously, continued operations for more than fifteen days after 25 June 1940 in territories which during enemy occupation formed the northern zone and for more than a fortnight after 11 November 1942 in territories forming the southern zone.

Where any of the press, information or advertising undertakings referred to in the two foregoing paragraphs consisted in fact of several legally distinct personal or real estate undertakings, the transfer shall apply to all the property in the possession of or held by these various undertakings.

Art. 2. The transfer shall not apply:

1. To such of the undertakings referred to in the foregoing article as have been duly authorized to recommence operations since the liberation;

2. To undertakings publishing periodicals of an exclusively scientific, technical or professional nature which, within the space of one month from the publication of this law, shall have applied for and obtained a place on a list to be drawn up subject to the conditions laid down in an order of the Minister of Information after consultation with the trade union organizations.

Nevertheless, the owners and principal shareholders of transferred undertakings who shall prove that since the material dates they were unable to be effectively in charge of the undertakings as a result of the application of emergency laws, or, on account of their situation as prisoners of war, deportees, or political prisoners, may bring an action for damages against those who in their absence have wrongfully placed the undertakings in a position making them liable to the present transfer.

Art. 3. The lists of undertakings referred to in art. 1 shall be embodied in decrees issued on the report of the Minister of Information and published in the *Journal officiel*.

Within one month of the publication of such lists, orders of the Minister of Information shall, in respect of each of the undertakings concerned,

state the property and assets transferred to the State.

Art. 4. As from the promulgation of this law, every holder of property referred to in art. 1 above shall be deemed to hold it on precarious tenure on behalf of the State.

Art. 5. Any documents or stipulations later than 25 June 1940 which are calculated to exempt from the transfer all or part of the property referred to in art. 1 shall be deemed null and void.

Art. 6. Without prejudice to the confiscations awarded in favour of the State for any reason whatsoever, the transfer of property and assets decreed by this law shall give rise to a claim for compensation.

Such compensation, payable in capital or in the form of annuities, shall be taken by the National Press Corporation referred to below from the proceeds of the sale, deferred sale, lease, or direct exploitation of the property concerned, and not sooner than three months after the collection of such proceeds, or, if the dispossessed owner is being prosecuted for collaboration or dealings with the enemy, three months after the final decision of the courts.

The forms and conditions of payment of compensation on the basis of the value of properties on 25 June 1910, account being taken of the management expenses of the National Corporation, shall be determined by a public administrative regulation. Disputes arising out of claims for compensation shall be brought before the civil court in whose jurisdiction is situated the head office of the undertaking the assets of which have been transferred.

Art. 7. The fact that an undertaking has incurred the penalty of liquidation and general or partial confiscation of its property by the State does not deprive bona fide shareholders of their claim to compensation in accordance with the provisions of art. 10 of the ordinance of 5 May 1945 regarding the prosecution of press, publishing, information and publicity undertakings guilty of collaboration with the enemy.

Art. 8. Any claims arising during the periods provided for in art. 1 for the recovery of which proceedings might lie against the person entitled to compensation shall be confiscated for the benefit of the National Corporation, where the creditor's claims are based on an illegal ground in the circumstances prescribed in art. 12 of the ordinance of 5 May 1945.

Confiscation shall be awarded by a judgment of the civil courts at the request of the Public Prosecutor's office or any person concerned.

TITLE II CONVEYANCE

Art. 9. Property transferred under this law, and property confiscated for the benefit of the State for any reason whatsoever, after being immediately conveyed to the National Press Corporation as prescribed below, shall be assigned by the said corporation in ownership or usufruct to press or information undertakings in the circumstances hereinafter defined.

Nevertheless the property of undertakings whose equipment is capable of being used for the printing of several daily newspapers may not be assigned and directly operated by the National Corporation. The undertakings to which the present paragraph applies shall be determined by decree issued upon a report of the Minister of Information on the advice of the Press Committee of the National Assembly.

Art. 10. Press undertakings referred to in the second paragraph of the foregoing article, although they may not be sold or offered for lease-sale, may nevertheless be leased under contract, provided that the press undertakings which acquire them form a joint printing press management company as provided in this law.

Chapter I

NATIONAL PRESS CORPORATION

Art. 11. An organization of an industrial and commercial nature possessing civil personality and enjoying financial independence shall be set up under the name of National Press Corporation.

Art. 12. The National Corporation shall be directed by a Chairman Director-General assisted by a Board of Directors.

The Chairman Director-General shall be appointed by decree on the report of the Minister of Information and of the Minister of National Economy and Finance. He shall be chosen from a list submitted to these Ministers by the Board of Directors.

The Board of Directors shall be appointed for one year and have the following membership:

Two representatives of the Minister of Information;

One representative of the Minister of National Economy and Finance;

One representative of the Minister of Industrial Production;

One representative of the Minister of Labour;

One member of the Audit Office;

Six representatives of the French National Press Federation;

Three representatives of press workers;

One representative of the staff and employees;

Two representatives of professional journalists.

The six last-mentioned representatives shall be nominated by the most representative professional organization.

Art. 13. The objects of the National Corporation shall be:

1. To manage the property and assets transferred to or confiscated by the State;

2. To ensure the execution, in the conditions provided for by this law, of the measures allocating the property and assets transferred.

3. If necessary, to dispose of property and assets not allocated;

Chapter II

CONDITIONS OF DISTRIBUTION

Art. 17. Property transferred in pursuance of this law, and confiscated property necessary for the operation of press and information undertakings, shall be allocated to undertakings regularly authorized in accordance with legislation in force provided always that:

1. Such undertakings are regularly constituted in accordance with the provisions of the law governing the articles of association of press undertakings;

Pending the promulgation of the law governing the articles of association of press undertakings, no property may be disposed of and no leases entered into for a period of more than six months, subject to renewal.

2. Applications for conveyances submitted by them shall be in conformity with the plan of distribution provided in articles 21 and following;

3. Where permission has been granted to a resistance group or to a political movement or to one of their authorized agents, and where there is a dispute on the distribution of shares, it shall be settled by arbitration by the National Press Commission, subject to the conditions and particulars prescribed by administrative regulation.

Art. 18. A National Press and Information Commission and Regional Press and Information Commissions shall be set up.

The seat of each regional commission and the territory covered by it shall be prescribed by an order of the Minister of Information.

Art. 19. Regional Press and Information Commissions shall be composed of the following:

to act as chairman;

One representative of the Minister of Information

One representative of the Minister of National Economy and Finance;

One delegate of each of the General Councils of the Departments wholly or partly situated in the region;

Three representatives of newspaper directors;

One representative of professional journalists;

One representative of the staff and employees;

One representative of press workers engaged in press undertakings in the region, appointed by the most representative professional organizations.

Art. 20. The National Press and Information Commission shall be composed of the following:

One representative of the Minister of Information to act as chairman;

One representative of the Minister of National Economy and Finance;

Three representatives of the National Assembly appointed by it in accordance with the principle of proportional representation;

Three representatives of the National Press Federation, two of whom shall be from the provincial press;

One representative of professional journalists;

One representative of the staff and employees;

One representative of the workers, such representatives being appointed by the most representative professional organizations.

Art. 21. The Press and Information Commissions shall draw up a plan for the distribution of the property referred to in art. 17 among the press and information undertakings mentioned in the said article, regard being had to the requirements of such undertakings and to their ability to utilize the material installations and plant.

Each regional commission shall draw up a plan of distribution in respect of the undertakings having their head offices in the commission's territory.

The National Commission shall draw up a plan of distribution in respect of undertakings having their head office in Paris or in the Seine Department. It shall also decide appeals brought by the competent Ministers or undertakings concerned against decisions of regional commissions.

Art. 22. The distribution shall be carried out in order to ensure the utilization of the property, installations, material and plant in the best economic conditions.

The competent commission may undertake any regrouping or adjustment considered necessary for this purpose. Distributions already made at the time of liberation shall be maintained, except for imperative technical reasons.

A right of priority shall be granted to newspapers set up in the undertaking within one year after the liberation of the district.

Whenever a decision is contemplated which would result in changing the operational conditions of an undertaking, the latter shall be first informed and may offer observations within one week.

Six months after the vote on the articles of association of the press, no daily newspaper may apply for permission to print unless the publishing company can prove that it is complying with the provisions of such articles.

Art. 23. Plans of distribution shall provide for the allocation of premises and printing presses to newspapers enjoying the right of user.

Where two or more press undertakings jointly use the same printing press, they may, any legislative provision to the contrary notwithstanding, for a printing press management company to which the allocation may be made. A decision for this purpose shall be taken by a majority of press undertakings, each having the number of votes corresponding to its circulation in the last week of the first quarter of 1946. Undertakings not participating in the management company shall be assigned printing contracts. Disputes which may arise in connexion with these contracts shall be submitted to the arbitration of the National Press Corporation.

Directors and chief editors of newspapers which have been convicted of collaborating with the enemy may not be members of any printing press management company.

The articles of association of such company shall expressly provide for an option under which further undertakings may join in so far as the available resources permit.

In case of disagreement, the National Press Corporation shall conclude a printing contract with each of the parties concerned.

Premises used for the administration and editing of newspapers shall not necessarily be included in the collective allocation to the printing press management company; they may be governed by separate lease contracts.

Art. 24. Plans for distribution shall be drawn up within three months from the date of the promulgation of this law.

As soon as they have been drawn up, they shall be communicated to the competent Ministers and to the undertakings concerned, which may within fifteen days appeal to the National Commission against plans of distribution drawn up by a regional commission or request reconsideration by the National Commission where the plans for distribution were drawn up by the latter.

The National Commission shall reach a decision within two months. Plans for distribution shall within one week thereafter be published in the *Journal officiel*. An appeal of *ultra vires* may be made to the Council of State. Plans shall be executory with respect to each undertaking concerned upon the signature of the contract referred to in the following chapter.

Art. 25. Within two months from the publication of the plan for distribution, and from the date on which the prices proposed for each form of sale or lease shall have been communicated, each undertaking or printing press management company concerned, which fulfils the conditions stated in article 17 of this law, shall inform the Director of the National Press Corporation if it wishes to acquire the property allocated to it under the plan for distribution, either by cash or by purchase with deferred payment, or whether it wishes to take a lease of the said property.

An undertaking or printing press management company which has signed a lease may at the end of each year apply to have it replaced by a contract for lease-sale or sale. Undertakings referred to in article 9, paragraph 2, are excluded from the terms of this provision.

Chapter III

THE SUPREME PRESS COUNCIL AND CONDITIONS FOR DRAWING UP CONTRACTS

Art. 26. A Supreme Press Council shall be set up as the successor of the Supreme Commission for Press Sequestrations set up by the Order of 14 January 1946.

The functions of the Council shall be:

1. To draw up specimen contracts for the outright purchase, purchase with deferred payment, and lease of property transferred under this law or confiscated by the State on the basis of their purchase or rental value at the time of the contract;
2. To deal, at the request of one of the parties, with disputes which may arise over the application

of contracts concluded between press undertakings or printing press management companies and the National Press Corporation.

Any question relating to the management of press undertakings may be submitted to the Supreme Council by the Minister of Information.

The membership, organization and operations of the Supreme Council shall be prescribed by decree issued on the report of the Minister of Information and of the Minister of National Economy and Finance.

Art. 27-28. [Particulars of sales contracts.]

Art. 29. If within one month after receipt of an application for allocation, agreement on the price has not been reached between the National Corporation and the applicant or applicants, there shall be recourse to arbitration.

Art. 30. [Details of arbitration.]

Art. 31-33. [Failure to pay, loss of rights of allottee.]

FUNDAMENTAL RIGHTS IN FRANCE SINCE THE LIBERATION¹

On 9 August 1944, the Provisional Government of the Republic, then still at Algiers, promulgated an ordinance for the re-establishment of Republican law in the continental territory, which was to apply to metropolitan France as soon as any part of it was freed from the German invader. On 27 October 1946 the definitive Constitution of the Fourth Republic was promulgated, after having been adopted by the Second National Constituent Assembly on 29 September and approved by the French people on 13 October of the same year. Our study will thus be kept within the historical limits of those two dates, 9 August 1944 and 27 October 1946.

In the course of this period of slightly more than twenty-six months, a large number of legislative measures for the re-establishment of fundamental liberties, or for their clarification or even their modification were introduced. Those enacted before the meeting of the First Constituent Assembly called by the Provisional Government are entitled ordinances; the others, regularly voted by one or the other of the two Constituent Assemblies and promulgated by the executive power, are called laws. Both ordinances and laws were supplemented by regulations determining their method of application. All these represent a mass of primary or secondary legislation which can obviously not be reviewed in detail. We shall therefore confine ourselves to picking out a few particularly salient points and to studying successively recent legislation in the following fields:

1. Equality before the law.
2. Freedom of the individual.

3. Freedom to express an opinion.

4. Right of property.

And, in conclusion, we shall point out the general tendencies of the new legislation which was embodied, though by no means finally, in the preamble to the Constitution of 27 October.

I. EQUALITY BEFORE THE LAW

The pseudo-government of Vichy not only abolished the motto, "Liberty, Equality, Fraternity", which the Third Republic had inherited from the Revolution, but attacked the traditional principle of equality itself by enacting a series of discriminatory measures against certain classes of citizens, either on account of their race (Jews), or on account of their origin (naturalized persons), or again on account of their political or philosophical opinions (members of secret societies). The first care of the Provisional Government was to repeal all this legislation. That, amongst other things, was the purpose of the above-mentioned ordinance of 9 August 1944. Quite naturally the restoration of equality to the French people was accompanied by measures of redress towards those who had suffered during the previous period: revision of sentences imposed on "deserters" and members of the Resistance, re-installation of officials dismissed on racial or political grounds, restitution, etc. Quite naturally too, steps were taken to punish traitors and collaborators; they were barred from holding elective office or public positions and also from exercising certain professions (for an example of so-called "purge" measures, see Ordinance No. 45-307 of 2 March 1945 on the purging of the press, reproduced in this Yearbook).

¹ English translation from the French text by the United Nations Secretariat.

We should point out here that the Provisional Government did not simply restore the principle of equality to its pre-1940 conception. In two respects the traditional principle was greatly expanded.

As we know, the laws of the Third Republic, in spite of numerous amendments, did not recognize the full equality of the two sexes, particularly in political matters. The ordinance of 21 April 1944, on the organization of public powers in France after the liberation, established the electoral rights, both active and passive, of Frenchwomen in regard to the Constituent Assembly. All subsequent electoral laws maintained this equality of the two sexes. Today, it is a principle which applies in every field, since according to the preamble of the new Constitution, "The law guarantees to women equal rights with men in all domains."

The second point concerns the status of inhabitants of French territories overseas. Under the Third Republic populations did not necessarily all enjoy the same rights as metropolitan Frenchmen, and side by side with the category of "French citizens" there existed that of "French subjects". It would take too long to quote all the texts whereby it has been endeavoured to bring the status of these two categories more closely into line, and it will be enough to refer to the basic law No. 46-940 of 7 May 1946, having the effect of conferring citizenship on nationals of overseas territories, including Algeria, and to article 81 of the Constitution. Whilst the two statutes have been brought closer, there is still not full assimilation, since article 81 makes a distinction between "French citizens" on the one hand and "nationals of territories within the French Union" on the other. It is true that both are citizens enjoying all the rights and liberties pertaining to that status (article 82 of the constitution) but their position differs in other respects.

II. FREEDOM OF THE INDIVIDUAL

The freedom of the individual in its widest acceptance (that is to say, including freedom of movement in addition to personal safety and the inviolability of the home) is the very basis of any truly democratic system. It is therefore not surprising that it should have suffered numerous infringements and even an almost complete eclipse in the dark days following the military defeat of 1940.

One of the main purposes of the ordinance of 9 August 1944, previously referred to, on the restoration of Republican law was, quite naturally, to repeal the various measures infringing the freedom of citizens; but not all emergency measures disappeared on that date.

At the outset of hostilities in 1939, the Government enacted a series of measures required for national defence. The most important of these was

the result of the decree of 18 November 1939 which empowered the military authorities, upon a decision by the prefect, to remove from their homes, or where necessary to confine to a specified residence, or to intern, persons recognized as dangerous to national defence. The Vichy Government issued a number of supplementary measures going far beyond and infringing grievously the liberty of the citizens. These measures disappeared with the regime that had introduced them. But the National Committee of Algiers replaced them by some very similar measures; such, for example, was the purpose of the ordinance of 18 November 1943 on the administrative internment of individuals dangerous to national defence or public safety. This ordinance was replaced by another issued by the Provisional Government on 4 October 1944—i.e. after the liberation of metropolitan territory. Apart from a few details, the 1944 ordinance retained in full the system established by that of 1943. Under these texts any person recognized as dangerous to national defence or public safety might, upon a decision by the prefect with immediate effect, be removed from his place of residence and either compelled to live in a specified locality or subjected to administrative internment in an establishment designated by the Minister of the Interior. Although these ordinances, and in particular that of 1944, had given persons affected by these measures certain guarantees, such as that their dossier should be examined within a certain time limit by an examining commission under the chairmanship of a magistrate and that they could have legal assistance at cross-examinations, representatives of democratic opinion and in particular the League of the Rights of Man never ceased to denounce these measures as infringements of the freedom of the citizen. Furthermore, a large number of abuses were reported, such as arrests on denunciations which were often anonymous, failure to observe the time limits prescribed for the seizure and consideration of dossiers by the examining commissions, etc. The Minister of the Interior several times tried to palliate the most glaring abuses by reminding the various authorities of their duty, but it was not until 1 June 1946, which was the date fixed for the official termination of hostilities, that the system of the ordinance of 14 October 1944 finally came to an end.

Soon afterwards the Government had to ask the Assembly to vote on another measure contrary to the principle of the freedom of the individual. This was law No. 46-2142 of 4 October 1946, which was one of a number of measures to prevent the cornering of essential foodstuffs and the illegal rise in the cost of living. Under this law the Minister of Food may personally take any steps in order to ascertain serious breaches of the food laws, and where necessary to deliver the offenders to the courts set up to punish them. This law, as is evidenced by its title, confers upon the Minister of Food the powers vested in the prefects under

the famous article 10 of the Code of Criminal Procedure, which had been repealed in 1933 in deference to public opinion (but which was largely re-enacted in 1935 by a decree-law of the Laval Government). Although the powers granted to the Minister under the 1946 law expire on 1 April 1947 and are no doubt justified by the exceptional circumstances we are experiencing, this represents a further extension of the powers of the executive into a field which should be under the exclusive control of the judicial authorities, the guardians of the freedom of the citizen.

Side by side with these measures restricting the freedom of the individual, we should mention a valuable reform introduced by Ordinance No. 45-2658 of 2 November 1945 regarding the conditions of entry and stay of aliens in France. Under previously existing legislation the administrative authorities (the Minister of the Interior and, in the frontier departments, the prefect) had discretionary power to expel any alien. An alien to whom such a measure was applied had no guarantee and could not appeal, and in any case the expulsion order did not have to state a reason. It has been frequently pointed out that this system of expulsion was contrary to the principle of the freedom of the individual, which an alien should enjoy as much as a national. In practice, expulsion could have particularly serious consequences where the person concerned was stateless or a political refugee, and therefore unable to return to his country of origin. The above-mentioned ordinance in chapter IV makes a far-reaching reform in the system of expulsion. Henceforth an alien who can prove that he entered France according to the rules and is the holder of a residence card may not be expelled without specified notice being given. Moreover, he may ask for a hearing before a special commission under the chairmanship of a magistrate and may have legal assistance. Before this commission the person concerned may state his case against being expelled. Admittedly, this commission only gives an opinion, and the Minister of the Interior is alone empowered to decide; but at least an alien now has the protection of a quasi-judicial procedure. Furthermore, although the law does not expressly say so, expulsion orders must in future state a reason; and thus the Council of State, in its capacity of tribunal on the abuse of power, is enabled to intervene. It is even doubtful whether expulsion can now apply to a political refugee, because according to the preamble of the Constitution of 27 October, "Anyone persecuted because of his activities in the cause of freedom has the right of asylum within the territories of the Republic."

Lastly, to conclude this paragraph dealing with the freedom of the individual, we must mention Law No. 46-685 of 13 April 1946 which provides for the closing of all licensed brothels.

III. FREEDOM TO EXPRESS AN OPINION

It is no exaggeration to say that the pseudo-Government of Vichy, like the totalitarian regimes on which it was modelled, monopolized the means of expressing ideas. Between 1940 and 1944, being a professional political journalist almost inevitably meant being a tool of the regime, and frequently a collaborator with the occupying Power as well. The Provisional Government therefore had two tasks to perform immediately upon liberation: first, to purge the country of journals and journalists that had helped to poison public opinion; and second, to re-establish the requisite conditions for a free and independent press.

A. As regards the first point, the Provisional Government took a number of steps directed partly against the "collaborating" organs and partly against journalists contributing to them. Among the first may be mentioned the ordinance of 30 September 1944 for the provisional regulation of the periodical press in liberated metropolitan territory. This ordinance suspended with immediate effect all newspapers and periodicals established since the defeat, or those which existed prior thereto and continued to appear a fortnight after 25 June 1940 in the northern zone, or a fortnight after 11 November 1942 in the southern zone. This prohibition applied to the use of the title of the periodical or newspaper and also to the use by owners, managers, etc. of installations, plant, or any other resources forming part of the undertaking. Only non-political organs (religious or sporting publications, etc.) were allowed to appear again, and even they had first to prove that their attitude in the past had been correct. This provisional suspension became a definitive prohibition by ordinance No. 45-250 of 17 February 1945, whilst law No. 46-994 of 11 May 1946 provided for the transfer to the State of the property of such press and information undertakings.

Persons who took part in the direction of the collaborating press in any capacity or had their work published in it, became subject to a series of penal measures, as well as to ordinance No. 45-307 of 2 March 1945 on the purging of the press.

B. As regards the second point, the re-establishment of the freedom of the press, the Provisional Government first of all took steps to abolish preventive censorship. As metropolitan France was at the time a theatre of military operations, this abolition could take place only by degrees. The ordinance of 6 May 1944 suppressed it in all respects, except for "news and publications likely to compromise the security of the armies or of populations subject to the oppression of the enemy or of the usurper, or generally likely to prejudice the requirements of national defence". On 15 June 1945 another ordinance, No. 45-1282, replaced the previous one. "Preventive control . . . is abolished. The Minister of War

may, however, issue to the various organs of the press a list of subjects liable to affect the security of military operations where his permission is required before any information regarding them is published." Finally, ordinance No. 45-2339 of 12 October 1945 finally abolished the last traces of preventive censorship.

This abolition of censorship did not, however, signify a return to the system of the Third Republic, as established by the great press law of 29 July 1881, for the press legislation had been profoundly modified by the ordinance of 6 May 1944 (replaced by law No. 45-2090 of 13 September 1945) and by the ordinance of 26 August 1944 on the organization of the French press.

The ordinance of 6 May 1944, the date of which coincides with that of the ordinance abolishing preventive censorship (except in military matters), was aimed at strengthening considerably the penal system based on the 1881 law. Under this law, press offences were dealt with not by the courts of summary jurisdiction, with a bench of professional magistrates, but by courts of assize with a jury. Under the ordinance of 6 May, the court of summary jurisdiction once again becomes competent, except, of course, where the offence committed by the press amounts to a crime. The law of 13 September 1945 retained this reform, but contained certain more specific provisions regarding procedure, and also increased the penalties for certain press offences.

The reform effected by the ordinance of 26 August 1944 was even more profound. Its general tenor is as follows. Every periodical newspaper must make public the names and capacity of those *de jure* or *de facto* in control, and any secret participation is severely punished. Apart from certain exceptions, all owners, partners, shareholders, silent partners, persons financing the publication or otherwise financially concerned in it, must be of French nationality. Each issue must state, under the title, the names and professions of the director and co-proprietors (or of the members of the board of directors, partners or managing directors, if it is a company). The ordinance strictly prohibits subsidies from a foreign Government and, in order to prevent such subsidies in a disguised form, lays down stringent rules with regard to advertising. It should be added that under the ordinance, the staff is entitled to take part in the actual management of the undertaking through two representatives sitting on a "technical board" with the director. Although this board has only advisory powers, its influence is the greater inasmuch as the staff has two votes on it to the director's one.

In accordance with the post-liberation legislation, no new paper may be published without a previous authorization to be given by the Under-Secretary of State for Information. The applicant has to furnish detailed information re-

garding the paper itself (its nature, size, probable circulation, price, periodicity, etc.), the persons concerned with its publication in what way so ever: members of the boards of directors, editors, responsible publisher, contributors, printers, etc. The application must also specify the origin and amount of the capital of the newspaper. The Under-Secretary transmits the application to the Federation of the Press, which investigates it and furnishes its advice, which is generally followed. It is not doubtful, in our opinion, that in accordance with general principles of French public law the decision of the Under-Secretary of State is subject to judicial review by the Council of the State by means of *recours pour excès de pouvoir*, which, as is well known, is a broadly conceived control of legality.

The grant of the permit to publish includes the obligatory allocation of newsprint; nevertheless these allocations are subject to periodical review in accordance with the circulation of the newspaper.

IV. RIGHT OF PROPERTY

Article 17 of the Declaration of Rights of 1789, reads as follows: "Property, being an inviolable right, is sacred, and no person may be deprived of it except where this is clearly required in the public interest, and in return for just and prior compensation."

This absolute conception of the right of property, on which French public law was based throughout the nineteenth century and right up to the eve of the Second World War, has been exposed to violent attacks not only from the parties of the extreme left, but also from a large section of progressive opinion. As an example, we would refer to the Supplement to the Declaration of Rights adopted in 1936 by the Dijon Congress of the French League of the Rights of Man, which gave a definition of the right of property more in keeping with modern ideas.

The Chamber of Deputies elected in 1936 on the Popular Front platform tried to embark on nationalization, but owing to the resistance offered by the Senate, its work remained timid and fragmentary, so that actually it did not go beyond certain war industries and some railways of general concern.

From the very outset, the Fourth Republic went much farther. Without even awaiting the meeting of the Constituent Assembly, the Provisional Government, by means of ordinances, carried out two important measures of nationalization: one of them, applying to the Renault factories (ordinance No. 45-68 of 16 January 1945), was applied as a punishment for the collaborationist attitude adopted by this important undertaking towards the enemy; whilst the other, applying to the Nord and Pas-de-Calais coal mines (ordinance of 13 December 1944) was based on the monopolistic nature of the undertakings concerned and their great importance to the whole economic life of the country.

The First Constituent Assembly carried out the nationalization of other important branches of industry (law No. 45-015 of 2 December 1945, concerning the nationalization of the Banque de France and of the major banks, as amended by law No. 46-626 of 8 April 1946), of electricity and gas (law 46-626 of 8 April 1946), of electricity and gas (law 46-835 of 25 April 1946). In the Constitution of 27 October 1946, this policy became a fundamental principle of public law, since according to its preamble "All property and all enterprises that now have or subsequently shall have the character of a national public service or a monopoly in fact must become the property of the community."

Without going into the details of the texts under which the nationalizations were carried out, we should merely like to mention that French legislation has always endeavoured to avoid the drawbacks of purely bureaucratic administration: nationalized undertakings still retain their economic and financial independence and sometimes even the form of limited liability companies; they are nearly always operated by a board of directors which includes representatives of the public authorities side by side with those of the staff, those of users or consumers, sometimes too those of the trade unions or even those of the former owners or shareholders, who, incidentally, have to be compensated.

The Constitution establishes another important principle regarding undertakings remaining in private hands: "Every worker, through his delegates, may participate in collective bargaining to determine working conditions, as well as in the management of business." We have already mentioned one instance of the application of this principle before the Constitution came into force in connexion with the management of Press undertakings.

The right of real property, already limited in virtue of certain previous laws, has undergone further important limitations owing to recent laws benefiting tenants of industrial or commercial premises and lessees of farm undertakings.¹

With regard to industrial or commercial premises, the law of 18 April 1946 (law No. 46-744, *Journal officiel* of 19 April 1946, p. 3,286) amending the legislation introduced by the law of 30 June 1926, gives new advantages to a tenant who already possessed a right to the renewal of his lease when

the latter expired. If the tenant does not manage to agree directly with the owner, he may apply to the president of the civil court of first instance, who acts first as a conciliator between the parties; if the conciliatory action fails, the magistrate himself establishes the conditions for the renewal of the lease. If the owner refuses to renew the lease, he is obliged to compensate the tenant.

In the case of farm lands, the law of 13 April 1946 (law No. 46-682, *Journal officiel* of 14 April 1946, p. 3131) amending the ordinances of 4 December 1944 and 17 October 1945, establishes a right of pre-emption in favour of the tenant or his heirs in case of alienation of the property.² If the beneficiary of the right of pre-emption considers the price asked by the owners excessive, he may ask a court of arbitration to reduce it and fix the conditions of sale. The owner can, if he thinks the price thus fixed insufficient, decide not to sell, but he must then bear the cost of the valuation ordered by the court of arbitration.

The limits of our study have forced us to neglect other important aspects of recent legislation on fundamental rights. And yet what we have said is sufficient to bring out the most salient characteristics. These are two: the principle of equality has clearly assumed ascendancy over that of liberty; the interest of the community has most frequently been given priority over that of the individual.

These two important characteristics were clearly apparent from a perusal of the Declaration of Rights which the First Assembly placed at the beginning of its Constitution, which was rejected by the referendum of 5 May 1946. The Second Constituent Assembly preferred to make a solemn reaffirmation of the rights of man and of the citizen established by the Declaration of Rights of 1789 and of the fundamental principles recognized by the laws of the Republic. But it supplemented them by proclaiming "as most vital in our time the political, economic and social principles", the most important of which are reproduced above. Thus the Fourth Republic, more than the Third, is taking the form of a social democracy, though remaining a political democracy.

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¹ A regulation, the origins of which go back to the First World War, considerably restricts the owner's rights in respect of premises used as dwellings; these restrictions relate in particular to the right to evict the tenant at the end of the lease, and the fixing of rents.

² The preferential right of pre-emption of the tenant benefits him only under certain conditions laid down by the law, one of the most important being that he must have enjoyed the use of the property, either himself or through his principals, for at least five years.

GERMANY

THE POTSDAM AGREEMENT¹ of 2 August 1945 (Excerpts)

A. POLITICAL PRINCIPLES

1. In accordance with the agreement on control machinery in Germany, supreme authority in Germany is exercised on instructions from their respective Governments by the Commander-in-Chief of the armed forces of the United States of America, the United Kingdom, the Union of Soviet Socialist Republics, and the French Republic, each in his own zone of occupation, and also jointly, in matters affecting Germany as a whole, in their capacity as members of the Control Council.

2. So far as is practicable, there shall be uniformity of treatment of the German population throughout Germany.

3. The purposes of the occupation of Germany by which the Control Council shall be guided are:

(I) The complete disarmament and demilitarization of Germany and the elimination of control of all German industry that could be used for military production. To these ends;

(a) All German land, naval and air forces, the S.S., S.A., S.D., and Gestapo, with all their organizations, staffs and institutions, including the general staff, the officers' corps, reserve corps, military schools, war veterans' organizations, and all other military and quasi-military organizations, together with all clubs and associations which serve to keep alive the military tradition in Germany, shall be completely and finally abolished in such manner as permanently to prevent the revival or reorganization of German militarism and nazism;

(b) All arms, ammunition and implements of war and all specialized facilities for their production shall be held at the disposal of the Allies or destroyed. The maintenance and production of all aircraft and all arms, ammunition, and implements of war shall be prevented;

(II) To convince the German people that they have suffered a total military defeat and that they cannot escape responsibility for what they have brought upon themselves, since their own ruthless warfare and the fanatical nazi resistance have destroyed German economy and made chaos and suffering inevitable;

(III) To destroy the National Socialist Party and its affiliated and supervised organizations, to

dissolve all nazi institutions, to ensure that they are not revived in any form, and to prevent all nazi and militarist activity or propaganda;

(IV) To prepare for the eventual reconstruction of German political life on a democratic basis and for eventual peaceful co-operation in international life by Germany.

4. All nazi laws which provided the basis of the Hitler regime or established discrimination on grounds of race, creed or political opinion shall be abolished. No such discrimination, whether legal, administrative, or otherwise, shall be tolerated.

5. War criminals and those who have participated in planning or carrying out nazi enterprises involving or resulting in atrocities or war crimes shall be arrested and brought to judgment. Nazi leaders, influential nazi supporters and high officials of nazi organizations and institutions and any other persons dangerous to the occupation or its objectives shall be arrested and interned.

6. All members of the Nazi party who have been more than nominal participants in its activities and all other persons hostile to Allied purposes shall be removed from public and semi-public office and from positions of responsibility in important private undertakings. Such persons shall be replaced by persons who, by their political and moral qualities, are deemed capable of assisting in developing genuine democratic institutions in Germany.

7. German education shall be so controlled as completely to eliminate nazi and militarist doctrines and to make possible the successful development of democratic ideas.

8. The judicial system will be reorganized in accordance with the principles of democracy, of justice under law, and of equal rights for all citizens without distinction of race, nationality or religion.

9. The administration of affairs in Germany should be directed towards the decentralization of the political structure and the development of local responsibility. To this end:

(I) Local self-government shall be restored throughout Germany on democratic principles and in particular through elective councils as rapidly as is consistent with military security and the purposes of military occupation;

(II) All democratic political parties with rights of assembly and public discussion shall be allowed and encouraged throughout Germany;

¹ *Official Gazette of the Control Council for Germany*. Berlin, Allied Secretariat, 1946. Supplement No. 1, pages 14-17.

(III) Representative and elective principles shall be introduced into regional, provincial and State (land) administration as rapidly as may be justified by the successful application of these principles in local self-government;

(IV) For the time being no central German government shall be established. Notwithstanding this, however, certain essential central German administrative departments, headed by State Secretaries, shall be established, particularly in the fields

of finance, transport, communications, foreign trade and industry. Such departments will act under the direction of the Control Council.

10. Subject to the necessity for maintaining military security, freedom of speech, press and religion, shall be permitted, and religious institutions shall be respected. Subject likewise to the maintenance of military security, the formation of free trade unions shall be permitted.

CONTROL COUNCIL LAW No. 1 OF 20 SEPTEMBER 1945

REPEALING OF NAZI LAWS¹

Art. I. 1. The following laws of a political or discriminatory nature upon which the nazi regime rested are hereby expressly repealed, together with all supplementary and explanatory laws, ordinances and decrees: [a list of twenty-five laws and ordinances follows].

2. The abrogation of the above-mentioned laws does not revive any law enacted subsequent to 30 January 1933, which was thereby repealed:

Art. II. No German enactment, however or whenever enacted, shall be applied judicially or administratively in any instance where such appli-

cation would cause injustice or inequality, either (a) by favouring any person because of his connexion with the National Socialist German Labour Party, its formations, affiliated associations, or supervised organizations, or (b) by discriminating against any person by reason of his race, nationality, religious beliefs, or opposition to the National Socialist German Labour Party or its doctrines.

Art. III. Any person applying or attempting to apply any law repealed by this law will be liable to criminal prosecution.

CONTROL COUNCIL LAW No. 2 OF 10 OCTOBER 1945

PROVIDING FOR THE TERMINATION AND LIQUIDATION OF THE NAZI ORGANIZATIONS

Art. I. 1. The National Socialist German Labour Party, its formations, affiliated associations and supervised agencies, including para-military organizations and all other nazi institutions established as instruments of party domination, are hereby abolished and declared illegal.

2. The nazi organizations enumerated in the attached appendix, or which may be added, are expressly abolished. [Not printed]

3. The re-forming of any of the organizations named herein, whether under the same or different name is forbidden.

Art. II. All real estates, equipments, funds, accounts, records and other property of the organizations abolished by this law are confiscated. Con-

fiscation is carried out by Military Commands; general directives concerning the distribution of the confiscated property are given by the Control Council.

Art. III. Until such time as the property mentioned is actually placed under the control of the Military Commands all officers and other personnel, including administrative officials and others accountable for such property, are held personally responsible for taking any action necessary to preserve intact all such property and for complying with the orders of the Military Commands regarding such property.

Art. IV. Any person violating any provision of this law shall be liable to criminal prosecution.

CONTROL COUNCIL PROCLAMATION No. 3 OF 20 OCTOBER 1945

FUNDAMENTAL PRINCIPLES OF JUDICIAL REFORM

By the elimination of the Hitler tyranny by the Allied Powers the terrorist system of nazi courts has been liquidated. It is necessary to establish a new democratic judicial system based on the achievements of democracy, civilization and justice. The Control Council therefore proclaims the following

fundamental principles of judicial reform which shall be applied throughout Germany.

I. Equality before the Law

All persons are equal before the law. No person, whatever his race, nationality, or religion, shall be deprived of his legal rights.

II. Guarantees of the Rights of the Accused

1. No person shall be deprived of life, liberty or property without due process of law.

¹ English text of laws no. 1 and no. 2 and of proclamation no. 3 in *Official Gazette of the Control Council for Germany*. Berlin, Allied Secretariat, No. 1, 29 October 1945, pp. 6-8 and 19-23.

2. Criminal responsibility shall be determined only for offences provided by law.

3. Determination by any court of any crime "by analogy" or by so-called "sound popular instinct", as heretofore provided in the German criminal code, is prohibited.

4. In any criminal prosecution the accused shall have the rights recognized by democratic law, namely the right to a speedy and public trial and to be informed of the nature and cause of the accusation, the right to be confronted with witnesses in his favour and the right to have the assistance of counsel for his defence. Excessive or inhuman punishments or any not provided by law will not be inflicted.

5. Sentences on persons unjustly convicted under the Hitler regime on political, racial or religious grounds must be quashed.

III. Liquidation of Extraordinary Hitler Courts

The People's Court, Courts of the NSDAP and Special Courts are abolished and their re-establishment prohibited.

IV. Independence of the Judiciary

1. Judges will be independent from executive control when exercising their functions, and owe obedience only to the law.

2. Access to judicial functions will be open to all who accept democratic principles without account of their race, social origin or religion. The promotion of judges will be based solely on merit and legal qualifications.

V. Concluding Paragraph

Justice will be administered in Germany in accordance with the principles of this proclamation by a system of Ordinary German Courts.

CONTROL COUNCIL LAW NO. 10¹ OF 20 DECEMBER 1945

PUNISHMENT OF PERSONS GUILTY OF WAR CRIMES, CRIMES AGAINST PEACE AND AGAINST HUMANITY²

In order to give effect to the terms of the Moscow Declaration of 30 October 1943 and the London Agreement of 8 August 1945, and the charter issued pursuant thereto and in order to establish a uniform legal basis in Germany for the prosecution of war criminals and other similar offenders, other than those dealt with by the International Military Tribunal, the Control Council enacts as follows:

Art. I. The Moscow Declaration of 30 October 1943 concerning the responsibilities of Hitlerites for committed atrocities, and the London Agreement of 8 August 1945, concerning prosecution and punishment of major war criminals of the European Axis, are made integral parts of this law. Adherence to the provisions of the London Agreement by any of the United Nations, as provided for in article V of that agreement, shall not entitle such nation to participate or interfere in the operation of this law within the Control Council area of authority of Germany.

Art. II. 1. Each of the following acts is recognized as a crime: (a) Crimes against peace. Initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation or waging a war of aggression, or a war of violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.

(b) War crimes. Atrocities or offences against persons or property constituting violations of the laws or customs of war, including but not limited to murder, ill treatment or deportation to slave labour or for any other purpose, of civilian population from occupied territory, murder or ill treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity.

(c) Crimes against humanity. Atrocities and offences, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed against any civilian population, or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated.

(d) Membership in categories of a criminal group or organization declared criminal by the International Military Tribunal.

2. Any person without regard to nationality or the capacity in which he acted, is deemed to have committed a crime as defined in paragraph 1 of this article, if he (a) was a principal, or (b) was an accessory to the commission of any such crime or ordered or abetted the same or (c) took a consenting part therein or (d) was connected with plans or enterprises involving its commission or (e) was a member of any organization or group connected with the commission of any such crime or (f) with reference to paragraph 1 (a), if he held a high political, civil or military (including General Staff) position in Germany or in one of its allies, co-belligerents, or satellites or held high position in the financial, industrial or economic life of any such country.

¹ Official Gazette of the Control Council for Germany, No. 3, 31 January 1946, pp. 50-54.

² See also Control Council Directive No. 38, regarding the arrest and punishment of war criminals, Nazis and militarists, and the internment, control and surveillance of potentially dangerous Germans. (Official Gazette of the Control Council for Germany, Berlin, Number 11, of 31 October 1946, pages 184-211)

3. Any person found guilty of any of the crimes above mentioned may upon conviction be punished as shall be determined by the tribunal to be just. Such punishment may consist of one or more of the following:

- (a) Death.
- (b) Imprisonment for life or a term of years, with or without hard labour.
- (c) Fine, and imprisonment with or without hard labour, in lieu thereof.
- (d) Forfeiture of property.
- (e) Restitution of property wrongfully acquired.
- (f) Deprivation of some or all civil rights.

Any property declared to be forfeited or the restitution of which is ordered by the Tribunal shall be delivered to the Control Council for Germany, which shall decide on its disposal.

4. (a) The official position of any person, whether as Head of State or as a responsible official in a government department, does not free him from responsibility for a crime or entitle him to mitigation of punishment.

(b) The fact that any person acted pursuant to the order of his Government or of a superior does not free him from responsibility for a crime, but may be considered in mitigation.

5. In any trial or prosecution for a crime herein referred to, the accused shall not be entitled to the benefits of any statute of limitation in respect of the period from 30 January 1933 to 1 July 1945, nor shall any immunity, pardon or amnesty granted under the nazi regime be admitted as a bar to trial or punishment.

Art. III. 1. Each occupying authority, within its zone of occupation;

(a) Shall have the right to cause persons within such zone suspected of having committed a crime, including those charged with crime by one of the United Nations, to be arrested and shall take under control the property real and personal, owned or

controlled by said persons, pending decisions as to its eventual disposition;

(b) Shall report to the legal Directorate the names of all suspected criminals, the reasons for and the places of their detention, if they are detained, and the names and location of witnesses.

(c) Shall take appropriate measures to see that witnesses and evidence will be available when required.

(d) Shall have the right to cause all persons so arrested and charged, and not delivered to another authority as herein provided, or released, to be brought to trial before an appropriate tribunal. Such tribunal may, in the case of crimes committed by persons of German citizenship or nationality, against other persons of German citizenship or nationality, or stateless persons, be a German Court, if authorized by the occupying authorities.

2. The tribunal by which persons charged with offences hereunder shall be tried and the rules and procedure thereof shall be determined or designated by each zone Commander for his respective zone. Nothing herein is intended to or shall impair or limit the jurisdiction or power of any court or tribunal now or hereafter established in any zone by the Commander thereof, or of the International Military Tribunal established by the London Agreement of 8 August 1945.

3. Persons wanted for trial by an International Military Tribunal will not be tried without the consent of the Committee of Chief Prosecutors. Each zone Commander will deliver such persons who are within his zone to that committee upon request and will make witnesses and evidence available to it

Arts. IV and V. [Deal with problems of procedure regarding persons alleged to have committed crimes as defined in article II, in a country other than Germany or in another zone of Germany: requests for delivery, and delivery.]

CONSTITUTION OF THE REPUBLIC OF BAVARIA¹ of 1 Decmber 1946

PREAMBLE

In the presence of the ruins to which a godless political and social order without conscience and without respect for the dignity of man has brought the survivors of the Second World War,

In the firm resolve to secure permanently to coming German generations the blessings of peace, humanity and justice,

The Bavarian people, remembering its more than a thousand years of history, adopts the following democratic constitution:

CHAPTER I

STRUCTURE AND FUNCTIONS OF THE STATE

Part I

Art. 7. (1) Every (Bavarian) national who is twenty-one years old is a citizen without distinction of birth, race, sex, creed and occupation.

Part II

THE LANDTAG

Art. 15. (1) Groups of voters whose members or supporters endeavour to suppress civil liberties or to use force against people, State or Constitution are not permitted to take part in the elections and referenda.

¹ *Constitutions of Bavaria, Hesse and Wuerttemberg-Baden.* Office of Military Government for Germany (U.S.) Berlin, Germany, 15 Febraury 1947, p. 7.

(2) On motion of the Cabinet or of a political party represented in the Landtag, the Bavarian Constitutional Court decides if these conditions are present.

Part IV

THE CABINET

Art. 48. (1) If there is threatening danger to public security and order, the Cabinet may suspend initially for one week the right of free public expression of opinion (*art. 110*), freedom of the press.

(*art. 111*), the secrecy of postal, telephone and telegraph communications (*art. 112*) and freedom of assembly (*art. 113*).

(2) The Cabinet must simultaneously cause the Landtag to be convened, must immediately inform it of all measures taken, and, upon demand of the Landtag, must repeal them in whole or in part. If the Landtag with a majority of the lawful members confirms the measures taken, their validity is extended another month.

(3) Moreover, appeal to the Bavarian Constitutional Court against the measures taken is permitted; within a week, the Court must give at least an interim decision.

Part VIII

ADMINISTRATION OF JUSTICE

Art. 86. (1) Extraordinary courts are forbidden. No one may be deprived of his lawful judge.

(2) Courts for special subjects are permitted only by authorization of law.

CHAPTER II

FUNDAMENTAL RIGHTS AND DUTIES

Art. 98. The fundamental rights guaranteed by the Constitution may not, on principle, be restricted. Restrictions by law are permitted only if public safety, morality, health and welfare make it compellingly necessary. Other restrictions are permitted only under the conditions set forth in article 48. The Constitutional Court must declare laws and decrees invalid which unconstitutionally restrict a fundamental right.

Art. 99. The Constitution serves to protect and further the spiritual and physical well-being of all the inhabitants. International law guarantees the protection of the inhabitants against attacks from without; the laws, the administration of justice and the police guarantee their protection against attacks from within.

Art. 100. In legislation, government and the administration of justice, the worth of human personality must be respected.

Art. 101. Within the limits of the laws and of good morals, every one is free to do whatever does not injure others.

Art. 102. (1) Freedom of the person is inviolable.

(2) Every person arrested by public authority must, not later than the day after the arrest, be brought before the competent judge. The judge must notify the person arrested by what authority

and on what grounds the arrest has been ordered and must give the arrested person opportunity to raise objections against his arrest. The judge must either issue a warrant against the person arrested or must immediately release him.

Art. 103. (1) The right of property, including the right of inheritance, is guaranteed.

(2) The legal order concerning property and the use of property must also serve the common welfare.

Art. 104. (1) An act is punishable only if its punishability was prescribed by law before the act was committed.

(2) No one may be punished twice through court action for the same act.

Art. 105. Foreigners who, in disregard of the fundamental rights laid down in this constitution, have been persecuted abroad and have fled to Bavaria may not be extradited or expelled.

Art. 106. (1) Every inhabitant of Bavaria is entitled to a suitable dwelling.

(2) The furthering of the construction of cheap homes for the people is a function of the State and of municipalities.

(3) The dwelling of each person is sacred and inviolable.

Art. 107. (1) Freedom of religious faith and conscience is guaranteed.

(2) The undisturbed exercise of religion is protected by the State.

(3) The enjoyment of civil and political rights is neither determined nor limited by religious creed. Obligations of citizenship must not be prejudiced thereby.

(4) Eligibility to public office is independent of religious creed.

(5) No one is obliged to disclose his religious convictions. The authorities have the right to inquire as to membership in a religious group only in so far as rights and duties are dependent thereon or a legally prescribed census requires such a disclosure.

(6) No one may be compelled to perform a religious act or to take part in religious exercises or ceremonies or to use the religious form of oath.

Art. 108. There shall be freedom of the arts, science and the teaching thereof.

Art. 109. (1) All inhabitants of Bavaria enjoy complete freedom of movement. They have the right to reside and settle in any place of their own choice, to acquire real estate, and to carry on any line of business.

(2) All inhabitants of Bavaria have the right to emigrate to foreign countries.

Art. 110. (1) Every inhabitant of Bavaria has the right freely to express his opinion by word, writing, picture or in any other way. No labour or employment contract may hinder him in exercising this right, and no one may penalize him for making use of this right.

(2) The combating of smut and indecency is a function of the State and of municipalities.

Art. 111. (1) It is the function of the press in the service of the democratic idea to report truthfully on the events, conditions, institutions and personalities of public life.

(2) Pre-censorship is prohibited. Judicial decision can be invoked against police orders which affect the freedom of the press.

Art. 112. (1) The secrecy of postal, telegraph and telephone communications is inviolable.

(2) Restrictions on radio listening and on ordering of publications are inadmissible.

Art. 113. All inhabitants of Bavaria have the right to assemble peacefully and unarmed without notification or special permission.

Art. 114. (1) All inhabitants of Bavaria have the right to form associations and societies.

(2) Associations and societies which have illegal or immoral purposes or use illegal or immoral means or whose object is to destroy the citizens' liberties or to use force against people, State or Constitution can be forbidden.

(3) Any association is free to acquire legal status according to the provisions of the Civil Code.

Art. 115. All inhabitants of Bavaria have the right to send written petitions to the competent authorities or to the Landtag with respect to their requests and complaints.

Art. 116. In keeping with their qualifications and fitness, all citizens without distinction are eligible to public office.

Art. 117. The undisturbed enjoyment of liberty for everyone is dependent upon all fulfilling their duty of loyalty to the people, the Constitution, the State and the laws. All must respect the Constitution and laws, take part in public affairs, and use their physical and mental faculties in such a manner as the welfare of the people requires.

Art. 118. (1) All are equal before the law. The law binds everyone in the same manner, and everyone enjoys the equal protection of the law.

(2) Men and women have in principle the same citizens' rights and duties.

(3) All public law privileges or disabilities of birth or class are abolished. Titles of nobility are permitted only as part of the name. They may no longer be bestowed or acquired through adoption.

(4) Titles may be bestowed only in connexion with an office or occupation. They shall not be used outside of the office or occupation. Academic degrees do not come under this prohibition.

(5) Decorations and badges of honour may be bestowed by the State only in accordance with the laws.

Art. 119. It is forbidden and punishable to kindle racial and national hatreds.

Art. 120. Every inhabitant of Bavaria who feels that his constitutional rights have been violated by

an authority may appeal to the Bavarian Constitutional Court for protection.

CHAPTER III COMMUNITY LIFE

Part I

MARRIAGE AND FAMILY

Art. 124. (1) Marriage and the family are the natural and moral foundation of human society, and stand under the special protection of the State.

(2) Husband and wife have in principle equal civil rights and duties in marriage.

Art. 125. (1) Healthy children are the most precious asset of a people. Every mother is entitled to the protection and care of the State.

(2) The maintenance of the purity, health and social well-being of the family is the common function of the State and of the municipalities.

(3) Families with many children are entitled to suitable care, especially to healthy dwellings.

Art. 126. (1) Parents have the natural right and the highest duty to educate their children for fitness of body, mind and soul. Therein they are to be supported by the State and by the municipality. In matters of personal education, the will of the parents is decisive.

(2) Children born out of wedlock have the same claim to assistance as children born in wedlock.

(3) Youth is to be protected against exploitation and against moral, mental and physical neglect, by measures and institutions of the State and the municipalities. Compulsory measures for institutional care are permitted only on the basis of law.

Art. 127. The special right of religious societies and of philosophical-ethical societies which are recognized by the State to an appropriate influence on the education of the children of their confession or belief is guaranteed. This is without prejudice to the rights of parents and with respect to the education of their children.

Part II

EDUCATION AND SCHOOLS

Art. 128. (1) Every inhabitant of Bavaria is entitled to receive an education corresponding to his recognized abilities and his inner vocational aspirations.

(2) In case of necessity, the attendance of gifted students at schools and universities is to be made possible by public fund.

Art. 129. (1) Attendance at elementary and vocational schools is compulsory for all children.

(2) Instruction in these schools is free.

Art. 130. (1) The entire educational and school system is under the supervision of the State; the State may have the municipalities participate in it.

(2) School supervision is exercised by full-time, professionally trained officials.

Art. 131. (1) The schools shall not only provide knowledge and training, but shall also develop character and will.

(2) The highest objectives of education are reverence for God, respect for religious convictions and the worth of human personality, self-control, joyous consciousness of responsibility, readiness to help others, and receptiveness to everything true, good and beautiful.

(3) Pupils are to be educated in the spirit of democracy, in love for the Bavarian homeland and for the German people, and in the meaning of the reconciliation of nations.

(4) In addition, girls are to be especially instructed in the care of infants, education of children and household management.

Art. 132. The manifold character of life's occupations will govern the organization of the school system; the acceptance of a child in a particular school will depend on his talents, inclination, fitness and inner vocational aspirations; it will not depend on the economic and social position of his parents.

Art. 133. (1) Public institutions are to provide for the education of youth. The State and the municipalities co-operate in the establishment of such institutions. The recognized religious and philosophical-ethical societies are also agencies for providing education.

(2) Teachers in public schools have in principle the rights and duties of State officials.

Art. 134. (1) Private schools must reach the requirements for public schools. They may be established and operated only with the approval of the State.

(2) Approval is to be given if the private schools, in their teaching objectives (*art. 131*) and facilities as well as in the scientific training of their teachers, are not inferior to similar public schools; if the economic and legal position of the teachers is sufficiently secure; and if there are no objections against the person of the school principal.

(3) Private elementary schools may be permitted only under special conditions. These conditions are particularly present if those responsible for the education of the children have no available public school of their faith or ethical belief.

Art. 135. (1) Public elementary schools are either confessional or non-denominational. Parents and other persons responsible for the education of children are free to elect the type of school. However, non-denominational schools are to be established only in places with a population of mixed religious faiths upon application of parents and other persons responsible for the education of children.

(2) In confessional schools only such teachers will be employed as are qualified and willing to instruct and educate according to the principles of the faith in question.

Art. 136. (1) Teaching in all schools will respect the religious feelings of all.

(2) Religious instruction is a regular part of the curriculum of all elementary, middle and higher schools. It will be given in accordance with the principles of the religious faith concerned.

(3) No teacher can be compelled to give religious instruction or be prevented from giving it.

(4) Teachers require the authorization of the religious denominations for the giving of religious instruction.

(5) The necessary schoolrooms are to be placed at their disposal.

Art. 137. (1) Participation in religious instruction and in church activities and celebrations is left to the decision of the parents or other persons responsible for the education of children; after the eighteenth year of age, the decision is left to the pupils.

(2) Instruction in the generally recognized principles of morality is to be organized for pupils who do not take part in religious instruction.

Part III

RELIGION AND RELIGIOUS SOCIETIES

Art. 142. (1) There is no State church.

(2) Within the framework of generally valid laws, there is no limitation on freedom of association for common religious devotions in the home, for public worship, and for forming religious societies, as well as for the union of such religious societies within Bavaria.

(3) Churches and recognized religious societies, as well as any philosophical-ethical societies whose endeavours do not contradict laws of general validity, are free from State sponsorship. They independently regulate and administer their affairs within the limits of laws of general validity. They bestow their offices without participation by the State or by the political municipality.

Art. 143. As far as there is need for divine worship and religious care in hospitals, prisons or other public institutions, the religious societies are permitted to have religious services and activities, but without any compulsion to attend or participate.

CHAPTER IV

ECONOMY AND LABOUR

Part I

THE ECONOMIC ORDER

Art. 151. (1) All economic activity serves the common welfare, and in particular guarantees to everybody an existence worthy of human beings and a gradual raising of the standard of living for all classes of the people.

(2) Within these purposes, there is liberty of contract in accordance with the laws. Freedom for the development of personal initiative and for the

independent activity of individuals in the economy is recognized in principle. The economic freedom of the individual finds its limits in respect for his neighbours and the moral requirements of the common welfare. Legal transactions which are harmful to the common welfare, and immoral, especially all contracts of economic exploitation, are illegal and void.

Art. 152. The State will supervise the orderly production and distribution of economic goods for the purpose of supplying the people with the necessities of life. The regulation of the supply of electric power to the State belongs exclusively to the State.

Art. 153. In legislation and administration, the independent small and medium-sized undertakings in agriculture, handicrafts, trade and commerce and industry must be furthered and protected against overburdening and exploitation. They must be safeguarded through co-operative self-help in their endeavours, economic freedom, independence and development, and must be supported by the State. The rise of capable persons from non-independent work to independent existence must be promoted.

Art. 154. Self-governing economic authorities elected by and from occupational groups participate in the solution of economic problems. The details are determined by law.

Art. 156. The merging of enterprises for the purpose of building up economic power and monopoly is not permitted. In particular, cartels, combines and price agreements are prohibited.

Part II

PROPERTY

Art. 158. Property carries obligations to the community. Obvious misuse of the right of property or possession enjoys no legal protection.

Art. 159. Expropriation may take place only in cases prescribed by law and with appropriate compensation, which may be granted in the form of an annuity. In cases of dispute as to the amount of the compensation, appeal may be taken to the ordinary courts.

Part III

AGRICULTURE

Art. 163. (1) The soil is accessible to all. The farmer is not bound to the soil.

(2) The agricultural and forest land of all sizes under cultivation serves the whole of the people.

(3) The farmer's property in soil and land is guaranteed.

(4) Farm land is not to be alienated from its prescribed purpose. The acquisition of agriculturally useful land is to be made dependent on proof of ability for qualified management; it may not solely serve capital investment.

(5) Expropriation of agricultural and forest land

is permitted only for urgent purposes of the common welfare, especially settlements, with appropriate compensation and with exemption of demonstration and experimental farms.

Art. 164. (1) Through the application of technical progress to their daily life, the improvement of vocational education and training, development of agricultural co-operatives and furthering of production and marketing, a livelihood worthy of human beings shall be guaranteed to the agricultural population on their home soil.

(2) An appropriate agricultural income shall be assured through a price and wage policy corresponding to general economic conditions, and through market regulations. Agreements between organizations of producers, distributors and consumers shall be based on these considerations.

Art. 165. Excessive indebtedness of agricultural enterprises shall be avoided by legislation as much as possible.

Part IV

LABOUR

Art. 166. (1) Labour is the source of the people's well-being and is under the special protection of the State.

(2) Everyone has the right, through work, to earn an adequate living.

(3) In accordance with the more detailed provisions of the laws, he has the right to select socially useful work which corresponds to his ability and training.

Art. 167. (1) Human labour, as the most valuable economic asset of a people, is protected against exploitation, occupational dangers and other injuries to health.

(2) Exploitation which entails injury to health is subject to punishment as injurious bodily assault.

(3) Violation of provisions for protection against dangers and injuries to health in factories and other places of business is punishable.

Art. 168. (1) Every honourable type of work has equal moral value and is entitled to appropriate compensation.

(2) Income acquired without work by people able to work is subject to special taxes in accordance with the laws.

(3) Every inhabitant of Bavaria who is unable to work, or for whom no work can be provided, has the right to assistance.

Art. 169. (1) For each branch of an occupation minimum wages may be established which make possible to the worker and his family a minimum standard of living corresponding to the given cultural conditions.

(2) Collective bargaining agreements between employer and employee associations on working conditions are binding on the members and may, if the public interest requires it, be made generally binding.

Art. 170. (1) Freedom of association for the protection and advancement of labour and economic conditions is guaranteed to everyone and to all occupations.

(2) All agreements and measures which attempt to restrict freedom of association are illegal and void.

Art. 171. Within the limits of the law, everyone has the right to security against the hazards of life through an adequate system of social insurance.

Art. 172. The rights and duties of employees and employers are regulated by a special law.

Art. 173. Special provisions will be enacted by law on daily and weekly maximum hours of labour.

Art. 174. (1) Every employee has a right to recreation. This is in principle guaranteed by a free week-end and by a yearly vacation with pay. The special situations in particular occupations are regulated by law. Loss of wages due to legal holidays must be compensated.

(2) The first of May is a legal holiday.

Art. 175. In all economic enterprises, employees have the right to participate in matters affecting them. In all undertakings of considerable importance, they have direct influence on the policy and

management of the business. For this purpose, works' councils are formed in accordance with the provisions of a special law. This law also contains provisions for the participation of the works' councils in the appointment and dismissal of employees.

Art. 176. Workers participate in the solution of economic problems as equally qualified members of the economy along with others who are active in it.

Art. 177. (1) Labour disputes are decided by labour courts which consist of an equal number of employees and employers and an independent chairman.

(2) Arbitrations in labour disputes may be declared binding on all by the State Cabinet in accordance with existing laws.

Art. 183. All who have been wronged by the National Socialist despotism on account of their religious or political belief or conduct, or on account of their race, have, within the limits of the law, claims to indemnification.

Art. 184. The validity of any laws aimed at National Socialism and militarism, or which are intended to set aside their effect, is not affected or limited by this constitution.

CONSTITUTION OF THE STATE OF HESSE¹ of 1 December 1946

PREAMBLE

In the conviction that Germany can have a present and a future only as a democratic community, Hesse has given itself this constitution as a member State of the German Republic.

PART I

HUMAN RIGHTS

I. Equality and Liberty

Art. 1. All men are equal before the law without distinction of sex, race, birth, or religious or political convictions.

Art. 2. Man is free. He is free to do or to leave undone whatever does not infringe upon the rights of others, or is not to the detriment of the social order as regulated by the Constitution.

No one can be compelled to take, abstain from, or suffer any action unless a law or a provision based upon a law requires or permits such action, abstention therefrom, or sufferance thereof.

Any person who believes that his rights have been infringed upon by public authority has the right of recourse to legal remedy.

Art. 3. The life, health, honour and dignity of man are inviolable.

Art. 4. Marriage and the family are the basis of community life, and as such enjoy the special protection of the law.

Art. 5. Personal freedom is inviolable.

Art. 6. Everyone is free to take up residence and settle wherever he pleases.

Art. 7. No German may be extradited to a foreign Power. Foreigners enjoy the protection of the State against extradition and expulsion when they have been persecuted abroad in violation of the basic rights laid down in the present constitution, and have fled to Hesse.

Art. 8. The dwelling is inviolable.

Art. 9. There is freedom of creed, conscience and conviction.

Art. 10. No one may be hindered in his scientific or artistic work and in the dissemination of the results thereof.

Art. 11. Every person has the right to express his opinion freely and openly. Such right may not be restricted by employment relationships, and no one may suffer disadvantage through the exercise of this right. Only if the work to be contractually performed is designed to serve a specific political, religious or philosophical purpose, and one of the contracting parties deviates from it, may the employment relationship be dissolved.

Press censorship is not permitted.

¹ *Constitutions of Bavaria, Hesse and Wuerttemberg-Baden*, p. 34.

Art. 12. Secrecy of the mail is inviolable.

Art. 13. Everyone has the right to inform himself freely in every field of knowledge and experience and to secure the opinions of others by the acquisition of printed matter, by listening to broadcasting, or in any other manner.

Art. 14. All Germans have the right to meet peacefully and unarmed without previous notification or special permission.

Meetings in the open air may, by law, be made subject to prior notification.

Art. 15. All Germans have the right to form societies or associations.

Art. 16. Everyone has the right to petition or to complain, either alone or in conjunction with others, to the appropriate authority or to the people's representatives.

II. *Limitations and Safeguards of Individual Rights*

Art. 17. No person who attacks or endangers the constitutional order may invoke the right of free expression of opinion, or the right of holding meetings and forming societies, or the right of disseminating scientific or artistic works.

The question of whether a threat to the constitutional order exists shall be decided on appeal by the Staatsgerichtshof.

Art. 18. No person who infringes upon laws for the protection of youth may defend himself by appeal to the right of free expression of opinion, of dissemination of scientific or artistic works or of freedom of instruction.

Art. 19. In case there is substantial evidence to the effect that a criminal act has been committed, the judge may order custody, house search or restrictions of the right of postal secrecy. House search may also subsequently be approved when the pursuit of the offender makes it imperative to act immediately.

Every person arrested must be brought before the judge within twenty-four hours, and the judge must decide whether such person is to be released or detained, in which latter event the matter must be examined afresh each month to determine whether further detention is justified, until a final judicial decision has been issued. The reason for arrest must be communicated at once to the person arrested, and at his request to the members of his family within twenty-four hours after the judicial decision.

Art. 20. No one may be prevented from appearing before his lawful judge. Exceptional or special penal courts are unlawful.

Everyone is considered innocent until he has been found guilty by a final decision of a regular court. The right at all times to defence by counsel may not be restricted.

Art. 21. If anyone has been found guilty of a criminal act, his liberty and civic rights may be laws by court sentence. The sentence of death may withdrawn or restricted on the basis of the criminal

be passed when the crime is of a particularly serious nature.

Punishment shall be commensurate with the crime.

All prisoners must be treated humanely.

Art. 22. No criminal law has retroactive force unless it is more favourable to the offender than the law in force at the time of the crime.

No one may suffer or be held responsible under criminal law for actions of commission or omission which are not chargeable to him personally.

No one may be punished more than once for the same action.

Art. 23. Should the condition of a person who is mentally or physically sick represent a considerable danger for his fellow men, he may be committed to an institution. He has the right to appeal to a judge against this measure. Details are provided by law.

Art. 24. Other restrictions of personal liberty are admissible only within the scope of existing legislation and only in so far as they are necessary to secure the appearance in court of the person summoned, and to fulfil the duty of testifying, to keep order in the court and to secure the execution of court decisions and the carrying out of administrative orders.

Art. 25. Every person has the duty within the scope of the law of accepting unpaid work and of rendering personal services for State and municipality. The necessary free time must be granted to any such person standing in an employment relationship. Details are provided by law.

Art. 26. These basic rights are unalterable and impose a direct obligation upon legislators, judges and administrators.

III. *Social and Economic Rights and Duties*

Art. 27. The social and economic order is based on the recognition of the dignity and individual worth of man.

Art. 28. Man's ability to work stands under the special protection of the State.

Every person has a right to work according to his capabilities and has the moral duty to work, without prejudice to his personal liberty.

Every person who is without work through no fault of his own is entitled to claim necessary provision for himself and the members of his family whom he has the duty to maintain. Unemployment insurance is regulated by law.

Art. 29. A uniform labour law shall be enacted for all employees, workers and civil servants.

Collective agreements within the scope of such labour legislation may be concluded only between the labour unions and the employers or their organizations. They create binding law, which as a matter of principle can be altered only in favour of the persons employed.

Arbitration procedures are regulated by law.

The right to strike is recognized, if the labour unions declare a strike.

Lockouts are illegal.

Art. 30. Terms of employment must be of such a nature that they ensure the health, dignity, family life and cultural claims of the person employed; in particular, they must not endanger the physical, mental and moral development of juveniles.

The law provides facilities for the protection of mothers and children and creates the assurance that women can reconcile their functions as citizens and workers with their duties as wives and mothers.

Child labour is forbidden.

Art. 31. The eight-hour day is the legal rule. Sundays and legal holidays are free from work. Exceptions may be allowed by law or by collective agreement if they are for the general benefit.

Art. 32. The first day of May is a legal holiday for all engaged in work. It symbolizes allegiance to social justice, progress, peace, liberty and international understanding.

Art. 33. Remuneration for work must be commensurate with performance and must be adequate to cover the living requirements of the worker and those entitled to his support. Women and juveniles have claim to the same wage for the same labour and the same performance. Remuneration for work is paid for holidays falling within the work period.

Art. 34. Every person engaged in employment has claim to a paid vacation of at least twelve working days annually. Details are determined by law.

Art. 35. A system of social insurance must be created which will be binding on the entire population. It must be systematically developed. Those insured are entitled to administer their own system. Their administrative bodies shall be elected by secret, universal, free and equal ballot. Details are determined by law.

Social insurance has the function of improving the health of the people, of applying preventive measures; for the purpose of affording sick persons, pregnant women and women in childbed every necessary assistance, and of ensuring adequate provision for persons of restricted earning capacity, persons unable to earn their living, dependants, and those in old age.

The regulation of the public health system is a concern of the State. Details are determined by law.

Art. 36. The freedom to organize in labour unions or representative bodies of employers in order to shape and improve working and economic conditions is guaranteed for all.

No one may be compelled to become a member of such an association or prevented from becoming a member.

Art. 37. With the co-operation of the labour unions, clerical and manual workers and officials in public and private business have common representative bodies which must be elected by universal, equal, direct and secret ballot of the persons employed.

The duty of the employees' representative bodies is to exercise the right of participating on equal terms with the management in the solution of social, personnel and economic problems of the enterprise in collaboration with the labour unions.

Details are regulated by law.

Art. 38. The economy of the State has the function of serving the welfare of the entire population and satisfying their requirements. For this purpose legislation must provide the measures necessary to guide manufacture, production and distribution in an appropriate manner, to ensure everyone a just share in the economic results of all labour, and to protect everyone against exploitation.

Economic activity is free within the limits hereby prescribed.

The labour unions and representatives of the enterprises have equal right of representation in the bodies charged by the State with carrying out its directive measures.

Art. 39. Every misuse of economic liberty, especially for monopolistic concentration and for political power, is prohibited.

Property the nature of which is conducive to the misuse of economic freedom in this manner must be transferred to public ownership in accordance with legislative provisions. Should it not be advisable from an economic point of view to transfer such property to public ownership, it must, on the basis of legislative provisions, be placed under the supervision of the State or administered by bodies set up by the State.

The law decides whether the justification for such action actually exists.

Compensation for the property transferred to public ownership is determined by law in accordance with social policy. Compensation must as a rule be refused when it is found that economic power has actually been abused.

Art. 40. Public property is the property of the people. Disposition of such property and its administration shall be made on the basis of detailed legislative provisions to such legal entities as offer a guarantee that the property will serve exclusively the welfare of the people, and that the accumulation of power will be avoided.

Art. 41.¹ As soon as the present constitution takes legal force and effect:

1. Coal, potash and ore mines, iron and steel plants, power plants and rail and trolley lines are transferred to public ownership.

¹The insertion of Article 41 was approved by a special referendum ordered by the American Military Government.

2. The large banks and insurance undertakings and those enterprises of the nature specified in the foregoing paragraph 1, the seat of which is not located in Hesse, are placed under State administration or supervision.

Details are regulated by law.

Owners of a business enterprise transferred to public ownership in accordance with the foregoing paragraph 1, or any person entrusted with its management, must continue to manage it as State trustee until laws for carrying out these provisions have been enacted.

Art. 42. Large landed estates, which history has shown to contain the risk of political misuses, or favouring militaristic tendencies, must be included within the system of land reform in accordance with the provisions of special laws.

It is above all the purpose of land reform to maintain and enlarge agricultural and forest land, to increase its yield, to provide homesteads for farmers, and to create healthy housing accommodation and small garden tracts and buildings connected therewith.

Scattered landed property shall be made more productive by consolidation of tracts.

Landed property which is withdrawn by the owner from proper management and cultivation may be confiscated in accordance with detailed provisions of law.

Paragraph 4 of article 39 applies correspondingly for the granting of compensation to the previous owner.

Art. 45. Private property is guaranteed. The content and limitations thereof are determined by law. Every person is entitled to acquire property on the basis of the law and to dispose thereof.

Private property carries an obligation to the public, and it may not be used contrary to the interests of the general welfare. It may be restricted or confiscated only in the public interest, only by law, only according to the procedure provided therefor, and only in return for reasonable compensation. . . .

IV. State, Churches, Religious and Philosophical-ethical Associations

Art. 48. The unhindered public exercise of religion and the freedom of association for the formation of religious and philosophical-ethical associations is guaranteed.

No one may be compelled to take part in a religious exercise or an ecclesiastical act or celebration, or prevented from taking part therein or compelled to use a religious form of oath.

There is no State church.

V. Education and Schools

Art. 55. It is the right and duty of parents to instil in young people a social consciousness and to develop their highest physical, mental and

moral capacities. Such right can be withdrawn only by court judgment in accordance with the laws.

Art. 56. There is general compulsory education. The educational system is the concern of the State. School supervision is exercised by full-time professionally trained personnel.

As a rule, children of every religious confession and philosophical-ethical ideology are educated together in all schools in Hesse (non-denominational public school).

Tolerance must be the basic principle of all instruction. In every branch of instruction the teacher must pay due regard to religious and philosophical-ethical beliefs and expound objectively all religious and philosophical-ethical ideologies.

The object of education is to mould young people into moral persons and to develop their vocational effectiveness and political responsibility for independent and responsible service to the people and humanity, in respect and neighbourly love, esteem and tolerance, uprightness and truth.

Historical instruction must be directed to faithful, undistorted representation of the past, whereby the great benefactors of mankind, the development of the state, economics, civilization and culture, must occupy the foreground of interest and not generals, wars and battles. Conceptions which endanger the foundations of the democratic state must not be tolerated.

Persons responsible for the education of children have the right to participate in determining the structure of the educational system, provided that the principles of paragraphs 2 to 5 inclusive, of this article are not violated.

Details are regulated by law. Precaution must be taken to prevent violation in the schools of religious and philosophical-ethical principles in accordance with which persons responsible for education desire to have their children educated.

Art. 57. Religious instruction shall be a regular subject of teaching in the school. In giving religious instruction, the teacher is bound by the tenets and instructions of his church or the recognized religious group without prejudicing the right of the State to supervise.

These provisions shall apply similarly to philosophical-ethical groups.

Art. 58. Persons responsible for education of children determine their participation in religious instruction. No teacher can be required to give religious instruction or prevented from doing so.

Art. 59. Education is free of charge in all public elementary, intermediate and higher schools and colleges. School supplies are also free of charge with the exception of those used in the colleges. The law must make provision for grants in aid of education for talented children of less well-off persons. Legislation may provide that a reasonable school fee will be paid when the financial con-

dition of the pupil, his parents or other person responsible for his maintenance so permits.

Admission to intermediate and higher schools and colleges shall be made contingent only on the ability of the pupil.

VI. Provisions common to all Basic Rights

Art. 63. In so far as the present constitution admits of the restriction by law of one of the foregoing basic rights or reserves further details to a law, the basic rights as such must not be infringed upon.

Law, within the meaning of such provision affecting basic rights, is a general rule, enacted only by the people or by their representatives, which expressly contains provisions relating to the limitation or to the definition of a basic right. Decrees, references in the text of the law to former regulations, as well as provisions evolved by interpretation of authorizations of a general legislative nature, do not satisfy such requirements.

PART II

STRUCTURE OF THE STATE

II. Relationship under International Law

Art. 68. No one may be called to account for pointing out facts that constitute an infringement of obligations under international law.

Art. 69. Hesse declares its attachment to peace, freedom and the comity of nations. War is outlawed.

Every act undertaken with the intention of preparing for war is unconstitutional.

TRANSITIONAL PROVISIONS

Art. 157. Laws enacted or which may yet be enacted by reason of the present state of emergency may permit indispensable interferences with the following fundamental rights:

(a) The basic right of freedom of movement according to article 6;

(b) The right laid down in article 8 if encroachment is within the scope of compulsory housing regulations;

(c) The right of the free use of one's capacity to work according to article 28, paragraph 2, in conjunction with article 2, when required within the scope of obligation to render emergency service;

(d) Property rights, where required within the scope of laws dealing with the relief of scarcities in articles of everyday use.

The restrictions on fundamental rights permitted in accordance with the preceding paragraph expire on 31 December 1950. The Landtag may extend that deadline by a majority vote of more than one-half of the legal number of its members.

Art. 158. The constitutional liberties and rights may not be exercised in opposition to the provisions enacted or still to be enacted before 1 January 1949 for the elimination of National Socialism and militarism and to make good the wrong done by these.

Art. 159. The precedence to this constitution to which the orders of the Control Council for Germany and the Military Government are entitled in accordance with international law and military law is not affected by this constitution, constitutionally enacted laws and other German law.

CONSTITUTION FOR WUERTTEMBERG-BADEN¹

of 24 November 1946

PREAMBLE

In a time of great external and internal distress, the people of Wuerttemberg and Baden, trusting in God, have given themselves this constitution as a profession of the dignity of man and his eternal rights, as an expression of their will for unity, justice, peace and freedom.

PART I

MAN AND SOCIETY

I. Basic Rights

Art. 1. In freedom and in fulfilment of the eternal moral code within the human community, men are destined to develop their talents for their own welfare and the welfare of others.

It is the function of the State to serve mankind in achieving this purpose. The State therefore unites all people living in its territory into an organized community. It grants protection and assistance,

and effects, by law and order, an adjustment of mutual rights and duties.

Art. 2. All persons, irrespective of sex and origin, are free and equal before the law.

Therefore men are permitted to do what does not encroach upon another person's rights or honour or upon public order.

This freedom shall be restricted by law only; the law grants the same rights to all.

No one shall be forced into actions to which he is not bound by law.

Art. 3. No one shall be restrained from appearing before his lawful judge. Extraordinary and special courts are unlawful.

Art. 4. Punishment shall be inflicted only on the basis of laws valid at the time an offence is committed.

An accused is not guilty until found guilty by a duly established court.

No one shall be legally punished twice for the same act.

¹ *Constitutions of Bavaria, Hesse and Wuerttemberg-Baden*, p. 58.

Art. 5. No one shall be prosecuted, arrested, or kept under arrest except in cases determined by law and in the form prescribed by law. No one shall be kept under arrest without having been brought before a judge, who shall, within forty-eight hours, examine the lawfulness of his arrest. If the arrest is to last longer than one month, it must be confirmed every month by a reasoned decision of a judge.

Art. 6. The dwelling is inviolable. Searches shall be ordered only by a judge, or in case of imminent danger, in accordance with the Code of Criminal Procedure by the authorities provided therein.

For the relief of the housing emergency, for the control of threatened epidemics, for the protection of endangered juveniles, and for the accomplishment of the rationing of vital goods, the administrative authorities may be authorized by law to intervene and restrict the right of inviolability of the dwelling.

Art. 7. The secrecy of postal, telegraph and telephone communications is inviolable. In the fields of procedural, bankruptcy, customs, foreign exchange, and postal law, exceptions may be established by law. Provisions for exceptions for political reasons are not admissible.

Art. 8. The right of property is guaranteed. Everyone is entitled to acquire property and dispose thereof on the basis of the laws.

Property acquired by work and thrift enjoys special protection.

Property carries obligation towards the community. Its use shall not be contrary to the common welfare.

Property shall be restricted or requisitioned by law only in the public interest, only by procedures provided therein, and, as a rule, only against adequate compensation. Unless otherwise determined by law, any controversy as to kind and amount of compensation will be decided by the regular courts.

Art. 9. The right of inheritance is guaranteed. Its scope and limitations are defined by law.

Art. 10. No one shall be privileged or prejudiced because of his origin, faith, or religious or political ideology.

All men enjoy full freedom of conscience and faith. They may practise their religion freely and unite in religious societies.

Art. 11. Within the limits of law, which shall be equally valid for all, everyone is entitled to express his opinion freely by word, writing, print, picture or in any other way, provided he does not, by abusing this right, endanger or violate the liberties granted by this constitution.

Everyone is entitled to inform himself freely as to the opinion of others. Access to information intended for the public shall not be interfered with.

Art. 12. Art and science, and their teaching, are free within the limitations of law, which shall be valid for all.

Art. 13. Everyone has the right to approach the competent authorities or to write to the people's representatives, in order to investigate problems concerning individual or common interests.

Art. 14. All citizens of the State have the right to assemble peacefully and unarmed without announcement or special permission.

Open-air meetings may, by law, be made subject to previous announcement and may be prohibited in case of imminent danger to public safety.

Art. 15. All citizens of the State have the right to associate freely for purposes not conflicting with the law, provided their association does not endanger or violate the liberties granted by the Constitution.

No one shall be compelled to join an association. However, persons employed in occupations for the performance of which an authorization by an administrative authority is required may by law be combined in associations. Also persons employed in certain occupations and sectors of the economy may by law be combined in associations if such are required for the common welfare.

II. The Family

Art. 16. Marriage and family, the most important foundations of the social order of a people, enjoy special protection and assistance by the State. Family life shall develop free from external compulsion and interference.

The domestic work that a woman devotes to her family is respected equally with professional work. The wife shall be entitled to a contractual share of property acquired during marriage.

Families with numerous children have a claim to proper assistance.

Art. 17. The development of children to physical, spiritual, and moral fitness is the natural right and the supreme duty of the parents.

Children without parents, who cannot grow up in a family, shall be admitted to homes which shall provide them with a healthy family life.

Art. 18. Legitimate and illegitimate children have equal status in professional and public life.

Art. 19. Youth shall be protected against exploitation and endangerment of its moral, spiritual, and physical welfare. State and municipality shall provide necessary welfare institutions. Their functions may be performed by private welfare institutions.

Compulsory welfare measures shall be taken on a legal basis only.

III. The Social and Economic Order

Art. 20. Work is a moral duty. It is under the special protection of the State. Every one shall be given the possibility of earning his living by his own work.

Men and women are on an equal basis in the choice and exercise of their occupation. For equal work equal pay shall be granted.

Gainful employment of children is prohibited.

Art. 21. Sundays and holidays recognized by the State are under the protection of the law as days of rest.

The first of May is a legal holiday as an expression of faith in social justice, progress, peace, freedom, and understanding among nations.

Art. 22. A labour law shall be enacted which will guarantee to the employee just pay, sufficient leisure, and vacation.

Representatives of the employees shall participate in the administration and development of business enterprises. The special conditions prevailing in business enterprises of small or medium size, and the preservation of the initiative of the employers, shall be taken into consideration. Details are regulated by law.

Art. 23. All persons engaged in an occupation may unite in associations for the maintenance and realization of their economic and social interests.

Workers and employees are called upon to work together on an equal basis, in co-operation with the employers, in the regulation of terms of pay and employment as well as in the entire economic development of the productive forces.

Organizations of workers and of employers and their right to make agreements are recognized. The labour union's right to strike, as provided by law, is recognized. Agreements and measures restricting and interfering with this right are null and void.

The special duties resulting from the position of public officials remain unaffected.

Art. 24. Every person who, through no fault of his own, is in need because of sickness, old age, or other reasons, has claim to protection and help from State and municipality.

Social insurance is to be maintained and further developed. In special emergency cases it shall be supported by assistance from the State.

Property accumulated for social insurance institutions shall not be used for any other purpose.

Art. 25. The economy of the State must serve to satisfy the needs of the population. To attain this end, production and rationing regulations may be enacted by law. Within the limits so defined, economic activity is free.

To regulate economic matters, public bodies will be created in which employers and employees and, as far as necessary, producers and consumers, shall have an equal share.

The idea of forming co-operative societies is to be furthered. Non-profit co-operative societies shall be granted tax privileges.

Art. 26. As the basis for feeding the people, the State must promote agriculture by all appropriate means, especially the maintenance of an independent peasantry.

Art. 27. Handicrafts shall be promoted and protected by the State by all appropriate means.

Art. 28. If economic goals can be better attained without private ownership of the means of production, or if exercise of property rights conflicts with the general welfare, appropriate enterprises and sectors of the economy shall be transferred to public ownership by law.

The kind and amount of compensation shall in such cases be fixed in accordance with fair estimates and with consideration for the reasonable interests of the public and the individual concerned.

IV. Religion and Religious Societies

Art. 29. The importance of the churches and of the authorized religious and philosophical-ethical societies in the safeguarding and strengthening of the religious and moral foundations of human life is recognized. They organize and administer their affairs independently within the law, which is equally valid for all; and may, in so doing, develop freely. They appoint their officials independently of the State or civil municipality.

The institutions and activities of the churches and societies recognized under this article of the Constitution may not be misused for purposes of party politics. The citizens' rights and religious and moral duties of the officials of the churches and religious societies in public life remain unaffected hereby.

Requirements for the recognition of a religious or philosophical-ethical society are prescribed by law.

Art. 30. No one is obliged to reveal his religious convictions. The authorities are entitled to ask questions about membership in a religious society only in so far as rights and duties depend thereon or if a statistical survey prescribed by law requires it.

No one shall be compelled to perform a religious act or celebration, or to participate in religious exercises, or to use a religious form of oath.

Art. 33. Public and undisturbed religious worship and the welfare work of religious societies are guaranteed. Their worship services may be attended by any one without hindrance and may not be disturbed by any one.

Freedom of religious worship in public hospitals, welfare and social institutions, as well as in prisons, is protected and promoted.

V. Education and Instruction

Art. 35. Every young person has, according to his talents, the right to an education and the duty to acquire it. It is the duty of the State to do away with any economic or social barriers to the realization of this principle. Admission to middle and upper schools, as well as to the universities, shall be made accessible to talented children. The State and the municipalities must provide sufficient public funds, especially educational grants.

Art. 36. In reverence for God, in the spirit of human brotherhood, and in love of country and its people, the youth shall be educated for moral and political responsibility, for professional and social trustworthiness and for a democratic conception of freedom.

Parents, the State, religious societies and youth itself, through its own organizations, are all responsible agents of education within their respective spheres.

Art. 37. School attendance is compulsory for everyone. Instruction and school supplies are provided free of charge in elementary and vocational schools.

The State provides the necessary schools.

The public elementary schools are Christian, but non-denominational. Within these schools, education and instruction shall be influenced by the spiritual and moral values of humanity and socialism. If, in the interpretation of the Christian character of the elementary schools, uncertainties arise, their clarification and decision is left to State authorities without prejudice to the rights of the religious societies in giving and supervising religious instruction. All pupils are given the same instruction with the exception of religious instruction, which will vary in accordance with the different religious faiths of the pupils. In the appointment of teachers attention shall be paid, as far as possible, to the composition of the student body as to faith and philosophical-ethical beliefs; however, teachers not bound to any faith shall not suffer any disadvantage.

The schools are operated in a spirit of tolerance and social ethics.

The whole school organization is under the supervision of the State. The supervision of schools is exercised by full-time, professionally trained officials.

Art. 39. Religious instruction is a regular subject of the school curriculum. It is given and supervised in accordance with the principles of, and by those authorized by, the religious societies without prejudice to the general right of the State to supervise. Attendance at religious instruction and at religious ceremonies in schools is subject to the

assent of those responsible for the raising and education of the children; no teacher can be compelled to give religious instruction.

Art. 41. Instruction in civic duties on the basis of the Constitution is a regular subject in all types of school.

Art. 42. Adult education, including People's High Schools and People's Public Libraries, is promoted by the State.

PART II

THE STATE

III. The Government

Art. 79. In case of imminent danger to the existence of the State, the Cabinet may partially or totally suspend for one week the basic rights of article 2, paragraph 3, articles 5, 6, 7, 8, 11 and 14, and can issue ordinances which have the force of law.

The Government must inform the Landtag within forty-eight hours of all measures taken according to paragraph 1.

If the Landtag approves the measures taken by a majority of the legal number of its members, their validity will be extended for a month. Further extensions, restricted in each case to one month, require the majority necessary for amendments to the Constitution.

No political elections may take place for the duration of emergency measures. The electoral periods of the Landtag, the county councils, and the municipal representative bodies will be extended until the emergency is over.

CONCLUDING PROVISIONS

Art. 104. For the liberation of the German people from National Socialism and militarism, and for the elimination of their consequences, during a transitory period, laws may be enacted which deviate from the provisions of the Constitution. This article becomes inoperative on 1 January 1949.

Art. 105. Provisions of this constitution which are in conflict with the future German constitution will become invalid when the German constitution becomes legally effective.

GREECE

CONSTITUTION OF GREECE¹

of 1 (14) June 1911

CONCERNING RELIGION

Art. 1. The established religion in Greece is that of the Eastern Orthodox Church of Christ. Every other known religion is tolerated, and the forms of its worship are carried out without hindrance under the protection of the laws, proselytism and all other interference with the established religion being prohibited.

2. The Orthodox Church of Greece, acknowledging for its head our Lord Jesus Christ, is indissolubly united in doctrine with the Great Church of Constantinople, and with every other church of Christ holding the same doctrines, steadfastly observing, as they do, the holy apostolic and synodal canons and holy traditions: it is autocephalous, exercising its sovereign rights independently of every other church, and it is ministered by a Holy Synod of bishops. The ministers of all recognized religions are subjected to the same superintendence on the part of the State as the ministers of the established religion.

The text of the Holy Scriptures is maintained unchanged: the rendering thereof in another form of language, without the previous sanction of the Great Church of Christ in Constantinople, also is absolutely prohibited.

CONCERNING THE PUBLIC RIGHTS OF THE GREEKS

3. The Greeks are equal in the eyes of the law and contribute without distinction to the public burdens according to their ability; and only Greek citizens are admissible to all public employments, saving the special exceptions introduced by special laws. Citizens are those who have acquired or shall acquire the qualifications of citizenship in accordance with the laws of the State. Titles of nobility or distinction are neither conferred on Greek citizens nor recognized to them.

4. Personal liberty is inviolable: no man may be prosecuted, arrested, imprisoned, or otherwise confined, except when and as the law provides.

5. Except when taken in the act, no man may be arrested or imprisoned without a judicial warrant stating the reason, which must be served at the moment of arrest or detention. Any person

who is detained on being taken in the act or on a warrant of arrest must be brought without delay before the competent examining judge within twenty-four hours of his arrest at the latest, or, if arrest occurred beyond the limits of the district of the examining judge, within the time absolutely necessary for his conveyance. The examining judge, must, within at the most three days of his compareance, either release the person arrested or deliver a warrant for his imprisonment. In the event of either of these terms having passed without such action, every jailer or other person, civil or military, charged with the detention of the arrested person must release him instantly. Those who violate the above provisions are punished for illegal detention, and are obliged to make good any loss sustained by the injured party, and further to indemnify him in a sum of money fixed at the discretion of the judge, but never less than ten drachmas per diem.

6. In the case of political offences, the Council of the Judges of the Court of Misdemeanours can always, on the demand of the person detained, allow his release under bail fixed by a judicial order, against which an appeal is allowed. In the case of these offences, preliminary detention can never be prolonged beyond three months.

7. No punishment may be inflicted unless previously fixed by law.

8. No one may be withdrawn without his consent from the [jurisdiction of the] judge assigned to him by law.

9. Each individual or many together possess the right, on conforming with the laws of the realm, to address petitions in writing to the public authorities, who are bound to take prompt action and to furnish the petitioner with an answer in writing in accordance with the provisions of the law. Only after the final decision of the authority to whom the petition was addressed, and by leave of that authority, may inquiry be made as to responsibility on the part of the petitioner for offences contained in the petition.

10. The Greeks have the right to meet quietly and unarmed, except that at public assemblages the police may be present. Assemblages in the open air may be prohibited if danger to public security is imminent from them.

11. The Greeks possess the right of association, conforming with the laws of the State, and in

¹ *British and Foreign State Papers*, Vol. 108 (1914), pp. 482-497.

no case can the laws subject this right to previous permission on the part of the Government.

An association cannot be dissolved for infractions of the provisions of the laws except by judicial decision.

12. The dwelling is inviolable. Domiciliary visits can be made only when and as the law directs.

Offenders against these provisions are punished for abuse of authority, and are bound fully to indemnify the injured party, and further to compensate him by a sum of money fixed at the discretion of the law court, but never less than a hundred drachmas.

13. In Greece human beings may neither be bought nor sold; a slave, purchased or otherwise, of every race and every religion, is free from the time he sets foot on Greek soil.

14. Everybody may publish his opinions by speech, by writing, or by printing, observing the laws of the realm. The press is free. Censorship and every other preventive measure is prohibited. The seizure of newspapers and other printed treatises, whether before or after publication, is likewise prohibited. Exceptionally, seizure after publication is permitted on account of insult to the Christian religion or to the person of the King, or, in cases determined by law, on account of indecent publications manifestly offending public decency; but in such case, within twenty-four hours after the seizure both the Public Prosecutor must submit the case to the Judicial Council and the Council must decide whether the seizure is *de jure* raised. Appeal is allowed against the order only to the publisher of the article seized, and not to the Public Prosecutor.

The publication of news or communications relating to military movements or to the fortifications of the country may be prohibited in such manner as the law shall direct, under threat of seizure and criminal prosecution. In case of seizure the provisions above stipulated are applied.

Both the publisher of a newspaper and the author of a reprehensible publication relating to private life, in addition to the penalty imposed according to the terms of the criminal law, are civilly and conjointly liable fully to redress any loss occasioned, and to indemnify the injured party in a sum of money fixed at the discretion of the judge, but never less than two hundred drachmas.

Only Greek citizens are allowed to publish newspapers.

15. No oath may be imposed except in the form provided by law.

16. Education, which is under the supreme supervision of the State, is conducted at the State expense.

Elementary education is obligatory for all, and is given free by the State.

Private persons and corporations are allowed to establish private schools conducted in accord-

ance with the Constitution and the laws of the realm.

17. No one may be deprived of his property except for the public benefit duly proven, when and as the law directs, and always after indemnification. The indemnification is always fixed through the judicial channel. In case of urgency it may be provisionally fixed judicially after the beneficiary has been heard or summoned, and the beneficiary may be obliged, at the discretion of the judge, to give a proportionate guarantee in the manner defined by law. Until the final or provisional indemnification fixed is paid, all the rights of the proprietor are maintained intact, dispossession not being permitted.

Special laws settle the details respecting the proprietorship and disposal of mines, quarries, archaeological treasures, and mineral and running waters.

18. Torture and general confiscation are prohibited. Civil death is abolished. The penalty of death for political offences, except complex crimes, is abolished.

19. No previous permission of the administrative authority is required to prosecute public or municipal officials for their punishable acts connected with their service, except in the case of Ministers, for which special provisions are laid down.

20. The secrecy of letters is absolutely inviolable.

CONCERNING THE KING

Art. 44. The King has no other powers than those expressly assigned to him by the Constitution and the special laws consistent with it.

CONCERNING THE JUDICIAL POWER

Art. 91. Judicial committees and extraordinary tribunals, under whatever name, are not allowed to be set up.

A special law shall regulate, for the eventuality of a state of war or of a general mobilization on account of external dangers, the details of the temporary, total, or partial suspension of articles 5, 6, 10, 11, 12, 14, 20, and 95¹ of the Constitution, of the proclamation of a state of siege, and of the establishment and working of exceptional tribunals.

The said law cannot be modified during the course of the labours of the House of Representatives summoned for the purpose of putting it into operation. It is put into operation, as regards all or some only of its provisions throughout the whole realm, or part of it, by a royal decree issued with the consent of the House of Representatives.

¹ Art. 95. Political offences as well as press offences are tried by juries when they do not concern private life.

If the House is not in session the law may be put into operation without its consent by a royal decree countersigned by the whole ministerial council. By the same royal decree, under penalty of its invalidity, the House of Representatives is summoned to meet within five days, even if its term has expired or if it has been dissolved, in order that by an act of its own it may decide as to the maintenance or the withdrawal of the provisions of the royal decree.

The parliamentary immunity of art. 63 commences from the publication of the royal decree.

The application of the above royal decrees is extended in the case of war no longer than the termination of it, and in the case of mobilization it is automatically raised after two months, if in the meantime its validity has not been extended by further consent of the House of Representatives.

GUATEMALA

CONSTITUTION OF THE REPUBLIC OF GUATEMALA¹ of 13 March 1945

TITLE III INDIVIDUAL AND SOCIAL GUARANTEES

Chapter I

INDIVIDUAL GUARANTEES

Art. 21. Every person enjoys the guarantees that this constitution establishes, without further restrictions than those that the latter itself stipulates. As an equal qualification, any discrimination by reason of relationship, sex, race, colour, class, religious beliefs, or political ideas is declared illegal and punishable.

Art. 22. It is the function of the State to conserve and improve the general conditions of the nation, to procure the well-being of its inhabitants, and to increase wealth by means of the creation and development of institutions of credit and social welfare.

Art. 23. The State protects above all human existence. The authorities of the Republic are instituted to maintain the inhabitants in the enjoyment of their rights, which are primarily life, liberty, equality, and security of the person, of honour, and of property.

No person may be hindered in that which the law does not prohibit.

Art. 24. Officials are not masters, but depositories of authority, subject and never superior to the law, and always responsible for their official conduct. In such manner, no organ of the State or public official has more powers or authority than those that the law expressly confers on him.

Civil responsibility of officials and public employees for any violation of the law committed in the discharge of their office shall continue for a period of ten years.

Criminal responsibility shall be extinguished by the lapse of double the time indicated by the penal law.

In both cases, the limitation period shall begin to run from the time when the official or public employee may have ceased in the exercise of the office during which he incurred the responsibility.

No official or public employee may be molested or persecuted for his political, social, or religious opinions.

If an official or public employee, in the exercise of his office, violate his duties to the injury of a third person, the State, or the body that he serves, shall be subsidiarily responsible for the consequent damages and injuries.

The law shall determine all other matters referring to the responsibility of officials and public employees.

The President of the Republic and that of the judicial branch, the Ministers of State, magistrates and attorneys of the courts of justice, magistrates of administrative litigation and of the tribunal and office of accounts, governors, judges of first instance, administrators of revenues, mayors, municipal and special treasurers, and all classes of officials and public employees that the law specifies or who manage or administer funds of the State or of the municipality, must deposit a declaration of all their properties and debts so that, on ceasing in their functions and even during the exercise of them, any person may, without incurring any responsibility, prefer charges for the comparison of goods or properties.

Art. 25. Every person has the freedom to enter, to remain in the territory of the Republic, and to leave it, except for the limitations that the law establishes. No one may be obliged to change domicile or residence except by decree of a judicial authority, in the special cases and with the requirements that the law indicates. No Guatemalan may be expatriated, prohibited entrance into the territory of the Republic, or denied a passport or other documents of identification.

Art. 26. Guatemala recognizes and offers the right of asylum to politically persecuted persons, provided that they respect national sovereignty and laws. Extradition of persons accused of political offences is prohibited. In no case shall it be attempted to extradite Guatemalans accused of those offences who have taken refuge in foreign territory. No Guatemalan may be surrendered to a foreign Government for his judgment or punishment, except for serious common crimes included in treaties in force negotiated on bases of reciprocity. It is similarly prohibited to request extradition or accede to it for common offences related to politics. When expulsion of an alien from the national territory is agreed to, it shall not be effected to a

¹ Spanish text in *Constitución de la República de Guatemala*. Guatemala, C.A., 1946. English translation in *The Constitutions of the Americas* (cited above, p. 6).

State that would persecute him, if political asylum is involved.

Art. 27. Every service that must not be given gratuitously by virtue of a law or a sentence based on law must be equitably or legally remunerated.

Art. 28. All persons may dispose freely of their property, provided that in doing so they do not contravene the law. Entails, however, are absolutely prohibited, as well as any institution in favour of mortmain, excepting foundations intended for the establishment or purposes of charity, art, or science, which must be approved by the Government.

The establishment of trusts the term of which shall not exceed twenty-five years is authorized; in all cases they must be exercised by a bank or institution of credit empowered to do business in the Republic. This authorization is not extended in any manner to religious or monastic congregations or to priests or ministers of any cult or religion.

The term may be increased only when it deals with vouching for the incurably ill or the incapacitated.

Art. 29. The profession of all religions is free, as well as the practice of all cults, without any preference and in the interior of churches; this right does not extend to the execution of subversive acts or practices incompatible with peace and public order, and does not excuse the fulfilment of civil, social, and political obligations.

Religious societies and groups or their members as such, and ministers of cults, may not intervene in politics or in questions related to the organization of labour.

Art. 30. The inhabitants of the Republic have the right, individually or collectively, to direct their petitions to the authorities, who are obliged to decide them in conformity with the law and without delay, and to communicate the decisions to those interested. The armed force may not deliberate or exercise the rights of petition or of suffrage.

Art. 31. The right of assembling peacefully and without arms is recognized. The law regulates the right of assembly in open air and that of demonstration. Religious demonstrations outside of churches are permitted and are governed by the respective law.

Art. 32. The right of association for the different purposes of human life is guaranteed, in conformity with the law. The establishment of conventual congregations and of all kinds of monastic institutions or associations, as well as the formation and functioning of political organizations of an international or foreign character, is prohibited. Organizations that propose Central American union or Pan-American doctrines or continental solidarity are not included in this prohibition.

Art. 33. Guatemalans have the right to be organized in political parties, which must be inscribed in conformity with what the electoral law determines.

The electoral law must be in conformity with the principle that in elections of collegiate bodies computable minorities shall enjoy, in accordance with the technical system that is adopted, the right of representation.

Art. 34. Every act by which a citizen is hindered or limited in participating in the political life of the nation or in exercising his rights as a citizen, except for the restrictions that this constitution establishes, is punishable.

Art. 35. The correspondence of all persons, and their private papers and books, are inviolable. Those that may be removed shall not be given credit in a trial. They may be seized or examined only by virtue of a decree by a competent judge and with the legal formalities.

Competent officials of the Treasury may also, by written order, provide for the review of private papers and books that may be related to the payment of fiscal taxes. In every case, the seizure or review must be undertaken in the presence of the interested party, of his attorney, or of one of his relatives, and, in their absence, before two witnesses, residents of the place and of recognized trustworthiness.

Art. 36. Expression of thought by any means of diffusion is free without previous censoring. Anyone who abuses this right, offending with respect to private life or to morality, is responsible before the law.

Denunciations of or attacks against officials or public employees for purely official acts in the exercise of their offices do not constitute the crime of calumny or injury. Those who believe themselves injured have the right to the publication of their defence and proof; furthermore, they may demand that a tribunal of honour, composed in the form that the law determines, shall declare whether the publication was injurious or calumnious. The said tribunal may not be composed of officials or public employees.

Printing establishments and radio broadcasting stations, as well as other means for the expression of thought, and their respective machinery and fixtures, may not be confiscated or forfeited; nor may their operations be closed or interrupted by reason of offence or failure in the expression of thought.

A jury shall take cognizance of the crimes or offences to which this article refers, and a special law shall determine everything else relative to this right.

Radio broadcasting shall be governed by a special law, within the same guarantees and standards here designated.

Art. 37. The domicile is inviolable. No one may enter it without the permission of the proprietor, except by the written order of a competent judge, and never after 6 p.m. or before 6 a.m. The law shall determine the formalities and the cases of exception in which entrance may be undertaken. Registration of documents and effects must always be made in the presence of the interested party, of his

attorney, or of a member of his family, and, in their absence, before two witnesses, residents of the place and of recognized trustworthiness.

Art. 38. All Guatemalans, without distinction of sex, are admissible to public offices and employment according to their merit and capacity, except for the incompatibilities that the laws indicate and the limitations that this constitution establishes.

Art. 39. Obedience in civil matters, or in military matters with respect to orders that affect civilian matters, has as a limit the manifest illegality of the order. A guard who makes use of arms against a detained or imprisoned person who attempts to flee shall be necessarily inculpated and responsible, in conformity with the law, for an offence that he may have committed.

Art. 40. The inhabitants of the Republic have free access to the tribunals to prosecute their suits in the form that the laws indicate. Aliens may not have recourse to diplomatic channels except in the case of a denial of justice, an executory sentence not favourable to the plaintiff being understood as not a denial of justice.

Art. 41. No one shall be obliged to testify in a criminal case against himself, against his spouse, or his relatives within the fourth degree of consanguinity or the second of affinity.

Art. 42. Trial for the defence of the person and of his rights is inviolable, and no one may be judged by tribunals that have not been previously created by law.

Art. 43. No one may be detained or imprisoned except by reason of crime, offence, or judicial restraint, and by means of a written order by a competent authority issued in accordance with the law, except when a fugitive criminal or one *in flagrante delicto* is involved—cases in which a previous order shall not be necessary; but the detained person must be placed without delay at the disposal of a judicial authority and in a centre of provisional detention.

Persons whose identity can be established by means of documents they present or by the testimony of a known person or one properly identified may not be detained for simple offences or for violations of police regulations. In such cases, the authority or its agents must be limited in their duty to assuring that the violator shall appear before a competent judge within the period of twenty-four working hours. The law shall prescribe the sanctions incurred by and the form of proceeding against those who do not obey that prevention.

Imprisonment for debt may not be ordered, except when it deals with the lending of support to minor children, destitute parents, spouse, or incapacitated brothers or sisters, when the obligated person has economic resources and refuses to comply with such duty or, to evade compliance, transfers his property in favour of a third person.

Art. 44. No one may be held *incommunicado*

for more than forty-eight hours. If this provision should be violated, the authority who gave the order and the head of the prison or the employees who executed it or caused it to be executed shall be deprived of their offices and punished with the penalties indicated by law.

Art. 45. Jails are centres that have the object of securing those confined and promoting their reform, not mistreating them or subjecting them to restrictions unnecessary for such security. In no case may torture, vexations, molestation, or any other form of coercion be inflicted upon them; nor may they be made the victims of illegal exactions. If this provision should be violated, the authority who gave the order and the head of the prison or the employees who executed it or caused it to be executed shall be deprived of their offices and permanently disqualified for the discharge of any public employment; they shall suffer, moreover, the corresponding punishment and shall be responsible for the payment of the respective indemnification.

Places intended for detention and the fulfilment of sentences are institutions of a civil character and are subordinate to the tribunals of justice.

Imprisonment shall be undertaken only in establishments intended for that purpose.

Minors shall not be confined in places intended for those of majority age, except in reformatories, under the vigilance and care of competent persons who will attend to their integral education and medical treatment in order to effect their prompt re-incorporation in society. The order for confinement must be given in the respective tribunal. Everything relative to the delinquency of minors shall be the object of a special law.

Art. 46. Every detained person must be interrogated within forty-eight hours; at the time of the investigation the cause of the detention must be made known, the person who accuses him in the case, and all that is necessary for him to comprehend the punishable action attributed to him. Confinement *incommunicado* shall cease from that moment, and a defender in the proceedings must be at once provided.

Detention may not exceed five days; within that term a sentence of imprisonment must be issued or the detained person ordered to be placed at liberty.

Art. 47. Sentence of imprisonment may not be issued without previous summary information of a crime having been committed and the presence of a sufficient motive, according to the law, for the belief that the person detained is guilty.

Art. 48. In the citations issued by any authority, official, or public employee, the object of the court appearance must be designated.

Art. 49. Acts of omission or commission that are not qualified as crimes or offences and subject to a penalty by a law prior to their perpetration are not punishable. Penal laws shall have retroactive effect when they may be favourable to the

offender. Other laws shall not have retroactivity, except for reasons of public order and social utility, or of national necessity, expressly indicated in the law by a vote equal to two-thirds of the total number of deputies that compose the Congress.

Art. 50. Legal, administrative, or any other kind of provisions that regulate the exercise of the rights which this Constitution guarantees shall be null, *ipso jure*, if they diminish, restrict, or evade them. Acts or contracts that violate constitutional standards shall likewise be null, *ipso jure*.

Adequate resistance for the protection of previously guaranteed individual rights is legitimate.

Action for the prosecution of violations of the principles of this title is open to the public, and may be exercised, without bond or formality of any kind, by simple denunciation.

Enumeration of the rights guaranteed in this title does not exclude others that this constitution establishes, or others of an analogous nature, or those derived from the principle of the sovereignty of the people, from the republican and democratic form of government, and from the dignity of man.

Art. 51. Every person has the right to ask aid in the following cases and for the following purposes:

1. In order that he may be maintained or restored in the enjoyment of the rights and guarantees that the Constitution establishes.

2. In order that it may be declared that, in concrete cases, a law, a regulation, or any provision of an authority is not applicable. Every person illegally detained, imprisoned, or restricted in any manner in the enjoyment of his individual liberty, or who may suffer vexations even in legal imprisonment, has the right to ask for his immediate presentation, if it be for the purpose of having restored to him his liberty, freeing him from the vexations, or bringing to an end the coercion to which he has been subject. If the tribunal orders the liberty of the person illegally confined, he shall be freed in the same action and place. When it is thus requested, or the judge or tribunal deems it pertinent, the presentation referred to in this clause shall be made in the place where the detained person is held, subjected to vexations, or coerced, without any previous information or notification to the parties.

Art. 52. No one may be condemned without having been accused, heard, and brought to trial.

The penalty of death shall be applied only under previous sentence issued in a trial by the tribunals of the Republic, and for the crimes that the law determines, committed by males of majority age.

Against such sentences—which may never be based on presumptive proof—all existing legal recourses shall always be applicable, including those of appeal and grace, excepting in the cases of the

invasion of a besieged territory, place or city, and mobilization for the purpose of war.

Art. 53. All administrative acts are public, and citizens have the right to ask for information about them at any time, except when they deal with diplomatic affairs or military operations.

Art. 54. The guarantees to which articles 25, 27, 31, 33, 34, 35, 36, 37, 43, and 48 refer may be restricted in accordance with what is established by article 138 of this constitution.

Chapter II

SOCIAL GUARANTEES

First Section. Labour

Art. 55. Labour is a right of the individual and a social obligation. Vagrancy is punishable.

Art. 56. Capital and labour, as factors of production, must be protected by the State.

Art. 57. The State will employ the resources that are within its power to provide employment to all who may lack it and to assure to them the economic conditions necessary for a dignified existence.

Art. 58. The laws that regulate relations between capital and labour shall pay attention to the economic and social circumstances of the country, to the particular conditions and customs of each region, and to the characteristics and possibilities of diverse kinds of activities. With respect to agricultural workers, the State shall take into account their conditions and needs, the zones in which they work, and other circumstances peculiar to this kind of labour.

Fundamental principles of the organization of labour that must regulate the said laws are:

1. The regulation of individual and collective labour contracts, which must be of obligatory compliance for employees and workers.

Stipulations that imply renunciation, diminution, or evasion of any right recognized in favour of the worker by this constitution or by the law shall be null and not obligatory for the contracting parties, even though they may be expressed in a labour convention or some other pact.

2. The periodic fixation of the minimum wage that workers of all classes must receive, paying attention to the possibilities of the employers' enterprises and to the needs of the material, moral, and cultural nature of the workers, and to their obligations as heads of families. The worker or employee has the right to one day of rest, remunerated, for each six of work. Days of vacation recognized by law shall also be remunerated. When additional days and hours are worked under agreement, these shall be paid for in the proportion established by law.

The regulation shall be made, in each zone, by bi-party committees presided over by a representative of the State.

In work by the job, by engagement, or by piece,

it shall be obligatory to calculate reasonably a minimum wage for a day of work.

The minimum of all wages is unattachable, except for responsibilities for feeding, in the form that the law establishes. Nor may the instruments of labour owned by the workers be attached.

No discount that is not authorized by law may be made in the wage of the worker.

The law shall establish the preference of credits authorized in favour of workers, for pay or wages earned in the final quarter.

The Executive, in cases of national emergency, may fix prices and wages.

3. The obligation to pay the worker the wage in money of legal tender and not in vouchers, counters, merchandise, or in kind; however, in regard to food substances, the field worker may receive them as pay, up to thirty per cent of his wage as a maximum, in the understanding that the employer makes the provision at cost price or less.

4. The effective maximum working day, which shall be eight hours, and forty-eight hours weekly. The effective working day is the time during which the worker is at the disposal of the employer.

The effective working period for night work shall be six hours, and thirty-six hours weekly. The law shall determine between what hours night work is understood, as well as the amount and frequency of the extra days and hours of work, in a form compatible with the health of the workers.

Those who, by provision of the law or by agreement with the employers, work less than forty-eight hours a week have the right to receive the entire wage of the ordinary week.

5. Paid annual vacations for workers after one year or more of uninterrupted service. The law shall regulate their inception, graduation and extent.

6. Equality of wages or pay corresponding to equal work and under identical conditions, given in the same enterprise, without distinction of age, race, sex, or nationality, paying attention only to capacity, efficiency and honesty.

7. Preference for Guatemalan workers under equality of conditions, fixing the minimum proportion of nationals for each business or enterprise, taking into consideration not only their number, but also the total amount of the wages or pay that they are given.

8. The right of free organization for the exclusive purposes of the economic and social defence of employers, private employees, teachers, and workers in general. The State, in defence of the interests of the members, shall supervise the good management of the funds of union organizations.

9. Regulation of the rights of the strike and the lockout.

10. Protection of women and of minor workers,

regulating the conditions under which they must give their services.

No difference between married and single women may be established for purposes of work. The law shall regulate the protection of maternity among working women, from whom no work requiring considerable physical exertion may be demanded during the three months previous to childbirth. Working mothers shall enjoy a remunerated obligatory rest for one month before and forty-five days after childbirth; in the time of lactation they have the right to two daily periods of special rest, of half an hour each, for feeding the child.

Minors under fourteen years may not be employed in factories, farms, or other enterprises. The law shall regulate the exceptions for reasons of apprenticeship or the necessity of co-operation in the family economy, compatible with the obligation of their education.

The law shall likewise regulate the labour and the maximum working day of youths more than fourteen years of age.

It is prohibited to employ in unhealthful and dangerous work children less than sixteen years of age, and women.

11. The obligation of the employer to indemnify the worker when he may be retired without justified cause, in a sum equivalent to one month of pay or wage for each year of continuous work, and if the services do not extend to one year, in a form proportional to the months worked, deducting for the first two months, which shall be accounted a trial period. The employer is obliged to indemnify in the same form the worker or employee who is retired from service because of the lack of honesty of the employer or retires because he receives bad treatment that diminishes his dignity as a man. The employer may not be excused from his responsibility when the bad treatment originates with dependants or servants who act with the consent or the tolerance of the former. The worker may not be dismissed for his participation in a legal strike or for having represented working men in any conflict.

12. Regulation of contracts of apprenticeship and enlistment, as well as the conditions to which certain kinds of labour are subject, such as that given in the domicile and by domestics.

13. Benefits that belong to workers, and the cases and terms in which they must receive them.

14. The means of assistance and of social welfare necessary for workers.

15. The conditions of safety and hygiene in which work shall be undertaken. Regulations and provisions for hygiene and health shall be strictly observed in working establishments. Employers are obliged to adopt proper measures to protect their workers against accidents in the use of machinery, instruments, and materials of labour.

16. The obligation that enterprises situated outside centres of population have for providing their

workers and the families of the latter with adequate dwellings, schools, hospitals, and other indispensable services and attentions for their physical and moral well-being. To establish this obligation, attention shall be paid to the importance of the enterprise and to what is provided by the law.

Art. 59. Contract labour debts may not exceed an amount equivalent to the wage for the number of days stipulated by law. Any excess over that sum that the worker receives may not be demanded.

Art. 60. In occupational accidents and illnesses that workers suffer by reason of their work or in the exercise of it, or in consequence of their profession, the managers shall be responsible, except in the cases of the manifest intention of the victim, *force majeure* extraneous to the work, accidents occurring to workers performing labour on the account of the employer in his private residence, and accidents due to a proved state of intoxication of the victim. This responsibility shall exist even in a case in which the employer contracts for the work through an intermediary. The corresponding indemnification shall be graduated in the law, according to whether death or any incapacity may be occasioned as a consequence.

Art. 61. Union associations must, before beginning their activities, obtain authorization from the appropriate authority. The inscription determines the juridical personality of unions.

The directive committees and consultative bodies of these associations must be composed exclusively of native-born Guatemalans.

It is prohibited to aliens to intervene in questions related to organizations of workers.

Art. 62. The State shall watch over and inspect enterprises with the purpose of making legal precepts effective in social matters.

Art. 63. Obligatory social insurance is established. The law shall regulate its scope and extent, and the form in which it must be put in force. It shall include, at the least, insurance against invalidity, old age, death, illness, and industrial accidents. Employers, workers, and the State shall contribute to the payment of the premium for the insurance.

Art. 64. Conflicts relative to labour are submitted to private jurisdiction. Tribunals of labour are subordinate to the judicial branch; the law determines their number and organization.

Art. 65. The State shall promote the technical preparation of workers and the improvement of their economic and cultural level.

Art. 66. The formation of co-operative enterprises has the support of the State and, in particular, consumers' co-operatives in centres of labour. Mutuality is recognized as a principle, and the practice of living together socially. The State will develop agricultural and rural credit, giving efficient support to agricultural and stock-raising activity, and will protect the industrialization of

agricultural products. It will be stimulated, likewise, by maintaining workers in the fields.

Art. 67. Construction of cheap housing and districts for workers shall be developed.

The public administration will enact measures such that the dwellings of indigenous workers on rural properties shall form villages within the property itself, with the object that the workers may enjoy the cultural and sanitary benefits of urban centres.

Art. 68. Official obligatory organization is established for the exercise of university-trained professions, under the direction of the university. A law shall provide whatever relates to this matter.

Art. 69. Rights and benefits that this section establishes are irrenunciabile, and their enumeration does not exclude others, derived from the high principles of social justice, that the law may designate.

Second Section. Public Employment

Art. 70. The law shall establish a statute for public employment, on the principle that officials and public employees are in the service of the nation and not of any political party. The statute shall determine especially the conditions of entrance into the administration; the rules for promotion; the guarantees of permanence, severance, suspension, or transfer; the duties of officials and employees; recourses against actions that may affect them; and the forms of their association. The law shall determine in what cases and under what conditions the right to strike of public employees is recognized.

Officials and public employees have the right to the benefits recognized for workers in general, and their individual relations with the State as employer shall be governed in accordance with what is provided in the section on labour in this constitution, in regard to what may be applicable.

No person may at the same time discharge two or more remunerated public offices or positions, except physicians who lend their services in hospitals and who exercise teaching positions.

Art. 71. Public services and civil institutions may not be militarized, except in cases of manifest national calamity or of mobilization by reason of war, and only for the time that these may continue.

Third Section. Family

Art. 72. The family, maternity, and matrimony have the protection of the State, which shall, in an especial manner, watch out for the strict fulfilment of the obligations derived from them.

Art. 73. The family patrimony is the object of special protective legislation.

Art. 74. The State shall promote the organization of the family on the juridical basis of matrimony, which shall rest upon the absolute equality of rights of both husband and wife.

The law shall determine the cases in which, for reasons of justice, a union between persons with legal capacity to contract matrimony must be compared, by its stability and peculiar features, to civil matrimony.

Art. 75. Adoption is instituted for the benefit of minors. The law shall regulate this matter.

Art. 76. Legal inequalities among children are not recognized; all, including those adopted, have the same rights.

Qualifications on the nature of filiation are abolished. No declaration shall designate any differentiation among births, or the civil status of the parents, of any act, attestation, or certification referring to filiation.

The law shall determine the form of investigating filiation.

Art. 77. It is the duty of the State to see to the physical, mental, and moral health of infancy, creating the necessary and adequate institutions and agencies.

Laws for the protection of infancy are of a public nature, and official establishments intended for such a purpose have the character of centres of social welfare and not of charity.

Art. 78. Fathers of poor families, with six or more minor children, shall receive especial protection from the State. In event of equal competence, they shall enjoy preference in the filling of public office.

Fourth Section. Culture.

Art. 79. The development and dissemination of culture, in all its manifestations, constitute a primary obligation of the State.

Art. 80. The cardinal function of education is to conserve and advance universal culture, promoting ethnic improvement and increasing the spiritual patrimony of the nation. Education must simultaneously embrace the protection of bodily health, civic and moral formation, instruction, and the undertaking of activities of a practical nature.

It is the function of the teaching profession to preserve and intensify the innate dignity of person of children and youths, and of the State to dignify the teacher economically, socially, and culturally.

Art. 81. There shall be a minimum [standard] of common instruction, obligatory for all inhabitants of the country, within the limits of age and conforming to the plans and programmes affixed by the respective law.

Education in official schools is laic, and the minimum of common instruction referred to in the preceding paragraph must, moreover, be given gratuitously.

Private centres of instruction are subject to inspection by the State, and, for the legal validity of the studies they give, must obtain express authorization and satisfy the official plans and programmes.

The licensing of teachers is a preferential function of the State.

No other degrees or diplomas of study are officially recognized than those granted by the State and by the University of San Carlos of Guatemala, as well as those obtained in foreign universities and schools by persons who satisfy the requirements of incorporation fixed by law, except for what is established in international treaties.

Degrees granted by Central American universities and schools shall have official validity in the Republic when plans and programmes of studies are unified.

Art. 82. The following are declared to be of social utility: the campaign for national literacy; the free offering of the minimum of official common, agricultural, industrial, artistic, and normal instruction; the creation of scholarships for cultural and technical improvement and specialization; the establishment of prevocational and polytechnic institutes, popular and school libraries, periodical rooms and other cultural centres, and the increase of recreation and physical culture.

The State must make efforts to assist economically needy Guatemalans, in order that they may have access to all grades of instruction, paying attention only to vocation and aptitude.

Proprietors of rural properties, factories, and other large enterprises are obliged to endow and sustain schools for the rural and working school population of their properties, the organization, designation of personnel, and inspection of the same belonging to the State.

Art. 83. The development of an integrated policy for the economic, social, and cultural improvement of indigenous groups is declared to be of national utility and interest. Special laws, regulations, and provisions may be enacted for this purpose, contemplating their needs, conditions, practices, uses, and customs.

Art. 84. The University of San Carlos of Guatemala is autonomous and is governed in accordance with the respective law and its statutes. The State will contribute to assure and increase the University patrimony and will annually designate in the budget the item intended for the support of the University.

Art. 85. The State guarantees freedom of expression in academic instruction.

Art. 86. All the artistic, historical, and religious wealth of the country, whoever may be its owner, is part of the cultural treasure of the nation and is under the guardianship and protection of the State. Its exportation is prohibited and its alienation or transformation may be prevented when the national interest so demands. The State will organize a registry of artistic, historic, and religious wealth, assuring its custody and paying attention to its perfect preservation. The State must also protect places and monuments notable for their natural beauty or recognized artistic or historic value.

Art. 87. Popular arts and industries are elements of the national culture and enjoy especial protection, with a view to conserving their artistic authenticity and improving their production and distribution.

TITLE IV

ECONOMIC AND FINANCIAL SYSTEMS

Art. 88. The State will orientate the national economy for the benefit of the people, for the purpose of assuring to each individual a dignified existence profitable to the community.

It is a primary function of the State to encourage agricultural and stock-raising activities and industry in general, endeavouring to ensure that the fruits of labour preferentially benefit its producers and that wealth extend to the greatest number of inhabitants of the Republic.

Art. 89. Properties of the nation are:

1. Those of the public domain.
2. Waters of the maritime zone that gird the coasts of the Republic; the shores of navigable lakes and rivers; navigable or passable rivers and lakes; rivers of any kind that serve as boundaries of the Republic; and waterfalls of industrial utilization, in the form determined by the law which shall likewise establish the extent and conditions of ownership over all those properties.
3. Those that constitute the patrimony of the State and of the municipality.
4. The maritime-terrestrial zone of the borders of the Republic, to the extent fixed by law.
5. The atmosphere and stratosphere situated above the national territory. Their transit and utilization are regulated by law and international treaties.
6. Fiscal and municipal revenues, original and of public law.
7. The subsoil of the nation; deposits of hydrocarbons and minerals, as well as all organic and inorganic substances that the law determines; and
8. All other properties existing in the national territory, indicated by the laws, or that may not be of private ownership, individual or collective.

Art. 90. The State recognizes the existence of private property and guarantees it as a social function, without further limitations than those determined by law, for reasons of public necessity or utility or of national interest.

Art. 91. Latifundia are prohibited. The law passes upon them and designates the measures necessary for their division. Existing latifundia may not for any reason be extended, and, until their recovery is obtained for the benefit of the community, they shall be the object of charges in the form that the law determines.

The State will endeavour to see that the land is re-incorporated in the national patrimony.

Only Guatemalans referred to in article 6 of this constitution, societies whose members have

this status, and national banks may be proprietors of real property within a zone of fifteen kilometres in width along the frontiers and coasts. Urban areas included within the indicated zones, in which aliens may have acquired property, with previous administrative authorization, are excepted.

Art. 92. Expropriation of private property may be ordered, with prior indemnification, for legally proved reasons of public utility or necessity or social interest. In case of invasion or attack against the national territory or grave disturbance of domestic order, it is not necessary that the indemnification be previous. Enemy property may be an object of intervention by reason of war, and if it should be expropriated, payment of the indemnification is reserved until the war is concluded. A law shall determine the procedure of expropriation.

Property may not be restricted in any form by reason of political offence.

Confiscation of possessions is prohibited.

Art. 93. The direct dominion of the State over its property is inalienable and imprescriptible. A surplus of private property, rights acquired for purposes of registration, and personal property, fees, and shares are excepted.

The State may, on the conditions determined by the law, grant, for the purposes of those who may work it, *dominium utile* over its rural real property, preferably to collectives, and, in their absence, to families, to non-stock societies—except those organized and participated in by the State—to individual Guatemalans, or to immigrants contracted by the Government.

The State may, for reasons of public necessity or utility or social interest, transfer its urban properties or exchange small rural lots to the extent indicated by law.

Art. 94. The State will provide technical instruction, administrative direction, machinery, and capital to collectives and agricultural co-operatives.

Art. 95. Contracts to exploit minerals or deposits of hydrocarbons may be negotiated for a term that shall not exceed fifty years, and those related to the national waters for a term not greater than twenty-five years. The approval of the Congress is required in both cases.

Deposits of hydrocarbons and their derivatives may be exploited only by the State, by Guatemalans, or by Guatemalan companies the capital of which is predominantly national.

Contracts for the cutting of woods must be let at public auction and preference must be granted to Guatemalan workers, who may not yield their rights without administrative authorization. The law shall determine the form of the extraction and exploitation of resins, gums, and other similar products.

Art. 96. Lands held in common and those of communities specified by law are inalienable, imprescriptible, not subject to expropriation, and

indivisible. The State shall give preferential aid for the purpose of organizing labour in them in a co-operative form, in conformity with what is provided in article 94, and must grant lands, furthermore, to communities that lack them.

Art. 97. Freedom of industry, of commerce, and of labour in general is recognized, except for the limitations that the law may impose for economic, fiscal, or social reasons of national interest.

An author or inventor enjoys the exclusive ownership of his work or invention for a time that does not exceed fifteen years. Literary or artistic property is governed by what is determined by the law and treaties. The law will provide what is necessary for the greatest efficacy and stimulation of labour and the increase of production.

Art. 98. The Executive alone may grant concessions for a term that shall not exceed ten years to those who may introduce or establish new industries in the Republic; but not of a nature to prohibit analogous or similar industries.

The State may negotiate contracts for the establishment of public services of great utility that may require the investment of large capital, and may grant, in such cases, concessions for a term not greater than fifty years. Contracts and concessions to which this article refers must be approved by the Congress. A new concession may in no case modify the term and the other conditions stipulated in a previous concession, even though the second may be an extension of the first.

Monopolies and privileges are prohibited.

Art. 99. The State shall prohibit the creation or shall limit the functioning of enterprises that absorb or tend to absorb, to the injury of the national economy, the production of one or more industrial branches or of a determined commercial activity. A law shall determine that which relates to this matter.

Art. 100. The establishment of co-operative societies of production, as well as legislation that organizes and encourages them, is declared of urgent social utility.

Art. 101. The form and conditions of the revision, revision, and re-negotiation of administrative concessions and contracts shall be determined by law.

Art. 102. It shall be stipulated in every con-

cession that the State or the municipality grants, or contract that they negotiate for the establishment of works and services of public utility, that these works or services shall pass, after a certain time—that may not be greater than fifty years—has elapsed, or on the maturity of the contract, to the ownership of the State or of the municipality, in perfect condition of service, without any indemnification.

TITLE VI EXECUTIVE *Chapter I*

PRESIDENT OF THE REPUBLIC

Art. 133. In case of the invasion of the national territory, of grave disturbance of the peace, of epidemic, or of any other general calamity, the President of the Republic may, in agreement with the Council of Ministers, and by means of a decree, restrict the exercise of the guarantees mentioned in article 54 of this constitution. The decree shall specify:

1. The motives that justify it.
2. The guarantee or guarantees that are restricted.
3. The territory that the restriction affects; and
4. The time that it continues.

The Congress, furthermore, shall be convened by the same decree in order that it may, within the period of three days, take cognizance of said law, ratify it, modify it, or disapprove it. In case it should be assembled, it shall immediately take cognizance of the decree. The restriction of guarantees may not exceed a period of thirty days for each time that it may be decreed. If, before the term indicated by the restriction expires, the causes that motivated the decree should have disappeared, it shall cease in its operation, and in such case every citizen has the right to urge its revision. The term of thirty days having expired, the guarantees are automatically re-established, unless a new decree of restriction should have been enacted. The restriction of guarantees shall in no manner affect the functioning of the organs of the State, the members of which always enjoy the immunities and prerogatives recognized by law.

The law of public order shall govern, during the restriction, for the territory to which it is applied.

HAITI

CONSTITUTION OF THE REPUBLIC OF HAITI¹

of 22 November 1946

TITLE II

RIGHTS

Chapter I

HAITIANS AND THEIR RIGHTS

Art. 5. The life and liberty of Haitians are sacred and must be respected by individuals and by the State.

CHAPTER III

PUBLIC LAW

Art. 11. Haitians are equal before the law, subject to the advantages conferred on natural-born Haitians. They shall also be eligible, without any discrimination, for civil and military employment under the conditions established by law.

Art. 12. Individual liberty is guaranteed.

No person may be prosecuted, arrested or detained except in the cases provided for and in accordance with the procedure prescribed by law.

Furthermore, arrest and detention shall take place only on the warrant of a legally authorized official.

For such warrant to be executed:

1. It must formally state the reason for detention and the provision under the law which punishes the alleged act;

2. It must be served on the person concerned and a copy of it left with him at the time of his detention, except in cases of *flagrante delicto*.

No person may be kept in custody unless he has been brought within forty-eight hours after arrest before a judge authorized to decide the question of the legality of arrest. Such jurisdiction shall be organized by the law.

All unnecessary harshness or constraint in apprehending a person or keeping him in custody, as well as all moral pressure or physical violence, especially during interrogation, are prohibited.

All violations of this provision are arbitrary acts against which the injured parties may, without previous authorization, appeal to the competent courts and prosecute those authorizing or committing the said acts, whatever may be their rank and duties.

Art. 13. No person may be removed from the jurisdiction of his proper judges under the Con-

stitution or the law. Accordingly, a civilian cannot be tried by any military court whatsoever, nor may a military person be tried elsewhere than in the common law courts for common law offences; an exception is made in the case of a legally declared state of emergency.

Art. 14. No house search and no seizure of papers may take place except by virtue of the law and in the forms thereby prescribed.

Art. 15. No law may have retroactive effect except in penal cases where it favours the delinquent.

Art. 16. Penalties may be established only by law, and may be applied only in cases determined by law.

Art. 17. The right of citizens to possess property is guaranteed. Expropriation on grounds of legally established public expediency may take place only on previous payment or assignment to the owner of a proper indemnity.

Possession of property also involves obligations. It must be utilized in the common interest.

The property owner owes a duty to the community to cultivate, work and protect the soil, especially against erosion.

Penalties for non-observance of that obligation shall be prescribed by law.

Property rights do not extend to springs, rivers and other water courses which belong to the State domain.

The conditions governing the use of such waterways shall be prescribed by law.

The law shall limit the maximum extent of this property right.

Art. 18. The freedom of labour shall be exercised under the control and supervision of the State and subject to the conditions prescribed by law. Nevertheless, only natural-born Haitians may engage in retail trade, practise handicrafts and pursue all other commercial and professional activities as determined by law.

Art. 19. Every worker has the right to participate through his representatives in the collective settlement of working conditions. Every worker has the right to rest and leisure.

Every man has the right to defend his interests by collective action. Each individual may join the trade union pertaining to his professional activities, or may refrain from doing so.

Annual leave with pay is compulsory.

Art. 20. The death penalty cannot be established for political offences except treason.

¹French text in *Le Moniteur*, Journal officiel de la Republique d'Haiti, No. 123, 23 December 1946. English translation from the French text by the United Nations Secretariat.

The crime of treason includes every act consisting in taking up arms against the Republic of Haiti, adhering to the declared enemies of Haiti and giving them aid and comfort.

Art. 21. Every person has the right to express his opinions on all subjects by every means in his power. The expression of ideas in every form cannot be subjected to any previous censorship except in the case of a declared state of war.

Abuses of the right of expression shall be defined and punished by law, provided freedom of expression is not thereby jeopardized.

Art. 22. All forms of worship and all religions are equally free and recognized. Every person has the right to profess his religion and to practise his own form of worship provided that he does not thereby interfere with public order.

Art. 23. Freedom of instruction may also be exercised as provided by law under the control and supervision of the State, which is concerned with the moral and civic training of citizens.

Public education is a responsibility of the State and of the communes.

Elementary instruction is compulsory.

Public instruction shall be free of charge in all grades without prejudice to the conditions of admission.

Art. 24. Juries shall be established in the cases prescribed by law in respect of crimes and of political offences committed through the medium of the press or otherwise.

Art. 25. Haitians have the right of unarmed peaceful assembly even to deal with political matters, subject to observance of such laws as may govern the exercise of that right, but without previous permission being required.

This regulation does not apply to public meetings, which are subject entirely to the police laws.

Art. 26. Haitians have the right of association and of forming political parties, trade unions and co-operatives.

This right cannot be subordinated to any preventive measures. Moreover, nobody may be compelled to join a political association or party.

The law governs the conditions of operation of these bodies.

Art. 27. The right of petition may be exercised personally by one or more individuals, but never on behalf of any association.

Art. 28. The secrecy of correspondence shall be inviolable. The law shall prescribe what officers shall be held responsible for the secrecy of letters entrusted to the mails.

Art. 29. French is the official language, and its use is compulsory in the public services.

Art. 30. The right of asylum of political refugees is acknowledged on condition that they comply with the country's laws.

Art. 31. Extradition on political grounds shall be neither allowed nor requested.

Art. 32. The law can neither add to nor detract from the Constitution. The letter of the Constitution must always prevail.

Chapter IV

CIVIC DUTY

Art. 33. The counterpart of the status of citizenship and of civic and political rights is civic duty. Civic duty consists of all the citizen's obligations towards the State and the nation in moral, political, social and economic matters.

Non-observance of these provisions shall be punishable by law.

Officials and employees of all grades must, in the exercise of their duties, conduct themselves as men of honour, dignity and conscience and show due regard for the common weal in all circumstances.

TITLE IX

GENERAL PROVISIONS

Art. 142. No place and no part of the national territory may be declared in a state of emergency except in the case of civil disturbances or imminent invasion by foreign forces.

The Act of the President of Haiti proclaiming a state of emergency must be signed by the Council of Secretaries of State and prescribe the immediate summoning of the Legislative Assembly, which shall decide on the expediency of the measure.

The Legislative Assembly shall decree jointly with the Executive what constitutional guarantees may be suspended in those parts of the national territory placed in a state of emergency.

Art. 143. The conditions obtaining in a state of emergency shall be governed by a special law.

TITLE XI

TRANSITIONAL PROVISIONS

Art. "D". The principle of non-retroactivity of laws does not preclude all such measures of reconstruction and punishment as are dictated by the national interest being taken within legal limits and in respect of the period of five years immediately preceding the present constitution.

HONDURAS

POLITICAL CONSTITUTION OF HONDURAS¹

of 28 March 1936

TITLE III

CONCERNING RIGHTS AND GUARANTEES

Art. 30. The Constitution guarantees to all inhabitants of Honduras, whether they be natives or aliens, inviolability of human life, individual security, liberty, equality before the law, and property.

Chapter I

CONCERNING THE INVIOABILITY OF HUMAN LIFE

Art. 31. The penalty of death is abolished in Honduras; but while the penal system is being established, it shall be applied in cases determined by law, only to parricides, assassins, and traitors when the latter are in active service and on campaign.

Sentences issued in suits instituted for these crimes shall be deliberated on by the courts of appeal, and the decision of the latter shall be sent to the Supreme Court of Justice for review if common crimes are involved, and to the military court of the Republic if the offence is of a military nature.

The Supreme Court of Justice, as well as the Military Court of the Republic, shall render a decision based only on the proceedings.

Chapter II

CONCERNING INDIVIDUAL SECURITY

Art. 32. The Constitution recognizes the guarantee of *habeas corpus*. In consequence, any person illegally detained, or any other person in his name, has the right to appeal to the respective tribunal verbally or in writing, requesting the exhibition of the person detained.

Art. 33. Any person has the right to request protection against transgression or arbitrary action of which he may be the victim, and to require the exercise of all the guarantees that this constitution establishes, when he may be unduly prevented in the enjoyment of these guarantees by laws or acts of any authority, agent, or public official.

Art. 34. An order of arrest not issued by a competent authority, or one issued without the legal formalities required, is contrary to law.

Art. 35. Detention for inquiry shall not exceed six days.

Art. 36. Persons arrested and held *incommunicado* shall not be held for more than forty-eight hours.

Art. 37. An order for detention in prison shall not be issued without previous full proof that a crime or simple offence meriting the penalty of deprivation of liberty has been committed, and without a rational suspicion of its author. The declaration of the criminal shall be made in the same manner.

Art. 38. Imprisonment for debts is prohibited except when fraud is present.

Art. 39. Imprisonment or arrest is permitted as punishment, or as a detainer, in the cases and for the terms established by law. The detention may not exceed thirty days.

Art. 40. An offender caught *in flagrante delicto* may be apprehended by any person in order to deliver him to the proper authority.

Art. 41. No person shall be imprisoned or detained except in places established by law. Jails shall serve only for the safe keeping of indicted persons and of those serving terms of punishment.

Art. 42. No person shall be brought to a jail or detained therein, even with an order of arrest, if he presents sufficient bond, when the offence committed does not carry a penalty of more than three years.

Art. 43. No person shall be tried by special commissions or by other judges than those designated by law.

Art. 44. The right of self-defence is inviolable.

Art. 45. In criminal suits no person shall be obliged to testify against himself, against his spouse, or against his relatives within the fourth degree of consanguinity, or the second of affinity.

Art. 46. No person shall be harassed or persecuted because of his opinions. Private actions that do not disturb public order, or that do not cause injury to a third person, shall always be outside of the action of the law.

Art. 47. Whipping, beating with sticks, and all kinds of torture are absolutely forbidden. Unnecessary imprisonment and all undue punishment are also forbidden.

Art. 48. The residence of every person is an inviolable asylum, that shall not be entered except by authority, in the following cases:

¹Spanish text in *Constitución Política de la República de Honduras*. Tegucigalpa, 1936. English translation in *The Constitutions of the Americas* (cited above, p. 6).

1. To remove a criminal surprised in *flagrante delicto*.

2. Because an offence is being committed inside the habitation, because of scandalous disorder that requires immediate remedy, or because of a complaint from the interior of the house.

3. In case of fire, earthquake, flood, epidemic, or other analogous situations; and to make any visit or inspection for purely sanitary purposes.

4. To free a person held illegally.

5. To obtain articles sought for a suit, regarding which there is at least some proof of the existence of said articles; and to execute a legally decreed judicial provision.

6. To apprehend an accused person, whose order for arrest or imprisonment has been obtained previously, some proof being established that he is hidden in the house to be searched.

7. In the last two cases, search of a house may not be made without a written order from a competent authority.

Art. 49. If the domicile to be searched is not the dwelling of the accused person, the authority or its agents shall, before entering, request permission to enter from the person residing therein.

Art. 50. Searching of domiciles shall not be made between seven at night and six in the morning without permission of the head of the house.

Art. 51. Correspondence by letter and telegraph and private papers are inviolable, except for what is especially provided by the law of state of siege.

Neither the Executive nor his agents may remove, open, or detain such correspondence. If it has been taken from the mails or from any other place, it may not be introduced in a trial.

Art. 52. Private correspondence, papers, or books may only be seized by the order of a competent judge, for the civil or criminal suits determined by law, and shall be registered in the presence of the owner, or, in his absence, of two witnesses; all papers having no relation to the investigation shall be returned.

Art. 53. Proscriptive, confiscatory laws are prohibited, as well as those ordering inhuman or perpetual punishment.

The duration of penalties shall not exceed twelve years, or twenty years for an accumulation for various offences.

Art. 54. No law shall have retroactive effect, except in criminal matters when the new law favours the offender or indicted person.

Art. 55. Police duty shall be confided only to civil authorities.

Art. 56. The laws shall fix the order and form of procedure in civil and criminal matters.

Chapter III

CONCERNING LIBERTY

Art. 57. The Church is separate from the State. The free exercise of all religions that are not opposed to the laws of the country is guaranteed. Subsidies for denominations or for religious instruction are prohibited.

Art. 58. No religious act shall serve to establish the civil status of a person.

Art. 59. Every person may freely, without previous censure express his opinions orally or in writing, by means of the press or by any other procedure, without exemption from the responsibility for the offences and abuses that he commits in the exercise of this liberty, in the form and cases determined by law.

In no case may the printing press or other accessories be confiscated as instruments of the offence.

Art. 60. Freedom of instruction is guaranteed. Teaching maintained by public funds shall be laical, and primary instruction, furthermore, shall be free of charge, obligatory, paid for by the municipalities, and subsidized by the State.

Art. 61. Freedom of assembly without arms and that of association for any legitimate purpose are guaranteed.

The establishment of any kind of monastic association is prohibited. The entrance into the country of individuals belonging to these associations shall be regulated by law.

Art. 62. Industry and commerce are free; but alcohol, *aguardiente*, saltpetre, gunpowder, fire-arms, munitions of war, and explosives used in military practice are to be monopolized for the benefit of the State.

Traffic in sedatives or drugs derived from heroin shall be regulated by law or by international conventions.

Art. 63. There shall be no monopolies in favour of private individuals.

Privileges may be granted for a period that does not exceed ten years. A term limited to ninety years may be granted concessions to promote the introduction or improvement of new industries, for immigration, institutions of credit, the opening or routes of communication, or colonization projects.

In the cases mentioned above, only the established regulations and taxes may be suspended, but the public charges for establishment may not be abolished in any case or in any way, in concessions and treaties.

In the concessions it grants or the treaties it makes, the State may not dispense with the payment of municipal taxes.

When the term of a concession relative to colonization, immigration, or the opening of means of communication has elapsed, the enterprise, in full operation and with all its accessories, shall pass to

the ownership of the State, without any remuneration.

Art. 64. Any person may acquire property and dispose of it by any title, within the limitations established by law.

Art. 65. Entails in favour of, or entire estates given to, religious institutions are prohibited.

Art. 66. Any person or assembly of persons has the right to direct petitions to legally established authorities for consideration, and to have the decision communicated to them.

Art. 67. Any person may enter the territory of the Republic; leave it, travel within its boundaries, and change residence, in conformity with the laws.

Art. 68. Inhabitants of the Republic have the right of possessing and carrying arms, according to the law.

Chapter IV

CONCERNING EQUALITY

Art. 69. All Hondurans are equal before the law.

The Republic does not recognize exemptions or personal privileges.

Art. 70. The accumulation of salaried offices or employment, even with the character of interim service, is prohibited, except for those in teaching and those of military surgeons; the latter may occupy positions in health departments.

Art. 71. Ministers of the various religions shall not exercise public offices.

Art. 72. Proportionality shall be the basis of direct taxes.

Chapter V

CONCERNING PROPERTY

Art. 73. No person shall be deprived of his property except by virtue of a law or by a sentence founded on law.

Art. 74. Expropriation of real property, for reasons of public necessity or utility, shall be determined by law or by a judgment founded on law, and shall not be executed without previous indemnification.

Art. 75. The right to own property shall not prejudice the right of eminent domain of the State within its territorial boundaries, nor can it supersede the rights maintained by national institutions or works of a national character.

Art. 76. Every inventor shall enjoy exclusive property rights in his work or discovery, for the period that the law determines.

Art. 77. The right to regain possession of confiscated property is imprescriptible.

Art. 78. Only the Congress may impose taxes and other public charges.

Art. 79. All services that are not given gratuitously by virtue of law, or by a judgment based on law, must be remunerated.

Art. 80. No person having the free administra-

tion of his property may be deprived of the right to settle his civil affairs by agreement or arbitration.

Chapter VI

OTHER GUARANTEES

Art. 81. The enumeration of rights and guarantees made in this constitution does not exclude those not enumerated that may rise from the principle of the sovereignty of the people and the republican form of government.

Art. 82. Laws that regulate the exercise of such guarantees and rights shall be null in so far as they decrease, restrict, or pervert them.

Chapter VII

CONCERNING THE SUSPENSION OF GUARANTEES

Art. 83. The guarantees established in arts. 32, 34, 35, 42, 48, 49, 50, 51, 52, 59, the first paragraph of 61, 67, 73, and 79 may be suspended temporarily, in all or part of the Republic, when the safety of the State so requires because of invasion of the territory, serious disturbance of order that threatens public peace, an epidemic, or other calamity.

During the suspension, the territory in which the aforementioned guarantees were suspended shall be governed by the law of state of siege; but the suspension of any other guarantees than those mentioned cannot be made by the said law or by any other.

During the suspension of the aforementioned guarantees, declaration of new offences shall not be made; nor shall other penalties be imposed save those established in laws existing at the time of the decree of suspension.

Art. 84. The suspension of guarantees may be decreed only by the Congress, or, if it is not in session, by the Executive; but the latter may not decree suspension for more than sixty days, except by a new declaration. In all cases he must give an account to the Congress of the measures taken during the suspension of guarantees.

Art. 85. If the Executive violates any of the provisions contained in this chapter, the injured party, or any person in his name, may have recourse for protection.

TITLE XI

CONCERNING THE LIABILITY OF PUBLIC OFFICIALS

Art. 189. Public employees and officials who violate any of the rights and guarantees stated in this constitution shall be criminally and civilly responsible, and they cannot obtain a pardon or commutation during the current or the following term.

Prescription of the offences and penalties incurred shall not begin until after said terms.

TITLE XII

CONCERNING LABOUR AND THE FAMILY

Art. 191. The maximum obligatory day's work for wages shall be eight hours. For each six days of work there shall be one of rest.

A law on accidents during work shall establish the responsibilities of the employer and the conditions under which they shall become effective.

Art. 192. Unhealthful or dangerous work is prohibited, including industrial night work for women and for minors under sixteen years of age. Said persons shall not work in commercial establishments after six o'clock in the afternoon.

Art. 193. The work of minors under twelve years of age shall not be the object of contract, and that of those over that age and less than

sixteen years of age shall have a maximum day's work of six hours.

Art. 194. Wages shall be paid exclusively in money that is legal tender in the Republic.

Art. 195. Large industrial concerns are obliged to establish hospitals in the place of their activities to attend to the accidents or illness of their operatives.

Art. 196. Safeguarding public health and the hygienic welfare of the nation is a duty of the State.

Art. 197. The family, as the basis of society, shall be under the protection of the State.

Consequently, the State shall provide for the organization of its patrimony, for effective aid to maternity, and protection to minors.

HUNGARY

ACT I ON THE STATE FORM OF HUNGARY¹ of 31 January 1946

In Hungary, the exercise of royal power ceased on 13 November 1918. The nation then regained its right of self-determination. Now, after a struggle of four centuries, the Debrecen Resolution of 1849, two attempts at revolution and the subsequent oppressions, the Hungarian people are again in a position to arrive at a decision regarding their form of government.

Accordingly, the National Assembly, elected on the basis of universal, equal, direct and secret suffrage, hereby establishes the state form which best corresponds to the will and interests of the nation—the Hungarian Republic.

It secures to citizens of the Republic the natural and inalienable rights of man, and to the Hungarian people an ordered community life, and peaceful collaboration with other peoples.

The natural and inalienable rights of citizens

are in particular: personal freedom, the right to a life free from oppression, fear and want, free expression of thought and opinion, free exercise of religion, the right of association and assembly, the right to property, personal safety, work and a decent standard of living, the right to a liberal education and the right to participation in the government of the State and of self-governing institutions.

No citizen may be deprived of these rights, except by due process of law; and the Hungarian State guarantees them, without discrimination in any form, within the framework of a democratic State order, to all its citizens in a uniform and equal manner.

With a view to carrying this objective into effect, the National Assembly of Hungary, enacts, above all the following law.²

CONCERNING THE DEFENCE OF THE ORDER OF THE STATE AND THE REPUBLIC BY CRIMINAL LAW

Act 1946 No. VII, of 22 March 1946

Art. 1. (1) A criminal offence is committed by anyone who commits an act or starts or leads or supports an action or movement or organization that aims at overthrowing the democratic order of the State or the democratic Republic brought forth by Act 1946 No. I.

(2) A criminal offence is committed by that person, too, who actively participates in or promotes a movement or organizational activities defined in (1).

Art. 2. A criminal offence is committed by anyone who:

(a) Incites to change the order of the State or the Republic defined in art. 1 (1);

(b) Incites to hatred against the democratic order of the State or of its fundamental institutions;

(c) Incites hatred against persons or groups because of their democratic convictions;

(d) Incites against the implementation of civil liberties or of the equality of rights or incites to hatred against a nationality, race, or religious denomination, or who commits any other act which is apt to arouse such sentiments.

Art. 3. A violation of law is committed by anyone who praises a war crime or a crime against the people or any crime defined in this act, or praises someone who has committed such crime.

Art. 4. (1) A violation of law is committed by anyone who, in the presence of two or more persons, asserts a false fact or presents a true fact in a manner which serves to arouse contempt for the order of the State defined in art. 1 (1), or for the Republic or to impair its international reputation.

(2) The act defined in (1) constitutes a criminal offence if it was committed in a manner circumscribed in art. 171 of the Penal Code.

¹English text through the courtesy of Dr. Eugene Hevesi and Mr. Sidney Liskofsky, New York. Acknowledgment is also made of the information given by Mr. Andrew Sik, Cultural Attaché, Legation of Hungary, Washington, D.C.

²*The National Collection of Legal Acts*, published on 23 March 1946. English translation by Dr. Jacob Robinson, New York.

³The law declares: (1) that the Hungarian people is the sole and exclusive source and owner of State power and (2) that Hungary is a Republic. The remaining articles (3 to 18) deal with the election of the President, his rights and duties, etc.

Art. 5. [Provides for the protection of the person of the President of the Republic].

Art. 6. Anyone associating himself with others for the purpose of committing any of the criminal offences defined in arts. 1 and 5 or for the purpose of committing any other act in preparation of such offences, or incites or appeals to others to commit any of the criminal offences, or offers his services for that purpose or undertakes them, is to be punished for a criminal offence.

[*Art. 7.* provides for the protection of the dignity of the President of the Republic.]

Art. 8. (1) A violation of law is committed by one who is cognizant of any act, movement or organization referred to in the preceding articles and does not report it to the authorities on the earliest possible occasion.

(2) A relative of a malefactor or accomplice cannot be punished on that account (P.C. art. 78).

[*Art. 9.* refers to art. 6. The conspirator goes unpunished if he disaffiliates himself from the plot or reports it to the authorities.]

Art. 10. (1) The penalty for acts defined in art. 1(1) and art. 5 is death or hard labour for life; in case of physical disability, imprisonment for life or hard labour, the duration of which cannot be less than five years; in case of physical incapacity, imprisonment for five to fifteen years.

(2) The penalty for acts defined in art. 1(1), art. 6, and art. 7(1) is hard labour, the duration of which cannot be shorter than five years; in case

of physical disability, imprisonment for five to fifteen years.

(3) The penalty for acts defined in art. 2 is two to four years of prison.

(4) The penalty for the violations of law defined in art. 3, art. 4(1), art. 7(2), and art. 8(1) is incarceration up to five years; for the criminal offence defined in art. 4(2), prison up to five years.

(5) In all cases defined in this law the loss of office and of political rights must be imposed as a secondary penalty. For criminal offences a foreigner is to be expelled and his return to the country prohibited for ever; a citizen, on the other hand, can be expelled from the locality where his stay seems to be undesirable, even if he has the right of indigeneity (*Zugehörigkeit*) there. In the case of the criminal offence defined in art. 1(1), the confiscation of the entire property of the criminal must be imposed; in all other cases defined in this law, the confiscation of his entire property or of a portion of his property must be imposed.

Art. 11. (1) The decision in the criminal offences defined in this law belongs within the jurisdiction of the courts of People, instituted at the High Courts of Justice (*Iteloetabla*) consisting of five members.

(2) The Minister of Justice will appoint the president of the board from among the justices at the High Court, while the local organizations of the Independent Smallholders' Party, the Hungarian Communist Party, the Social-Democratic Party and the National Peasant Party will each appoint a member of it.

ICELAND

CONSTITUTION OF 17 JUNE 1944¹

V

Art. 62. The Evangelical Lutheran Church shall be the national church of Iceland, and shall as such be supported by the State.

This may be modified by law.

Art. 63. Citizens have a right to unite in communities to worship God in the way which accords best with their conviction, but they must not teach or undertake anything which is against morality or public order.

Art. 64. No one can be deprived of the full enjoyment of his civil and political rights or evade the fulfilment of any duty as a citizen on account of his creed.

No one shall be obliged to give any personal contribution to any other divine worship than his own.

Any one outside the national church shall pay to the University of Iceland or to a sustentation fund attached to that college the same contributions as he would otherwise have given to the State Church, provided, however, that he does not belong to any other religious community acknowledged in the country.

Amendments may be made by law.

VI

Art. 65. Anyone who is arrested must without delay be brought before a judge, and should he not be discharged immediately, the judge shall decide within twenty-four hours, giving his reasons for the finding, whether the person arrested shall be imprisoned. Should it be possible to liberate him on bail, the nature and the amount of the security shall be decided in the award.

Appeal against the judge's award can at once be made to a higher court; with regard to notification and appeal the procedure is the same as in criminal cases.

No one can be kept under remand for an offence which incurs only a fine or ordinary imprisonment.

Art. 66. A man's dwelling is inviolable. Domiciliary search, seizure and examination of letters and other papers can take place only in accordance with a judicial decision or pursuant to special legal authority.

Art. 67. The right of possession is inviolable. No one can be obliged to surrender his property, unless for the benefit of the public weal; this can be done only by law and on full compensation being paid.

Art. 68. No foreigner can acquire nationality except by law.

A foreigner's right to possess real property in the country shall be regulated by law.

Art. 69. No restrictions on the freedom of trade can be made except by law or for reasons of public welfare.

Art. 70. Anyone who is unable to support himself or his family, and whose maintenance is not the obligation of any other person, is entitled to receive relief from public funds, but shall in this case be subject to such obligations as the law prescribes.

Art. 71. Should parents not possess means to provide for the education of their children, or should the children be orphans or poor, their instruction and maintenance shall be provided for out of public funds.

Art. 72. Every person has the right to publish his thoughts in print; he is, however, responsible to the courts. Censorship and other hindrances of the freedom of the press can never be established by law.

Art. 73. Citizens have a right to establish associations for every lawful purpose, without obtaining permission. No society can be dissolved by a government measure. A society can nevertheless be provisionally prohibited, but action must immediately be brought against it for its dissolution.

Art. 74. Citizens have a right to assemble unarmed. The police have a right to be present at public assemblies. Open-air meetings may be prohibited should it be feared that danger of disturbances might ensue.

Art. 75. Every able-bodied man is bound to take personal part in the defence of the country according to detailed regulations which may be laid down by law.

Art. 76. The right of the communes to manage their own affairs under the inspection of the Government is laid down by law.

Art. 77. Taxation shall be regulated by law.

Art. 78. No privilege attached to nobility, title or rank may be established by law.

¹ *British and Foreign State Papers* (1926, Part III), vol. 125, pp. 850-861. Numbering of articles according to the amended text of 17 June 1944. Information has also been received through the courtesy of Mr. Helgi P. Briem, Consul-General of Iceland, New York.

INDIA¹

GOVERNMENT OF INDIA ACT, 1935²

PART X

THE SERVICES OF THE CROWN IN INDIA

Chapter V

General

Sect. 275. A person shall not be disqualified by sex from being appointed to any Civil Service of, or civil post under, the Crown in India other than such a service or post as may be specified by any general or special order made:

(a) By the Governor-General in the case of services and posts in connexion with the affairs of the Federation;

(b) By the Governor of a province in the case of services and posts in connexion with the affairs of the province;

(c) By the Secretary of State in relation to appointments made by him:

Provided that any such agreement with respect to joint services and posts as is mentioned in chapter II of this part of this Act may provide for the powers conferred by this section on the Governor-General and the governor of a province being exercised, with respect to the services or posts to which the agreement applies, by the Governor-General or a specified governor.

PART XII

Miscellaneous and General

Sect. 298. (1) No subject of His Majesty domiciled in India shall on grounds only of religion, place of birth, descent, colour or any of them be ineligible for office under the Crown in India, or be prohibited on any such grounds from acquiring, holding or disposing of property or carrying on any occupation, trade, business or profession in British India.

(2) Nothing in this section shall affect the operation of any law which:

(a) Prohibits, either absolutely or subject to

exceptions, the sale or mortgage of agricultural land situate in any particular area, and owned by a person belonging to some class recognized by the law as being a class of persons engaged in or connected with agriculture in that area, to any person not belonging to any such class; or

(b) Recognizes the existence of some right, privilege or disability attaching to members of a community by virtue of some personal law or custom having the force of the law.

(3) Nothing in this section shall be construed as derogating from the special responsibility of the Governor-General or of a governor for the safeguarding of the legitimate interests of minorities.

Sect. 299. (1) No person shall be deprived of his property in British India save by authority of law.

(2) Neither the federal nor a provincial legislature shall have power to make any law authorizing the compulsory acquisition for public purposes of any land, or any commercial or industrial undertaking, or any interest in or in any company owning any commercial or industrial undertaking, unless the law provides for the payment of compensation for the property acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, it is to be determined.

(3) No bill or amendment making provisions for the transference to public ownership of any land or for the extinguishment or modification of rights therein, including rights or privileges in respect of land revenue, shall be introduced or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor-General in his discretion, or in a chamber of a provincial legislature without the previous sanction of the governor in his discretion.

(4) Nothing in this section shall affect the provisions of any law in force at the date of the passing of this Act.

(5) In this section "land" includes immovable property of every kind and any rights in or over such property, and "undertaking" includes part of an undertaking.

¹ The Government of India (External Affairs Department) contemplates the contribution of a study on fundamental freedoms in India for the next edition of the *Human Rights Yearbook*.

² International Labour Office. *Constitutional provisions concerning social and economic policy*. Montreal, 1944, pp. 466-495.

IRAN

THE FUNDAMENTAL LAWS¹

of 6 August 1906

Declared in effect 30 December 1906

ON THE REPRESENTATION OF AFFAIRS TO THE NATIONAL CONSULTATIVE ASSEMBLY

Art. 32. Any individual may submit in writing to the Petition Department of the Archives of the Assembly a statement of his own case, or of any criticism or complaints. If the matter concerns the

Assembly itself, it will give him a satisfactory answer; but if it concerns one of the Ministries, it will refer it to that Ministry, which will inquire into the matter and return a satisfactory answer.

THE SUPPLEMENTARY FUNDAMENTAL LAWS²

of 8 October 1907

RIGHTS OF THE PERSIAN NATION

Art. 8. The people of the Persian Empire are to enjoy equal rights before the law.

Art. 9. All individuals are protected and safeguarded in respect of their lives, property, homes, and honour, from every kind of interference, and none shall molest them save in such case and in such way as the laws of the land shall determine.

Art. 10. No one can be summarily arrested, save in *flagrante delicto* in the commission of some crime or misdemeanour, except on the written authority of the President of the Tribunal of Justice, given in conformity with the law. Even in such case the accused must immediately, or at latest in the course of the next twenty-four hours, be informed and notified of the nature of his offence.

Art. 11. No one can be forcibly removed from the tribunal which is entitled to give judgment on his case to another tribunal.

Art. 12. No punishment can be decreed or executed save in conformity with the law.

Art. 13. Every person's house and dwelling is protected and safeguarded, and no dwelling-place may be entered save in such case and in such way as the law has decreed.

Art. 14. No Persian can be exiled from the country, or prevented from residing in any part thereof, or compelled to reside in any specified part thereof, save in such cases as the law may explicitly determine.

Art. 15. No property shall be removed from the control of its owner save by legal sanction, and then only after its fair value has been determined and paid.

Art. 16. The confiscation of the property or

possessions of any person under the title of punishment or retribution is forbidden, save in conformity with the law.

Art. 17. To deprive owners or possessors of the properties or possessions controlled by them on any pretext whatever is forbidden, save in conformity with the law.

Art. 18. The acquisition and study of all sciences, arts and crafts is free, save in the case of such as may be forbidden by the ecclesiastical law.

Art. 19. The foundation of schools at the expense of the government and the nation, and compulsory instruction, must be regulated by the Ministry of Sciences and Arts, and all schools and colleges must be under the supreme control and supervision of that Ministry.

Art. 20. All publications, except heretical books and matters harmful to the perspicuous religion [of Islam] are free, and are exempt from the censorship. If, however, anything should be discovered in them contrary to the press law, the publisher or writer is liable to punishment according to that law. If the writer be known, and be resident in Persia, then the publisher, printer and distributor shall not be liable to prosecution.

Art. 21. Societies (*anjumans*) and associations (*ijtimá'ât*) which do not provoke religious or civil strife, and are not injurious to good order, are free throughout the whole Empire, but members of such associations must not carry arms, and must obey the regulations laid down by the law on this matter. Assemblies in the public thoroughfares and open spaces must likewise obey the police regulations.

Art. 22. Correspondence passing through the post is safeguarded and exempt from seizure or

¹ Helen Miller Davis, *op. cit.*, pp. 69-78.

² Helen Miller Davis, *op. cit.*, pp. 78-90.

examination, save in such exceptional cases as the law lays down.

Art. 23. It is forbidden to disclose or detain telegraphic correspondence without the express permission of the owner, save in such cases as the law lays down.

Art. 24. Foreign subjects may become naturalized as Persian subjects, but their acceptance or

continuance as such, or their deprivation of this status, is in accordance with a separate law.

Art. 25. No special authorization is required to proceed against government officials in respect of shortcomings connected with the discharge of their public functions, save in the case of Ministers, in whose case the special laws on this subject must be observed.

LABOUR LAW¹

Decree No. 8394 of 5 June 1946

Put into effect for a trial period on 15 June 1946

SECTION I GENERAL

Art. 1. For the purpose of putting into effect this law and the regulations thereto related, a department to be known as the Department of Labour shall be set up in the Ministry of Commerce pending the organization of a Ministry of Labour.

Art. 2. Industrial, mining, building, commercial, transport, agricultural, industrial, and other similar establishments to which this law shall apply shall be specified by the Department of Labour and approved by the Supreme Council of Labour. Such establishments will hereinafter be referred to in this law as working establishments.

Art. 3. Under this law, an employee is defined as one who works in one of these establishments under the instructions of an employer for a specified wage or salary.

Note. The Department of Labour shall, in cooperation with the Ministry of Agriculture, prepare special regulations for agricultural workers and wage-earners.

SECTION II HOURS OF WORK

Art. 4. The hours of work in any establishment to which this law applies shall not exceed forty-eight actual working hours in a week.

Note 1. Types of work which necessitate less than eight hours' labour a day shall conform to regulations which shall be proposed by the Supreme Council of Labour and approved by the Council of Ministers.

Note 2. The actual working hours for different types of labour shall be fixed by regulations to be prepared by the Department of Labour and approved by the Council of Ministers.

Art. 5. The employer may, subject to the employee's consent, demand overtime service either on holidays or as daily overtime in excess of the hours specified in the preceding article. Such overtime work shall be remunerated at a rate 35 per cent higher than the normal wage or salary of the

employee. In any case the total hours worked by any employee shall not exceed twelve hours in one day; and, in general, the total hours of such overtime in seasonal industries shall not exceed six hundred hours a year; for other industries, they shall not exceed four hundred hours a year.

Note 1. The number of hours for night workers comes under the regulations for overtime, and their total working hours shall not exceed eight hours in any twenty-four.

Note 2. Night work means work between 10 p.m. and 6 a.m.

SECTION III HOLIDAYS AND LEAVE

Art. 6. Every employee is entitled to one day of rest per week (Friday) and if, for technical reasons, the work is of such a nature that the employee should have to work on Friday, the employer must give him some other day of rest in lieu of Friday.

Note 1. If the employer does not pay wages for Friday, he must pay weekly wages in such a manner that the employee receives seven days' wage for six days' work.

Art. 7. After six months' continuous employment in any working establishment, every employee shall have the right to one week's leave with pay. After twelve months' continuous work, he shall be entitled to fifteen days' leave with pay. The weekly days of rest mentioned in art. 6 and the holidays which are the subject of note 3 of the regulations shall not be included in these seven or fifteen days' leave.

Note 1. Six months' or one year's continuous employment means the total period of work including the periods of leave mentioned in this article and its footnotes.

Note 2. The employer may pay the wages covering official holidays to the employees and charge such payment against the fifteen days mentioned above.

Note 3. Note 2 does not include the six following holidays for which leave with pay must be granted to workers: (1) New Year's Day, (2) 10th Moharram, (3) 21st Ramazan, (4) Anniversary of the Constitution, (5) Feast of Ghadir, (6) 1st May.

¹ English text through the courtesy of Dr. Hussein Ala, Ambassador of Iran, Washington, D. C.

SECTION IV

WORKING CONDITIONS FOR WOMEN AND CHILDREN

Art. 8. It is not permitted to put children under the age of twelve to work except in the case of training, which shall be provided for in the regulations. In such case, their age shall not be less than ten full years, and in any case their working hours shall not exceed six per day.

Art. 9. Night work is prohibited for children under the age of sixteen, and for women.

Note 1. The employment of girls of less than sixteen years of age, or their employment in shops, restaurants and other public places, is prohibited except in cases where they work with their parents.

Art. 10. In any establishment where women workers are employed, the employer must provide a *crèche*.

Art. 11. Nursing mothers of infants of less than eighteen months must be allowed half an hour for nursing their children for every three hours of work.

Art. 12. Pregnant women are prohibited from working for a period of six weeks prior to, and up to six weeks after, giving birth.

Note 1. Half their wages for this period shall be paid by the employer and the other half from the welfare fund of the establishment.

Art. 13. Difficult and dangerous work is prohibited for children under sixteen years of age and women.

Note 1. The classification of difficult and dangerous work shall be specified in regulations which shall be prepared by the Department of Labour and approved by the Supreme Council of Labour.

Note 2. Infraction of the regulations of this section shall be punished according to regulations. For the first offence, from five to eight days' imprisonment or a fine of one thousand to five thousand rials; and, in case of repeated offences, imprisonment up to three months or a fine up to five thousand rials shall be imposed.

SECTION V

AGREEMENTS FOR WORKING

Art. 14. Individual and collective agreements between employers and employees or their trade unions shall hereafter be in writing and shall in no way be contrary to this law or to the laws and regulations of social insurance.

Note 1. Regulations relative to the nature of working agreements and the method of putting them into effect shall be prepared by the Department of Labour and approved by the Supreme Council of Labour.

Note 2. Existing working contracts which provide for working conditions or wages more favourable than those specified in this law shall continue

in force until their expiration, when they may be renewed by joint agreement of the parties thereto.

SECTION VI

HEALTH

Art. 15. All matters related to health and protection of workers shall be dealt with by regulations to be prepared by the Department of Labour, in co-operation with the Ministry of Health, and shall be approved by the Council of Ministers. Employers must, under the supervision of the Department of Labour, put all such regulations into effect. Infractions shall be subject to fines of from one thousand to ten thousand rials.

Art. 16. Employers must, in addition to carrying out the Workers' Social Insurance Law, carry out the technical regulations which shall be promulgated for the protection of workers from possible dangers; and, in case of infraction, fines of from one thousand to fifty thousand rials shall be imposed. Should the employer's failure in this respect lead to other offences, he shall be sentenced to serve the punishment provided for such offence.

SECTION VII

TERMINATION OF WORK

Art. 17. An employee may terminate his work by giving one week's advance notice in writing. Similarly, an employer may dismiss an employee by giving one week's written notice. In lieu of a week's notice, the employer must pay the employee's wages for one week on dismissal.

Note 1. This article applies only to employees who have worked at least two months in the same establishment.

Note 2. Employees who have worked in the same establishment for at least four months may within two weeks of their dismissal appeal to the Conciliation Board, whose decisions shall be final. The employer must pay the employee wages from the date of the appeal to the date of the decision.

Art. 18. When an employer terminates the employment of an employee in terms of art. 17, he shall, in addition to the wages due, pay the employee one week's pay for each year of his employment at the scale of pay at the time of dismissal. This payment shall be made from the welfare fund. However, if the employee voluntarily leaves his work, or if his period of employment is less than one year, he shall not be entitled to any payments from the welfare fund.

Note. The benefits of this article shall not apply to employees employed on a specific work or for a limited period by written agreement.

Art. 19. Should the Department of Labour, upon application of an employer, find that for economic reasons or because of a defect in, or fundamental lack of, machinery or tools, or lack of raw materials, he is forced to suspend work or to reduce the number of workers, art. 18 shall

apply. However, in case work is stopped through *force majeure*, such as floods, earthquakes, fire, etc., the employer shall have no responsibility towards the employees.

Note. In case the stoppage is deliberate, whether through lack of raw materials or deficiency of tools and machinery, through destruction and fire, or through any other reasons which the General Department of Labour shall determine to have been coupled with bad faith on the part of the employer, article 32 shall apply and the wages of the labourers and the expense of re-installation of the factory shall be paid from the proceeds of insurance on the employer's account.

Art. 20. Regulations for employment bureaus, whether private or Government, and their method of operation shall be drawn up by the Department of Labour in consultation with the Supreme Council of Labour and approved by the Council of Ministers.

SECTION VIII TRADE UNIONS

Art. 21. Employees of one establishment or of one specific trade can, for their mutual benefit, in so far as concerns their trade and the improvement and betterment of their social and economic conditions, organize a union. To carry out its functions the union shall elect a board which shall be known as the Board of Directors. This board shall, for the purpose of obtaining legal status, incorporate itself and register its articles of association. The members of the board shall be Iranian citizens.

Note 1. Employers in each trade may also, in the same way, form unions.

Note 2. Regulations shall be approved by the Council of Ministers setting forth rules for the unions.

Art. 22. It is prohibited to employ coercion for individuals to join unions or for preventing them from doing so, either by force or by threats. Those guilty of such coercion are liable to punishment of from eight days' to one month's imprisonment. If coercion is accompanied by any other offence the offender shall be sentenced to the punishment provided for such offences.

Art. 23. Should a union be organized contrary to the provisions of art. 21, or should it after organization exceed the rights and limits defined, or should it cause or create disorder or insecurity, the Department of Labour shall, through the public prosecutor, demand from the courts of the district its dissolution or suspension for a period of from one week to one year, and the election of a new board of directors.

Note 1. The court shall hear the case immediately, without regard to turn. The judgment of the court for dissolution shall be subject to appeal, but in other cases it shall be final.

Note 2. Any member of the board of directors whose action may have caused a judgment against

the union shall be ineligible for re-election to the board of that union for three years, and, in addition, the union shall be responsible for making good any damages caused by this action.

SECTION IX WAGES

Art. 24. The wages of an employee shall be paid in the currency of the country at the end of each week or every fifteen days, except in cases which shall be provided for in regulations which shall be approved by the Council of Ministers. The wages agreed to must be paid to the worker in full at the place of work.

Note 1. The minimum wages of an employee shall be such as to provide for the living expenses of himself and his family, according to conditions prevailing in various parts of the country, and according to relative regulations. The minimum wage in various places shall be fixed and put into effect by the Supreme Council of Labour in accordance with art. 31, at the beginning of each year for a period of one year. If in the course of the year, owing to extraordinary circumstances, a change in the scale of the minimum wage should become necessary, it shall be reconsidered by the Supreme Council of Labour, upon request of either the employers or the employees.

Note 2. Payment of wages shall not be made on holidays.

Note 3. Whatever sum may be deductible from the wages of employees in the way of fines for the welfare fund or for insurance, or health, etc., shall be in accordance with regulations which shall be approved by the Council of Ministers, and in no other case except those specified shall any deduction from their wages be permissible. In case of the imposition of a fine not provided for by these regulations, upon notification of the Department of Labour the fine shall be refunded and the person responsible for imposing such illegal fine shall be tried in accordance with criminal law and punished accordingly.

Note 4. Wages for male and female labour under equal conditions shall be the same.

Art. 25. Wages of employees shall be reckoned as preferential debts and shall be secured and paid prior to the payment of other debts. Wages may not be attached and received by creditors of the employer.

Art. 26. Creditors of an employee may not attach more than one-quarter of his wages.

Note 1. Alimony and the support of children are excepted from the above provision, and attachment may be made in their favour.

Note 2. Wages of a minor must be paid to him directly, but this shall not bar the protection of his legal rights by his guardian or parents.

SECTION X SETTLEMENTS OF DISPUTES

Art. 27. In every working establishment a council shall be set up to be called the Council of

the working establishment. It shall consist of one person representing the employees of the establishment and one person representing the employer, and a representative of the Department of Labour. The duties of this council shall be defined in regulations which shall be approved by the Council of Ministers.

Note. The members of the Council of the working establishment may admit a person to their meetings as adviser.

Art. 28. Individual disputes between employees and employers in regard to deduction of fines or alimony or in any matter in connexion with the regulations or articles of the Labour Law or the Social Insurance Law or of contractual obligations between the two parties shall be considered in the Council of the working establishment in the presence of the complainant or his representative, and the judgment of the Council shall be final.

Art. 29. Disputes relating to a group of workers with their employer or employers or of the employees' union and the employers which cannot be settled in the Council of the working establishment shall be referred to arbitration. The arbitration board shall consist of one arbitrator selected by the employees and one selected by the employer or employers; and in case of these two arbitrators not reaching an agreement, an umpire shall be selected by concurrence of the two parties. If the selection of an umpire cannot be agreed upon, the representative of the Department of Labour or, in his absence, the chief judiciary official of the district shall be the umpire.

Art. 30. If the arbitration board mentioned in art. 29 does not give its decision within twenty days, or if the arbitrators refuse to give a decision, or if the decision of the arbitration board is contrary to law, the matter shall be referred to the board for the settlement of disputes. This board shall consist of the Governor or his representative, the representative of the Department of Labour in the district, two representatives of the employees and two representatives of the employers. The chairman of this board shall be the Governor. The decision of this board for settlement of disputes must be given within a maximum of twenty days, and it shall be final.

Art. 31. The method of selecting the representatives of the employees and employers, and similarly the method by which the board of arbitrators will deal with disputes, shall be specified in regulations which the Council of Ministers shall approve.

Art. 32. Prior to the expiration of the periods mentioned in art. 30, the employer does not have the right to suspend work. Similarly, employees do not have the right to strike. In case of disregard of this provision, should the suspension of work be on the part of the employer, the Government may, on the proposal of the Department of Labour, order work continued and pay the

wages of the employees on the employer's account. Should the refusal be on the part of the employees, the employer may employ others in their place and consider the services of striking workers as dispensed with.

Art. 33. Striking on the part of employees is permissible only for the purpose of obtaining rights by peaceful means and should not result in violence or physical injuries or destruction of property or disruption of public security or lead to any other offence, in which case the inciters shall be punished according to the penal code.

Note. No one shall be incited to strike by coercion or by threats. Similarly, no one shall be prevented from striking by coercion or threats. Those persons contravening this article shall be subject to imprisonment of from one month to three months.

SECTION XI

SUPREME COUNCIL OF LABOUR

Art. 34. For the purpose of drafting laws relative to labour and regulations relative to this law and to supervise the execution of the law regarding workmen's compensation and social insurance, and to study all matters relative to labour, a body which shall be called the Supreme Council of Labour shall be organized. The organization, methods of working and duties of this council shall be approved by the Council of Ministers.

Note. The representatives of employees and employers shall participate in equal numbers on this council.

SECTION XII

WELFARE FUNDS

Art. 35. In each working establishment two funds shall be created for the welfare of the employees under the supervision of the working establishment: (1) a health fund, to help employees in case of illness or injuries resulting from their work; (2) a fund for assistance in case of marriage; increases in the family; unemployment not due to economic crisis; disability as a consequence of old age, serious illness or loss of limb from causes other than their work; pregnancy; maternity; burial expenses, etc.

Art. 36. The employer must deduct one per cent of the worker's wages in his establishment and add thereto two per cent on the part of the establishment and allocate the same to the above-mentioned fund in percentage proportions as specified in the by-laws of these funds mentioned in art. 37.

Art. 37. For the purpose of centralizing the supervision of the funds of the working establishments, a fund, which shall be called the Employees' Central Welfare Fund, shall be established in Teheran, under the supervision of the Supreme Labour Council. This fund shall have legal corporate status.

Note 1. The by-laws of the central fund and of the funds of the working establishments shall be subject to the approval of the Council of Ministers.

Art. 38. The funds of each establishment, at the end of every three months, shall pay a percentage contribution, which shall be specified in the by-laws.

Art. 39. The funds of each working establishment are to be used for the purposes mentioned in art. 35, to furnish the assistance provided for the employees of that establishment. If the money available in the fund should not be sufficient to effect the required payments, the fund shall, in accordance with the relative by-laws, request assistance from the Central Fund.

Art. 40. All balances of reserve funds which have under this nomenclature accumulated in the funds of various working establishments or in the Treasury shall from the date of this law be transferred to the Employees' Central Welfare Fund, thus forming the initial capital of the latter fund.

Note. Moneys pertaining to Government factories and to the State railways which have accumulated to date shall be earmarked for the health of the employees of the same establishments. These funds shall be used only for health and the erection of hospitals.

Art. 41. Assistance from the Central Welfare Fund shall apply only to employees who participate in their local welfare fund.

Art. 42. It shall be the duty of the Government to create a fund, under the name of the Unemployment Fund, in accordance with by-laws which shall be approved by the Council of Ministers. This shall be used during economic crises and epidemics to assist unemployed workers.

Art. 43. Any withdrawal of funds from the

welfare funds provided for in this law other than those permitted by law and regulations shall be considered as embezzlement and shall be subject to punishment in accordance with the law.

SECTION XIII

EXECUTION OF THE LAW

Art. 44. The inspectors of the Department of Labour shall report to the public prosecutor of the district any contraventions of the articles of this law, as well as of any law for employees' insurance, and in general of any regulations relative to labour. The matter shall come up for immediate hearing without regard to turn in the court having proper jurisdiction. The public prosecutor may also in all cases prosecute any contravention of this law.

Art. 45. The inspectors of the Department of Labour shall be chosen from among engineers and those possessing the degree of licentiate, in accordance with the regulations of a special Civil Service law which shall be drawn up by the Department of Labour, and shall receive the approval of the Council of Ministers.

Art. 46. *Procès-verbaux* (authenticated minutes or statements of an official act or of facts) drawn up by the labour inspectors, shall have the same value as official documents drawn up by bailiffs of the court.

Art. 47. All regulations relative to the execution of this law shall be prepared within a maximum period of one year by the Department of Labour in consultation with the Supreme Council of Labour and shall be submitted to the Council of Ministers for their approval.

Art. 48. The Department of Labour is responsible for the execution of this law.

IRAQ

CONSTITUTION OF IRAQ (ORGANIC LAW)¹ of 21 March 1925

PART I

THE RIGHTS OF THE PEOPLE

Art. 5. Iraq nationality and the rules applicable thereto will be prescribed by law.

Art. 6. There shall be no differentiation in the rights of Iraqis before the law, whatever differences may exist in language, race or creed.

Art. 7. There shall be no violation of, or interference with, the personal liberty of any of the inhabitants of Iraq. None of them shall be arrested, detained, punished or obliged to change their place of residence, or be placed in bonds, or compelled to serve in the armed forces, except in conformity with law.

Torture and the deportation of Iraqis from the Kingdom of Iraq are absolutely forbidden.

Art. 8. The inviolability of all places of residence is guaranteed. They may not be entered or searched except in such circumstances and in such manner as may be prescribed by law.

Art. 9. No person shall be prevented from having recourse to the courts, or be obliged to have recourse to a court other than the court competent to deal with his case, except in accordance with law.

Art. 10. (1) Rights of ownership shall be safeguarded. No person's goods or property shall be expropriated except for the public benefit, and in the circumstances and in the manner prescribed by law, and on condition that just compensation is paid.

(2) Forced loans may not be imposed, nor may goods or property be seized or prohibited goods confiscated, except in accordance with law.

(3) Unpaid forced labour and the general confiscation of movable and immovable property are absolutely forbidden.

Art. 11. No tax or duty shall be imposed except by law, the provisions whereof shall include all the persons liable to pay the tax.

Art. 12. Freedom of expression of opinion, liberty of publication, of meeting together, and of forming and joining associations is guaranteed to all Iraqis within such limits as may be prescribed by law.

Art. 13. Islam is the official religion of the State. Freedom to practise the rites of the different

sects of that religion, as observed in Iraq, is guaranteed. Complete freedom of conscience and freedom to practise the various forms of worship, in conformity with accepted customs, is guaranteed to all inhabitants of the country, provided that such forms of worship do not conflict with the maintenance of order and discipline or public morality.

Art. 14. Iraq nationals have the right to present petitions of complaint and memorials, in matters concerning themselves personally or in public matters, to the King and to Parliament and to the public authorities, in the manner and in the circumstances to be prescribed by law.

It is not permitted, except to official bodies and juristic persons, to address the authorities in the name of a number of persons.

Art. 15. All postal and telegraphic correspondence and all telephonic communications shall be secret and free from censorship or detention, except in such circumstances and in such manner as may be prescribed by law.

Art. 16. The various communities shall have the right of establishing and maintaining schools for the instruction of their members in their own tongues, provided that such instruction is carried out in conformity with such general programmes as may be prescribed by law.

Art. 17. Arabic shall be the official language, except as may be prescribed by a special law.

Art. 18. Iraq nationals are equal in the enjoyment of civil and political rights and the performance of public duties and obligations. No distinction shall be made between them on account of origin, language or religion. To them alone shall public appointments, civil or military, be entrusted, and foreigners may not hold such appointments except in the exceptional circumstances to be prescribed by law.

PART X

GENERAL PROVISIONS

Art. 120. Should disturbances occur, or should anything happen indicating the likelihood of the occurrence of events of such a character in any part whatsoever of Iraq, or should there be a menace of hostile attack upon any part whatsoever of Iraq, the King shall have power, subject to the approval of the Council of Ministers, to proclaim martial law provisionally in those dis-

¹ Helen Miller Davis, *op. cit.*, pp. 107-132.

tricts of Iraq exposed to the danger of disturbances or attacks. The application of the existing laws and regulations may be suspended by the proclamation declaring martial law in force, in such places and to such extent as may be prescribed in such proclamation, provided that those charged with the execution of the proclamation shall be subject to any legal consequences of their acts, until a special law has been passed by Parliament exempting them therefrom. The method of administration of the places in which martial law has been declared to be in force shall be prescribed by Royal *Irada*.

Upon the occurrence of danger or rebellion or anything which disturbs the peace, in any part of Iraq, the King may, with the consent of the Council of Ministers, notify a state of emergency in the whole of Iraq, or in any part thereof. The districts affected by the notification shall be administered in accordance with a special law, which shall provide for trial, by special courts, of those who commit specified offences, and prescribe the administrative measures to be taken by specified authorities.

DECLARATION OF THE KINGDOM OF IRAQ, MADE AT BAGHDAD ON 30 MAY 1932, ON THE OCCASION OF THE TERMINATION OF THE MANDATORY REGIME IN IRAQ, AND CONTAINING THE GUARANTEES GIVEN TO THE COUNCIL BY THE IRAQI GOVERNMENT¹

CHAPTER I

PROTECTION OF MINORITIES

Art. 1. The stipulations contained in the present chapter are recognized as fundamental laws of Iraq, and no law, regulation or official action shall conflict or interfere with these stipulations; nor shall any law, regulation or official action now or in future prevail over them.

Art. 2. (1) Full and complete protection of life and liberty will be assured to all inhabitants of Iraq without distinction of birth, nationality, language, race or religion.

(2) All inhabitants of Iraq will be entitled to the free exercise, whether public or private, of any creed, religion or belief whose practices are not inconsistent with public order or public morals.

Art. 3. Ottoman subjects habitually resident in the territory of Iraq on 6 August 1924 shall be deemed to have acquired on that date Iraqi nationality to the exclusion of Ottoman nationality in accordance with article 30 of the Lausanne Peace Treaty and under the conditions laid down in the Iraqi Nationality Law of 9 October 1924.

Art. 4. (1) All Iraqi nationals shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language or religion.

(2) The electoral system shall guarantee equitable representation to racial, religious and linguistic minorities in Iraq.

(3) Differences of race, language or religion shall not prejudice any Iraqi national in matters relating to the enjoyment of civil or political rights, as, for instance, admission to public employments,

functions and honours, or the exercise of professions or industries.

(4) No restriction will be imposed on the free use by any Iraqi national of any language, in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings.

(5) Notwithstanding the establishment by the Iraqi Government of Arabic as the official language, and notwithstanding the special arrangements to be made by the Iraqi Government, under art. 9 of the present declaration, regarding the use of the Kurdish and Turkish languages, adequate facilities will be given to all Iraqi nationals whose mother tongue is not the official language, for the use of their language, either orally or in writing, before the courts.

Art. 5. Iraqi nationals who belong to racial, religious or linguistic minorities will enjoy the same treatment and security in law and in fact as other Iraqi nationals. In particular, they shall have an equal right to maintain, manage and control at their own expense, or to establish in the future, charitable, religious and social institutions, schools and other educational establishments, with the right to use their own language and to exercise their religion freely therein.

Art. 6. The Iraqi Government undertakes to take measures, as regards non-Moslem minorities, in so far as concerns their family law and personal status, permitting the settlement of these questions in accordance with the customs and usage of the communities to which those minorities belong.

The Iraqi Government will communicate to the Council of the League of Nations information regarding the manner in which these measures have been executed.

¹ League of Nations, Geneva, 1932 (A.17.1932 VII.) (*Series of League of Nations Publications*, VII, Political, 1932, VII.9.) and Helen Miller Davis, *op. cit.*, pp. 149-155.

Art. 7. (1) The Iraqi Government undertakes to grant full protection, facilities and authorization to the churches, synagogues, cemeteries and other religious establishments, charitable works and pious foundations of minority religious communities existing in Iraq.

(2) Each of these communities shall have the right of establishing councils, in important administrative districts, competent to administer pious foundations and charitable bequests. These councils shall be competent to deal with the collection of income derived therefrom, and the expenditure thereof in accordance with the wishes of the donor or with the custom in use among the community. These communities shall also undertake the supervision of the property of orphans, in accordance with law. The councils referred to above shall be under the supervision of the Government.

(3) The Iraqi Government will not refuse, for the formation of new religious or charitable institutions, any of the necessary facilities which may be guaranteed to existing institutions of that nature.

Art. 8. (1) In the public educational system in towns and districts in which are resident a considerable proportion of Iraqi nationals whose mother tongue is not the official language, the Iraqi Government will make provision for adequate facilities for ensuring that in the primary schools instruction shall be given to the children of such nationals through the medium of their own language; it being understood that this provision does not prevent the Iraqi Government from making the teaching of Arabic obligatory in the said schools.

(2) In towns and districts where there is a considerable proportion of Iraqi nationals belonging to racial, religious or linguistic minorities, these minorities will be assured an equitable share in the enjoyment and application of sums which may be provided out of public funds under the State, municipal or other budgets for educational, religious or charitable purposes.

Art. 9. (1) Iraq undertakes that in the *liwas* of Mosul, Arbil, Kirkuk and Sulaimaniya, the official language, side by side with Arabic, shall be Kurdish in the *qadhas* in which the population is predominantly of Kurdish race.

In the *qadhas* of Kifri and Kirkuk, in the *liwa* of Kirkuk, however, where a considerable part of the population is of Turcoman race, the official language, side by side with Arabic, shall be either Kurdish or Turkish.

(2) Iraq undertakes that in the said *qadhas* the officials shall, subject to justifiable exceptions, have a competent knowledge of Kurdish or Turkish as the case may be.

(3) Although in these *qadhas* the criterion for the choice of officials will be, as in the rest of Iraq, efficiency and knowledge of the language, rather than race, Iraq undertakes that the officials shall, as hitherto, be selected so far as possible from among Iraqis from one or other of these *qadhas*.

Art. 10. The stipulations of the foregoing articles of this declaration, so far as they affect persons belonging to racial, religious or linguistic minorities, are declared to constitute obligations of international concern and will be placed under the guarantee of the League of Nations. No modification will be made in them without the assent of a majority of the Council of the League of Nations.

Any Member of the League represented on the Council shall have the right to bring to the attention of the Council any infraction or danger of infraction of any of these stipulations, and the Council may thereupon take such measures and give such directions as it may deem proper and effective in the circumstances.

Any difference of opinion as to questions of law or fact arising out of these articles between Iraq and any Member of the League represented on the Council shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations. Any such dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as an award under Article 13 of the Covenant.

CHAPTER II

Art. 15. Freedom of Conscience. Subject to such measures as may be essential for the maintenance of public order and morality, Iraq undertakes to ensure and guarantee throughout its territory freedom of conscience and worship and the free exercise of the religious, educational and medical activities of religious missions of all denominations, whatever the nationality of those missions or of their members.

Art. 16. Final Clause. The provisions of the present chapter constitute obligations of international concern. Any Member of the League of Nations may call the attention of the Council to any infraction of these provisions. They may not be modified except by agreement between Iraq and the Council of the League of Nations acting by a majority vote.

Any difference of opinion which may arise between Iraq and any Member of the League of Nations represented on the Council, with regard to the interpretation or the execution of the said provisions, shall, by an application by such Member, be submitted for decision to the Permanent Court of International Justice.

ITALY

REGULATIONS INCORPORATING THE PROVISIONS REGARDING REINSTATEMENT IN THE SERVICE AND READJUSTMENT OF THE CAREERS OF PUBLIC EMPLOYEES PERSECUTED FOR POLITICAL REASONS UNDER THE LATE REGIME¹

Legislative Decree of the Lieutenant of the Realm No. 880 of 30 November 1945

Art. 1. The financial effects of the reinstatement of public employees removed from the service for conduct contrary to the political directives of the late regime, or for racial reasons, shall be operative from 1 January 1944, if the reinstatement was made automatically or on request prior to the date of the present decree, or if it has to be effected on the basis of requests already submitted at this date.

In other cases they shall be operative six months prior to the date of the submission of the request for reinstatement, or six months prior to the date of the decision making the reinstatement, if no request was submitted.

The retirement pay granted under article 11 of the legislative decree No. 301 of 19 October 1944, shall be effective as from 1 January 1944.

Art. 2. For officers of the armed forces of the State the rating mentioned in article 6, paragraph 3, of the legislative decree No. 301 of 19 October 1944, must be preceded by a test in a unit or corps of the armed forces of a duration of three months for each promotion.

Officers of the armed forces of the State who, on being removed from the permanent service for political reasons, had earned promotions in the discharge categories, shall be reinstated in the service with the rank attained by them in these categories. After a three months' test in a unit or corps of the armed forces, they shall be examined by the competent promotion board in order to ascertain whether or not they are qualified to retain their existing rank in the permanent service.

Should the judgment provided for in the preceding paragraph be unfavourable, the reinstated officers shall, as from the date of the judgment, be given the rank attained in the discharge category and shall be treated according to the provisions in force for each of the armed forces, on the same footing as officers of the same rank leaving the permanent service as a result of being debarred from promotion. Retirement pay shall be based on the pay of the rank immediately below, leaving

open the possibility of higher pay as a result of reinstatement in the service.

Reinstated officers who as a result of the test are confirmed in the permanent service with the rank acquired in the discharge category may, in the event of their being passed over, obtain promotion after an examination preceded by a further three months' test for each promotion in a unit or corps of the armed forces.

For the test periods prescribed in paragraphs 1, 2 and 4 above, the reinstated officer shall be placed at the orders of an officer of a rank higher than that for which he is applying.

Officers who were in charge of military operations on active service for at least a month, with the rank attained in the discharge category, shall be exempt from the test prescribed in paragraph 2 above.

The last paragraph of article 6 of the legislative decree No. 301, of 19 October 1944, is cancelled.

Art. 3. Military personnel of the armed forces of the State finally discharged for conduct contrary to the political directives of the late regime or for racial reasons, if they cannot be reinstated in the permanent service because they have passed the age limit, shall be placed in the category or position that would be applicable to them if they had not been discharged.

For the purposes of promotion to the successive ranks, the provisions in force relating to rank, which take into account the period of command or performance of duties, shall be disregarded.

Art. 4. If the time-limit laid down in article 5, paragraph 2, article 6, paragraph 3, and article 8, paragraph 20 of the legislative decree No. 301, of 19 October 1944, has expired before the date of the present decree, it shall be extended to six months from this date.

Art. 5. When it can be proved beyond doubt that an employee subjected to disciplinary punishment for exclusively political reasons by the suppressed Fascist party was on this account debarred from promotion, even though this is not explicitly stated in the relevant decision, the provisions of article 8, paragraph 1, of the legislative decree

¹ Italian text in *Gazzetta Ufficiale*, No. 36, 12 February 1946, page 295. English translation from the Italian text by the United Nations Secretariat.

No. 301 of 19 October 1944 shall be applied within the time-limit laid down in article 8 of the aforementioned decree.

Art. 6. Temporary employees who, prior to 25 July 1943, were dismissed from the service by the late regime for conduct contrary to it, or under the racial laws, shall be reinstated, upon request, with the rank already attained, in the administration to which they belonged. The period between the date of dismissal and the date of reinstatement shall be computed, for the purpose of the relevant indemnity only, on the basis of the provisions in force with regard to discharge.

PROVISIONS FOR THE PUNISHMENT OF FASCIST OFFENCES AND FOR THE REPRESSION OF CERTAIN FASCIST ACTIVITIES¹

Legislative Decree of the Lieutenant of the Realm No. 201 of 12 April 1946

CHAPTER I

Art. 1. Throughout the territory of the State the organs and procedures for the repression of the offences envisaged in Part 1 of the legislative decree No. 159 of 27 July 1944, in relation to article 7 of the legislative decree No. 142 of 2 April 1945, and the legislative decree No. 195 of 26 April 1945, shall be subject to the following rules.

Art. 2. The offences mentioned in article 1 shall belong to the jurisdiction of the Praetor, the Tribunal and the special sections of courts of assize in accordance with the ordinary rules of procedure. The military courts shall have no jurisdiction and articles 49 and 50 of the Code of Penal Procedure shall not be applicable.

Nevertheless, should there arise questions which involve a judgment of a military character and thereby exercise an influence on the decision, the judgment of the offences shall be turned over to the competent military tribunal.

Art. 3. The special sections of courts of assize shall sit in the chief provincial towns.

Other special sections of courts of assize may be established by decree of the First President of the Court of Appeal either in the chief town or in other localities of the province.

The aforementioned sections may sit in judgment also in a locality other than that in which they are established.

Art. 4. The special sections of courts of assize shall be composed of two magistrates and five people's judges chosen by lot from the panel provided for in article 5.

Art. 5. For each seat of a special section of courts of assize there shall be compiled a panel of one hundred and fifty citizens residing within the boundaries of the province. If more sections are

The request envisaged in the preceding paragraph may be made within three months from the date of the entry into force of the present decree. In the case of persons returning from prisoner-of-war camps or internment, the time limit shall run from the date of return to the homeland, if it is subsequent to the former date.

The financial effects of reinstatement shall be operative from the date of reinstatement in the service, which must take place within one month from the date of the submission of the request.

established in the same locality, the First President of the Court of Appeal may arrange for this number to be increased up to a maximum of two hundred and fifty.

The drawing up of the panel shall be entrusted to a commission composed of the President of the Tribunal, who shall preside over it, a representative of the National Liberation Committee and the mayor of the chief town, and they shall choose citizens of unimpeachable morality, who have never belonged to the Fascist party or engaged in any way in fascist activities, and who are over twenty-five years of age.

Art. 6. The president of the special section of courts of assize shall be appointed by the First President of the Court of Appeal from among the magistrates of a rank not lower than that of Court of Appeal Counsellor, or, should such a choice be impossible owing to particular service needs, from among magistrates of the sixth grade. The same method shall be used in appointing the other magistrate, who may also be chosen from among judges of a lower grade than the sixth.

Art. 7. A public prosecutor's office shall be attached to the special sections of courts of assize, to be provided by the Attorney-General of the Court of Appeal. There shall only be one office, if several special Sections are established at the same place. Barristers of proved ability, who have not engaged in fascist activities, chosen from among those nominated by the council of the order of barristers and attorneys, may be called upon to serve in the public prosecutor's office.

Barristers appointed by the council of the order of barristers and attorneys shall be called upon to serve in the public prosecutor's office for the time strictly necessary for the accomplishment of the task assigned. They shall receive the salary of magistrates of the fifth grade.

A barrister who, after accepting the appointment, refuses without proper reason to perform

¹ Italian text in *Gazzetta Ufficiale*, No. 98, 27 April 1946, page 888. English translation from the Italian text by the United Nations Secretariat.

the aforementioned duties, shall be liable to the penalties laid down by the law of the profession.

Art. 8. Relatives and connexions within the third degree may not form part of the same special section of courts of assize or carry out the functions of judge or public prosecutor before the same special section.

Art. 9. For offences that come within the jurisdiction of special sections of courts of assize, proceedings shall be taken by summary investigation carried out by the public prosecutor's offices referred to in article 7. The public prosecutor's office may order an immediate trial, provided always that the conditions laid down in article 502, paragraph 2, of the Code of Penal Procedure are found to exist.

Should the public prosecutor's office consider that no proceedings should be taken owing to the manifest lack of foundation of the report, statement, denunciation, dispute or proceedings, it shall request the examining judge to give a decision. The examining judge shall notify the military authority of the decision, if military are concerned, or the administrative authority if civilians are concerned, with a view to the possible jurisdiction of the authorities themselves.

Likewise for offences coming within the jurisdiction of the tribunal, proceedings shall be taken by summary investigation and, whenever possible, by immediate trial.

Art. 10. Sentences by the special sections of courts of assize must be deposited within ten days from the date of their delivery.

Art. 11. The grounds for appeal against sentences by the special sections of courts of assize must be presented, under penalty of inadmissibility, within ten days from the notification of the deposit of the sentence. Contestation on the part of the public prosecutor's office must be notified to the person accused.

When sentences of death are contested, the judgment of the Court of Appeal must be delivered within thirty days from receipt of the records. These must be forwarded immediately and in each case not later than the day following that of the submission of the grounds of the appeal.

In the event of a sentence of death being contested, counsel for the defence shall have the right to put forward additional grounds of appeal, which must be deposited in the registry of the Court of Appeal at least three days before the day appointed for the hearing.

Art. 12. On all points not provided for in the

present decree, the rules of penal procedure in force shall be observed.

Nevertheless, the functions appertaining to the First President of the Court of Appeal in regard to the convening of courts of assize, the drawing up of the lists of cases, the selection of people's judges who are to form part of the bench and the prescribed notification of the judges selected by lot, shall be performed, in the case of special sections having their seat in a locality other than that of the Court of Appeal, by the president of the special section with the assistance or advice of the public prosecutor's office attached to the section. If there are several sections, the aforesaid functions shall be performed by the president of the special section appointed by the First President of the Court of Appeal.

Art. 13. Article 5 of the legislative decree No. 149 of 26 April 1945 shall be replaced by the following:

"The public prosecutor's office attached to the special sections of courts of assize shall direct, co-ordinate and supervise the application of penalties against politically dangerous fascists.

"The provincial commissions mentioned in articles 2 and 3 shall take decisions *ex officio* on denunciation transmitted to them by the public prosecutor's office attached to the special sections of courts of assize, the Attorney of the Realm, or the police organs.

"The immediate arrest of persons to whom it is proposed to apply the penalties indicated in article 3, paragraph 1, may be ordered only by the aforesaid provincial commissions, the public prosecutor's offices attached to the special sections of courts of assize and attorneys of the realm.

"Notice of the arrest must be communicated within three days to the competent provincial commission, which must deliver a decision within thirty days."

Art. 14. Persons who in any way formed part of the *brigata nere* (black brigades) or other formations with politico-military functions must be denounced to the provincial commission mentioned in article 3 of the legislative decree No. 149 of 26 April 1945, for the possible application of the penalties laid down therein, the penal responsibilities for acts constituting a crime being reserved.

Art. 15. The measures stipulated by articles 1 and 2 of the legislative decree No. 149 of 26 April 1945 shall be applicable for not more than one year from the entry into force of the legislative decree No. 625 of 5 October 1945.

RECOVERY OF PROPERTIES CONFISCATED, SEQUESTERED OR OTHERWISE TAKEN FROM PERSONS PERSECUTED FOR RACIAL MOTIVES UNDER THE RULE OF THE SO-CALLED GOVERNMENT OF THE SOCIAL REPUBLIC¹

Legislative Decree of the Lieutenant of the Realm No. 393 of 5 May 1946

Art. 1. The owners of properties subjected to confiscation, sequestration or other acts of alienation adopted under the rule of the so-called Government of the Social Republic against persons already declared or considered to be of Hebrew race and their heirs or assigns shall be entitled to recover their properties from whomsoever possesses or holds them, subject to the rights acquired by third parties in cases where the law admits the legitimacy of the purchase as resulting from *bona fide* possession.

In the hypothesis envisaged in article 48 of the Civil Code, and also at the request of the competent Jewish Community for the territory, a special curator may be appointed to bring an action for recovery within the meaning of the preceding paragraph and to bring other actions provided for by the present decree, or to receive in custody properties that are voluntarily restituted by the holders and to administer the properties recovered or restituted.

Art. 2. Actions for the recovery of properties in the possession of the State may be brought within ten years from the date of the entry into force of the present decree. The State shall, however, be liable only for the proceeds of the estate during the three years prior to the application for recovery.

Art. 3. Actions for recovery as provided in article 1 may be brought within three years in the case of properties assigned to third parties prior to the date of the entry into force of the present decree.

In the case envisaged in the preceding paragraph the owner shall have the right to request, instead of the restitution of the properties, the sum received by the State from the sale, together with the legal interest from the date of the latter. In the case of successive alienations, the owner shall likewise have the right to claim from the individual purchasers the profit made by each of them together with the legal interest. Such action may be brought within ten years from the date of the entry into force of the present decree.

Art. 4. In the case envisaged in paragraph 1 of the preceding article, an owner who is not in a position to bring an action for recovery may claim from the State the price received by it from the sale together with the legal interest from the day of the latter. An action may be brought within ten years from the date of the entry into force of the present decree.

If the properties have been sold several times, the owner shall have the right to claim from the individual purchasers the profit made by each of them from the sale together with the legal interest from the date of purchase, provided always that the action is brought within three years from the entry into force of the present decree and that, in cases where the law admits the legitimacy of the purchase as resulting from *bona fide* possession, the successive purchasers were aware of the flaw in the purchase.

Art. 5. A third party purchaser of properties which are restored to the owner shall have the right to claim from the seller the price of the sale together with legal interests from the date of the latter.

Such third party shall also be entitled to compensation from the owner for sums spent on extraordinary repairs and on improvements, whichever be the smaller.

Art. 6. Properties claimed shall be restituted in the state in which they are at the time of the restitution.

Nevertheless it shall be permitted to claim compensation for damage ascertained to have been caused during the administration or during the possession of the property by the successive purchasers, unless the persons concerned prove that the damage was due to causes beyond their control.

Art. 7. The administration account to be rendered to the owners of non-alienated properties, and in the case of alienated properties only for the period previous to the alienation, must be presented within six months from the entry into force of the present decree, in the case of properties already restituted, or from the date of the restitution when the latter takes place subsequently.

In the case of proved necessity, this time-limit may be prolonged for not more than six months on the authority of the Minister of Finance.

Art. 8. The administration account shall charge to the owners of the properties, besides the expenses for normal administration and for the maintenance of the properties, the sums assigned for the paying off of debts, for repairs and for the increase and improvement of the properties, and in general all the expenses which the owners would have had to bear if they had remained in possession of their properties, as well as the compensation due to the administrators, which shall be reckoned on the basis of what is strictly necessary for normal administration.

The rate of interest on current bank accounts shall be applied to credit and debit balances previous to the restitution of the properties, while the

¹ Italian text in *Gazzetta Ufficiale*, No. 128, 4 June 1946, page 1229. English translation from the Italian text by the United Nations Secretariat.

legal rate of interest shall be applied as from the date of restitution to the final credit or debit balance of the account.

Art. 9. When the administration shows a debit balance against the owners of the properties, the claim arising therefrom, if not paid, shall have a prior lien on the restituted properties together with preference over all other claims including privileged claims.

In the case of movable properties, the article to be restituted may be retained in whole or in part until the said claim has been paid.

Art. 10. The statement recording the invalidity of the deed of confiscation or sequestration in respect to the properties envisaged in article 1 and of subsequent transfers shall be noted in the margin of the copy of the deed of confiscation or sequestration and of subsequent transfers, by the persons concerned.

[*Arts. 11-13* refer to stamp duties, responsibility of the Minister of Finance for the execution of the decree, etc.]

AMNESTY AND FREE PARDON FOR COMMON, POLITICAL AND MILITARY CRIMES¹

Presidential Decree No. 4 of 22 June 1946

Art. 1. Amnesty for crimes in general

An amnesty shall be granted for crimes for which the law imposes a penalty of detention, alone or combined with a fine, not exceeding a maximum of five years, or a fine only.

Art. 2. Amnesty for political offences committed after the liberation

An amnesty shall be granted for political offences punished with a penalty even exceeding that mentioned in article 1, when they were committed in the various parts of the national territory after the introduction of the administration of the legitimate Italian Government, for the above-mentioned offences committed after 8 September 1943.

Art. 3. Amnesty for other political offences

An amnesty shall be granted for the offences mentioned in articles 3 and 5 of provisional legislative decree No. 159 of 27 July 1944, in article 1 of provisional legislative decree No. 142 of 22 April 1945 and for the crimes connected therewith covered by article 45, No. 2, of the Code of Penal Procedure unless they were committed by persons holding high office in the civil or political administration of the military command, or the crimes committed were massacre, violence of a particularly cruel character, homicide or pillage, or were committed for gain.

[*Art. 4* refers to exceptions from the amnesty.]

Art. 5. Investigation of the political character of the offence

Where sentence has been pronounced and it does not appear sufficiently clear from the judgment or record of the proceedings whether the crime was

of a political character, the judge entitled to issue the declaration of amnesty shall arrange for the necessary investigation.

The same investigation shall be arranged by the Supreme Court of Appeal, when the appeal is pending.

Art. 6. Request for judgment by an accused party

The amnesty shall not apply when the accused party, before sentence has been delivered that proceedings are to be dropped owing to the cancellation of the crime by the amnesty, declares that he does not wish to avail himself of it.

Art. 9. Remission and commutation of penalty for political crimes

Except in the cases of amnesty mentioned in articles 1, 2 and 3 for political offences and for offences connected with them within the meaning of article 45, No. 2, of the Code of Penal Procedure, the following regulations shall apply:

(a) The death penalty shall be commuted to that of penal servitude, apart from the exceptions covered by the amnesty provided for in article 3;

(b) The penalty of penal servitude shall be commuted to that of imprisonment for thirty years;

(c) Other penalties of imprisonment, if exceeding five years, shall be reduced by one-third; but in any case the reduction shall not be less than five years; penalties of imprisonment not exceeding five years shall be remitted altogether.

(d) Fines shall be remitted altogether.

[*Art. 10* refers to exceptions to remission.]

Art. 13. Crimes committed against the Allied Forces

In any case the amnesty and remission shall not apply to crimes committed against the Allied Forces or persons belonging to these Forces, whether tried by the Allied Courts or in process of trial by these Courts.

¹ Italian text in *Gazzetta Ufficiale*, No. 137, 23 June 1946, special edition. English translation from the Italian text by the United Nations Secretariat.

PROHIBITION OF THE ISSUE OF INSTRUCTIONS OR ORDERS FOR THE CAPTURE OR ARREST OF PARTISANS OR PATRIOTS FOR ACTIVITIES IN THE STRUGGLE AGAINST NAZI-FASCISM¹

Legislative Decree No. 96 of the Provisional Head of the State of 6 September 1946

Art. 1. No instructions or orders may be issued (or, if issued, they shall be rescinded) for the arrest of partisans, patriots and other persons referred to in art. 1, paragraph 2, of the legislative decree No. 194 of 12 April 1945, in respect of

acts committed by them during the nazi-fascist occupation and thereafter up to 31 July 1945, except in cases where it has been fully proved that such acts constitute common crimes.

REGULATIONS CONCERNING THE CONFISCATION OF NEWSPAPERS AND OTHER PUBLICATIONS²

Royal Legislative Decree No. 561 of 31 May 1946

Art. 1. Action for the confiscation of an edition of newspapers or any publication or printed matter, as envisaged in the Press Ordinance No. 695 of 26 March 1848, may not be taken except in virtue of an irrevocable sentence of the judicial authority.

The judicial authority may, however, order the confiscation of not more than three copies of newspapers, publications or printed matter which contain an infringement of the penal code.

Art. 2. Notwithstanding the provisions of the preceding article, it shall be permissible to proceed to the confiscation of newspapers or other publications or printed matter which, within the meaning

of the penal code, are to be regarded as obscene or offensive to public decency or which disclose means of birth control or abortion or illustrate their use or indicate how to obtain them or contain advertisements or correspondence relating to the aforesaid means.

In cases where there has been confiscation under the foregoing paragraph, the offender shall be brought to trial immediately, even if the circumstances provided for in art. 502 of the Code of Penal Procedure do not apply, and in all cases jurisdiction shall be vested in the courts.

[*Art. 3* refers to earlier provisions which remain in force.]

USE OF THE GERMAN LANGUAGE IN THE COMMUNES OF THE PROVINCE OF BOLZANO³

Legislative Decree of the Lieutenant of the Realm No. 825 of 22 December 1945

Art. 1. In the province of Bolzano the use of the German language is permitted in dealings with the political, administrative and judicial authorities.

In the communes of the above-mentioned province, public documents may be drawn up in the German language with the exception of the decisions and enactments of the judicial authority and the administrative organs.

The civil status registers must be kept in the Italian language with a translation in German.

Art. 2. Regulations for the implementation of the present decree shall be issued, as occasion arises, by provisional decree, on the proposal of the Minister for the Interior in accordance with their respective jurisdictions and following consultation with the Council of Ministers. For this purpose the opinion of a commission, in which the people of the Alto Adige shall be adequately represented and which shall be appointed by the President of the Council of Ministers, shall likewise be obtained.

Art. 3. The present decree shall enter into force three months after the return of the province of Bolzano to Italian administration.

¹ Italian text in *Gazzetta Ufficiale*, No. 212 of 19 September 1946, page 2230. English translation from the Italian text by the United Nations Secretariat.

² Italian text in *Gazzetta Ufficiale*, No. 147, 4 July 1946, page 1610. English translation from the Italian text by the United Nations Secretariat.

³ Italian text in *Gazzetta Ufficiale*, No. 13, 16 January 1946, page 115. English translation from the Italian text by the United Nations Secretariat.

HUMAN RIGHTS IN ITALY¹

Up to the advent of fascism and the introduction of a new fascist law, personal freedoms were regulated and guaranteed by the Royal Statute granted by King Charles-Albert in his edict No. 674 of 4 March 1848. First applied to the Kingdom of Sardinia, this statute was successively extended to the other parts of the Peninsula as they were annexed to the new Kingdom of Italy (Lombardy, act of 20 November 1859; Venetia, decree of 28 July 1866; Parma and Modena, decrees of 2 and 17 September 1859; Bologna and Romagna, decree of 14 November 1859; Tuscany, decree of 20 January 1860; Sicily, decree of 3 August 1860; Rome, decree of 9 October 1870; Venezia Tridentina and Venezia Giulia, decrees of 26 October and 30 December 1920; Fiume, decree of 20 March 1924).

In part 2, which was intended to constitute a "Declaration of the Rights and Duties of Citizens", the 1848 statute guaranteed:

1. The equal right of all citizens, whatever their status or rank, to the exercise of civil and political rights (the equality of civil rights applying also to foreigners, article 3, Civil Code of 1865), and to employment in civil and military positions, subject to the exceptions specified by law (article 24).

2. The equality of all citizens, without distinction, for purposes of State taxation, in proportion to their means (article 25).

3. Personal freedom comprising rights to physical integrity, the inviolability of the home, the inviolability of correspondence, free choice of profession, trade or craft, freedom of personal action and movement. No one could be arrested or brought to court except in the cases provided for and in accordance with the procedure prescribed by law (article 27).

4. Freedom of the press (the printing of Bibles, catechisms, liturgical books and prayer books not being permitted, however, without the prior consent of the bishop) (article 28). This freedom was regulated by the Press Edict of 26 March 1848, completed and amended by law No. 2876 of 20 June 1858, for the suppression of statements in justification of political assassinations; the provisions contained in the law on public safety; instituting special control over the production and distribution of printed matter, the law of 19 July 1894 dealing in particular with the repression of acts inciting members of the armed forces to disobedience, and law No. 278 of 28 June 1896 abolishing preventive custody, etc.

5. Freedom to assemble peaceably without arms, subject to observance of the laws restricting such assembly in the public interest. (This provision, however, was not applicable to assembly in public

places, which remained entirely subject to the police laws.) (article 32).

6. The right of petition (articles 57 and 58). (This right, however, was never much used.)

The right of association was not expressly mentioned in the statute, but it followed from the general principles of the law and the special provisions taken after the establishment of the constitutional regime.

The freedom of conscience and worship was also not expressly provided for in the statute, article 1 of which declared the Apostolic Roman Catholic religion to be the sole religion of the State. But this freedom followed from the laws supplementing article 1—namely, the law of 18 February 1848 granting the Waldensians full civil and political rights, the law of 17 March 1848 on the abolition of religious disabilities, the Royal Decree of 29 March 1848 granting the Jews equal status with other citizens, the law of 19 June 1848 on the abolition of all religious privileges, the law of 1850 on the abolition of ecclesiastical courts, the law of 5 June 1850 on the legal capacity of secular or religious bodies, etc.

All property, without exception, was declared inviolable. However, when legally recognized public interest so required, owners could be expropriated, in whole or in part, upon payment of just compensation in accordance with the law (article 29).

No taxation not passed by Parliament and sanctioned by the King could be imposed or levied (article 30).

Any undertaking assumed by the State towards its creditors was declared inviolable (article 31).

Fascism limited or abolished one by one these rights which the Statute guaranteed to all citizens but the retention of which was contrary to the supreme power of a "unitary, authoritarian, totalitarian State", as conceived by fascist doctrine.

One of the most important tasks of the various governments which succeeded one another after the downfall of fascism (25 July 1943) was that of restoring the rights and freedoms of all citizens without distinction, and of promulgating legislative measures to defend democracy against the totalitarian activities of groups and parties.

Fascist organs and institutions were abolished. The Chamber of Fasces and Corporations, the National Fascist Party, and all its subsidiary associations (Fascist University Groups, Feminine Fascist Groups, Fascist National Institute of Culture, Association of Families of Fascist Dead, Disabled and Wounded, Senate Fascist Union) and the Fascist Grand Council, by decree-laws Nos. 704, 705, 706 of 2 August 1943; the Special State Defence Tribunal by decree No. 668 of 29 July 1943; the corporate bodies and the various fascist militia by decrees Nos. 731 of 9 August 1943 and 29/B of 28 December 1943.

¹ English translation from the French text by the United Nations Secretariat.

A decree-law No. 25 of 20 January 1944 (supplemented by decrees Nos. 252 and 306 of 5 and 19 October 1944, No. 222 of 12 April 1945, No. 209 of 20 July 1944, and No. 393 of 5 May 1946) repealed all the racial laws and reinstated full civil and political rights for Jews, whether Italian citizens or aliens. (See also the decree of 7 May 1945 on the non-applicability of the law of war to stateless persons formerly of German nationality affected by racial measures, and decree No. 393 of 5 May 1946 on the recovery of goods confiscated or seized for racial reasons.)

All public officials who had been removed from their posts for political reasons were reinstated (decree-laws No. 9 of 6 January 1944 and No. 101 of 12 April 1944, supplemented by decrees No. 190 of 10 August 1944 and Nos. 255 and 308 of 7 and 14 September 1944, and decree No. 880 of 30 November 1945).

Freedom of the press was restored and guaranteed; a new statute of the press was established by decree-laws No. 2/B of 30 October 1943 and No. 5/B of 10 November 1943, No. 13 of 14 January 1944, No. 302 of 23 October 1944 and No. 561 of 31 May 1946. No newspaper, publication or printed matter may be seized except by direct order of the judicial authorities. The latter may, however, seize three numbers of such publications when they violate the penal law. Seizure is only allowed in the case of obscene publications contrary to public decency, or divulging means of birth control or of provoking abortion.

The right of national minorities to the free use of their language was recognized by decree No. 825 of 22 December 1945, authorizing the use of the German language in the Province of Bolzano for relations with the political, administrative and judicial authorities.

A series of decrees have been promulgated for the purpose of removing the most deeply compromised fascists from public offices (decree-laws No. 29/B of 28 December 1943, Nos. 101 and 110 of 12 and 13 April 1944, No. 159 of 27 July 1944,

No. 190 of 10 August 1944, Nos. 238, 257 and 285 of 3, 11 and 23 October 1944, No. 2 of 4 January 1945, No. 44 of 23 February 1945, No. 56 of 12 March 1945 and No. 179 of 22 April 1945); for the reorganization of the Civil Service (decree-law No. 301 of 19 October 1944); for the repeal of the penal clauses intended to protect institutions and bodies set up by fascism, and for the punishment of fascist offences and illicit acts (decree-laws of 26 May and 27 July, Nos. 134, 159 and 238 of 8 October 1944, No. 196 of 3 May 1945, Nos. 410 and 464 of 12 and 31 July 1945, Nos. 437 and 472 of 4 August 1945, No. 625 of 5 October 1945, Nos. 702 and 703 of 9 November 1945 and No. 201 of 12 April 1945); for the confiscation of possessions obtained as a result of the illegal acquisitions of fascists and profiteers under their regime (decree-laws No. 720 of 9 August 1943, No. 159 of 27 July 1944 and No. 134 of 26 March 1946); for the punishment of politically dangerous fascists (decree-laws No. 149 and 195 of 26 April 1945 and No. 621 of 14 September 1945).

Finally, the conditions prescribed by decree No. 151 of 25 June 1944 recognizing the Italian people's right to choose their own institutions having been fulfilled by the liberation of the national territory, a Constituent Assembly was elected on 2 June 1946 by direct universal suffrage (women having been granted the right to vote by decree-law No. 23 of 1 February 1945). The decree-law of 10 March 1946 disfranchised certain persons who had held high positions under the fascist regime (article 6).

The people having by referendum directly declared themselves in favour of a Republic, the main task of the Constituent Assembly is to draw up and approve the new Constitution of the State, which will have to proclaim and guarantee all civil, political and social rights and the personal liberties of all citizens.

Dr. Egidio REALE

JAPAN

CONSTITUTION OF JAPAN¹

of 3 November 1946

CHAPTER III

RIGHTS AND DUTIES OF THE PEOPLE

Art. 10. The conditions necessary for being a Japanese national shall be determined by law.

Art. 11. The people shall not be prevented from enjoying any of the fundamental human rights. These fundamental human rights guaranteed to the people by this constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.

Art. 12. The freedoms and rights guaranteed to the people by this constitution shall be maintained by the constant endeavour of the people, who shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare.

Art. 13. All the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs.

Art. 14. All of the people are equal under the law, and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin.

Peers and peerage shall not be recognized.

No privilege shall accompany any award of honour, decoration or any distinction; nor shall any award be valid beyond the lifetime of the individual who now holds or hereafter may receive it.

Art. 15. The people have the inalienable right to choose their public officials and to dismiss them.

All public officials are servants of the whole community and not of any group thereof.

Universal adult suffrage is guaranteed with regard to the election of public officials.

In all elections, secrecy of the ballot shall not be violated. A voter shall not be answerable, publicly or privately, for the choice he has made.

Art. 16. Every person shall have the right of peaceful petition for the redress of damage, for

the removal of public officials, for the enactment, repeal or amendment of laws, ordinances or regulations and for other matters; nor shall any person be in any way discriminated against for sponsoring such a petition.

Art. 17. Every person may sue for redress as provided by law from the State or a public entity, in case he has suffered damage through illegal act of any public official.

Art. 18. No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for a crime, is prohibited.

Art. 19. Freedom of thought and conscience shall not be violated.

Art. 20. Freedom of religion is guaranteed to all. No religious organization shall receive any privileges from the State, nor exercise any political authority.

No person shall be compelled to take part in any religious act, celebration, rite or practice.

The State and its organs shall refrain from religious education or any other religious activity.

Art. 21. Freedom of assembly and association, as well as speech, press and all other forms of expression, is guaranteed.

No censorship shall be maintained; nor shall the secrecy of any means of communication be violated.

Art. 22. Every person shall have freedom to choose and change his residence and to choose his occupation to the extent that it does not interfere with the public welfare.

Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Art. 23. Academic freedom is guaranteed.

Art. 24. Marriage shall be based only on the mutual consent of both sexes, and it shall be maintained through mutual co-operation with the equal rights of husband and wife as a basis. With regard to choice of spouse, property rights, inheritance, choice of domicile, divorce, and other matters pertaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes.

¹ English text through the courtesy of the Department of State, Division of Japanese Affairs, Washington, D. C.

Art. 25. All people shall have the right to maintain the minimum standards of wholesome and cultured living.

In all spheres of life, the State shall use its endeavours for the promotion and extension of social welfare and security, and of public health.

Art. 26. All people shall have the right to receive an equal education corresponding to their ability, as provided by law.

All people shall be obligated to have all boys and girls under their protection receive ordinary education as provided for by law. Such compulsory education shall be free.

Art. 27. All people shall have the right and the obligation to work.

Standards for wages, hours, rest and other working conditions shall be fixed by law.

Children shall not be exploited.

Art. 28. The right of workers to organize and to bargain and act collectively is guaranteed.

Art. 29. The right to own or to hold property is inviolable.

Property rights shall be defined by law, in conformity with the public welfare.

Private property may be taken for public use upon just compensation therefor.

Art. 30. The people shall be liable to taxation as provided by law.

Art. 31. No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law.

Art. 32. No person shall be denied the right of access to the courts.

Art. 33. No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offence with which the person is charged, unless he is apprehended, the offence being committed.

Art. 34. No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

Art. 35. The right of all persons to be secure in their homes, papers and effects against entries, searches, and seizures shall not be impaired except upon warrant issued for adequate cause, and particularly describing the place to be searched and

things to be seized, or except as provided by *art. 33.*

Each search or seizure shall be made upon separate warrant issued by a competent judicial officer.

Art. 36. The infliction of torture by a public officer, and cruel punishments, are absolutely forbidden.

Art. 37. In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal.

He shall be permitted full opportunity to examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense.

At all times the accused shall have the assistance of competent counsel, who shall, if the accused is unable to secure the same by his own efforts, be assigned to his use by the State.

Art. 38. No person shall be compelled to testify against himself.

Confessions made under compulsion, torture or threat, or after prolonged arrest or detention, shall not be admitted in evidence.

No person shall be convicted or punished in cases where the only proof against him is his own confession.

Art. 39. No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he, in any way, be placed in double jeopardy.

Art. 40. Any person, in case he is acquitted after he has been arrested or detained, may sue the State for redress as provided by law.

CHAPTER X

SUPREME LAW

Art. 97. The fundamental human rights by this constitution guaranteed to the people of Japan are fruits of the age-old struggle of man to be free; they have survived the many exacting tests for durability and are conferred upon this and future generations in trust, to be held for all time inviolate.

Art. 98. This constitution shall be the supreme law of the nation and no law, ordinance, imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity.

The treaties concluded by Japan and established laws of nations shall be faithfully observed.

PROCLAMATION DEFINING TERMS FOR JAPANESE SURRENDER¹ of 26 July 1945

(The Potsdam Proclamation)

(1) WE, THE PRESIDENT of the United States, the President of the National Government of the Republic of China, and the Prime Minister of Great Britain, representing the hundreds of millions of our countrymen, have conferred and agree that Japan shall be given an opportunity to end this war.

(5) Following are our terms. We will not deviate from them. There are no alternatives. We shall brook no delay.

(6) There must be eliminated for all time the authority and influence of those who have deceived and misled the people of Japan into embarking on world conquest, for we insist that a new order of peace, security and justice will be impossible until irresponsible militarism is driven from the world.

(7) Until such a new order is established and until there is convincing proof that Japan's war-making power is destroyed, points in Japanese territory to be designated by the Allies shall be occupied to secure the achievement of the basic objectives we are here setting forth.

(8) The terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.

(9) The Japanese military forces, after being

completely disarmed, shall be permitted to return to their homes with the opportunity to lead peaceful and productive lives.

(10) We do not intend that the Japanese shall be enslaved as a race or destroyed as a nation, but stern justice shall be meted out to all war criminals, including those who have visited cruelty upon our prisoners. The Japanese Government shall remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people. Freedom of speech, of religion, and of thought, as well as respect for the fundamental human rights shall be established.

(11) Japan shall be permitted to maintain such industries as will sustain her economy and permit the exaction of just reparations in kind, but not those which would enable her to rearm for war. To this end, access to, as distinguished from control of, raw materials shall be permitted. Eventual Japanese participation in world trade relations shall be permitted.

(12) The occupying forces of the Allies shall be withdrawn from Japan as soon as these objectives have been accomplished and there has been established in accordance with the freely expressed will of the Japanese people a peacefully inclined and responsible government. . . .

DIRECTIVE OF THE SUPREME COMMANDER OF THE ALLIED POWERS¹ of 4 October 1945

1. In order to remove restrictions on political, civil and religious liberties and discrimination on grounds of race, nationality, creed, or political opinion, the Imperial Japanese Government will:

(a) Abrogate and immediately suspend the operation of all provisions of all laws, decrees, orders, ordinances, and regulations which:

(1) Establish or maintain restrictions on freedom of thought, of religion, of assembly and of speech, including the unrestricted discussion of the Emperor, the Imperial Institution and the Imperial Japanese Government.

(2) Establish or maintain restrictions on the collection and dissemination of information.

(3) By their terms or their applications, operate unequally in favour of or against any person

by reason of race, nationality, creed or political opinion.

(b) The enactments covered in paragraph (a) above shall include, but shall not be limited to, the following:

[Here follow, in 16 sections, laws, decrees, regulations, orders and ordinances to be abrogated.]

(c) Release immediately all persons now detained, imprisoned, under "protection or surveillance", or whose freedom is restricted in any other manner who have been placed in that state of detention, imprisonment, "protection and surveillance", or restriction of freedom:

(1) Under the enactments referred to in paragraphs 1(a) and (b) above.

(2) Without charge.

¹ Called Japanese "Bill of Rights" in *Occupation of Japan* (cited above), pp. 94-98.

¹ *Occupation of Japan*. The Department of State. Publication 2671, Far Eastern Series, 17. Washington, 1946, pp. 53-55.

(3) By charging them technically with a minor offence, when, in reality, the reason for detention, imprisonment, "protection and surveillance", or restriction of freedom, was because of their thought, speech, religion, political beliefs, or assembly. The release of all such persons will be accomplished by 10 October 1945.

(d) Abolish all organizations or agencies created to carry out the provisions of the enactments referred to in paragraphs 1(a) and (b) above and that part of, or functions of, other offices or subdivisions of other civil departments or organs which supplement or assist them in the execution of such provisions. These include, but are not limited to:

(1) All secret police organs.

(2) Those departments in the Ministry of Home Affairs such as the Bureau of Police, charged with supervision of public meetings, and organizations, censorship of motion pictures, and such other departments concerned with the control of thought, speech, religion, or assembly.

(3) Those departments, such as the special higher police, (Tokubetsu, Koto, Deisatsu Bu), in the Tokyo Metropolitan Police, the Osaka Metropolitan Police, and other Metropolitan Police, the Police of the Territorial Administration of Hokkaido and the various prefectural police charged with supervision of publications, supervision of public meetings and organizations, censorship of motion pictures, and such other departments concerned with the control of thought, speech, religion or assembly.

(4) Those departments, such as the Protection and Surveillance Commission, and all Protection and Surveillance Stations responsible thereto, under the Ministry of Justice charged with protection and surveillance and control of thought, speech, religion or assembly.

(e) Remove from office and employment the Minister of Home Affairs, the Chief of the Bureau of Police of the Ministry of Home Affairs, the Chief of the Tokyo Metropolitan Police Board, the Chief of the Osaka Metropolitan Police Board, the Chief of any other Metropolitan Police, the Chief

of the Police of the Territorial Administration of Hokkaido, the chiefs of each prefectural police department, the entire personnel of the special higher police of all metropolitan, territorial and prefectural police departments, the guiding and protecting officials and all other personnel of the Protection and Surveillance Commission and of the Protection and Surveillance Stations. None of the above persons will be reappointed to any position under the Ministry of Home Affairs, the Ministry of Justice or any police organ in Japan. Any of the above persons whose assistance is required to accomplish the provisions of this directive will be retained until the directive is accomplished and then dismissed.

(f) Prohibit any further activity of police officials, members of police forces, and other government, national, or local, officials or employees which is related to the enactments referred to in paragraphs 1(a) and (b) above and to the organs and functions abolished by paragraph 1(d) above.

(g) Prohibit the physical punishment and mistreatment of all persons detained, imprisoned, or under protection and surveillance under any and all Japanese enactments, laws, decrees, orders, ordinances and regulations. All such persons will receive at all times ample sustenance.

(h) Ensure the security and preservation of all records and any and all other materials of the organs abolished in paragraph 1(d). These records may be used to accomplish the provisions of this directive, but will not be destroyed, removed, or tampered with in any way.

(i) Submit a comprehensive report to this Headquarters not later than 15 October 1945 describing in detail all action taken to comply with all provisions of this directive. This report will contain the following specific information prepared in the form of separate supplementary reports:

[Here follow details on information to be given.]

2. All officials and subordinates of the Japanese Government affected by the terms of this directive will be held personally responsible and strictly accountable for compliance with and adherence to the spirit and letter of this directive.

PRINCIPLES FOR JAPANESE TRADE UNIONS

Approved on 6 December 1946 by the Far Eastern Commission¹

1. Japanese workers should be encouraged to form themselves into trade unions for the purpose

of preserving and improving conditions of work participating in industrial negotiations to this end, and otherwise assisting the legitimate trade union interests of workers, including organized participation in building up a peaceful and democratic Japan.

2. The right of trade unions and their members to organize for these purposes should be assured

¹Official press release, 18 December 1946. A "Trade Union Law" had been promulgated by the Emperor on 21 December 1945 (law No. 51 in *The Kampo* (Official Gazette of Japan), 22 December 1945).

and protected by law. The freedom of workers to join trade unions should be provided for by law. All laws and regulations preventing trade unions achieving these objectives should be immediately abrogated. Employers should be forbidden to refuse employment to, or discriminate against, a worker because he is a member of a trade union.

3. Trade unions should have the right of free assembly, speech and the press, and access to broadcasting facilities on a non-discriminatory basis, provided only that such assembly, speech, or writing does not directly interfere with the interests of the occupation.

4. Trade unions should be encouraged to negotiate with the employers on behalf of their members regarding terms and conditions of employment. The Japanese Government should establish mediation and arbitration machinery for dealing with industrial disputes that cannot be settled by direct and voluntary negotiation between the worker or his representative and the employer. The mediation and arbitration machinery should operate under conditions assuring the protection of the interests of the workers, and if employers are represented on the arbitration machinery, trade unions should be given equal representation.

5. Strikes and other work stoppages should be prohibited only when the occupation authorities consider that such stoppages would directly prejudice the objectives or needs of the occupation.

6. Trade unions should be allowed to take part in political activities and to support political parties.

7. Encouragement should be given to organized participation by trade unions and their officials in the democratization process in Japan and in measures taken to achieve the objectives of the occupation, such as the elimination of militaristic and monopolistic practices. But such participation should not be encouraged in such a way as to hinder the achievement of the principal obligation and responsibility of the unions and their officials to organize for the protection of union members and union interests.

8. Trade unions should be encouraged to promote adult education and an understanding of democratic processes and of trade union practices and aims among their members. The Japanese Government should as far as possible assist trade union officials in obtaining information on trade union activities in other countries. These objectives should be given due weight when allocations of

paper supplies and imports of foreign publications are made.

9. The Japanese should be free to choose the form of organization of their unions, whether on a craft, industry, company, factory or territorial basis. Emphasis should be placed on the importance of a solid local basis for future trade union activity in Japan. However, unions should be allowed to form federations or other groupings, for example in the same area or in related industries or on a nationwide basis.

10. The formation of trade unions should be a process of democratic self-expression and initiative, proceeding from the workers themselves. Employers should not be allowed to take part in the organization or conduct of unions or to finance them.

11. Trade union officials and standing committees should be elected by the workers concerned by secret ballot and democratic methods. It should be the responsibility of the unions to ensure that all officials have been democratically elected at regular stated intervals and that all their activities are democratically conducted.

12. No person who is subject to the purge directive of 4 January 1946, or to subsequent purge directives, should be allowed to hold office in a trade union. All persons who were directly connected in the past in a responsible capacity with the obstruction or repression of trade union organization or activity should be prohibited from employment as union officials, in labor agencies or as mediators, conciliators, or arbitrators. All persons who held office in Government-sponsored or controlled trade unions should be subject to screening before being allowed to take office again.

13. The Japanese Government and other agencies which were set up or functioned for the purpose of obstructing or in such a way as to obstruct free labour organization and legitimate trade union activities should be abolished or their powers in respect to labour revoked. No police or other Government agencies should be employed in spying on workers, breaking strikes, or suppressing legitimate union activities.

14. Any undemocratic workers' organizations or their affiliates, such as the Patriotic Industrial Associations, should be dissolved and not allowed to revive. No new workers' organizations with militaristic, ultra-nationalistic, fascist or other totalitarian aims should be permitted.

15. Persons who have been imprisoned because of activity or "dangerous thoughts" in connexion with trade unions and other labour organizations should be released.
16. The balance sheet and table of income and expenditure of each trade union, showing also the source of large contributions should be available for public inspection. Safeguards such as annual audit by a professionally competent auditor appointed by the members should be taken to ensure the accuracy of these statements.

LEBANON

CONSTITUTION OF THE LEBANESE REPUBLIC¹

of 23 May 1926

PART I FUNDAMENTAL PROVISIONS

Chapter II

THE LEBANESE AND THE RIGHTS AND OBLIGATIONS OF THE LEBANESE

Art. 7. All Lebanese shall be equal in the eyes of the law. They shall enjoy civil and political rights and shall also be liable to public charges and obligations without any distinction whatsoever being made.

Art. 8. Personal freedom shall be guaranteed and protected. No person may be arrested or kept in custody except in accordance with the law. No offence may be established and no penalty imposed except by law.

Art. 9. There shall be complete freedom of conscience. While acknowledging the Most High, the Government shall respect all creeds and safeguard and protect the free exercise of all forms of worship on condition that public order is not interfered with. It also guarantees that the personal status and religious interests of the populations, to whatever creed they belong, shall be respected.

Art. 10. There shall be no interference with public instruction as long as it is not contrary to public order and morals and does not affect the dignity of the various creeds. The communities shall be entitled to maintain their own schools, provided that they conform to the general requirements relating to public instruction laid down by the State.

Art. 12. All form of public employment shall also be open to all Lebanese citizens in accordance with the conditions laid down by law, preference being given solely to merit and capacity. The conditions applicable to State officials shall be embodied in a special statute, according to the department to which they belong.

Art. 13. Freedom of speech and of writing, the freedom of the press, freedom to assemble together and freedom of association shall be guaranteed within the limits laid down by the law.

Art. 14. Dwellings shall be inviolable. No one may enter therein except in the circumstances and in the manner prescribed by law.

Art. 15. Rights of ownership shall be protected by law. No person may be expropriated except on grounds of public utility in the circumstances defined by law and on condition that fair compensation is paid beforehand.

THE CONSTITUTIONAL TEXTS AND EXECUTIVE LAWS RELATING TO THE EXERCISE OF HUMAN RIGHTS AND INDIVIDUAL LIBERTIES IN THE LEBANESE REPUBLIC²

Perhaps it is hardly necessary to recall the fact that in the Lebanon the declaration of rights is not to be found as a separate document, but is incorporated in the Constitution itself, and thus carries the authority and weight of a fundamental national statute.

On the other hand, it is a matter of common knowledge that (1) any particular right for which there is no executive law cannot legally be exercised, even though its principle is established in the Constitution; (2) a particular right can be introduced into legislation by an executive law, without having first appeared in a declaration of rights.

That is why we shall proceed by first stating that a particular right exists and then specifying the limits placed upon it by an executive law.

I. FREEDOM OF THE INDIVIDUAL

Article 8 establishes the principle that this freedom is guaranteed and protected.

What guarantees protect this freedom against the arbitrary power of criminal justice?

A. Principle that both offences and penalties are subject to the rule of law

(a) There are no arbitrary penalties in the Lebanon. Article 1 of the Lebanese Code of 1943 states that "no infringement of the law may be punished by a penalty or a security measure, unless such infringement was provided for by law at the time of its commission", and article 6 states that "no penalty may be inflicted unless it

¹ League of Nations, Geneva, 1930 (C.352.1930.VI) (C.P.M. 1075), pp. 4-13, and Helen Miller Davis, *op. cit.*, pp. 170-185.

² English translation from the French text by the United Nations Secretariat.

was prescribed by law at the time the infringement was committed." These articles show that both the constitutional law and the Penal Code uphold the guardian principle that offences and punishments are subject to the rule of law.

The laws of the Lebanon do not contain the guarantee against arbitrary arrests and detentions provided by *habeas corpus*.

Nevertheless article 367 of the Penal Code makes any official arresting or detaining any person in cases other than those provided for by law liable to the penalty of a term of hard labour.

B. *The inviolability of the home*

Article 14 declares that the home is inviolable, and article 340 of the Lebanese Penal Code protects this principle in the following terms. Any official (it states) who, acting in his official capacity, enters the home of a private person or the premises appertaining thereto, except in cases provided for by law and observing the procedure prescribed by law, shall be punished by a term of imprisonment varying from three months to three years.

II. FREEDOM OF PRIVATE OWNERSHIP AND THE LAWS GOVERNING PROPERTY

Article 14 establishes the principle that ownership is under the protection of the law and that a beneficial owner cannot be deprived of his title without just and prior compensation.

The executive laws respect the constitutional principle. Thus articles 6 *et seq.* of the Legislative Decree of 13 October 1932 establish and regulate the compensation payable to expropriated owners. And under a decree-law relating to the protection of sites and historic monuments a claim to prior monetary compensation is granted to any person whose property rights are sacrificed in the interests of the amenities of the site.

It should be noted that the right of ownership thus protected which must yield to the public interest in return for just compensation, is not absolute, even when exercised by a private person for his own exclusive benefit. Article 124 of the Code of Obligations stipulates that it should not be used solely with malicious intent and should not be diverted from its social purpose. In this respect Lebanese law has accepted the teleological theory of the "abuse of right" and at the same time curbs the exercise of a right which exceeds the limits set by good faith.

III. FREEDOM OF CONSCIENCE AND RELIGIOUS WORSHIP

In a country where communities of such widely differing religious beliefs live side by side, it was essential that freedom of conscience and worship should be upheld as one of the State's basic principles.

Article 9 of the Constitution establishes this principle in definite terms. And the text of the

mandate conferred upon France by the League of Nations on 29 September 1923 guaranteed to the Lebanon and Syria respect of their religious interests (article 6, paragraph 2).

It is perhaps of interest to recall that in the Lebanon there are in the first place the Christians, who form the majority of the population. These are divided into different sects, of which some, like the Maronites (the largest community), the Greek Catholics, the Armenian Catholics and the Syrian Catholics, give allegiance to the Holy See, whilst others—the Orthodox Greeks, Jacobite Armenians and Orthodox Syrians—are not affiliated to Rome; in addition there are the Protestants. In the second place there is the non-Christian element, which comprises the Sunnite Moslems (the largest group), the Shiites or dissenting Moslems, the Druses and the Jews.

We felt it necessary to indicate the extraordinary religious composition of the population because of its bearing upon the exercise of individual liberties and rights, as will be seen later.

The Lebanese State, whilst affirming its faith in the Almighty, renders no allegiance to any particular creed and respects all types of religious belief. Hence it considered itself bound, in the interests of the peace of the community, to safeguard such respect by all the means in its power. We shall see how this is interpreted in the field of positive law: (1) in penal law, (2) in civil law, and more particularly in the laws relating to the family.

PARAGRAPH I

Respect and guarantee of liberty of conscience and religious worship

A. IN PENAL LAW:

Article 473 of the Lebanese Penal Code of 1943 states that: "Any person publicly blaspheming against the name of God shall be punished by a term of imprisonment varying from one month to one year."

Every person being free to choose the type of religion he prefers—and the country, as we are well aware, being a patchwork of different faiths—any person who in any of the ways defined in article 209 grievously insults or brings into contempt any of the publicly professed religions, shall be punished by imprisonment. Penalties are likewise inflicted on persons disturbing a religious ceremony, or mutilating, defacing, desecrating, or defiling buildings dedicated to religious purposes (see article 47, paragraphs 1 and 2).

B. IN CIVIL LAW:

1. *Personal status*

At civil law, in the Lebanon, as in all Eastern countries, personal status is governed by religious law.

That is why, in matters more particularly connected with religious belief, especially marriage,

each community applies its own peculiar principles and rules.

It would be a lengthy matter to study the details of this specialized branch of law, and on this subject we would refer to the comprehensive survey which appeared in the *Revue de Droit international privé*.¹

We will mention simply that in Christian communities matrimonial status (marriage and its dissolution) is subject to religious law. But for other aspects of personal status, such as the relations of parent and child, guardianship, and succession or intestacy, the law applicable is Mohammedan law, which is sacred to the Moslem believers, and was after the Arab conquest voluntarily received and absorbed by the customary law of Christian communities to the point of becoming their municipal law (see decision of the Damascus Mixed Court of Appeal in plenary session, in the *Gazale Case*, 1930).

Subject to examining later, under the heading of equality, certain details of the law of inheritance, we will confine ourselves for the moment to pointing out two disabling rules in this connexion, both of religious origin, one of which was later rescinded on account of its complete incompatibility with modern legal ideas. We refer to *Ikhtilaf el Din* and *Ikhtilaf el Darein*.

(a) *Ikhtilaf el Din* (difference of religion).

Ikhtilaf el Din is the cause of a disability in the Lebanese system of inheritance which is of religious origin and denies to a Moslem citizen the right to succeed, on an intestacy, to the estate of another belonging to a non-Moslem community, whether Christian or Jewish.

This disability is mentioned in all books on Mohammedan law.

As the law of succession has not been secularized, the result is that in the present state of the law there is a legal impediment denying to an individual the natural capacity to inherit from a relative of whom he is by blood relationship the rightful heir.

(b) *Ikhtilaf el Darein*.

As we know, in Hanafite Mohammedan law alien status debars an heir from succeeding to an estate in a Moslem country (see article 110 of the Ottoman Code of Land Law).

This is a relic from a traditional rule. According to Moslem jurists, the world is divided into two parts—(1) *Dar el Islam* or territory of Islam, governed by the law of the Prophet; (2) *Dar el Harb* or enemy territory; in other words, infidel territory.

The fact of belonging to the latter prevents an heir, by law, from taking possession of an inheritance in Islamic territory.

Until recently, these principles were in force in

Egypt, Syria, and the Lebanon, having previously been in force in the Ottoman Empire.

But the Property Code promulgated on 12 November 1930 by the High Commissioner for the Lebanon and Syria put an end to that state of affairs in respect of a Lebanese citizen (whatever his religion), on a basis of reciprocity.

Already, by a judgment dated 17 April 1928, the Alexandria Mixed Court of Appeal had restricted the application of this rule of *Ikhtilaf el Darein* to nationals of a country at war with the Moslem countries and had refused to apply this bar to nationals of States maintaining friendly or even merely commercial relations with the Moslem Power concerned.

One fact connected, albeit indirectly, with liberty of conscience and respect of religious traditions, is worthy of note: the Moslem laws of succession having, as already noted, imperceptibly crept into the customs of Christian communities, are now, on account of the development of modern ideas, considered by the Christians as contrary in certain respects to the equitable distribution of the estate among the beneficiaries. Under Mohammedan law a testator may not make a will in favour of a person by law entitled to succeed on an intestacy. As the principle of representation was not accepted and moreover as a daughter could not in any circumstances, even when she was the only descendant, take the whole of her father's estate, the result was that, on account of this partial bar of female heirs, a part of the testator's estate went to much more distant heirs.

This practice, which on grounds of faith was compulsory for Lebanese of Moslem religion, could not command the same respect on the part of their Christian compatriots. Hence, under a law applicable to them alone (since the Moslem elements desired to keep to the sacred law), they were given the option to rectify the system of succession in force. This law, which instituted the freedom of testamentary disposition on the lines of Western law, recognized the principle of representation, thus enabling the grandson to take his father's share of the grandfather's estate, and removed the bar on the daughter, if the sole descendant, to receive the whole of her father's estate. (See the Lebanese law of 29 May 1929.)

IV. FREEDOM OF EDUCATION

We have already indicated that the Constitution establishes freedom of education in the Lebanon.

Let us now see how this freedom was actually understood and put into practice.

Whilst the regime of the mandate over the Lebanon and Syria entrusted to France by the League of Nations was still in force, there were several laws regulating this matter: one issued by the High Commissioner of the French Republic, dated 20 June 1924 (order No. 2679 governing the inspection of private educational establishments in Syria and the Lebanon), subsequently comple-

¹ C. Cardahi: "Le droit civil des pays sous mandat dans le Proche Orient dans ses rapports avec la législation religieuse."—*Revue de Droit International privé*, 1933, p. 443 et seq.

mented by the order of 30 August 1932, and another, decree No. 7962 of the President of the Lebanese Republic dated 1 May 1931.

Now that the Lebanon has regained its political independence completely and has become a Member of the United Nations, the setting up and management of private educational establishments are governed by decree No. 7000 of 1 October 1946.

(a) *Under the mandate*

Free schools founded by private persons, whether Lebanese nationals or foreigners, or by associations, were required to obtain prior authorization, such authorization being granted only if the person setting up the establishment and the premises satisfied certain conditions; the establishment had to fulfil the prescribed conditions concerning safety, hygiene, sanitation, etc. Applications for authorization had to be addressed to the Government authorities; and on a report by an inspector of the Public Education Department, a decree would be issued authorizing the opening of the school (article 7 of decree No. 7962). Until 1931 the High Commissioner was the final authority responsible for decisions as to the opening of private establishments. As from 1 May 1931 this right was vested in the Head of the Lebanese State (see article 7 of decree No. 7962).

It should be noted that the legislation in force at that time allowed the directors of private schools complete freedom to choose, for teaching purposes, whatever methods, syllabi and books they wished, except books the use of which might be prohibited by a general measure.

(b) *Since independence*

Let us look at the regulations as they are today, now that the Lebanon is free of all foreign supervision.

In the main, the previously existing legislation has been retained. A few amendments have, however, been introduced which seem to tend towards the restriction of educational freedom. Article 4 of the decree of 1 October 1946, for instance, seems to grant wide powers to the Minister for Education, who may refuse permission for the opening of private educational institutions fulfilling the conditions required by the law, on the grounds that their establishment would be inexpedient. That is a provision which might open the door to arbitrary action, and it is to be feared that the authorities might on this score, if not quite obstruct, at least hamper the freedom of education.

Moreover, article 13 of the new decree of 1946, whilst leaving the choice of teaching methods to the heads of private schools, forbids them to use books not approved by the Ministry of National Education, though this prohibition applies only in the case of history, geography, and moral, civic and political rights.

It may be conjectured what the intention of the legislator was. As the Lebanon attained full

independence only a short time ago, the Government, fearing separatist movements, may have desired to exercise complete control over school textbooks directly or indirectly dealing with the country's political situation and its religious and moral structure.

At all events, protests have been raised by the Cultural League for Free Education, which has demanded that the opening of these schools should be exempt from the requirement of prior authorization.

Moreover, it is maintained, these schools ought not to be compelled to follow the official syllabus. Only the conditions of entering for official examinations should be established by law, the Cultural League maintains, for in every country there are schools which prefer not to prepare for the official examinations, but have a plan of education or instruction of their own, in which more attention is given to the technical, artistic or commercial side.

V. FREEDOM OF ASSOCIATION

Although this individual freedom was affirmed in the Lebanese Constitution (article 13), so far, at least in the main, it is still governed by the Ottoman laws of 3 August 1909 and 16 February 1913. Subsequent texts have introduced amendments to these laws, without however affecting their substance. The law of 1909 (called the Law of Associations), on the whole a liberal one, accepts the system of registration. Article 2 establishes the principle that the formation of an association is not subject to special authorization. The only stipulation is that the group, when formed, is required to give notice of its existence to the authorities. Political associations based on principles or qualifications of nationality or race, however, are prohibited.

The law grants an association which has registered in accordance with article 9 the right to possess: (1) the subscriptions of its members, (2) the premises to be used for the administration of the association and the real property strictly necessary for the accomplishment of its declared purposes.

An association recognized as of public utility is entitled to accept gifts and bequests, but only with Government permission. All these benefits were allowed to Ottoman corporate bodies only.

But both during and since the mandate the Law of Associations has been amended and extended, though it still remains in force. An order of 7 April 1924 issued by the High Commissioner thenceforward authorized religious communities and congregations, foreign welfare organizations, Lebanese and Syrian associations constituted in conformity with the law of 3 August 1909, and foreign associations fulfilling the same conditions as national associations, to possess and use property in Syria and the Lebanon within the precincts of towns and villages.

VI. THE ORGANIZATION OF LABOUR AND THE FREEDOM OF TRADE UNIONS

1. *Freedom of labour and labour organization*

The year 1946 was marked by an event of great importance—namely, the passage of the Labour Code through the Lebanese Parliament.

The contract for the hire of work and services was already regulated by the Lebanese Code of Obligations (articles 264 *et seq.*) but the whole subject has recently been revised by the Labour Code promulgated on 23 September 1946. This code reproduces the main provisions of Western social legislation. The maximum working week is fixed at forty-eight hours; it may be shortened for certain arduous types of work (articles 31 and 32). All wage-earners must be given a weekly off-duty period of not less than thirty-six consecutive hours (article 36).

Every wage-earner is entitled to fifteen days' annual leave with full pay (article 39). The minimum wage must be adequate for the essential needs of the wage-earner and his family with due regard to the type of his occupations, and may in no case be less than the official minimum wage. It is fixed by commissions on which the Ministry of National Economy, employers and employees are represented (articles 44 and 45). Then follow the special provisions of the Code relating to the protection of workers, the organization of labour, and the arbitration tribunal responsible for settling labour disputes on which a magistrate serves as chairman and one representative of the employers and one of the workers serve as members (see parts II and III).

Of the copious and on the whole well drawn up regulations of this Code, we would mention specifically one article, article 11, which is more particularly germane to the objects of this statement on the protection and safeguards of the various freedoms. Re-enacting, more or less, the terms of a corresponding provision in the Code of Obligations (article 627), the Labour Law clearly lays down (what is the common law in every civilized country) "that no person shall be permitted to pledge his services for life, or to bind himself for life not to engage in a specified occupation. Any undertaking in any form whatsoever directly or indirectly leading to this result, shall be null and void in law" (article 11).

2. *Freedom of trade unions*

Before the enactment of the new Labour Code which came into force on 23 September 1946, the Lebanon, like Syria, was governed in this respect by the Ottoman law of 24 April 1912 on professional corporations.

It would be too lengthy a matter to reproduce here the provisions which characterize the new era in the trade union movement. In many points they reflect the principles already adopted in modern law. We would merely stress that the law institutes the voluntary, not the com-

pulsory, trade union system, and the equal right of both employees and employers to form unions (articles 83 and 90). It grants legal personality to trade unions and the right to sue and be sued (article 83). The purpose of the trade union is limited; its object is to protect and promote the profession, to defend its interests and assist its progress in every way, economic, industrial, and commercial (article 84). Members of trade unions must belong to the same or similar professions.

Trade unions are not, however, subject to the system of registration, as in many codes; but their establishment requires the consent of the Minister of National Economy (article 86). In the change-over from a restrictive regime, the legislator, fearing abuses, probably thought it wise to proceed by progressive stages, before granting entire freedom; hence, to begin with, trade union organization is subject to prior authorization, whilst the possibility of a free system in the future in the light of experience is not ruled out.

Perhaps that is why the legislator did not at the time make any extensive provisions in the code regarding the right to strike. Apart from a few scattered provisions, there is at the present time no general text regulating this subject.

In the absence of a code of strike laws, there are several regulations in the Penal Code which deal with this matter indirectly.

One (article 340) makes a strike by officials bound to the State by a contract under public law a punishable offence.

Article 341 deals with the case of employees or workers ceasing work either with a view to coercing the public authorities or protesting against a decision or measure issued by such authorities.

In addition, any combination of more than twenty persons followed by attempted or partially executed acts designed to interrupt:

1. Inter-urban or international transport;
2. Postal, telegraphic or telephone communications;
3. Public water or electricity supply service is punishable by imprisonment or fine.

Article 344 establishes a penalty for the owner or head of an undertaking, or any employee or worker refusing or delaying to comply with the award or other decision of a labour tribunal.

VII. FREEDOM OF THE PRESS

Let us see how this freedom, which has been raised to the level of a constitutional principle, has been understood and practised in the Lebanon.

The basic text regulating this matter is order No. 2464 of 6 May 1924.

Here are its principal clauses.

The press is subject to the registration system, but all owners of newspapers or periodicals are required to give a bond on which there is a prior lien in the event of any expenses or damages being incurred under this law. The hawking and sale of newspapers and periodicals on the public

highway may be practised freely; professional hawkers must, however, register with the competent authorities.

The press regulations in question contain a clause to the effect that the director of a paper is bound to insert in the paper the replies of any person who has been named or specifically mentioned in the paper (article 19); they also contain a series of articles on the punishment of offences committed through the medium of the press.

It is also forbidden to report libel cases and to publish books, articles and pamphlets likely to prejudice public morality. It is likewise specified that the introduction, distribution, exportation or sale of one or more issues of foreign publications may be prohibited by government order.

The point to note is that this law, which contains nothing out of keeping with the notion of public liberty, was subsequently supplemented by order No. 3080, which markedly restricts the exercise of this individual right. It grants the head of the Government the right to suspend the publication of a newspaper or newspapers which have published one or more articles or information likely to impair the authority of the constituted powers by means of unbridled criticism, or, generally, to disturb public peace and order for any reason whatsoever.

A weapon of that kind may lend itself to abuse. The Government felt the need to modify the press regulations and amend the executive press laws.

The new bill introduced in the Chamber does not abolish the Government's power to suspend a paper by administrative action, but limits the

right of suspension to a maximum period of three years, whilst there may be no suspension for a longer period except under a decision by a court of law.

VIII. THE PRINCIPLE OF EQUALITY BEFORE THE LAW AND ITS APPLICATION

It is perhaps of interest to say a few words about the application of the principle of civil equality.

According to article 12 of the Constitution, all Lebanese citizens are equally admissible to all positions in the public services regardless of any criterion other than personal merit and competence, as stipulated by law. By reason of the peculiar complexion of the country, so divided in its religious beliefs, this principle of equality is not in fact observed. Both under the mandate and now under full independence, the Government has taken account of religious divisions, and makes compromises in the interests of communal peace in distributing public offices in proportion to the numerical strength of the various elements of the country's population. But the country is on the verge of leaving this stage behind. A certain attitude seems to be developing as the result of which appointments to government posts are made on merit, only.

First President Choucri CARDAHI
Formerly Minister of Justice
Professor at the Academy of International Law at the Hague;
Professor at the French Law School,
Beirut

LIBERIA

CONSTITUTION OF LIBERIA¹

of 26 July 1847

ARTICLE I BILL OF RIGHTS

Sect. 1. All men are born equally free and independent, and have certain natural, inherent and inalienable rights, among which are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness.

2. All power is inherent in the people; all free governments are instituted by their authority and for their benefit; and they have a right to alter and reform the same when their safety and happiness require it.

3. All men have a natural and inalienable right to worship God according to the dictates of their own conscience, without obstruction or molestation from others; all persons demeaning themselves peaceably and not obstructing others in their religious worship, are entitled to the protection of law in the free exercise of their own religion, and no sect of Christians shall have exclusive privileges or preference over any other sect; but all shall be alike tolerated; and no religious test whatever shall be required as a qualification for civil office, or the exercise of any civil right.

4. There shall be no slavery within the Republic. Nor shall any citizen of this republic, or any person resident therein, deal in slaves, either within or without this republic, directly or indirectly.

5. The people have a right at all times, in an orderly and peaceable manner, to assemble and consult upon the common good, to instruct their representatives, and to petition the Government or any public functionaries for the redress of grievances.

6. Every person injured shall have remedy therefor, by due course of law; justice shall be done without sale, denial or delay; and in all cases not arising under martial law, or upon impeachment the parties shall have State right to a trial by jury, and to be heard in person or by counsel, or both.

7. No person shall be held to answer for a capital or infamous crime except in cases of impeachment, cases arising in the army or navy, and petty offences, unless upon presentment by a

grand jury; and every person criminally charged shall have a right to be seasonably furnished with a copy of the charge; to be confronted with the witness against him; to have compulsory process for obtaining witnesses in his favour; and to have a speedy, public and impartial trial by a jury of the vicinity. He shall not be compelled to furnish or give evidence against himself; and no person shall for the same offence be twice put in jeopardy of life and limb.

8. No person shall be deprived of life, liberty, property or privilege, but by judgment of his peers or the law of the land.

9. No place shall be searched, nor person seized on a criminal charge, or suspicion, unless upon warrant lawfully issued, upon probable cause supported by oath, or solemn affirmation, specially designating the place or person, and the object of the search.

10. Excessive bail shall not be required, nor excessive fines imposed, nor excessive punishments inflicted. Nor shall the Legislature make any law impairing the obligation of contracts; nor any law rendering any act punishable in any manner in which it was not punishable when it was committed.

11. All elections shall be by ballot; and every male citizen of twenty-one years of age, possessing real estate, shall have the right of suffrage.

12. The people have a right to keep and to bear arms for the common defence. And, as in time of peace armies are dangerous to liberty, they ought not to be maintained without the consent of the Legislature; and the military power shall always be held in exact subordination to the civil authority and be governed by it.

13. Private property shall not be taken for public use without just compensation.

14. The powers of this government shall be divided into three distinct departments—Legislative, Executive and Judicial; and no person belonging to one of these departments shall exercise any of the powers belonging to either of the others. This section is not to be construed to include Justices of the Peace.

15. The liberty of the press is essential to the security of freedom in a State; it ought not, therefore, to be restrained in this Republic. The press shall be free to every person who undertakes to

¹English text from *British and Foreign State Papers*. Vol. 35, (1846-1847), pp. 1301-1314, and Vol. 125 (1926), Part III, pp. 882-883.

examine the proceedings of the Legislature, or any branch of government; and no law shall ever be made to restrain the rights thereof. The free communication of thoughts and opinions, is one of the invaluable rights of man, and every citizen may freely speak, write and print, on any subject, being responsible for the abuse of that liberty. In prosecutions for the publication of papers, investigating the official conduct of officers, or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libel, the jury shall have right to determine the law and the facts, under the direction of the court, as in other cases.

16. No subsidy, charge, impost or duties ought to be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the Legislature.

17. Suits may be brought against the Republic in such manner, and in such cases as the Legislature may by law direct.

18. No person can in any case, be subject to the law martial, or to any penalties or pains, by virtue of that law (except those employed in the army or navy, and except the militia in actual service) but by the authority of the Legislature.

19. In order to prevent those who are vested with authority from becoming oppressors, the people have a right at such periods, and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life, and to fill up vacant places, by certain and regular elections and appointments.

20. That all prisoners shall be bailable by sufficient sureties: unless for capital offences, when the proof is evident, or presumption great: and the privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this Republic, in the most free, easy, cheap, expeditious and ample manner, and shall not be suspended by the Legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

ARTICLE V

MISCELLANEOUS PROVISIONS

Sect. 13. None but Negroes or persons of Negro descent shall be eligible for citizenship in this Republic.

14. The purchase of any land by any citizen or citizens from the aborigines of this country for his or their own use, or for the benefit of others as estate or estates in fee simple, shall be considered null and void to all intent and purpose.

15. The improvement of the native tribes and their advancement in the arts of agriculture and husbandry being a cherished object of this government, it shall be the duty of the President to appoint in each county some discreet person whose duty it shall be to make regular and periodical tours through the country for the purpose of calling the attention of the natives to those wholesome branches of industry, and of instructing them in the same, and the Legislature shall, as soon as can conveniently be done, make provisions for these purposes by the appropriation of money.

LIECHTENSTEIN

CONSTITUTION OF THE PRINCIPALITY OF LIECHTENSTEIN¹

of 5 October 1921

CHAPTER III

THE DUTIES OF THE STATE

Art. 14. The chief duty of the State is to promote the general welfare of the population. For this purpose the State shall provide for the institution and maintenance of laws and for the protection of the religious, moral and economic interests of the people.

Art. 15. The State shall devote special attention to public education and teaching. These must be so ordered and administered that, as a result of the co-operation of the family, the school and the church, the younger generation may be imbued with religious and moral principles and love of country, and may be fitted to excel in their future vocation.

Art. 16. Public education shall be under the supervision of the State, without prejudice to the immunity from interference enjoyed by ecclesiastical instruction.

Education shall be obligatory for all.

The State shall provide for adequate elementary instruction being given in public schools. Religious instruction shall be imparted by church authorities. All persons having children under their care shall be responsible for seeing that they receive elementary instruction. Attendance at continuation schools may be declared compulsory.

The supreme direction of education and teaching, which is vested in the State, shall be exercised by the latter through the National School Council, the organization and duties of which shall be prescribed by law.

Private education shall be allowed in so far as it is in conformity with the legal regulations governing school hours, educational aims and arrangements prevailing in the public schools.

Art. 17. The State shall subsidize continuation and secondary schools, as also domestic, agricultural and industrial training.

It shall assist indigent but gifted pupils to attend higher schools by the granting of scholarships.

Art. 18. The State shall promote the maintenance of public health, assist institutions for the care of the sick, and seek by legislation to combat intemperance and to reform inebriates and persons unwilling to work.

Art. 19. The State shall safeguard the right to work and protect the workers, especially in the case of women and young persons employed in industry or crafts.

Sundays and holidays recognized by the State shall be observed as public days of rest, without prejudice to the legal regulations concerning rest on Sundays and holidays.

Art. 20. In order to increase earning capacity and to advance its economic interests, the State shall promote and assist agriculture, mining, crafts and industry. In particular, it shall promote insurance against injuries to which workers and property are exposed, and take measures to prevent such injuries.

It shall give special attention to the development of communications, on lines corresponding to modern requirements.

It shall assist afforestation, and drainage operations, and shall watch over and encourage every endeavour to open up new sources of wealth.

Art. 21. The State possesses sovereign rights over waters, in conformity with the laws existing or hereafter to be enacted. The utilization, conveyance, and holding back of waters shall be legally regulated and promoted, having due regard to the developments of technical science.

Electrical rights shall be regulated by law.

Art. 22. The State shall exercise sovereign rights over hunting, fishing, and mining, and when legislating on these matters shall protect the interests of agriculture and of communal revenues.

Art. 23. Questions concerning currency and public credit shall be regulated by the State.

Art. 24. The State shall provide, by enacting the necessary legislation, for an equitable system of taxation, which shall exempt incomes below a bare minimum from taxation and impose heavier burdens on larger fortunes or incomes.

The financial situation of the State must be improved to the utmost possible extent and every effort must be made to open up new sources of revenue to meet the public requirements.

Art. 25. Poor relief shall be administered by the communes in conformity with the special laws; nevertheless, the State shall supervise their action in this sphere. It may afford appropriate subventions to the communes, more especially for the proper care of orphans, lunatics, incurables and aged persons.

¹ English translation from the German text by the United Nations Secretariat.

Art. 26. The State shall assist and promote insurance against sickness, old age, unfitness for work and hire.

Art. 27. The State shall provide for the establishment of an expeditious procedure and methods of execution protecting substantive law as well as an administrative law complying with the same principles.

The professional practice of representing parties shall be regulated by a law.

CHAPTER IV

THE GENERAL RIGHTS AND OBLIGATIONS OF NATIONALS

Art. 28. Every national shall be entitled to establish himself in any locality and to acquire property of any description, subject to observance of the law.

The rights of establishment of foreigners shall be determined by treaties or, in their absence, on a basis of reciprocity. Persons staying within the frontiers of the Principality shall be bound to observe its laws, and shall become entitled to the protection afforded by the Constitution and the law.

Art. 29. The rights of citizenship belong to every national in accordance with the provisions of this constitution.

Art. 30. The law shall regulate the acquisition and loss of civic rights.

Art. 31. All nationals shall be equal in the eyes of the law. The public offices shall be equally open to them, within the limits prescribed by law. The rights of foreigners shall be determined by treaties, or in the absence of such, on the basis of reciprocity.

Art. 32. Personal liberty, the sanctity of the home and the inviolability of letters and written matter are guaranteed by the Constitution.

Art. 33. No person may be withdrawn from the jurisdiction of his proper judge. The creation of exceptional tribunals is prohibited.

Penalties may not be inflicted except within the limits of the law. The accused in any proceedings shall be entitled to defend himself.

Art. 34. The inviolability of private property is guaranteed; confiscation shall take place only in the cases laid down by law.

Author's rights shall be regulated by law.

Art. 35. Where requisite in the public interest, property of any kind may be compulsorily expropriated or subjected to a servitude, against suitable compensation, the amount of which, in cases of dispute, shall be determined by the courts.

Expropriation shall be regulated by law.

Art. 36. Trade and industry shall be free, within the limits prescribed by law; the institution of commercial and industrial monopolies shall be regulated by law.

Art. 37. Freedom of conscience and belief is guaranteed to all persons. The Roman Catholic church is the official religion, and in that capacity enjoys the protection of the State; other religious have the right to profess and practise their rites within the limits of public order and morality.

Art. 38. The rights of ownership and all other proprietary rights of ecclesiastical communities and religious associations, in respect of their institutions, foundations, and other accumulated possessions devoted to worship, education and benevolent objects, are guaranteed. The administration of Church property in the parishes shall be regulated by a special law; the assent of the Church authorities shall be sought before the said law is promulgated.

Art. 39. The enjoyment of civil and political rights shall not be dependent on religious belief; nor may the latter constitute a ground for any dereliction of civil obligations.

Art. 40. Every person shall be entitled freely to express his opinions and to communicate his ideas verbally, in writing, in print or graphically, within the limits of law and morality; no censorship may be exercised except in respect of public performances and exhibitions.

Art. 41. The right of free association and assembly is guaranteed within the limits prescribed by law.

Art. 42. The right of petitioning the Diet and the Standing Committee is guaranteed, and not only individuals whose rights or interests are affected, but also communes and corporations are entitled to have their wishes and requests brought before the Diet through a member of that body.

Art. 43. The right of complaint is guaranteed. Any National of the Principality is entitled to lodge a complaint with the immediate superior of any authority regarding any unconstitutional, illegal or unwarrantable action or procedure, detrimental to his rights or interests, on the part of such authority, and if need be, to carry his complaint to the highest authority, except in so far as the right of recourse may be barred by a legal restriction. If a complaint thus submitted is rejected by the superior authority, the latter shall be bound to declare the reasons for such decision.

Art. 44. Any man able to bear arms shall be bound to assist in the defence of the country up to the age of sixty.

Apart from this case, armed formations may not be established or maintained except for the purpose of performing police duties and assuring the maintenance of order in the country. The necessary regulations shall be prescribed by law.

LUXEMBOURG

CONSTITUTION OF 17 OCTOBER 1868¹

CHAPTER II

LUXEMBOURG NATIONALS AND THEIR RIGHTS

Art. 9. The status of Luxembourg nationals is acquired, retained and lost in accordance with the rules laid down by civil law. The present constitution and the other laws relating to political rights shall determine what are the conditions necessary for the exercise of these rights, apart from the aforesaid status.

Art. 10. Naturalization shall be granted by the legislative power. By such naturalization an alien is placed on the same footing as a Luxembourg national as regards the exercise of political rights.

Where the father has been naturalized, such naturalization shall extend to his child under age where the latter within two years of attaining majority makes a declaration of his desire to claim this benefit.

Art. 11. There shall be no distinction of rank in the State. Luxembourg nationals are equal before the law; they alone shall be admissible to civil or military offices, save where exceptions may be established by law for specified cases.

Art. 12. The freedom of the individual is guaranteed.

No proceedings may be instituted against any person except in the cases provided for and according to the procedure prescribed by law.

Except in cases of *flagrante delicto*, no person may be arrested save under a warrant stating the reason for arrest and issued by the court, which must be served on the person concerned at the time of arrest or not later than twenty-four hours thereafter.

Art. 13. No person may against his will be removed from the jurisdiction of the judge assigned to him by law.

Art. 14. No penalty may be introduced or applied except in pursuance of the law.

Art. 15. The sanctity of the home shall be inviolable. No search may be carried out in the home except in the cases provided for and in accordance with the procedure prescribed by law.

Art. 16. No person may be deprived of his property, except for reasons of public utility, in the cases and in the manner prescribed by law

and in consideration for just and prior compensation.

Art. 17. The penalty of confiscation of property shall not be established.

Art. 18. The death penalty for political offences, civil death and branding are abolished.

Art. 19. The freedom of religion and public worship, and the right of every man to express his religious opinions are guaranteed, subject to the power to punish offences committed in the exercise of these liberties.

Art. 20. No person may in any way be forced to observe the acts or ceremonies of a religion or its days of rest.

Art. 21. Civil marriage must always precede the religious ceremony.

Art. 22. The intervention of the State in the appointment and induction of heads of religion, the method of appointment and dismissal of other ministers of religion, the freedom for such persons to correspond with their superiors and to publish their documents, and the relations between Church and State, shall be regulated by agreements which shall be submitted to the Chamber of Deputies in respect of those provisions which require its intervention.

Art. 23. The State shall ensure that every Luxembourg national receives elementary education. It shall establish institutions for intermediate instruction and courses for higher education as may be necessary.

The law shall prescribe the manner in which the cost of public instruction shall be met, and the conditions for the supervision of education by the Government and the communes; it shall lay down rules respecting all other matters relating to education.

Every Luxembourg national is free to study in the Grand Duchy or abroad and to attend any university which he may choose, subject to the provisions of the law relating to the conditions for admission to employment or to the exercise of certain professions.

Art. 24. Freedom of speech on all subjects and the freedom of the press are guaranteed, subject to the power to punish offences committed in the exercise of these liberties.

A censorship shall never be established.

No security shall be exacted from authors, publishers or printers.

The stamp duty on Luxembourg newspapers and periodicals is abolished. The publisher, printer or

¹ French text in *Annuaire Officiel 1946*. Luxembourg, 1946, pp. 14-25. English translation from the French text by the United Nations Secretariat.

distributing agent shall not be prosecuted if the author is known, is a Luxembourg national and is domiciled in the Grand Duchy.

Art. 25. Luxembourg nationals have the right to assemble peaceably and without previous authorization, provided that they comply with the laws regulating the exercise of this right.

This provision shall not apply to political, religious or other meetings in the open air, which shall continue to be subject in every respect to the police laws and regulations.

Art. 26. Luxembourg nationals have the right of association. This right shall not be made subject to any preliminary permit.

The founding of any religious corporation must be authorized by a law.

Art. 27. Everyone has the right to address to the public authorities petitions signed by one or more persons.

Legally constituted authorities alone have the right to address petitions under a collective name.

Art. 28. The privacy of correspondence shall be inviolable.

The law shall determine who are the officers responsible for the privacy of letters entrusted to the mails.

The law shall regulate the guarantee of the privacy of telegrams.

Art. 29. The use of the German and French languages shall be optional; their use may not be restricted.

Art. 30. No prior authorization is required for instituting proceedings against public officials for acts committed in their administration, subject to the provisions relating to Members of the Government.

Art. 31. Public officials, irrespective of their rank, with the exception of the Members of the Government, shall not be deprived of their posts, honours, and pensions otherwise than in the manner prescribed by law.

CHAPTER X

GENERAL PROVISIONS

Art. 113. No provision of the Constitution may be suspended.

MEXICO

POLITICAL CONSTITUTION OF THE UNITED MEXICAN STATES¹

of 5 February 1917

TITLE I

Chapter I

CONCERNING PERSONAL GUARANTEES

Art. 1. Every person in the United Mexican States shall enjoy the guarantees that this constitution grants, which may neither be restricted nor suspended, except in the cases and under the conditions herein established.

Art. 2. Slavery is prohibited in the United Mexican States. Slaves from abroad who enter the national territory shall by this act alone acquire liberty and the protection of the laws.

Art. 3. 1. Education imparted by the State—Federation, States, or municipalities—shall be directed towards the harmonious development of all the faculties of man, and shall promote in him love of country and awareness of international solidarity in independence and in justice.

2. Freedom of belief being guaranteed by article 24, the guiding principle of this education shall be kept entirely aloof from any religious doctrine, and based on the results of scientific progress, shall be directed against ignorance and its consequences of servitude, fanaticism and prejudice.

Furthermore:

(a) It shall be democratic, democracy being regarded not only as a juridical system and a political regime, but also as a way of life based on continual economic, social and cultural advancement of the people;

(b) It shall be national in so far as it shall be concerned—without hostility or discrimination—with the understanding of our problems, the enjoyment of our resources, the defence of our political independence, the assurance of our economic independence and the continuity and growth of our culture; and

(c) It shall contribute to the improvement of social life, both by its efforts to fortify the student in his appreciation of the dignity of the human person and the solidarity of the family, and his belief in the general interests of society, and by its care to maintain the ideals of fraternity and

equal rights of all men, avoiding privileges of race, sects, groups, sex and individuals.

3. Private persons may impart education of all types and grades. But for primary and secondary education or teachers' training (and for any type or grade of education for workmen or peasants) they must previously obtain the express permission of the public authorities in every case. Such permission may be denied or revoked, and no action or appeal shall lie against such a decision.

4. Private institutions for education of the types or grades specified in the foregoing section must, without exception, conform to the provisions of paragraphs I and II of this article and must, in addition, carry out official schemes and programmes.

5. Religious bodies, the ministers of churches and joint stock companies, exclusively or predominantly active in education, and associations or societies connected with the spreading of any religious belief, shall not participate in any way in institutions imparting primary or secondary education, teachers' training or education for workmen or peasants.

6. The State may at any time withdraw, at its own discretion, recognition of the official validity of studies completed in private institutions.

7. Primary education shall be compulsory.

8. All education imparted by the State shall be free.

9. In order to unify and co-ordinate education throughout the Republic, the Congress of the Union shall enact laws necessary for distributing the social duty of education between the Federation, the States and the municipalities, fixing the financial contributions for this public service and prescribing the penalties applicable to officials failing to observe the relevant provisions, or causing them to be disregarded, and to all infringing the same.

Art. 4. No person may be prevented from engaging in the profession, industry, commerce, or labour which suits him, provided it is lawful. The exercise of this liberty may be suspended only by judicial action, when the rights of third parties are attacked, or by governmental order issued in the terms that the law indicates when the rights of society are infringed. No one may be deprived of the product of his labour except by judicial determination.

¹Spanish text in *Constitución Política Mexicana* anotada por el Lic. Manuel Andrade, Mexico, D.F., 1945. English translation in *The Constitutions of the Americas* (cited above, p. 6). Articles 3 and 27 (10, 14 and 15) translated from the Spanish text by the United Nations Secretariat.

The law shall determine in each State which are the professions that require a licence for their practice, the conditions that must be fulfilled to obtain it, and the authorities to issue it.

Art. 5. No person may be obliged to render personal labour without just compensation and without his full consent, except labour imposed as punishment by judicial authority; such work shall be regulated by the provisions set forth in subdivisions 1 and 2 of article 123.

In regard to public services, only military and jury duty, as well as the discharge of compulsory public offices and those directly or indirectly subject to popular election, may be obligatory in the manner established by the respective laws. Electoral and census functions are obligatory and uncompensated; professional services of a social nature shall be obligatory, and are compensated in the manner and with the exceptions indicated by law.

The State may not permit to be carried into effect any contract, pact, or agreement that has as its object the impairment, loss, or irrevocable sacrifice of the liberty of man, whether by reason of occupation, education, or religious vow. Consequently, the law does not permit the establishment of monastic orders, whatever may be denomination or the object for which they presume to be established.

Nor shall any contract be permitted whereby a man agrees to his own proscription or exile, or in which he temporarily or permanently renounces the practice of any definite profession, industry, or commerce.

A labour contract shall call only for the performance of a specified service for the time fixed by law, and may not exceed one year to the injury of the worker, and in no sense may it be extended to the forfeiture, loss, or impairment of any political or civil rights.

Failure on the part of the worker to comply with said contract shall oblige him only for the corresponding civil responsibility, and in no case may his person be subject to coercion.

Art. 6. Expression of ideas shall not be the object of any judicial or administrative investigation, except in the case of an attack on the principles or rights of third parties, or where it may provoke some crime or disturb public order.

Art. 7. Freedom to write and publish articles on any subject is inviolable. No law or authority may establish a previous censorship, or exact a bond from the authors or printers, or restrict the freedom of the press, which has no further limits than respect for private life, morals, and public peace. In no case may the printing press be sequestered as an instrument of the crime.

The organic laws shall prescribe whatever provisions may be necessary to prevent the imprisonment, under pretext of offences of the press, of

distributors, paper vendors, workers, and other employees of the establishment from which has issued the denounced writing, unless the responsibility of said persons has been previously demonstrated.

Art. 8. Public officials and employees shall respect the exercise of the right of petition, provided it is formulated in writing and in a respectful and peaceful manner; but in political matters only citizens of the Republic may make use of this right.

A written decision shall be given to all petitions by the authority to whom they have been directed, who has the obligation of notifying the petitioners of the decisions as soon as possible.

Art. 9. The right of associating or meeting peacefully for any lawful purpose shall not be infringed, but only citizens of the Republic may exercise it in taking part in the political affairs of the country. No armed assembly has the right of deliberating.

An assembly or meeting that has as its object the formulating of a petition or the presenting of a protest regarding some act of an authority shall not be considered illegal and may not be dissolved, provided insults are not voiced against said authority nor any violence or threats used to intimidate or oblige him to decide in the manner that they desired.

Art. 10. The inhabitants of the United Mexican States have the liberty of possessing arms of any kind for their security and legitimate defence, except such arms as those expressly prohibited by law, and those that the nation reserves for the exclusive use of the Army, Navy, and National Guard; but these may not be carried in towns without complying with police regulations.

Art. 11. Any person has the right to enter the Republic, leave it, travel through its territory, and change residence without the necessity of a letter of security, passport, safe conduct, or similar requirements. The exercise of this right shall come under the jurisdiction of the judicial authority in cases of criminal and civil responsibility and under the jurisdiction of the administrative authority in so far as it relates to the limitations that the laws impose on emigration, immigration, and the general health of the Republic, or on undesirable aliens residing in the country.

Art. 12. Neither titles of nobility nor hereditary privileges or honours shall be granted in the United Mexican States, nor shall those awarded by any other country be recognized.

Art. 13. No person may be judged by private laws or special tribunals. No person or corporation may have special privileges nor enjoy greater emoluments than those that may be compensation for public services and are fixed by law. The military code exists for crimes and offences against military discipline; but the military tribunals may in no case and for no cause extend their jurisdic-

tion over persons who do not belong to the army. Should a civilian be implicated in crime or offence of a military character, the proper civil authority shall hear the case.

Art. 14. No law shall be given retroactive effect to the prejudice of any person.

No person may be deprived of life, liberty, or his property, possessions, or rights except by means of a direct judgment before previously established tribunals, in which the essential formalities of procedure are complied with, and in conformity with laws enacted previous to the commission of the act.

In cases of a criminal nature, it is forbidden to impose, either because of simple analogy or by *a priori* evidence, any punishment that is not decreed by a law exactly applicable to the crime involved.

In cases of a civil nature, the final sentence must be according to the letter or the judicial interpretation of the law, and in the absence of the latter, it shall be founded on the general principles of the law.

Art. 15. The negotiation of treaties for the extradition of political offenders or those covering civil delinquents who may have been slaves in the country where they committed the offence shall not be authorized; nor shall conventions or treaties be made by virtue of which guarantees and rights established for the individual and the citizen by this constitution are altered.

Art. 16. No person, his family, domicile, papers, or possessions may be molested except by virtue of a written order by a competent authority establishing and supporting the legal basis of the proceeding. No order of apprehension or detention shall be issued, except by judicial authority, without being preceded by a denunciation, accusation, or complaint of a specific act which the law penalizes by corporal punishment, nor without the same being substantiated by an affidavit, under oath, made by some trustworthy person, or by other evidence showing the probable guilt of the accused; exception is made in cases *in flagrante delicto*, in which any person may apprehend the offender and his accomplices, placing them without delay at the disposal of the nearest authorities. Only in urgent cases, when there is no judicial authority available in the district, and involving offences officially prosecuted, may the administrative authority, under its strictest accountability, order the detention of the accused, placing him immediately at the disposal of the judicial authority. Every search warrant, which may be issued only by judicial authority and always in writing, shall state the place to be inspected, the person or persons to be apprehended, and the objects to be sought, to which the search should be exclusively limited, and upon the conclusion of said search a circumstantial report shall be drawn up in the presence of two witnesses proposed by the occupant of the

place searched, or, in his absence or at his refusal, by the officer making the investigation.

Administrative officials may enter domiciles only to assure themselves that sanitary and police regulations have been complied with; and to require the exhibition of books and papers necessary to prove that fiscal regulations have been respected, subject in these cases to the respective laws and to the formalities prescribed for searches.

Art. 17. No person may be imprisoned for debts of a purely civil character. No person may take justice into his own hands or resort to violence to claim his right. Tribunals shall be prepared to administer justice at the time and in the manner that the law determines; their service shall be free and, consequently, judicial charges are prohibited.

Art. 18. Only offences deserving corporal punishment shall be cause for precautionary custody. The place for this shall be distinct and entirely separate from that devoted to serving penalties for other offences.

The Governments of the Federation and of the States shall organize the penal system in their respective territories—colonies, penitentiaries, or prisons—on the basis of work as the means of regeneration.

Art. 19. No detention may exceed the term of three days without being authorized by a formal warrant of penal arrest in which shall be specified: the offence imputed to the accused; the elements constituting it; the place, time, and circumstances of its commission, and the facts that brought forth the previous investigation, which should be sufficient to prove the substance of the offence and show the probable guilt of the accused. The authority ordering the detention or consenting to it, and the agents, ministers, wardens, and guards executing it, shall be responsible for the violation of this provision.

Each case shall necessarily be instituted for the offence or offences indicated in the warrant of formal arrest. Should it appear from the result of a trial that there has been committed an offence distinct from the one being prosecuted, it shall be the object of a separate accusation, without prejudice to the subsequent decreeing of the accumulated penalty, if deemed advisable.

Any ill treatment on apprehension or in prisons, any hardship inflicted without legal cause, any tax or contribution in penal institutions are abuses which shall be corrected by law and repressed by the authorities.

Art. 20. The accused shall have the following guarantees in any criminal suit:

1. Immediately on his request, he shall be placed at liberty, under bond up to 10,000 pesos, according to his personal circumstances and the gravity of the offence that is charged against him, provided the said offence is not punishable by a penalty greater than five years in prison, and

without further requisites than placing at the disposal of the authorities the specified sum of money or furnishing sufficient personal or mortgage security to cover it.

2. He shall not be compelled to testify against himself, for which reason holding him *incommunicado* or using any other means that shall have that object is absolutely forbidden.

3. He shall, at a public hearing and within forty-eight hours after his consignment to justice, be informed of the name of his accuser and the nature and cause of the accusation, so that he may be fully advised of the punishable act that is attributed to him and may answer the charge, making by this act his preliminary deposition.

4. He shall be confronted with the prosecuting witnesses who, if in court, shall testify in his presence so that he may ask all the questions conducive to his defence.

5. The witnesses and other proofs that he may offer shall be admitted, granting him the time that the law deems necessary for this purpose, and he shall be aided in securing the appearance of those persons whose testimony he may request, provided they may be found at the site of the trial.

6. He shall be tried at a public hearing by a judge or jury of citizens able to read and write and who are residents of the place and district in which the offence has been committed, provided the offence is punishable by a penalty greater than one year in prison. Offences committed by means of the press against public order or the external or internal security of the nation shall in every case be tried by a jury.

7. He shall be supplied with all the information he may require for his defence and appearance in the proceedings.

8. He shall be tried within four months, if crimes are involved for which the maximum penalty does not exceed two years in prison, and within one year if the maximum penalty exceeds this period.

9. He shall be heard in defence of himself or through some person in his confidence, or both, according to his wish. Should he not have any one to defend him, a list of public defenders shall be presented to him so that he may select the person or persons whom he prefers. Should the accused not wish to name defenders, after being required to do so, on rendering his preliminary deposition, the judge shall appoint a public defender. The accused may name a defender from the moment when he is apprehended, and shall have the right to have him present during all phases of the trial; but he shall be obliged to have him appear as many times as may be necessary.

10. In no case may the prison term or detention be prolonged for failure to pay counsel fees or for any other loan of money, for civil liability, or for any other similar reason.

Preventive arrest shall not be prolonged for a time exceeding the maximum fixed by law for the offence that is the cause of the trial.

The time spent in detention shall be included in all sentences imposing a prison penalty.

Art. 21. The imposition of penalties is the strict and exclusive right of the judicial authorities. The prosecution of crimes concerns the Public Ministry and the judicial police, the latter being under the immediate authority and command of the former. The administrative authority has jurisdiction in punishing violations of governmental and police regulations, which punishment shall consist only of a fine or arrest of not more than thirty-six hours; but should the offender not pay the fine that may have been imposed, his punishment shall be changed to a corresponding arrest that in no case may exceed fifteen days.

Should the offender be a day labourer or a workman, he shall not be punished by a fine greater than the amount of his weekly wage or salary.

Art. 22. Punishments by mutilation or infamy, branding, flogging, beating, torture of any kind, excessive fines, confiscation of property, or any other uncommon or unusually severe penalties are prohibited.

The complete or partial application by the judicial authority of the property of a person to the payment of a civil liability resulting from the commission of a crime or for the payment of taxes or fines, shall not be considered as confiscation of property.

The penalty of death for political crimes is likewise prohibited; and for other types of offences it may be imposed only for high treason committed during a foreign war, parricide, murder with premeditation, arson, abduction, highway robbery, piracy, and grave offences of a military character.

Art. 23. No criminal suit may have more than two appeals. No person, whether acquitted or convicted, shall be tried twice for the same offence. The practice of leaving a case in abeyance until new evidence is presented is prohibited.

Art. 24. Every man is free to profess the religious belief which is most pleasing to him and to practise the ceremonies, rites, or acts of the respective cult in places of worship or in his private residence, provided they do not constitute a crime or offence punishable by law.

Any religious rite of public worship shall be confined entirely within places of worship, which shall always be under the supervision of the authorities.

Art. 25. Sealed correspondence sent by mail shall be free from all investigation, and its violation shall be punishable by law.

Art. 26. No member of the Army may, in time of peace, be lodged in a private house without the consent of the owner; nor may any levies be

imposed. Members of the Army may, in time of war, exact lodging, supplies, food, and other levies on the terms that the corresponding martial law establishes.

Art. 27. Ownership of the lands and waters included within the boundaries of the national territory belongs originally to the nation, which has held and still holds the right to transfer ownership of them to private persons, thereby constituting private property.

Expropriations may be effected only for reasons of public utility and by means of indemnification.

The nation shall at all times have the right to impose on private property the measures that the public interest dictates, as well as that of regulating the exploitation of natural resources susceptible of use, in order to ensure an equitable distribution of public wealth and to guard its conservation. To this end, the necessary measures shall be taken for the subdivision of large rural estates; for the development of small agricultural properties under cultivation; for the creation of new centres of agricultural population, with the lands and waters that may be necessary; for the encouragement of agriculture and the prevention of the destruction of natural resources and property damage detrimental to society. Population centres that may lack lands and waters or do not possess a sufficient amount for the needs of their people shall have the right to be supplied with them, taking them from the surrounding estates, but always respecting the small agricultural properties under cultivation.

The nation has direct ownership of all minerals or substances which, either in veins, lodes, masses, or beds, constitute deposits the nature of which may be distinct from the components of the earth, such as ores from which are extracted metals and metaloids used in industry; beds of precious stones, rock salt, and the salt pans formed directly by sea water; all product derived from the decomposition of rocks when their exploitation necessitates underground labour; all mineral or organic deposits of materials susceptible of being used as fertilizers; all solid mineral combustibles; petroleum and all solid, liquid, or gaseous hydrocarbons.

The waters of territorial seas, to the extent and in the manner fixed by international law, are also the property of the nation; the waters of lagoons and coast inlets, of small, naturally formed lakes connected directly to permanent streams, the waters of the principal rivers and their tributaries, from their sources to their mouths, whether they may run to the sea or pass through two or more states; the waters of intermittent streams, the main course of which passes through two or more states; the waters of rivers, creeks or canyon freshets when they serve as boundaries to the national territory or that of the states; the waters extracted from mines; and the beds, basins, or banks of interior lakes and streams to the

extent determined by law. Any other stream of water not included in the above enumeration shall be considered as an integral part of the private property which it traverses; but the benefits derived from waters when their course passes from one property to another shall be considered as of public utility and shall be subject to the provisions that the states may enact.

In the cases referred to in the two preceding paragraphs, the authority of the nation is inalienable and imprescriptible, and concessions may be made only by the Federal Government to private individuals or civil or commercial companies constituted in accordance with Mexican laws, with the condition that they establish regular work for the exploitation of the materials involved, and comply with the requirements of the law. With regard to petroleum and solid, liquid, or gaseous hydrocarbons, no concessions may be granted, and the respective regulatory law will determine the form in which the nation may carry into effect the exploitation of these products.

The capacity to acquire ownership of lands and waters of the nation shall be subject to the following regulations:

1. Only Mexicans by birth or by naturalization or Mexican companies have the right to acquire ownership of lands, waters, and their appurtenances or to obtain concessions for the exploitation of mines, waters, or combustible minerals in the Mexican Republic. The State may concede the same right to aliens provided they agree before the Ministry of Foreign Relations to consider themselves as nationals with respect to said properties and not to invoke the protection of their Governments in reference to same; should they fail to respect the agreement, they shall be penalized by losing to the benefit of the nation the properties they may have acquired.

Under no consideration may aliens acquire direct ownership over lands and waters within a zone of 100 kilometres wide along the frontiers, or 50 kilometres along the coast.

2. Religious associations called churches, whatever may be their belief, in no case have the capacity to acquire, possess, or administer real estate or capital invested therein; the properties that they hold at present, directly or through some intermediary, shall pass to the domain of the nation, the people being allowed the right to denounce properties that they find in such cases. The ground of presumption shall be sufficient to declare the denouncement established. Churches dedicated to public worship are the property of the nation, represented by the Federal Government, which shall determine those that should continue in use. The headquarters of bishops, parish houses, seminaries, asylums, or academies of religious associations, convents, or any other buildings that may have been constructed or intended for the administration, propagation, or instruction of any religious creed, shall pass imme-

diately by full right, to the direct domain of the nation, to be dedicated exclusively to the public services of the Federation or of the States, in their respective jurisdictions. Churches that may be erected in the future for public worship shall be the property of the nation.

3. Public or private institutions of charity, that may have as their object the aid of the needy, scientific investigation, the diffusion of knowledge, the mutual help of their associates, or any other lawful purpose, may not acquire more real property than what is indispensable and immediately or directly intended for such ends; but they may acquire, hold, and administer capital invested in real property, provided the terms of investment do not exceed ten years. Institutions of this kind may in no case be under the patronage, direction, administration, charge, or care of religious corporations or institutions, or of ministers of denominations, or similar persons, even though these may not be exercising their ministry.

4. Commercial corporations may not, by buying shares, acquire, possess, or administer rural properties. Corporations of this kind, that may be constituted for the exploitation of any manufacturing, mining, or petroleum industry, or for any other purpose, that is not agricultural, may acquire, possess, or administer lands only to the extent that may be strictly necessary for the establishment or service of the indicated objects and which the Executive of the Union or those of the States shall determine in each case.

5. Banks duly authorized according to the laws on institutions of credit may have capital invested in urban and rural property in accordance with the provisions of said laws, but may not hold more property or administer more real estate than fully necessary for their direct use.

6. Apart from the corporations referred to in fractions III, IV, and V (i.e., clauses 3, 4, and 5, above), as well as the population settlements that in fact or by right maintain the communal status, or the settlements endowed, restored, or constituted in a centre of agricultural population, no other civil corporation may hold in ownership or administer real estate or have capital invested therein, with the sole exception of the buildings intended immediately and directly for the use of the institution. The States, the Federal District, and the territories, as well as the municipalities throughout the Republic, shall have full capacity to acquire and possess all real estate necessary for public services.

The laws of the Federation and of the States in their respective jurisdictions shall determine the cases where the occupation of private property may be of public utility, and, in accordance with said laws, the administrative authority shall make the necessary declaration. The price that shall be fixed as indemnification for the property expropriated shall be based on its assessed value as recorded in the offices of the census or tax collec-

tors, whether this value may have been declared by the owner or simply accepted by him in a tacit manner by having paid taxes on this basis. The increase or decrease in value to which the private property may have been subject by reason of improvements or deterioration occurring after the date of the fiscal evaluation, shall be the only grounds for an appraisal and for a judicial decision. The same course shall be followed when it concerns objects the value of which is not determined by the revenue office.

Exercise of the rights that belong to the nation, by virtue of the provisions of the present article, shall be made effective through judicial proceedings; but in accordance with these proceedings and an order that shall be issued by the proper tribunals within the maximum term of one month, the administrative authorities shall proceed immediately to the occupation, administration, auction, or sale of the lands or waters involved and all their appurtenances, without it being possible in any case to revoke the action of the same authorities before the executory decision has been rendered.

7. The population settlements that in fact or by right retain the communal status shall have the capacity to enjoy in common the lands, forests, and waters belonging to them or which may have been or may be restored to them.

All questions over the boundaries of communal lands, whatever may be their origin, which may be pending, or which may arise among two or more population centres, are under federal jurisdiction. The Federal Executive may remove jurisdiction over said questions and may propose to the interested parties the definite solution of the same. If they are agreeable, the proposal of the Executive shall have the force of a definitive solution and shall be irrevocable; in a contrary case, the dissatisfied party or parties may appeal to the Supreme Court of Justice of the nation, without prejudice to the immediate execution of the presidential proposal.

The law shall fix the summary procedure according to which the aforementioned controversies must be regulated.

8. The following are declared null:

- I. All alienations of lands, waters, and forests belonging to towns, hamlets, congregations, or communities made by political chiefs, governors of States, or any other local authority in violation of the provisions of the law of 25 June 1856 and other laws and regulations relating thereto.
- II. All concessions, adjustments, or sales of lands, waters, and forests made by the Departments of Development, Finance, or any other Federal authority, from 1 December 1876 to this day, by which the *ejidos*, communal subdivisions, or any other class of land, pertaining to towns, hamlets, congregations, or

communities, and population settlements have been illegally invaded and occupied.

- III. All surveying or demarcation proceedings, transactions, alienations, or auctions performed during the period of time to which the preceding section refers, by companies, judges, and other authorities of the States or of the Federation, by which the lands, waters, and forests of the *ejidos*, communal subdivisions, or any other class of land belonging to population settlements, have been illegally invaded or occupied.

Only lands not exceeding fifty hectares in extent and to which title may have been granted through the distributions made according to the law of 25 June 1856, and held directly in fee for more than ten years, are exempted from the above-mentioned cancellation.

9. The division or distribution that may be made with an appearance of legitimacy among the members of any population settlement, but in which there has been some error or defect, may be cancelled when so requested by three-fourths of the members who are in possession of one-fourth part of the lands subject to the division, or of one-fourth of the same members when they are in possession of three-fourths of the lands.

10. The population settlements that lack *ejidos* or cannot obtain their restitution through lack of title, by reason of the impossibility of identifying said titles or because they may have been alienated legally, shall be granted lands, forests, and waters sufficient to constitute *ejidos* in proportion to the needs of their population; and in no case may the required area be denied, and to that end sufficient land for the purpose shall be expropriated by the Federal Government, taking the same from the lands nearest the towns concerned.

The area or individual unit of apportionment shall not in the future be less than ten hectares of artificially or naturally watered land, or in default of these, of their equivalents in other kinds of land, according to the terms of paragraph 3 of section XV of this article.

11. In order to carry out the provisions contained in this article and those of the regulatory laws to be enacted, there shall be created:

- I. A direct dependency of the Federal Executive, encharged with the application of agrarian laws and their enforcement.
- II. A consultative body composed of five persons who shall be designated by the President of the Republic and who shall have the duties fixed by the regulatory organic laws.
- III. A mixed commission composed equally of representatives of the Federation, local governments, and of a representative from the peasants whose appointment shall be made according to the provisions of the respective regulatory law; this commission shall oper-

ate in each State, territory, and in the Federal District with the powers that the same organic and regulatory laws may determine.

- IV. Special executive committees for each one of the population settlements which shall transact agrarian affairs.

- V. *Ejidal* commissaries for each one of the population settlements which may possess communal lands.

12. Petitions for restitution or grant of lands or waters shall be presented in the States and territories directly to the governors.

The governors shall transmit the petitions to the mixed commissions, which shall try the action within a fixed period of time and give an opinion. The governors of the States shall approve or modify the opinion of the mixed commissions and shall order to be granted the immediate possession of the lands that in their judgment should be allotted. The action shall then pass to the Federal Executive branch for its decision.

When governors do not comply with the provisions of the foregoing paragraph within the definite term that the law fixes, the opinion of the mixed commissions shall be deemed disapproved and the proceedings shall be immediately turned over to the Federal Executive.

Inversely, when the mixed commissions do not formulate an opinion within the definite time required, the governors shall have the power to grant possession to the extent they deem proper.

13. The executive dependency and agrarian consultative body shall decide on the approval, rectification, or modification of the opinions formulated by the mixed commissions, with the modifications that the local governments may have introduced, and shall inform the Citizen President of the Republic in order that, as the supreme agrarian authority, he may render a decision.

14. The owners affected by decisions that may have been issued in favour of towns, or that in the future may be issued, for apportioning or restoring *ejidos* or waters shall not have any right of redress or ordinary legal recourse, nor may they institute suit of *amparo*.

Those affected by the apportionment of lands shall have only the right of applying to the Federal Government in order that the respective indemnification may be paid. Those interested must exercise this right within the term of one year, counting from the date on which the respective resolution was published in the *Diario Oficial* of the Federation. After expiration of this term no claim shall be admitted.

Proprietors or holders of agricultural or pasture lands to whom certificates of exemption have been granted, or are granted in the future, may seek the protection of the courts against illegal dispossession or alienation of their lands or waters under agrarian proceedings.

15. The Mixed Commissions local governments

or other authorities responsible for agrarian proceedings may in no case alienate small agricultural or stock-breeding properties; they shall be held responsible for violation of the Constitution if grants of land affecting such properties are made.

Properties not exceeding one hundred hectares of irrigated or first-class humid land, or their equivalents in other kinds of land, shall be considered as small agricultural properties.

Equivalents shall be calculated on the basis of one hectare of irrigated land to two hectares of land subject to rainfall; four hectares of good quality summer pasture; or eight hectares of mountain land or summer pasture in dry country.

The following shall also be considered as small properties: areas not exceeding two hundred hectares of land subject to rainfall or arable summer pasture; areas of one hundred and fifty hectares of land used for growing cotton, if irrigated from a river or by means of pumps; areas of three hundred hectares used for the cultivation of bananas, sugar cane, coffee, sisal, rubber, coconuts, vines, olives, quinine, vanilla, cocoa or fruit trees.

Properties not exceeding areas necessary for maintaining up to five hundred head of large cattle, or their equivalents in small cattle as prescribed by law, shall be considered as small stock-breeding properties according to their capacity as pasture.

When owners or holders of small agricultural properties, to whom certificates of exemption have been issued, improve the quality of their land for agriculture or stock-breeding, as the case may be, by means of irrigation, drainage or any other work, such property may not be alienated under agrarian proceedings, even if by reason of such improvement the maximum limits prescribed by this section are exceeded, provided always that legal requirements are fulfilled.

16. The lands subject to individual adjudication shall be subdivided precisely at the time when the presidential resolutions are decreed according to the regulatory laws.

17. The Congress of the Union and the legislatures of the States, in their respective jurisdictions, shall enact the laws determining the maximum extent of rural properties, and for subdividing the excess, in accordance with the following rules:

I. The maximum amount of land that one individual or legally constituted company may own shall be fixed in each State, territory, and in the Federal District.

II. The excess over the fixed amount shall be subdivided by the owner within the terms indicated by local laws and the subdivisions shall be placed on sale under the conditions that the governments approve in accordance with the same laws.

III. Should the owner be opposed to the subdivision, it shall be carried out by the local government by means of expropriation.

IV. The value of the subdivisions shall be paid in annuities that shall amortize capital and interest at a rate of interest that shall not exceed three per cent per annum.

V. Owners shall be obliged to accept bonds of the local agrarian debt in guarantee of payment for expropriated property. The Congress of the Union shall enact a law for this purpose empowering the States to create their agrarian debt.

VI. No subdivision shall be approved unless the agrarian needs of the neighbouring towns have been satisfied. When there are projects for subdivision to be effected, the agrarian proceedings shall be officially carried out within the required term.

VII. Local laws shall establish the family patrimony, determining the property that should constitute it and the conditions on which it shall be inalienable; and it shall not be subject to any seizure or lien, and

18. All contracts and concessions made by previous governments from the year 1876 and resulting in consequence, in the monopoly of lands, waters, and the natural wealth of the nation by a single person or company are declared subject to revision, and the Executive of the Union is empowered to declare them null when seriously prejudicial to the public interest.

Art. 28. There shall be in the United Mexican States no monopolies, restraints of trade of any kind, exemption from taxes, prohibitions under the title of protection to industry, excepting only those relative to the coinage of money, to the mails, telegraphs, and wireless telegraphy, the emission of currency by means of a single bank that shall be controlled by the Federal Government, and the privileges that may be conceded for a limited time to authors and artists for the reproduction of their works and those granted to inventors for the exclusive use of their inventions and to those who perfect inventions of any kind.

Consequently, the law shall severely punish and the authorities shall diligently prosecute any monopoly or concentration in the hands of one or a few, of articles of prime necessity that has as its object the obtaining of an increase in prices; also any act or measure restraining or tending to restrain free competition in production, industry, commerce, or public services; any agreement or combination of any kind made by producers, industrialists, merchants, or carriers, or by those engaged in any other service, for the purpose of restraining competition among themselves and obliging consumers to pay exorbitant prices; and, in general, whatever constitutes an undue, exclusive advantage in favour of one or more specified persons to the injury of the public in general or of any social class.

Associations of workers formed to protect their own interests shall not constitute monopolies.

Nor are associations or co-operative societies of producers to be considered monopolies when, in defence of their own interests or of the general interest, they sell directly in foreign markets the national or industrial products that are the principal source of wealth in the region where they are produced and which are not articles of prime necessity, provided that said associations are under the supervision or protection of the Federal Government or the States and that previous authorization be obtained from the respective legislatures in each case. Those same legislatures, on their own initiative or at the proposal of the Executive, may revoke the authorization granted for the establishment of the associations herein referred to, whenever public necessity so requires.

Art. 29. In case of invasion, of serious disturbance of the public peace, or any other emergency that may place the people in great danger or conflict, only the President of the Mexican Republic, in agreement with the Council of Ministers and with the approval of the Congress of the Union, and should the latter be in recess, of the permanent committee, may suspend throughout the country or in any part specified, the guarantees that might be an obstacle to a rapid and easy adjustment of the situation; but such suspension shall be enforced only for a limited time by means of general prohibitions and shall not be confined to any particular individual. If the suspension takes place while the Congress is in session the latter shall grant the powers deemed necessary so that the Executive may meet the situation. If the suspension is made in time of recess the Congress shall be convoked without delay for the granting of such powers.

Chapter II

CONCERNING MEXICANS

Art. 31. It shall be the duty of all Mexicans:

1. To see to it that their children or wards less than fifteen years of age attend public or private schools to obtain a primary, elementary, and military education during the time prescribed by the law of public instruction in each State.

2. To present themselves on the days and hours designated by the municipal council of the place in which they reside, to receive such civic and military instruction as shall fit them for the exercise of their rights as citizens, train them in the use of arms, and accustom them to military discipline.

3. To enlist and serve in the National Guard in accordance with the respective organic law in order to preserve and defend the independence, territory, honour, rights, and interests of the Fatherland, as well as internal tranquillity and order; and

4. To contribute towards the public expenses of the Federation, as well as of the State and municipality in which they reside, in a proportionate and equitable manner, as provided by law.

Art. 32. Mexicans shall have preference over aliens, in equal circumstances, for all kinds of concessions and for all Government positions, offices, or commissions in which the status of citizenship is not indispensable. No alien may serve in the Army, or in the police or public safety forces during time of peace.

To belong to the national navy or the air force and to discharge any commission or office in them, it is necessary to be a Mexican by birth. The same qualification is necessary for pilots, captains, masters, machinists, mechanics, and, in a general way, for all of the crew of any vessel or airplane flying the flag of the Mexican merchant marine. Mexican citizenship by birth shall also be required in order to perform any office of captain of the port and all pilotage services, and command of airdromes, as well as the duties of customs inspector for the Republic.

Chapter III

CONCERNING FOREIGNERS

Art. 33. Foreigners are those who do not possess the qualifications prescribed by article 30. They shall be entitled to the rights granted by chapter I, title I, of the present Constitution; but the Executive shall have the exclusive right to expel from the Republic forthwith and without judicial process, any foreigner whose presence he may deem inexpedient. No foreigner shall meddle in any way whatsoever in the political affairs of the country.

TITLE III

Chapter IV

OF THE JUDICIAL POWER

Art. 103. The Federal tribunals shall take cognizance of:

1. All controversies arising out of laws or acts of the authorities when the latter infringe any individual rights.

2. All controversies arising out of laws or acts of the Federal authorities which limit or encroach upon the sovereignty of the States.

3. All controversies arising out of laws or acts of the State authorities which invade the sphere of the Federal authorities.

Art. 107. All controversies mentioned in article 103 shall be prosecuted at the request of the injured party in accordance with the judicial forms and procedure which the law shall establish, subject to the following conditions:

1. The judgment shall always be so drawn as to affect private individuals exclusively and shall confine itself to affording them protection in the special case to which the complaint refers; but it shall make no general statement as to the law or the act that may have formed the basis for the complaint.

2. In civil or penal suits, excepting those mentioned in clause IX hereof, the writ of *amparo* shall be issued only against final judgments when no other ordinary recourse is available by which these judgments may be modified or amended, if the violation of the law shall have occurred in the judgment, or if, although committed during the course of the trial, objection was duly noted and protest entered against the denial of reparation, and provided further that if committed in first instance it shall have been invoked in second instance as a violation of the law.

Notwithstanding the foregoing provision, the Supreme Court may in penal cases waive any defects in the petition when there has been a manifest violation of the law which has left the petitioner without recourse, or when he has been tried by a law not strictly applicable to the case, provided failure to take advantage of this violation has been merely an oversight.

3. In civil or penal suits the writ of *amparo* shall be issued only if substantial portions of the rules of procedure have been violated and provided further that the said violation shall deprive the petitioner of means of defence.

4. In addition to the case mentioned in the foregoing paragraph, the writ of *amparo* shall be issued only on a final judgment in a civil suit—provided the requirements set forth in clause II hereof have been complied with—when the said judgment shall be contrary to the letter of the law applicable to the case or contrary to its legal interpretation, when it includes persons, actions, defences, or things which have not been the object of the suit, or finally when all these have not been included either through omission or express refusal.

When the writ of *amparo* is sought against mesne judgments, in accordance with the provisions of the foregoing clause, these rules shall be observed, as far as applicable.

5. In penal suits, the authorities responsible for the violation shall stay the execution of final judgment against which the writ of *amparo* has been sought; for this purpose, the petitioner shall, within the period set by law, give notice, under oath, to the said authorities of the interposition of this recourse, accompanying it with two copies of the petition, one of which shall be delivered to the opposing party and the other filed.

6. The execution of a final judgment in civil suits shall only be stayed when the petitioner shall give bond to cover damages occasioned thereby, unless the other party shall give a counter bond (1) to guarantee that the normal conditions and relations previously existing be restored, and (2) to pay the corresponding damages, in the event of the granting of the *amparo*. In such event the interposition of the recourse of *amparo* shall be communicated as provided in the foregoing clause.

7. If the writ of *amparo* be sought against a final judgment, a certified copy of such portions of the record as the petitioner may desire shall be requested from the authority responsible for the violation; to this there shall be added such portions as the other party may desire and a clear and succinct statement by the said authority of the justification of the act protested; note shall be made of this on the record.

8. When a writ of *amparo* is sought against a final judgment, the petition shall be brought before the Supreme Court; this petition, together with a copy required by clause VII, shall be either presented to the Supreme Court or sent through the authority responsible for the violation or through the district court of the corresponding state. The Supreme Court shall render judgment without any other formality or procedure than the petition, the document presented by the other party and that of the Attorney-General or the Public Attorney he may name in his stead, and shall comprise no other legal question than that contained in the complaint.

9. When the acts of an authority other than the judicial are involved or the acts of the judiciary exercised outside the suit or after the termination thereof, or acts committed during the suit whose execution is of impossible reparation, or which affect persons not parties to the suit, the writ of *amparo* shall be sought before the district court within whose jurisdiction is located the place where the act complained of was committed or attempted; the procedure in this case shall be confined to the report of the authority and to a hearing the call for which shall be issued in the same order of the court as that calling for the report. This hearing shall be held at as early a date as possible, the testimony of both parties offered, arguments heard which shall not exceed one hour for each side, and finally the judgment pronounced, which it shall be at the same hearing. The judgment of the district court shall be final if the interested parties do not appeal to the Supreme Court within the period set by law and in the manner prescribed by clause VIII.

In case of a violation of the guarantees of articles 16, 19 and 20, recourse shall be had through the appellate court of the court committing the breach or to the corresponding district court. An appeal against the decision of any of these courts may be taken to the Supreme Court.

If the district judge does not reside in the same locality as the official guilty of the violation, the judge before whom the petition of *amparo* shall be submitted shall be determined by law; this judge shall be authorized to suspend temporarily the execution of the act protested, in accordance with the terms established by law.

10. Any official failing to suspend the execution of the act protested, when in duty bound to do so, or when he admits an insufficient or improper

bond, shall be turned over to the proper authorities; the civil and penal liability of the official shall in these cases be a joint liability with the person offering the bond and his surety.

11. If, after the granting of an *amparo*, the guilty official shall persist in the act or acts against which the petition of *amparo* was filed, or shall seek to render of no effect the judgment of the federal authority, he shall be forthwith removed from office and turned over for trial to the corresponding district court.

12. Wardens and jailers who fail to receive a duly certified copy of the formal order of commitment within the seventy-two hours granted by article 19, reckoned from the time the accused is placed at the disposal of the court, shall bring this fact to the attention of the court, immediately upon the expiration of this period; and if the proper order be not received within the next three hours the accused shall be set at liberty.

Any official who shall violate this provision and the article referred to in the foregoing paragraph shall be immediately turned over to the proper authorities. Any official or agent thereof who, after an arrest has been made, shall fail to place the accused at the disposition of the court within the next twenty-four hours shall himself be turned over to the proper authority.

If the detention be effected outside the locality in which the court is situated, there shall be added to the period mentioned in the preceding sentence the time necessary to travel from the said locality to that where the detention took place.

TITLE VI

CONCERNING WORK AND SOCIAL SECURITY

Art. 123. The Congress of the Union shall formulate labour laws which shall apply to workers, day labourers, office holders, domestics, and artisans, and, in a general manner, to all labour contracts without contravening the following basic principles:

1. The maximum duration of work for one day shall be eight hours.

2. The maximum length of night work shall be seven hours. Unhealthful or dangerous work is forbidden for women in general and for young persons less than sixteen years of age. Industrial night work is also forbidden for these two classes; and they may not work in commercial establishments beyond ten o'clock at night.

3. Young persons more than twelve and less than sixteen years of age shall have six hours as a maximum day's work. The labour of children under twelve years of age is not subject to contract.

4. The employee shall enjoy at least one day of rest for each six days of labour.

5. During the three months previous to parturition, women shall not perform physical labour that requires excessive physical effort. In the month following childbirth they shall necessarily enjoy the benefit of rest and shall receive their entire salary and retain their employment and the rights that they may have acquired through the labour contract. In the period of lactation, they shall have two special periods of rest each day, of half an hour each, to nurse their infants.

6. The minimum compensation that should be received by a working man shall be what is considered sufficient, in view of the conditions of each region, to satisfy the normal needs of his life, his education, and his honest pleasures, considering him as the head of a family. In every agricultural, commercial, manufacturing, or mining enterprise, the workers shall have the right to a participation in the profits that shall be regulated as indicated in fraction IX (i.e. clause 9 below).

7. The same payment shall be made for equal work, without taking into account sex or nationality.

8. The minimum wage shall be exempt from attachment, compensation, or discount.

9. The establishment of a minimum wage and participation in profits, referred to in fraction VI (i.e. clause 6 above) shall be made by special committees that shall be formed in each municipality, subordinate to the central board of conciliation and arbitration that shall be established in each State. In the absence of these committees, the minimum wage shall be fixed by the respective central board of conciliation and arbitration.

10. Wages shall necessarily be paid in money of legal tender, and cannot be paid with merchandise, promissory notes, counters, or any other substitute that anyone may attempt to use in place of money.

11. When, because of extraordinary circumstances, the regular working hours during a day are increased, 100 per cent shall be added to the amount paid for the normal hours of work as compensation for the extra time worked. Overtime work shall never exceed three hours daily, nor shall it occur three times consecutively. Youths under sixteen years of age and women of any age may not be admitted to this class of labour.

12. In all agricultural, industrial, or mining businesses or in any other kind of enterprise, employers shall be obliged to furnish working men comfortable and hygienic living quarters for which they may collect rent that shall not exceed one-half per cent monthly of the assessed valuation of the property. They also must establish schools, hospitals, and any other services necessary to the community. If the enterprises are situated within towns and furnish employment for more than a hundred workers, they shall be responsible for the first of the above obligations.

13. Furthermore, in these same centres of work, when the population exceeds 200,000 inhabitants, a tract of land of not less than 5,000 square metres must be reserved for the establishment of public markets, the erection of buildings destined for municipal services and centres of recreation. Establishments for the sale of intoxicating liquors, as well as houses for playing games of chance, are prohibited in all work centres.

14. Employers shall be responsible for labour accidents and for occupational diseases of workers, contracted because of, or in the exercise of, the profession of work that they perform; therefore, the employers shall pay the corresponding indemnification whether death or only a temporary or permanent incapacity to work has resulted, in accordance with what the laws determine. This responsibility shall exist even in the case in which the employer contracts for the work through an intermediary.

15. The employer shall be obliged to observe, in the installation of his establishments, the legal regulations on hygiene and health, and to adopt adequate measures for the prevention of accidents in the use of machines, instruments, and the materials of labour, as well as to organize the same in such a manner as to ensure the greatest possible guarantee for the health and safety of the workers compatible with the nature of the work, under the penalties established by law in this respect.

16. Both employers and employees shall have the right to organize for the defence of their respective interests, forming unions, professional associations, etc.

17. The laws shall recognize strikes and lockouts as rights of the working men and employers.

18. Strikes shall be legal when they have as their purpose the attaining of equilibrium among the various factors of production, harmonizing the rights of labour with those of capital. It shall be obligatory in public services for the employees to give ten days' notice to the board of conciliation and arbitration of the date agreed upon for the suspension of work. Strikes shall be considered illegal only when the majority of the strikers engage in acts of violence against persons or property, or in case of war, when those acts are committed against establishments and utilities of the Government. Workers in governmental military factories of the Republic are not included in the provisions of this fraction, because they are assimilated into the national army.

19. Lockouts shall be legal only when an excess of production makes it necessary to suspend work to maintain prices at an approximate level with costs, and with the previous approval of the board of conciliation and arbitration.

20. The differences or conflicts between capital and labour shall be subject to the decision of a board of conciliation and arbitration, formed by

an equal number of representatives or working men and employers, with one from the Government.

21. Should the employer refuse to submit his differences to arbitration or to accept the decision rendered by the board, the labour contract shall be considered terminated, and he shall be obliged to indemnify the workers to the amount of three months' wages and shall incur the liability resulting from the conflict; should this refusal be on the part of the workers, the labour contract shall be considered terminated.

22. The employer who dismisses a worker without justifiable cause or because he has entered an association or union, or for having taken part in a legal strike, shall be obliged, at the choice of the worker, either to complete the contract or to indemnify him to the amount of three months' wages. He shall also be bound by this obligation when the worker retires from work because of lack of honesty on the part of the employer or because he received bad treatment from him, whether it be to his person, or that of his wife, parents, children, or brothers. The employer may not excuse himself from this responsibility when the bad treatment is due to his subordinates or servants working with his consent or permission.

23. Credits in favour of workers for salary or wages earned in the last year, and for indemnifications, shall have preference over all other obligations in case of cession of property or bankruptcy.

24. The worker alone shall be responsible for debts contracted by himself payable to his employer, his associates, members of his household, or dependants, and in no case and for no purpose may payment be exacted from members of the worker's family, nor are said debts payable for an amount exceeding the salary of the employee for one month.

25. The services of employment placement for workers shall be gratuitous, whether such service be performed by municipal offices, labour exchanges, or any other official or private institution.

26. Every labour contract made between a Mexican and a foreign employer shall be legalized by a competent municipal authority and countersigned by the consul of the nation to which the worker intends to go, on the understanding that in addition to the ordinary clauses, it shall be clearly specified that the expenses of repatriation shall be borne by the contracting employer.

27. The following conditions shall be considered null, and shall not obligate the parties to the contract, although they may be expressed therein:

- I. Those that stipulate a day's task that is inhuman because it is notoriously excessive, considering the kind of work.

- II. Those that fix a salary that is not remunerative in the judgment of the boards of conciliation and arbitration.
- III. Those stipulating a lapse of more than a week before payment of a day's wages.
- IV. Those indicating as the place of payment of employees a place of recreation, an inn, cafe, tavern, canteen, or store, except when the payment of employees of these establishments is involved.
- V. Those that carry the direct or indirect obligation of acquiring articles of consumption in stores of specified location.
- VI. Those that may permit the retention of wages with the idea of a fine.
- VII. Those that may constitute a renunciation made by the worker of the indemnification to which he has a right through labour accidents and occupational diseases, or damages occasioned by the non-fulfilment of the contract or by the cessation of the work.
- VIII. All other stipulations that may imply renunciation of any right designed to favour the worker in the laws of protection and assistance for labourers.

28. The laws shall determine the property that constitutes the family patrimony, property that shall be inalienable, that which cannot be subjected to real taxes or attachment and which shall be transmissible by deed of inheritance with simplification of the formalities of inheritance.

29. The passage of the law of social security shall be considered of public interest and it shall include insurance against disability, loss of life, involuntary stoppage of work, sickness and accidents, and other insurance for analogous purposes.

30. Furthermore, co-operative societies established for the construction of inexpensive and hygienic houses intended to be acquired on instalments as the property of working men, shall be considered of social utility.

31. The application of the labour laws belongs to the authorities of the States, in their respective jurisdictions, but it is the exclusive competence of the Federal authorities in matters relative to the textile, electric, cinematographic, rubber, and sugar industries, mining, hydrocarbons, railways, and enterprises that may have been administered in a direct or indirect form by the Federal Government, enterprises that operate by virtue of a federal contract or concession, and industries that may be related; enterprises that carry on work in Federal zones and territorial waters; conflicts that affect two or more federated entities, collective contracts that have been declared obligatory in more than one federated entity, and, finally, the obligation that, in educational matters, belong to the employers, in the form and manner fixed by the respective law.

TITLE VII

GENERAL CONSIDERATIONS

Art. 130. The Federal powers shall exercise the supervision required by law in affairs relating to religious denominations and external discipline. Other authorities shall act as auxiliaries of the Federation.

The Congress cannot enact laws establishing or prohibiting any religion.

Marriage is a civil contract. This and other acts of a civil nature concerning persons are within the exclusive competence of the civil officials and authorities, in the manner prescribed by law, and shall have the force and validity defined by said law.

The simple promise to tell the truth and to fulfil obligations that are contracted binds the one who promises, and in case of failure so to do, he will be subject to the penalties that the law establishes for this purpose.

The law does not recognize any personality in religious groups called churches.

Ministers of denominations shall be considered as persons who exercise a profession and shall be directly subject to the laws enacted on such matters.

Only the legislatures of the States shall have the power to determine the maximum number of ministers of denominations necessary to local needs.

To practise the ministry of any denomination in the United Mexican States, it is necessary to be a Mexican by birth.

Ministers of denominations may never, in a public or private meeting constituting an assembly, or in acts of worship or religious propaganda, criticize the fundamental laws of the country or the authorities of the Government, specifically or generally. They shall not have an active or a passive vote, or the right to form associations for political purposes.

Permission to dedicate new locations open to the public for religious purposes must be obtained from the office of the Secretary of Government, with previous consent of the government of the State. There must be a representative in every church building who is responsible to the authorities for compliance with the laws on religious discipline in said building, and for the objects pertaining to the worship.

The representative of each church building, in conjunction with ten additional residents of the neighbourhood, shall inform the municipal authorities immediately who is the person in charge of the church in question. When a minister leaves his pulpit, such change shall be reported by him in person, accompanied by the new incumbent and ten other residents of the neighbourhood. The municipal authority, under penalty of removal from office and a fine of up to 1,000 pesos for each violation, shall see to it that this provision is

complied with; under the same penalty, he shall keep one registry book for the church buildings and another for the representatives in charge. The municipal authority shall give notice to the office of the Secretary of Government, through the governor of the State, of every permit to open a new church building to the public, or of any changes of personnel of those in charge. Donations in the form of movable objects shall be held in the interior of church buildings.

No privilege shall be granted, or for any reason confirmed, or any other step assigned that has as its purpose to give validity in the official course of studies to studies made in establishments intended for the professional instruction of ministers of denominations. The authority who infringes this provision shall be criminally responsible, and the privilege or step referred to shall be null and shall cause in itself the nullification of the professional degree for the attainment of which the infraction of this provision may have been made.

Periodical publications of religious character, whether they be such because of their plan, their title, or simply because of their general tendencies, may not comment on national political matters or

publish information on acts of the authorities of the country or of private persons directly related to the functioning of public institutions.

The formation of all kinds of political groups the names of which have any word or indication whatever that they are related to any religious denomination is strictly prohibited. Meetings of a political character may not be held in places of worship.

A minister of any denomination may not himself or by means of a proxy inherit or receive any real estate occupied by any association for religious propaganda or for religious or philanthropic purposes. Ministers of denominations are legally incapacitated to be testamentary heirs of the ministers of the same denominations or of any private person who is not related to them within the fourth degree.

The acquisition by private parties of chattels or real estate owned by the clergy or by religious organizations shall be made in conformity with article 27 of this constitution.

Suits for violation of the above provisions shall never be heard before a jury.

HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN MEXICO'S LEGISLATION¹

As the fundamental principles underlying Mexican legislation with regard to human rights—the respect and promotion of which are included among the purposes of the United Nations—are incorporated in the Mexican Constitution itself, it seemed to me that it would be profitable to give, first of all, a brief account of the antecedents of that constitution, then to summarize its main provisions in this connexion, and in conclusion to refer to the other Mexican laws for the development and implementation of the constitutional provisions in question, particularly the *Amparo* law.

ANTECEDENTS OF THE CONSTITUTION OF 1917

Apart from sources of an historical rather than a political nature (the Iguala Plan of 24 February 1821, the Treaties of Córdoba of 24 August 1821 and the Act of Independence of 28 September 1821) and two legislative texts (the seven Constitutional Laws of 1836 and the Organic Bases of 12 June 1843), which by reason of their unlawful origin and short duration had no influence upon Mexican constitutional development, the three following Constitutions must be cited as forerunners of the Constitution now in force: the Constituent Act of the Mexican Federation, of 31 January 1824; the Federal Constitution of the United States of Mexico, of 4 October 1824 (which, after suppression by violence in 1836, was re-established by decree on 22 August 1846 and supplemented by an

act of amendment on 21 May 1847) and the Constitution of 5 February 1857.

This last may be considered as the instrument which had the greatest influence upon the present constitution from the point of view of human rights, since the other two constitutional texts referred to above contain little on this subject.

The Constitution of 1857 differs, however, from that of 1917 by reason of its definitely individualistic character. It was imbued with the nineteenth century spirit of liberalism, and in its excessive concern for the rights of the individual almost completely forgot the general interests of the community. The Constitution of 1917, on the other hand, aimed to re-establish the balance between the rights of the individual and those of society. From this point of view it is a constitutional text which may rightly be considered as a forerunner of the present advanced social tendencies in this field.

THE CONSTITUTION OF 1917

The present Mexican Constitution, which came into force on 1 May 1917, replacing that of 1857, devotes its entire first chapter (articles 1-29) to human rights and fundamental freedoms, as if to indicate the importance which it attaches to them. Articles 31, 32, 33, 103, 107, 123 (this last designed to establish the constitutional bases for equitable legislation with regard to employment and social security) and article 130 (which deals with the establishment of regulations concerning

¹ English translation from the French text by the United Nations Secretariat.

religious worship) also deal with various aspects of these same rights and liberties, and are all reproduced *in extenso* in the present volume.

THE SPECIAL LAWS AND "AMPARO" PROCEDURE

The constitutional provisions in question were developed and implemented by means of a series of organic laws and regulations (Labour Law, Press Law, *Amparo* Law, Electoral Law, etc.), the texts of which could not be reproduced in this volume in view of their length and the necessarily limited scope of the present compilation. I should not like, however, to conclude this study without adding a few words regarding the *amparo* procedure, which offers certain very distinctive features. It goes back to the Constitution of 1857, in which provision was made for it for the first time as a means of ensuring practical respect for human rights through the *amparo* (which means "protection").

The present text of the *amparo* law, which defines and amplifies the constitutional prescriptions of articles 103 and 107, was published in the *Official Journal* on 10 January 1936, replacing the law which had previously been in force under the name of "law implementing articles 103 and 104 of the Federal Constitution", dated 18 October 1919.

The *amparo* procedure is similar to that of *habeas corpus* in Anglo-Saxon countries, but has

a much broader field of application, since it protects the individual not only against unlawful arrest, but also against the violation of any human right. At the same time it constitutes a remedy against the encroachment upon the jurisdiction of the Federated States by the Federal authorities and vice versa.

This would not be the place to attempt a thorough study of the *amparo*. Anyone desiring further particulars would do well to consult the study published by Mr. Carlos Sanchez Mejorada under the title "The Writ of Amparo—Mexican Procedure to Protect Human Rights" in the *Annals of the American Academy of Political and Social Sciences*, of January 1946.

It may be noted in conclusion that most of the Federated States of the Mexican Republic also have some provisions with regard to human rights in their local constitutions, but that all the provisions in question merely reproduce in part those of the Federal Constitution by which they were inspired.¹

ALFONSO GARCIA ROBLES

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¹ *Editorial note.* These provisions will be reproduced in the next edition of the *Yearbook*.

MONACO

CONSTITUTIONAL ORGANIZATION OF THE PRINCIPALITY¹

of 5 January 1911

CHAPTER II PUBLIC RIGHTS

Art. 5. The Monegasques are equal before the law. There are no privileges among them.

The following shall be deemed to be Monegasque subjects:

1. Any person born of a Monegasque father, whether in the Principality or abroad.

A natural child whose parentage is established during his minority by recognition or judgment shall follow the nationality of that one of his parents whose parentage was first determined. Where such parentage is imputed to the father and to the mother in virtue of simultaneous decisions or judgments, the child shall follow the nationality of the father;

2. An alien woman marrying a Monegasque subject;
3. Any naturalized alien.

Naturalization shall be granted by sovereign order, after the morality and circumstances of the applicant have been investigated.

The following may be naturalized:

- (a) An alien who has reached the age of 21 and can give satisfactory evidence of having resided in the Principality for ten years;
- (b) An alien who has obtained from the Prince permission to establish his domicile in the Principality in accordance with article 18 of the Civil Code, after three years of domicile from the date of issuance of the order giving such permission.

The foregoing shall not affect rights acquired to date.

¹ French text in F. R. Dareste and P. Dareste, *Les Constitutions modernes*. Quatrième édition entièrement refondue par Joseph Delpech et Julien Laferrière, 6 vols., Paris 1928. Vol. II, pp. 189-200. English translation from the French text by the United Nations Secretariat.

Art. 6. The freedom of the individual is guaranteed. No person may be prosecuted except in the cases provided for and according to the procedure prescribed by law.

Except in cases of *flagrante delicto* no person may be arrested save under a warrant stating the reasons for arrest and issued by the court, which must be served on the person concerned at the time of arrest or not later than twenty-four hours thereafter.

Art. 7. No penalty may be introduced or inflicted except in pursuance of the law.

Art. 8. The sanctity of the home shall be inviolable; no search may be carried out in the home except in cases provided for and in accordance with the procedure prescribed by law.

Art. 9. Property shall be inviolable. No person may be deprived of his property except for reasons of public utility in the cases and according to the procedure prescribed by law and in consideration for just and prior compensation.

Art. 10. The freedom of religion and public worship and freedom to express an opinion on any subject are guaranteed provided that this shall not prejudice the punishment of offences committed in the exercise of such freedoms.

Art. 11. In no circumstances may any person be forced to observe the acts or ceremonies of a religion or to observe its days of rest.

Art. 12. Monegasques have the right to assemble peaceably and without arms without previous authorization, provided that they comply with the laws regulating the exercise of this right. This provision shall not apply to meetings in the open air, which shall continue to be subject to the police laws.

Art. 13. Any person shall be entitled to submit petitions signed by one or more persons to the public authorities.

Art. 14. A Supreme Court is established for deciding appeals involving infringements of the rights and liberties laid down in this chapter.

MONGOLIAN PEOPLES' REPUBLIC

It was not possible to obtain an authentic translation in one of the official languages of the United Nations of the articles referring to the Rights of Man of the Constitution of the Mongolian People's

Republic of 30 June 1940 in time for publication in this *Yearbook*.

These articles will be published next year.

NETHERLANDS

CONSTITUTION OF THE NETHERLANDS¹

of 30 November 1887

CHAPTER I

THE KINGDOM AND ITS INHABITANTS

Art. 4. All persons within the territory of the Kingdom shall have an equal right to protection of person and property.

The law shall regulate the admission and expulsion of foreigners and the general conditions under which treaties may be concluded with foreign powers regarding their extradition.

Art. 5. Every citizen of the Netherlands shall be admissible to any public employment.

No foreigner shall be admissible to such employment except in accordance with the provisions of the law.

Art. 7. No previous authorization shall be required in order that one may publish his thoughts or opinions through the press, except that every person shall be responsible according to law.

Art. 8. Every person shall have the right to present petitions, in writing, to the authorities.

Every petition must be signed by the petitioner. Signing in the name of others can be done only by virtue of a written power of attorney to accompany the petition.

Legally organized bodies may petition the authorities, but only upon matters pertaining to their particular sphere of activity.

Art. 9. The inhabitants have the right of assembly and of association.

The law regulates and restricts the exercise of these rights in the interests of public order.

CHAPTER V

Section 1. Justice

GENERAL PROVISIONS

Art. 158. No one shall be deprived of his property without a previous declaration by law that the public utility requires that it be taken, and without receiving a compensation previously paid or determined, both in accordance with the provisions of a general law.

This general law shall also determine the cases in which the previous declaration by law is not required.

The requirement that the compensation be paid or determined in advance shall not apply when war, danger of war, revolt, fire or inundation renders necessary the immediate taking of possession.

Art. 159. When the public interest requires that property be destroyed by the public authorities or rendered temporarily or permanently useless, this shall be done upon payment of a compensation, unless the law otherwise provides.

The use of property for the preparation and execution of military inundations, when rendered necessary by war or by danger of war, shall be regulated by law.

Art. 160. All controversies regarding property or the rights arising therefrom, regarding debts, and regarding other civil rights shall belong exclusively to the jurisdiction of the courts.

Art. 161. The law may entrust either to the regular courts or to a body invested with administrative jurisdiction the settlement of controversies not included among those mentioned in art. 160; the law shall regulate the procedure and the effects of the decision.

Art. 163. No one shall be removed against his will from the jurisdiction of the judge before whom he is entitled to be tried by law. . . .

Art. 164. Except in the cases provided by law, no one shall be taken into custody except upon a warrant from a judge, stating the reasons for the arrest. This warrant must be shown to the person against whom it is issued, either at the time of or as soon as possible after the arrest.

The law shall prescribe the form of this warrant and the period within which the persons arrested must be given a hearing.

Art. 165. The entering of a dwelling against the will of the occupant shall be allowed only in the cases determined by law and by virtue of a special or general warrant from an authority designated by law.

The law shall prescribe the formalities to be complied with in exercising this authority.

Art. 166. The secrecy of letters entrusted to the mail or to other public carriers is inviolable, except by order of a judge in the cases prescribed by law.

Art. 167. General confiscation of the property of the guilty person shall not be imposed as a penalty for any offence.

¹Walter Fairleigh Dodd, *Modern Constitutions*, Chicago, 1909. Vol. II, pp. 80-119. For the numbering of the articles see Richard C. Spencer and Pearl C. Spencer, *Topical Index to National Constitutions*, Philadelphia, 1942, pp. 7-9.

CHAPTER VI RELIGIOUS WORSHIP

Art. 174. Every person shall be absolutely free to profess his religious opinions, except that society and its members shall be protected against violations of the criminal law.

Art. 175. Equal protection shall be granted to all religious denominations in the Kingdom.

Art. 176. The adherents of the various religious denominations shall all enjoy the same civil and political rights and shall have an equal right to hold dignities, offices and employments.

Art. 177. All public religious worship inside buildings and enclosures shall be permitted, except that the necessary measures may be taken to preserve the public peace and order.

Under the same reservation, public religious worship shall be allowed outside buildings and enclosures, wherever it is now permitted according to the laws and regulations.

Art. 179. The King shall see that all religious denominations remain obedient to the laws of the State.

Art. 180. The Government shall not interfere in the correspondence with heads of the various churches, nor in the promulgation of ecclesiastical regulations, saving the responsibility in accordance with law.

CHAPTER VIII DEFENCE

Art. 195. For the maintenance of external or internal security any part of the territory of the Kingdom may be declared by or on behalf of the King to be in a state of war or of siege. The law shall determine the manner and the cases in which this may be done and shall regulate the effects of such a declaration.

In these regulations it may be provided that the constitutional powers of the civil officers to maintain public order and to enforce police regulations shall be wholly or partly transferred to the military authorities and that the civil officers shall be subordinate to the military authorities.

In this case arts. 7, 9, 165 and 166 of the Constitution may, in addition, be disregarded.

In the case of war paragraph I of art. 163 may also be disregarded.

CHAPTER X EDUCATION AND POOR RELIEF

Art. 200. Education shall be an object of constant care on the part of the Government.

The right to teach is free, subject to supervision by the authorities, and, in addition, as regards general education, whether primary or intermediate, to examination of the qualifications and moral character of the teaching staff; all these matters shall be regulated by law.

Public education shall be governed by law, provided that the religious beliefs of all shall be respected.

In every commune, public elementary education comprising adequate general instruction shall be provided by the authorities in a sufficient number of schools. Exceptions to this provision may be granted, provided that the law shall ensure that parents who wish to send their children to public schools shall be enabled to do so.

The standards of educational establishments, all or part of whose costs are defrayed by the public treasury, shall be prescribed by law, with due regard, in the case of private education, to freedom of direction.

In the case of general instruction, the said standards shall be such that the standards of private education, all or part of whose cost is defrayed by the public treasury, and the standards of public education, are equally guaranteed. The regulations shall in particular respect, in the case of private education, the right to select the means of instruction and to appoint teachers freely.

The cost of private institutions for general education which satisfy the statutory conditions shall be defrayed by the public treasury to the same extent as in the case of public education. The law shall lay down the conditions for the making of grants from the public treasury to private institutions for general education and to institutions for preparatory higher education.

The Crown shall cause a report on the state of education to be submitted to the States-General every year.

Art. 201. The relief of the poor shall be an object of constant care on the part of the Government, and shall be regulated by law.

The King shall cause a detailed report to be made annually to the States-General concerning the measures taken in this matter.

NEW ZEALAND

HUMAN RIGHTS IN NEW ZEALAND

The laws of England as existing on 14 January 1840, so far as the same are applicable to the circumstances of New Zealand, are deemed to have been in force in New Zealand on and after that day and shall continue to be therein applied in the administration of justice accordingly (the English Laws Act 1858, section 1, and the English Laws Act 1908 (Consolidating) section 2).

From this enactment it is clear that much of the law relating to fundamental human rights is to be found in the Statute law of England as it stood on 14 January 1840, the Statute law of New Zealand and the Common law.

English law and New Zealand law are unlike the codified legal constitutions of such countries as France, Belgium and the U.S.A., in that there are few actual declarations of right. The rights of the individual have grown up through the long-established principles applied in the courts of justice. English law (and, so, New Zealand law) recognizes the legislative sovereignty of Parliament. Those rights, which are subsequently referred to as fundamental rights of mankind, are subjected to the legal power of the General Assembly of New Zealand to make laws modifying or denying them in whole or in part. The relationship between the sovereignty of Parliament and the law as to the fundamental rights was expressed in *Herbert v. Allsop* (1941) New Zealand Law Reports, page 370 at page 374 as follows:

"It is true that the fundamental liberties of the subject are secured in the common law of England on the principle that the subject may say or do as he pleases, provided he does not transgress the substantive law, while, on the other hand, public authorities, including the Crown, may do only what they are authorized to do by some rule of law or statute: 6 Halsbury's Laws of England, 2nd Ed. 389. But the same law also recognizes that the Legislature is supreme and the Legislature can, and in an emergency does, modify and suspend what are sometimes called the fundamental rights of the individual. When the interpretation of legislation of this kind comes before the court, the function of the court is simply to inquire whether the Legislature has used adequate language to achieve its object. In determining this question, the court will give due weight to the paramount fact that the object of the legislation is the preservation of the State which confers

these fundamental rights." (Reference may also be made to *Billens v. Long* (1944) New Zealand Law Reports, page 710 to page 717.)

New Zealand law can be summarized under the following titles, which are commonly accepted as the fundamental rights of mankind:

1. Freedom of speech;
2. Freedom of assembly;
3. Freedom from arbitrary arrest;
4. The right to vote.

Freedom of Speech

At no time in England or New Zealand has there been any proclamation of the right of liberty of thought or of freedom of speech. "Our present law permits anyone to say, write and publish what he pleases; but if he makes a bad use of this liberty he must be punished. If he unjustly attacks an individual, the person defamed may sue for damages; if on the other hand the words be written or printed, or if treason or immorality be thereby inculcated, the offender may be tried for the misdemeanour either by information or indictment." (Odgers on *Libel and Slander*, sixth edition, page 12; quoted with approval by the late Professor Dicey, *Law of the Constitution*, ninth edition, page 240.)

Freedom of speech (and so *mutatis mutandis* of assembly) can be classified as a legal privilege, licence, or freedom, meaning that a person may say what he wishes provided he does not infringe the legal rights of others including the State; his privilege is general in its scope, limited only by contradictory rights in others.

A special limitation on this right to say or write what one pleases is found in the law relating to sedition. By the Crimes Act 1908, section 118, a seditious intention is an intention to bring into hatred or contempt or excite disaffection against the person of the King, Government or Constitution of the United Kingdom, the Imperial Houses of Parliament or the Government or Constitution of New Zealand, or the Parliament of New Zealand, or the administration of justice. It is also a seditious intention to incite His Majesty's subjects to attempt to procure otherwise than by lawful means the alteration of any matter affecting the Constitution, laws or Government of the United Kingdom or of New Zealand, or to raise discontent or disaffection amongst His Majesty's

subjects, or to promote feelings of ill-will and hostility between different classes of such subjects. The speaking of words which are seditious or publication of a written statement which is seditious or the agreement between two or more persons to carry into execution a seditious intention are all criminal offences punishable by imprisonment. No one is to be deemed to have a seditious intention only because he intends in good faith to show that His Majesty has been misled or mistaken or to point out errors or defects in the Constitution or to point out, in order to remove, matters producing hatred between different classes of His Majesty's subjects.

One aspect of freedom of speech is the liberty which is accorded to the press. It has been expressed by one English judge that a man may publish anything which twelve (that is, a jury) of his countrymen think is not blamable (Lord Kenyon in *Re. v. Cuthell*). Lord Shaw in *Arnold v. King Emperor* 1914-41 Law Reports, Indian Appeals Page 169, CXL Law Times Reports, page 324 at page 325 says, "The freedom of the journalist is an ordinary part of the freedom of the subject, and to whatever lengths the subject in general may go, so also may the journalist; but apart from statute law his privilege is no other and no higher. The responsibilities which attach to his power in the dissemination of printed matter may, and in the case of the conscientious journalist do, make him more careful, but the range of his assertions, his criticism or his comments is as wide as and no wider than that of any other subject. No privilege attaches to his position."

In New Zealand, newspapers must be registered. A newspaper is defined as any paper or pamphlet containing public news published for sale periodically at intervals not exceeding twenty-six days at a price of sixpence or less, but does not include governmental documents or documents wholly of a commercial nature. The registration cannot be refused if the formalities are satisfied and so long as registration is effected in accordance with the law anybody may establish and register a newspaper. Legislation is directed to facilitate legal proceedings, especially for libel, against the proprietors of a newspaper (Printers and Newspapers Registration Act 1908, section 9).

Freedom of Assembly

Just as it is impossible to say that English law recognizes as such the liberty of free speech, so too it cannot be said that our Constitution knows of such a thing as any specific right of assembly or public meeting. "The right of assembly is nothing more than a result of the view taken by the courts as to individual liberty of person and individual liberty of speech. There is no special law allowing A B and C to meet together either

in the open air or otherwise for a lawful purpose, but the right of A to go where he pleases so that he does not commit a trespass and to say what he likes to B so that his talk is not libellous or seditious, the right of B to do the like and the existence of the same rights of C D E F and so on, *ad infinitum*, lead to the consequence that A B C D and a thousand or ten thousand other persons may (as a general rule) meet together in any place where otherwise they each have a right to be for a lawful purpose and in lawful manner. . . . In other words, A B C and D and ten thousand such have a right to hold a public meeting." (Dicey, *The Law of the Constitution*, ninth edition, page 271.) Freedom of public meeting is affected by the Police Offences Act 1927, section 77, reading as follows:

"If any person resists or assaults or wilfully obstructs, or incites or encourages any person to resist, assault, or obstruct, any constable in the execution of his duty, or any person acting in aid of such constable, such person may be taken into custody without warrant by any constable, and on conviction shall be liable to a fine not exceeding twenty pounds or to imprisonment for any term not exceeding three months."

During the recent war, a case came before the New Zealand courts which illustrates the way in which the law is enforced. The case is that of *Burton v. Power* (1940) New Zealand Law Reports, page 305, which follows and applies *Duncan v. Jones* (1936) 1 Kings Bench 218. Burton was a member of an organization called the Pacifist Society, which on 29 March 1939, held a meeting on a public reserve in the city of Wellington. Burton persisted in addressing the meeting after he had been forbidden by Power, a police constable, to do so. He was convicted by the Magistrate in the Court of First Instance and on appeal to the Supreme Court, the Chief Justice, Sir Michael Myers, said: "The police are charged with the preservation of order and peace within the country, and it is their duty to carry out that charge with moderation, fairness and discretion, and within the law. So long as they do that they are entitled to and should receive the support of the courts and of every good citizen. If they carry out their duties unfairly and immoderately, the court would not hesitate to express its condemnation of their action and would see that no persons suffered by reason thereof. But, on the other hand, it is the duty of every citizen, especially in times when susceptibilities and passions are likely to be aroused, with the likelihood of resultant breaches of peace, to refrain from conduct calculated to produce that kind of disruption within the country." The Judge found as a fact that the police had a reasonable apprehension that if Burton continued to address the meeting breaches of the peace would occur. Burton was

not doing anything which was in itself illegal. The justification of the police in prohibiting Burton's continued speaking lay in the paramount necessity for preserving the peace. If the police entertained the reasonable belief that it was not possible to preserve the peace without stopping Burton from speaking, then it was the duty of the police to take such measures, and the court found belief that Burton's speech, lawful in itself, was as a fact that the police entertained the reasonable none the less likely to provoke a breach of the peace, and consequently held the constable justified in forbidding it. But as the Chief Justice says in the course of his remarks quoted, it is for the courts to see that the police do not act unfairly or immoderately. English and New Zealand law seem to recognize as the paramount rule of law the necessity for preserving the peace, and the duty of police officers to act in preservation of the peace. They must exercise their own discretion as to the need to act, provided that that discretion is not exercised in a manner which the courts consider unreasonable.

There are certain provisions of the Crimes Act 1908 dealing with unlawful assemblies. Section 101 defines an unlawful assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner, or so conduct themselves when assembled, as to cause persons in the neighbourhood of such assembly to fear on reasonable grounds that the persons so assembled will disturb the peace tumultuously or will by such assembly, needlessly, and without any reasonable occasion, provoke other persons to disturb the peace tumultuously. It is to be noted that persons who assemble lawfully may become an unlawful assembly, if with a common purpose, they conduct themselves in such a manner that their assembling would have been unlawful if they had assembled in that manner for that purpose.

Every member of an unlawful assembly is liable to imprisonment.

There is no special right known to English law of freedom of religion. From what has already been said regarding freedom of lawful assembly, it will be clear that so long as the purpose of the meeting is lawful and so long as a breach of the peace will not be created by the holding of the meeting, the purpose for which the meeting is called has no relevance. So long, therefore, as the laws of blasphemy, libel and sedition, are not transgressed and so long as a breach of the peace is not likely to be created, persons may meet together for any form of worship in New Zealand.

The Crimes Act 1908, section 150, makes it a criminal offence to publish any blasphemous libel. There is no definition in the Statute of what constitutes blasphemous libel, but it may be taken to mean scoffing or irreverent ridicule of the doctrines of the Christian faith, contumelious reproaches of Jesus Christ and profane scoffing at

Holy Scriptures. The Crimes Act declares that it is no offence to express in good faith and in decent language, or to establish by arguments used in good faith, and conveyed in decent language, any opinion whatever upon any religious subject, and finally it is provided that nobody shall be indicted for an offence under this section except with the leave in writing of the Attorney-General.

Freedom from Arbitrary Arrest

The twenty-ninth chapter of the Magna Charta 1297 is translated from the original Latin as, "No free man shall be taken or imprisoned or be dispossessed of his freehold or liberties or free customs or be outlawed or exiled or any other wise destroyed; nor will we not pass upon him, nor condemn him, but by lawful judgment of his peers or by the law of the land. We will sell to no man, we will not deny or defer to any man either justice or right." This statement of the King of England was confirmed in the Petition of Right in 1627. The right of freedom from arbitrary arrest is enforced in New Zealand today by the writ known as the writ of *habeas corpus*, which commands the gaoler or person in charge of a person who is alleged to be wrongfully detained, to produce the body of the person in the court, so that the court may there and then direct what in accordance with the law of the land shall be done with that person.

The Habeas Corpus Act 1640 is part of the law of New Zealand and requires that if any person is committed or restrained of his liberty or suffers imprisonment, the person himself, or his friends, shall have access to the court in public sitting to have tried and examined whether the cause of his commitment shall be just and legal or not. The court "shall thereupon do what to justice shall appertain either by freeing, bailing or remanding the prisoner".

"Whenever any Englishman or foreigner is alleged to be wrongfully deprived of liberty, the court will issue a writ to have the person aggrieved brought before the court and if he has a right to liberty set him free" (Dicey, *Law of the Constitution*, ninth edition, page 219).

The Right to Vote

In New Zealand there has been adult male suffrage since the Qualification of Electors Act 1879, and adult suffrage including females since the passage of the Electoral Act 1893.

Separate Maori representation in the Governing Assembly of New Zealand was provided by the Maori Representation Act 1867. The European and Maori populations now elect separately seventy-six European and four Maori representatives to the Legislative Assembly of New Zealand. In proportion to the total adult population this distribution is reasonable. Prior to the Electoral Amendment Act 1945, the distribution of the

seventy-six European seats in the Legislative Assembly had given rural communities greater representation in Parliament than the urban communities. Since the passage of that act the distribution of European seats has been based on adult population so that all electoral districts contain as nearly as possible an equal number of electors.

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NICARAGUA

POLITICAL CONSTITUTION OF NICARAGUA¹

of 22 March 1939

TITLE IV CONCERNING CONSTITUTIONAL GUARANTEES

Chapter I

CONCERNING NATIONAL GUARANTEES

Art. 34. The Constitution and the laws equally protect and obligate all the inhabitants of the Republic. Special laws may be enacted only when the nature of things so demands.

Art. 35. Authorities are instituted in order to guarantee all the inhabitants of Nicaragua in their lives and personal integrity, their good name and reputation, and in order to secure the right to property, and the fulfilment of the social duties of the State and of individuals.

Art. 36. Human life is inviolable in Nicaragua, but, while the penitentiary system is not established, the penalty of death may be applied in cases determined by law to traitors to the Fatherland in a foreign war, to criminals in cases of grave offences of a purely military character, to parricides, to incendiaries, to highwaymen, to pirates, and to assassins.

Art. 37. Only for reasons of public interest or service, and by virtue of a law, may taxes be levied and their payment exempted either in whole or in part.

Art. 38. There will be no personal privileges in the matter of taxes and other public charges.

Imposts and taxes will be established in proportion to the value of property or in the progression or form that the law fixes.

The tax system will tend toward direct levy.

Art. 39. Monopoly for private interest is prohibited, as well as all classes of commercial and industrial control of the market.

Only the law may establish monopolies of the State in the exclusive national interest.

Art. 40. Individuals are responsible before the authorities for violations of the Constitution and the laws. Public officials are responsible for the same causes, or for overstepping the limits of their functions, or for neglect in the exercise of the latter.

Art. 41. No person will be obliged to do that

which the law does not order, or be prevented from doing that which it does not prohibit.

Art. 42. In the case of violation of a constitutional precept to the detriment of any person, the superior of the official bringing it about may not exempt him from the responsibility incurred. Soldiers in service are excepted from this provision. The responsibility in respect to them will fall on the superior who gives the order.

Art. 43. No law may have a retroactive force or effect except in a penal matter in favour of the offender.

Art. 44. Only acts and transgressions declared punishable by laws prior to their commission may be punished.

Art. 45. No one may be refused access to a legal court, or his case be removed to a special jurisdiction without such prescription by a previous law.

Art. 46. The law may establish a trial by jury in criminal and civil cases.

Art. 47. No one may be deprived of the right of defence.

Art. 48. No public agency or official may transfer cases pending before a competent authority to other courts.

Art. 49. Closed trials or processes may in no case be reopened.

The offender in criminal cases may be allowed recourse to revision of closed cases when the penalty imposed may have been greater than merely correctional. The law will regulate the exercise of this right.

Art. 50. The State does not recognize the legal existence of political parties of international organization. Individuals belonging to such may not discharge any public function. Only parties recommending the union of Central America are excepted.

Art. 51. Every service must be remunerated except those that must be furnished gratuitously by virtue of the law or of a sentence founded on it.

Art. 52. The State may, for purposes of general interest, intervene in the exploitation and control of enterprises of public service.

Art. 53. The State may nationalize enterprises of public service, by previous indemnification and in conformity with the law.

¹ Spanish text in *Constitución política y leyes constitutivas de Nicaragua*. Segunda edición, Managua, D.N., 1946. English translation in *The Constitutions of the Americas* (cited above, p. 6).

Art. 54. No privileged class may exist.

Art. 55. Proscriptive laws, those that inflict opprobrious penalties, or those that last more than twenty-five years are prohibited.

Art. 56. The granting of academic and professional degrees belongs exclusively to the State, which will establish the proofs and requirements necessary to obtain them.

Art. 57. The acceptance of foreign professionals must be made on the basis of possible reciprocity. The law will regulate this provision.

Art. 58. The register of civil status is under the exclusive jurisdiction of the State.

Art. 59. Public cemeteries have a secular character. Ministers of any religious belief may practise their respective rites in them.

Art. 60. There will be no confiscation of property except from the nationals of an enemy country that confiscates property of Nicaraguans.

The right of recovery of property confiscated in contravention of this guarantee is imprescriptible.

In no case may property be sequestered or interfered with for reasons or offences of a political character.

Offending authorities will at all times answer to this with their persons and property to the extent of the damage inflicted.

Art. 61. All the artistic and historical wealth of the country, irrespective of who may be the owner, constitutes the cultural treasure of the nation, and enjoys the protection and special care of the State. The latter prohibits its exportation and alienation and may order legal expropriation for its defence and conservation.

Art. 62. The State recognizes freedom of contract, of commerce, and industry.

The law will designate the requirements to which their exercise is subject and the guarantees accorded them. The law may, when they concern public security or necessity, establish limitations or reservations regarding said exercise, or may authorize the Executive to establish them, seeing to it that such restrictions do not in any case have a personal character or a confiscatory one.

Chapter II

CONCERNING SOCIAL GUARANTEES

Art. 63. Property is inviolable. No one may be deprived of his possessions except by virtue of judicial sentence, general taxation, or because of public utility or social interest determined by law or by a sentence based on law, with proper prior indemnification.

In the event of national war, internal disturbance, or public calamity, competent authorities may use private property where the public welfare requires it, always respecting the right to later indemnification.

Art. 64. The State guarantees and protects intellectual property, the rights of the author, of the

inventor, and the artist. The law regulates their exercise and duration, and if it demands their expropriation, it will be by means of prior appraised indemnification.

Art. 65. Property, by virtue of its social function, imposes obligations. The amount of these, their nature and extent, are fixed by the law.

Art. 66. The right of property, as concerns its exercise, is subject to the limitations that the maintenance and progress of the social order impose. In harmony with this principle, the law may impose obligations or services of public utility on property in favour of the general interest of the State, of the health of the citizens, and of the public health.

Art. 67. Property, regardless of who may be its owner, is exclusively controlled by the laws of the Republic and is subject to the maintenance of public needs, in accordance with the Constitution and the laws.

Art. 68. Aliens may in no case demand exceptional treatment in respect to property.

Art. 69. The law may, for reasons of public or social interest, establish restrictions or prohibitions on the acquirement and transfer of specified kinds of property, by reason of its nature, condition, or location in the country.

Art. 70. The State will be inclined towards the proper division of uncultivated land, and will favour the establishment and diffusion of medium and small rural holdings.

Art. 71. The possession of any title of any kind may be varied or modified neither by law nor by act on the part of the Government, when made for purposes of social interest, in conformity with the law. The State will supervise the management and investment of such possessions.

Art. 72. Everyone may freely dispose of his property by any legal title whatsoever; but entailment of property is prohibited, as is endowment in favour of mortmain, excepting only those established in order to constitute a family patrimony or in favour of charitable institutions.

Art. 73. Houses of worship and annexes, dedicated exclusively to the practice of a religion, are exempt from taxation.

No edifice or object of worship used in the practice of a religion may be assigned by the State to any other use.

The churches, organizations, and religious institutions of any faith will have the same rights as the law grants and recognizes in cases of private individuals with regard to property.

Art. 74. The enactment of laws that protect or restrict specified faiths is prohibited.

Art. 75. No penalty may be passed on to any other person than the guilty party.

Art. 76. Prisons are established for security and social defence. The prevention of crime, the re-educational

cation of the convict, and his preparation for work outside will be undertaken in them. Every act of cruelty or torture against convicts is prohibited.

Art. 77. Matrimony, the family, and maternity are under the protection and defence of the State.

Art. 78. The State fosters the organization of the family on the legal basis of matrimony.

Art. 79. The State and the municipalities will safeguard the health and social betterment of the family.

Art. 80. Maternity has the right of assistance from the State.

Art. 81. The education of the offspring is the first duty and natural right of parents with respect to their children, in order that the latter may reach the best physical, intellectual, and social development.

Parents without economic resources to assist them have the right to apply for aid to the State for the education of their offspring.

Art. 82. The State will procure the grant of special subsidies for families with numerous children.

Art. 83. The law will procure for illegitimate children the same advantages for their physical, spiritual, and social development as for legitimate ones.

Art. 84. The civil laws will regulate the investigation of paternity.

Art. 85. The law will control the organization and regulation of family inheritance, on the basis that it shall be inalienable, not subject to seizure, and exempt from all public burdens.

Art. 86. Public education is the special interest of the State.

Art. 87. The system of instruction is under the technical inspection of the State.

Art. 88. Primary instruction is obligatory, and, when supported by the State and public bodies, it is free and secular.

Art. 89. The State promotes instruction in the secondary and superior grades.

Art. 90. The law will regulate professional education, determining the professions that require a previous licence for their practice, and the formalities for obtaining them.

Art. 91. The State promotes technical education for workers, and schools for agricultural and industrial education.

Art. 92. The moral education of youth will be fostered in all schools, as well as the development of civic sentiment and personal and professional honesty.

Art. 93. The profession of official education is a public career and enjoys the rights fixed by the law.

Art. 94. Usury is prohibited. The law which sets the maximum rate of interest for money is for the benefit of the public. The same law will determine the penalty to be applied to violators.

Art. 95. The State will organize and promote pawnshops and savings banks.

Art. 96. Work is a social duty. Every inhabitant of the Republic has the obligation of applying his physical and intellectual energies in a form that will redound to the benefit of the community. The State guarantees, within this concept, freedom of labour in order that each may freely dedicate himself to the profession, industry, or trade that he finds suitable, provided that it does not oppose public morality, health, and security.

Vagrancy is punishable.

Art. 97. The possibility of earning a living by means of productive work should be procured for all inhabitants, with preference to nationals.

Art. 98. Labour in its diverse forms, industry, and works of charity and social welfare are under the protection of the law.

Art. 99. Agricultural or industrial enterprises that are located outside the radius of urban schools and that embrace more than thirty children of school age will be obliged to maintain a school adequate for primary elementary teaching.

Art. 100. The law recognizes the following rights of workers and employees:

1. Independence of moral and civic conscience.
 2. An obligatory weekly day of rest.
 3. A maximum limit to the working day determined and regulated by law, in accordance with the nature of the same.
 4. A minimum wage based on the cost of living and the conditions and the needs of the different regions and capable of assuring the worker a state of well-being compatible with human dignity.
 5. The payment of all wages within the period fixed in the contract, in national legal money, on a working day, and at the place where the worker is engaged in that work, with the prohibition of payment by merchandise, vouchers, counters, or any other substitute for money.
 6. The payment of daily wages within periods no greater than a fortnight.
 7. Indemnification of accidents of labour in the cases and form determined by law.
 8. Regulation of the work of women and children.
 9. Medical and hygienic assistance to the worker and to the pregnant woman, assuring the latter, without loss of income, a period of rest before and after childbirth.
 10. Overtime for night work except in cases when it is effected periodically by shifts.
 11. Prohibition of attachment of minimum wages.
 12. A month of vacation with pay after a year of continuous work.
- Art. 101.* The following will be void in matters of labour and will not obligate the contracting parties:

1. All stipulations that restrict or change the guarantees and rights that the Constitution recognizes for the individual and for the citizen.

2. Those that involve a direct or indirect obligation to buy articles of consumption in specified shops or places.

3. Those that extend a contract for a period over two years, provided that such extension may injure the worker.

Art. 102. Tribunals of conciliation will be established for the solution in equitable form of the differences that may arise between employers and workers.

Art. 103. The law will foster hygienic and economical housing for the worker. It will also favour the construction of dwellings and districts that combine those conditions.

Art. 104. The State will procure the creation of a national institution of social insurance.

Art. 105. The law will regulate the form of establishing an insurance fund in favour of wage earners, through reasonable agreement of the beneficiary and the employer, to cover the risks of sickness, invalidity, old age, and unemployment.

Chapter III

CONCERNING INDIVIDUAL GUARANTEES

Art. 106. All Nicaraguans are equal before the law, except in regard to women on account of differences inherent in their nature or where the good of the family is concerned.

Art. 107. There will be no privileges by reason of birth, nobility, race, or social condition, or any distinction other than those of ability or virtue.

Art. 108. No other titles will be granted than those belonging to an office, profession, or university degree.

Art. 109. The State guarantees individual liberty. This may not be restricted unless in conformity with the law.

Art. 110. No one may be detained except by a written order from a public official expressly empowered by law.

In cases *in flagrante delicto*, the offender may be arrested by any private individual in order to turn him over to a competent authority or court.

Every order of detention that does not emanate from a competent authority, or that has not been issued with legal formalities, is punishable.

Art. 111. Every detained person must be set at liberty or delivered to a judicial authority within twenty-four hours following the act of detention, exclusive of the extra time it takes to cover the distance for such delivery, according to the case.

Art. 112. Court proceedings will be public. The counsel for the defence will have the right to be present at all summary judicial proceedings, including the declaration of the defendant.

Art. 113. No one will be obliged in a criminal,

correctional, or police case to declare against himself, his spouse, or his relatives within the fourth degree of consanguinity or the second of affinity.

Art. 114. No order of imprisonment may be issued without full proof that an act has been committed that calls for a greater penalty than a purely correctional one, and without at least grave presumption that the party to be imprisoned is guilty.

Art. 115. When the offence for which one is being tried does not call for imprisonment for more than two years, the judges may place the defendant at liberty by means of a bond, in accordance with the law.

Art. 116. Every detention for investigation shall cease to have effect, or shall be changed to imprisonment, within ten days after the person detained has been delivered to a competent court.

Art. 117. Every restriction of personal liberty for debts or purely civil obligations is prohibited, unless it be by judicial agreement or bond in the cases and for the period that the law prescribes.

Art. 118. The State guarantees the right of *habeas corpus*. Any person illegally detained or threatened with detention by virtue of an arbitrary order, or any other inhabitant of the Republic, acting for him, may invoke orally or by writing before a competent tribunal recourse to the writ of *habeas corpus* in order that the person apprehending shall, in such case, present the one detained and shall immediately explain and justify the legal cause for detention or threat of detention, conforming to what the tribunal decides in the matter.

Art. 119. Every person has the right to demand protection in order to make effective the guarantees that the Constitution and the constitutional laws establish, when they are unduly restrained in the enjoyment of those guarantees by laws, decrees, decisions, orders, commands, or acts on the part of any authority, official, or agents of the same.

Art. 120. All persons may travel freely within the national territory and choose therein their residence and domicile without being compelled to change it unless it be by virtue of an executed sentence. The right to emigrate and immigrate is recognized, under the limitations that the law establishes.

Art. 121. It is the province of the law to determine the rules and conditions for the expulsion of aliens from the national territory.

Art. 122. The State is not obliged to surrender any of its nationals, but if it refuses extradition it must try them for the offences committed.

Art. 123. The State guarantees the inviolability of the home. The habitation of all persons in Nicaraguan territory may be broken into by the authorities only in the following cases:

1. In the actual pursuit of an offender.

2. To remove a criminal surprised *in flagrante delicto*.

3. When the tenant requests it, when an offence is committed therein, or when a serious disturbance has been created therein that requires prompt remedy.

4. In case of fire, earthquake, flood, epidemic, or other analogous emergency.

5. For any visit or inspection of a statistical, sanitary, or hygienic character.

6. To release a person unlawfully held.

7. To remove, by virtue of a writ, objects sought, when there is sufficient proof of the existence of said objects therein.

8. In order to execute a judicial decision, mandate, or order legally issued.

9. To arrest a criminal whose detention or imprisonment has been ordered, provided that there is sufficient proof that he is concealed in the place to be entered.

The entrance shall not be effected in the four cases last mentioned except on written order issued by a competent authority.

When the domicile to be entered is not that of the criminal pursued, the authority or his agents will previously ask the permission of the tenant.

The entering of a domicile in the cases in which a written order by a competent authority is required shall not be made between the hours of seven at night and six in the morning without the consent of the head of the household.

Art. 124. The right to assemble peacefully, without previous permission and without arms, is guaranteed.

Art. 125. The right to assemble in the open air, and that of demonstration, will be regulated by police laws.

Art. 126. All persons have the right to form unions or associations, whatever may be the purpose that they pursue, provided that it is not an association declared illegal by the law, but it is incumbent on the State to authorize corporative, moral, cultural, or economic organizations.

Art. 127. All persons have the right to present written petitions or claims to the public agencies and to the authorities, and to have them decided and to be informed of the result.

This right may be exercised individually or collectively.

Art. 128. No one may be molested or persecuted for his opinions, but he will be subject to the sanction of the law if the opinions are contrary to public order, to the fundamental institutions of the State, to the republican and democratic form of government, to the established social order, or to morals and good habits, or if they may cause injury to a third party.

Art. 129. The State guarantees liberty of the press and of speech. All have the right of freely

expressing their ideas and opinions, orally, by writing, by printing, by cartoons, or by any other medium of diffusion, without prejudice to answering for offences and abuses committed in the exercise of this right, in the form and cases determined by the law; this responsibility concerns the author and editor or printer of the punishable publication or distribution thereof, to the extent of adequate satisfaction by indemnification to the person injured.

Art. 130. Previous censorship may not exist, but the law may establish exceptions to this principle in respect of cinematographic films, public theatrical presentations, or spectacles, in the protective interest of childhood, of youth, and of good habits. The law may also enact measures against immoral and pornographic literature and against war propaganda and violent means of subverting the political and social order.

Art. 131. The secrecy of epistolary, telegraphic, telephonic, or of any other kind of correspondence, as well as of private documents and papers, is inviolable. They may never be opened, examined, or intercepted except in conformity with the laws enacted for reasons of general interest, and by a previous order from a competent authority. Every examination of this material must be made in the presence of the recipient or possessor of the same, or, in his absence, before two witnesses, returning the correspondence, documents, or papers that have no relation to the matter under investigation.

Art. 132. Any correspondence, documents, and papers removed from post offices, or from any other place, in contravention of the law, will have no legal effect in court proceedings or out of court.

Art. 133. The State guarantees the liberty of higher education.

Art. 134. The sciences, letters, and arts, as well as their instruction, are free when they are not contrary to good habits and public order.

Art. 135. Liberty of conscience, the expression of all beliefs, and the practice of all religions that do not oppose morality, good habits, and the public order, are guaranteed. Practices of religion incompatible with the life and physical integrity of the human being are forbidden.

Acts contrary to morality or subversive to the public order, that are performed on the occasion or pretext of the exercise of a religion, are subject to the common law.

Art. 136. No one may be compelled to declare officially his religious beliefs unless it is for a statistical questionnaire ordered by the law.

Art. 137. The enumeration of rights, duties, and guarantees made by the Constitution does not exclude others that are inherent in the human personality or that are derived from the republican form of government.

TITLE VI
CONCERNING THE EXECUTIVE POWER

Chapter II

**CONCERNING THE DUTIES AND POWERS
OF THE EXECUTIVE**

Art. 221. When the Republic finds itself involved in an international war or in an internal civil war, or there exists the danger that one or the other may occur, or in case of epidemic, earthquake, or any other public calamity, or when for any other reason the defence, peace, and security of the nation or of its institutions or forms of government may require it, the President of the Republic, in Council of Ministers, may, by decree, restrict or suspend, in all or a part of the national territory, the exercise of the constitutional guarantees, with the exception in all cases of those relating to:

1. The inviolability of human life.
2. The prohibition against being tried by judges not recognized by the law.
3. The prohibition against inflicting infamous penalties, including those of whipping and of any kind of torture whatever.
4. The prohibition against retroactive or confiscatory laws; and
5. The levying of taxes.

In respect to taxes, the President, in Council of Ministers, may, by decree, levy taxes of a general character if an international or civil war has already started.

Such decree will state:

- (1) The reason for justifying its issue.
- (2) The designation of the guarantee or guarantees restricted or suspended; and

- (3) The territory affected by the suspension or restriction.

This decree will be repealed when the reasons for its existence are removed, and the Executive must without delay give an account of his actions to the Congress.

The restriction of guarantees will in no way affect the functioning of the public organs of the nation, and their members will always enjoy the prerogatives granted them by the law.

The President of the Republic and the Secretaries of State will be responsible when they declare a suspension or restriction of the constitutional order without the circumstance having occurred that will justify it; and they will be responsible, along with any other officials, for any abuse they may have committed in the exercise of the powers granted in this article.

In case of foreign war, the Executive, by the same decree in which the exercise of the constitutional guarantees is restricted or suspended, will call the Congress to meet within the following thirty days; and, in case he does not call it, the Congress may meet by its own right.

TITLE X

CONCERNING PUBLIC OFFICIALS

Art. 319. Public officials are personally responsible for violation of the Constitution, for lack of administrative honesty, and for any other offence or failure in the exercise of their functions, all in conformity with the law.

Art. 320. Public officials are personally responsible for the damage they may cause through negligence, omission, or abuse in the exercise of their offices.

NORWAY

CONSTITUTION OF 17 MAY 1814¹

A. FORM OF GOVERNMENT AND RELIGION

Art. 2. The Evangelical-Lutheran religion shall remain the public religion of the State. The inhabitants professing it shall be bound to bring up their children in the same. Jesuits shall not be tolerated.

B. GENERAL PROVISIONS

Art. 96. No one may be convicted except according to law, or be punished except according to judicial sentence. Examination by torture must not take place.

Art. 97. No law may be given retroactive effect.

Art. 98. To fees paid to officials of the Courts of Justice shall not be annexed taxes to the Exchequer.

Art. 99. No one may be arrested and committed to prison except in the cases determined by law and in the manner prescribed by the laws. For unjustifiable arrest and illegal detention the officer concerned shall be responsible to the person imprisoned.

The Government is not entitled to employ military force against the subjects of the State, except in accordance with the forms prescribed by law, unless any meeting should disturb the public peace and they do not immediately disperse after the articles of the Statute-book relating to riots have been read out aloud three times by the civil authority.

Art. 100. There shall be liberty of the press. No person may be punished for any writing, whatever its contents may be which he has caused to be printed and published, unless he wilfully and manifestly has either himself shown or incited others to disobedience to the laws, contempt of religion or morality or the constitutional powers, or resistance to their orders, or has advanced false and defamatory accusations against any other person. Every one shall be free to speak his mind

frankly on the administration of the State or on any other subject whatsoever.

Art. 101. New and permanent privileges implying restrictions on the freedom of trade and industry may not be granted to any one in future.

Art. 102. Domiciliary visits shall not be made except in criminal cases.

Art. 103. Asylum for the protection of debtors shall not be granted to such as hereafter become bankrupt.

Art. 104. Forfeiture of lands and goods shall be abolished.

Art. 105. If the welfare of the State shall demand that any person shall surrender his movable or immovable property for the public use, he shall receive full compensation from the Exchequer.

Art. 106. The purchase-money, as well as the revenues of the landed property constituting ecclesiastical benefices, shall be applied solely to the benefit of the clergy and to the promotion of education. The property of charitable institutions shall be applied solely to the benefit of their purpose.

Art. 107. The *Odels* and *Asaete*² rights shall not be abolished. The further conditions under which these rights shall continue for the greatest benefit of the State and the best advantage of the country population, shall be determined by the first or second *Storthing* following.

Art. 108. No earldoms, baronies, majorats or perpetuities may be created in future.

Art. 109. Every citizen of the State shall, as a general rule, for a certain time, be liable to military service, without regard to birth or fortune.

The application of this principle and the restrictions it may become subject to, shall be determined by law.

¹ The *Odelsrett* (right of allodial possession) is the ancient right to complete ownership of land in the country districts, including the right of redemption by the family if it has been sold.

The *Asaeterett* (right of succession to landed property) is the right of the eldest son to retain possession of the property at a moderate price.

¹ Ministry of Justice, *The Constitution of Norway*, Oslo, 1937.

PANAMA

THE POLITICAL CONSTITUTION OF THE REPUBLIC OF PANAMA¹

of 1 March 1946

TITLE III

INDIVIDUAL AND SOCIAL RIGHTS AND DUTIES

Chapter I

FUNDAMENTAL GUARANTEES

Art. 19. The authorities of the Republic are instituted in order to protect, in their life, honour, and property, nationals wherever they may be found and aliens who are under its jurisdiction; to assure the effectiveness of individual and social rights and duties, and to comply and cause compliance with the Constitution and the law.

Art. 20. Private individuals are responsible before the authorities only for violation of the Constitution or of the law. Public officials are responsible for that same reason and also for exceeding their functions or for omissions in the exercise of the latter.

Art. 21. All Panamanians and aliens are equal before the law.

There will be no personal privileges or exemptions or distinctions by reason of race, birth, social class, sex, religion, or political ideas; but the law may, for reasons of health, morality, public security, and national economy, subordinate aliens in general to special conditions or refuse the exercise of determined activities. The law or the authorities may, furthermore, as the case may be, take measures that affect exclusively the nationals of determined countries in case of war or in conformity with what is established by public treaties.

Political rights are reserved to nationals, except for what is provided in article 192.

Art. 22. No one may be deprived of his liberty except by virtue of a written order by a competent authority, issued in accordance with the legal formalities and for a reason previously defined in the law. The executors of said order are obliged to give a copy of it to the interested party, provided he requests it.

A delinquent surprised in *flagrante delicto* may be apprehended by any person and must be delivered up immediately to the authorities.

No one may be detained more than twenty-four hours without being placed under the orders of a competent authority. Members of the police who may violate this precept have as a penalty the

immediate loss of their office, without prejudice to the penalties that the law may establish for the purpose.

There is no imprisonment, detention, or arrest for purely civil debts or obligations.

Art. 23. The State may not be obliged to surrender its own nationals by any international extradition treaty.

Nor will extradition be granted for aliens who are pursued for political offences.

Art. 24. Every individual detained apart from the cases and the form that this Constitution and the law may prescribe will be placed at liberty on his petition or that of any other person. For this purpose the law will regulate the recourse of *habeas corpus* by means of a summary judicial proceeding and without consideration of the applicable penalty.

Art. 25. No one is obliged to testify in a criminal, correctional, or police matter against himself, his spouse, or his relatives within the fourth degree of consanguinity or the second of affinity.

Art. 26. The domicile is inviolable. No one may enter that of another without the consent of its proprietor unless on the written order of a competent authority or in order to succour the victims of crimes or disasters.

Labour, social welfare, and sanitation officials may, after previous announcement, perform domiciliary or inspection visits to working places for the purpose of seeing to the fulfilment of the social and public health laws.

Art. 27. Any person may travel freely through the national territory and change residence without other limitations than those imposed by travel, fiscal, health, and immigration laws and regulations.

Art. 28. Jails are places of security and regeneration. All severity that is not necessary for expressed purposes is prohibited in them.

Art. 29. Correspondence and other private documents are inviolable and may not be seized or examined except by provision of a competent authority and by means of legal formalities. In all cases discretion shall be observed about matters foreign to the object of the seizure or examination.

Inspection of papers shall always be performed in the presence of the interested party or of a member of his family or, in their absence, of two reputable neighbours of the same place.

¹ Spanish text in *Gaceta Oficial*, Panama, No. 9938, 4 March 1946. English translation from *The Constitutions of the Americas* (cited above, p. 6).

Art. 30. There is no penalty of death, expatriation, or confiscation of property.

Art. 31. Only acts declared punishable by a law prior to their perpetration and exactly applicable to the act imputed will be punished.

Art. 32. No one will be judged except by a competent authority and in conformity with the legal procedure, nor more than once for the same reason.

Art. 33. The following may inflict punishment without previous trial and in the cases and within the precise terms of the law:

1. Officials who exercise command jurisdiction, who may impose fines or arrest on anyone who harms them or is disrespectful in the acts by which the functions of his office are discharged or by reason of the discharging of the same.

2. Chiefs of police, who may impose the penalty of arrest on their subordinates in order to restrain insubordination or mutiny; and

3. Ship captains, who, being outside of port, have the power to restrain insubordination or mutiny or to maintain order on board, and to detain provisionally any actual or presumed offender.

Art. 34. In case of a manifest violation of a legal or constitutional precept to the detriment of any person, a superior order does not excuse from responsibility the agent who executes it. Individuals of the public force are excepted when they are in service, in which case the responsibility falls solely on the hierarchical superior who gives the order.

Art. 35. The profession of all religions is free, as well as the exercise of all faiths, without other limitation than respect for Christian morality and public order.

Art. 36. It is recognized that the Catholic religion is that of the majority of Panamanians. It will be taught in the public schools, but pupils will not be obligated to attend these classes or religious services if their parents or guardians so request. The law will provide the assistance that must be given to said religion for missions to the indigenous tribes and for other analogous purposes.

Art. 37. Religious associations have juridical capacity and order and administer their property within the limits indicated by the law, the same as other juridical persons.

Art. 38. Every person may freely express his thoughts, by word, in writing, or in any other medium, without subjection to previous censorship. But legal responsibilities exist when, by any of these media, an attack is made against the reputation or honour of persons or against social security or public order.

Art. 39. All inhabitants of the Republic have the right to assemble peacefully and without arms for lawful purposes. Manifestations or assemblies in open air are not subject to permission. Only

a previous announcement to the local administrative authorities, twenty-four hours in advance, is required to effect them.

The authorities may take police measures to prevent or suppress abuses in the exercise of this right, when the form in which it is exercised causes or may cause disturbance in traffic, commotion in public order, or violation of the rights of third parties.

Art. 40. It is permitted to form companies, associations, or foundations that are not contrary to morality or the legal order, which may obtain their recognition as juridical persons.

Art. 41. Every person is free to exercise any profession or occupation. Their exercise remains subject to the regulations that the law establishes relative to capacity, morality, security, and public health.

No tax or assessment will be established for the exercise of the liberal professions, trades, and arts.

Art. 42. Every person has the right to present respectful petitions and complaints to public officials, for reasons of social or private interest, and to obtain a prompt answer.

An official to whom a petition, question, or complaint is presented must decide it within a period of thirty days.

The law will indicate the penalties that apply to violations of this precept.

Art. 43. Ministers of religious faiths may not exercise public office, civil or military, with the exception of those that may be related to social welfare or public instruction.

Art. 44. Laws do not have retroactive effect, except those of public order or of social interest. In criminal matters a law favourable to the criminal always has preference and retroactivity, even though sentence may have been executed.

Art. 45. Private property acquired in accordance with the law by juridical or natural persons is guaranteed, and it may not be denied or injured by later laws.

Private property implies obligations for its proprietor by reason of the social function that it must fulfil.

Art. 46. There may be expropriation, for reasons of public utility or social interest defined by the law, by means of a judicial decree and previous indemnification.

Art. 47. When the application of a law enacted for reasons of public utility or social interest may result in conflict of the rights of private individuals with the need recognized by the law itself, the private interest must give way to the public or social interest.

Art. 48. No one is obliged to pay a tax or impost that is not legally established and the collection of which is not made in the form prescribed by the laws.

Art. 49. In case of war, grave disturbance of public order, or of urgent social interest, that demands rapid measures, the Executive may decree expropriation or occupation of private property and the indemnification need not be prior.

When restitution of the object seized may be feasible, the seizure will be only for the time in which the circumstances that caused it continue.

The State is always responsible for every expropriation thus carried out by the Executive and for the damage and injuries caused by the seizure, and will pay its value as quickly as the reason determining the expropriation or seizure may have ended.

Art. 50. Every author or inventor enjoys exclusive property in his work or invention during the time and in the form that the law establishes.

Art. 51. Every person against whom is issued or executed, by any public official, an order to act or not to act that violates the rights and guarantees that this Constitution consecrates, will have the right to petition, by himself or through any other person, that the order may be revoked. The law will determine the form of this summary procedure of appeal of the constitutional guarantees.

The recourse to which this article refers will always be within the competence of the judicial tribunals.

Art. 52. In case of foreign war or internal disturbance that threatens peace or public order, all the Republic or part of it may be declared in a state of siege, and the purposes of articles 22, 24, 26, 27, 29, 38, 39, and 45 may be temporarily suspended, wholly or partially.

Art. 53. The National Assembly, if it should be assembled, will decree the state of siege and the temporary suspension. If it should be in recess, it will be declared by means of a decree signed by the President, his Ministers, and the members of the permanent legislative committee, and in the same decree the National Assembly will be convoked in order that within a maximum period of five days it may assemble and decide if that may be the case. The cause having ceased, the Assembly, if it should be assembled, and, if it is not assembled, the Cabinet Council, with the approval of the permanent legislative committee, will lift the state of siege or the suspension.

Chapter II

THE FAMILY

Art. 54. The State protects matrimony, maternity, and the family, and guarantees the rights of the child up to his adolescence. The law will determine what relates to the civil status.

Art. 55. Matrimony is the legal foundation of the family, resting on the equality rights of the spouses, and it may be dissolved in accordance with the law.

Art. 56. A union in fact between persons legally incapacitated to contract matrimony, maintained

during ten consecutive years in conditions of singularity and stability, will have all the effects of civil matrimony.

For this purpose it will be sufficient that the interested parties conjointly request inscription in the civil registry of matrimony in fact. Matrimony may be verified, when this request has not been effected, for the purpose of the claim of the rights of any interested party, by means of the procedure that the judicial law determines. But the making of the inscription may be opposed or impugned after the section, by the Public Ministry in the interests of morality or the law, or by third parties who may allege rights susceptible of being affected by the inscription, if the declaration may be contrary to the reality of the facts.

Art. 57. Parental jurisdiction is the aggregate of duties and rights that parents have in relation to the children.

Parents are obliged to feed, care for, educate, and instruct their children and the latter to respect and care for their parents. The law will regulate the exercise of the parental jurisdiction in accordance with the social interest and the benefit of the children.

Art. 58. Parents have the same duties towards children born outside of wedlock as towards those born in it. All children are equal before the law and have the same hereditary rights in intestate succession.

Art. 59. The law will regulate the investigation of paternity. All qualification on the nature of the filiation is abolished. No declaration shall be made that establishes a difference in the births or in the civil status of the parents, in the acts of inscription of the former, or in any attestation, record of baptism, or certification referring to filiation.

The power is granted to the parent of a child born previous to the taking effect of this constitution to comply with what is provided in this article by means of the rectification of any act or attestation in which any classification may be established with respect to said child. The consent of the mother is not required for this. If the child is of majority age the latter must grant his consent.

In acts of simulation of paternity, anyone may object to this measure who is legally affected by the act.

The law will indicate the procedure.

Art. 60. The State will watch over the social and economic development of the family and will organize the family patrimony, determining the nature and amount of the property that must constitute it, on the basis that it is inalienable and unattachable.

Art. 61. The State will bring up and provide education to minors whose parents or guardians are economically incapacitated to do it or who lack relatives obliged to provide it for them.

Art. 62. Abandoned, physically or mentally deficient, wayward, or delinquent minors are subject to special legislation for supervision, rehabilitation, and protection.

Chapter III

LABOUR

Art. 63. Labour is a right and a duty of the individual. The State will employ the resources that are within its ability to provide employment to all who may lack it and to assure to every worker the economic conditions necessary to a decent existence.

Art. 64. A minimum salary or wage is guaranteed to every worker in the service of the State or of public or private enterprises or of private individuals.

Art. 65. The law will establish the manner of periodically adjusting the minimum salary or wage for the purpose of improving the standard of living of the worker and with attention to the peculiarities of each region and of each industrial, commercial, or agricultural activity.

It is obligatory that in work by contract or lump payment the minimum wage for a working day remain assured.

The minimum of every wage or salary is unattachable, except for obligations for food in the form that the law establishes. Working tools of labourers are also unattachable.

Art. 66. An equal salary or wage always belongs to equal work, under identical conditions, whoever may be the persons who perform it, without distinction of sex or nationality.

Art. 67. The right of organization of employees, employees, workers, and professional persons of all classes is recognized for the exclusive ends of their economic-social activity.

The Executive will have an unextendable period of thirty days for accepting or rejecting the inscription of a workers' or employers' union. The inscription will determine the juridical personality of the union. The law will regulate everything that concerns the recognition by the Executive of unions of employers, employees, workers, and professional persons.

The Executive may not dissolve a union except when it has departed from its exclusive purposes and is so declared by a competent tribunal by a final decree.

The management of these associations will be composed exclusively of Panamanians.

Art. 68. The right of strike and of lockout is recognized. The law will regulate its exercise and may subject it to special restrictions in the public services that it determines.

Art. 69. The maximum working day is of eight hours and the working week up to forty-eight hours. Maximum night work will not be greater

than seven hours. Extra hours will be remunerated with overtime.

The maximum working day may be reduced to six hours daily for those more than fourteen and less than eighteen years of age. Work by those less than fourteen and night work by those less than sixteen years of age is prohibited, save for the exceptions that the law establishes. The employment of minors up to twelve years of age in the status of domestic servants, and work in unhealthful occupations by minors and women in unhealthful occupations, is similarly prohibited.

In addition to a weekly rest, every worker will have the right to remunerated vacations.

Art. 70. Stipulations that imply renunciation, diminution, corruption, or relinquishment of any right recognized in favour of the worker are null and therefore do not oblige the contracting parties, even though they may be expressed in a labour contract or any other pact. The law will regulate everything relative to the labour contract.

Art. 71. Maternity in the working class is protected. The woman in a state of pregnancy may not be separated from her employment for this reason. During the six weeks that precede childbirth and the eight that follow it she shall enjoy an obligatory rest, remunerated in the same manner as her work, and she will retain her employment and all the rights belonging to her contract.

Art. 72. The law will regulate immigration, paying attention to the national economic system and to social needs.

Contracting for day labourers who may cut down the conditions of work or the living standards of the national worker is prohibited.

Art. 73. Every worker dismissed without just cause and without the formalities that the law establishes has the right to be indemnified by his employer. The law will indicate just causes for dismissal and the scale of indemnification, according to the length of service.

Art. 74. It is the duty of industrial enterprises, in the spheres of their specialization, to create schools for apprentices intended to promote labour education among the children of their operatives or associates. The law will regulate this matter.

Art. 75. A labour jurisdiction is established, to which shall be submitted all controversies that originate in the relations between capital and labour. The law will establish the standards belonging to said jurisdiction and the entities that put it into practice.

Art. 76. Relations between capital and labour are matters for the regular law, arranging them on a basis of social justice in such a manner that, without injuring any of the parties, the conditions necessary for a normal life are guaranteed to the workers, and to capital, a compensation equitable to its investment.

*Chapter IV***NATIONAL CULTURE**

Art. 77. The service of national education in its intellectual, moral, civic, and physical aspects is an essential duty of the State. National education will be inspired by democratic doctrine and ideals of national aggrandizement and human solidarity.

It is a function of the State to fix the bases of education, which will be organized in a form in which unity, articulation, and continuity exist in all its grades.

Every educational institution is of public and social utility.

Art. 78. Primary education is obligatory. Public pre-school, primary, and secondary education, in all its grades and types, will be gratuitous. The gratuity of pre-school and primary instruction implies the obligation for the State of providing for the pupil all the equipment that may be necessary for his learning. The gratuity of secondary instruction does not prevent the establishment of a matriculation fee.

Art. 79. Liberty of instruction is guaranteed. The State may nevertheless intervene in private teaching establishments to see that the national and social purposes of culture and the better intellectual, moral, civic, and physical development of those educated are complied with in them.

Art. 80. No educational institution may refuse to admit students by reason of the nature of the union of their ancestors or guardians or because of social, racial, or political differences.

The violation of this precept by private educational institutions will cause the loss of the official subvention if it had one, that of the power of having its degrees and certificates recognized by the State, if it possesses the power, and, if it should be guilty of contempt, the loss of the right to continue imparting instruction.

Art. 81. Instruction in the history of the Fatherland and in civic education will always be under the charge of national professors.

Instruction in foreign languages will not be imparted in private educational establishments without the permission of the Ministry of Education, granted for competent reasons of public interest.

Programmes of primary instruction in private schools will be the same as in public schools; but they may be granted permission for the establishment of additional courses in any language.

It is obligatory for private schools to include in their secondary programmes instruction in the history and geography of the Fatherland and in civic education.

Art. 82. Only the State may grant scholarships or financial aid to students who have won in competition or public contests or who may have obtained in their studies the qualifications that, in conformity with the law, make them deserving of the assistance of the State.

Under equality of excellence, preference shall be given to those participants whose economic means do not permit them to attend to the studies for which they may be presented in the competition.

Art. 83. The law will establish the necessary incentives for the publication of national didactic works and standards for their adoption as official texts.

Art. 84. Expenditures that are required for the sustaining of the service of education will have preference over any others whatever. The respective organic law will determine the proportion of the revenues that must be designated for that service.

Art. 85. Only the academic and professional degrees issued by the State or authorized by the latter in accordance with legal provisions may be recognized.

Art. 86. The official university of the Republic is autonomous. Juridical personality, its own patrimony, and the right of administering it are recognized. It has the power to organize its studies and to designate and separate its personnel in the form that the law determines. It will include in its activities the study of national problems and the diffusion of popular culture.

Art. 87. In order to make effective the economic autonomy of the university, the State will give it what is indispensable for its installation, functioning, and future development, as well as the patrimony that is spoken of in the preceding article and the means necessary for increasing it.

Art. 88. Freedom of teaching is recognized without other limitations than those that the university statute establishes for reasons of public order.

Art. 89. The State will promote the establishment of special technical, industrial, and professional, and stock-raising and commercial schools, adapting them to the specific needs of the nation. The law will establish, after the primary school, services of professional orientation that allow discovering the aptitudes and capacities of the students and guiding them towards their better individual and social utilization.

Art. 90. The State will develop popular culture by all possible means and will maintain a system of gratuitous complementary courses for adults, intended to prevent and eliminate illiteracy and to the practical preparation of the working classes.

Art. 91. The law will create a department of physical culture which will have the mission of diffusing said culture in teaching institutions and among the masses of the people.

*Chapter V***PUBLIC HEALTH AND SOCIAL WELFARE**

Art. 92. It is an essential function of the State to watch out for public health. The individual has the right to protection, preservation, and restitu-

tion of his health, and the obligation of preserving it.

In consequence, the State will develop principally activities that are detailed in continuation:

1. To combat transmissible diseases by means of individual treatment and improvement of the environment.

2. To protect maternity and reduce infant mortality by means of medical assistance and adequate nutrition.

3. To supplement the feeding of needy students and to supply schoolchildren with a service of medical supervision.

4. To establish hospitals, dental clinics, and dispensaries, in accordance with the needs of each region, in which services are given and free medicines supplied to those who lack pecuniary resources; and

5. To popularize systematically the principles of scientific nutrition, personal hygiene, and home sanitation.

The National Assembly will enact a sanitary code.

Art. 93. Every individual has the right to the security of his economic means of subsistence in case of incapacity for working or obtaining remunerated work. Services of social insurance will be given and administered by autonomous entities and will cover cases of illness, maternity, family subsidies, old age, widowhood, orphanage, forced suspension of work, labour accidents, and occupational illnesses, and all other contingencies that may affect the capacity to work and consume. The law will provide for the establishment of such services in the measure that social necessities may require it.

The State will create institutions of social assistance and welfare. The economic and moral rehabilitation of dependent sectors, and attention to the mentally incapacitated, the chronic infirm, and invalids lacking economic resources are fundamental tasks of these.

The State will promote, furthermore, the establishment of cheap dwellings for workers.

Chapter VI

PEASANT AND INDIGENOUS COMMUNITIES

Art. 94. The State will give special protection to peasant and indigenous communities for the purpose of integrating them in an effective manner in the national community with regard to their standards of living, economic, political, and intellectual. Action relative to indigenous commu-

nities will be effected to conserve and develop at the same time the values of the autochthonous culture.

Art. 95. To comply with the ends of the economic integration of said communities, the State will perform methodically the following activities:

1. To give freely to peasants and Indians the necessary working lands, issuing to them the appropriate title of ownership. Lands close to centres of population and to the principal roads and roads of penetration will be preferred. When unoccupied national lands of these qualifications are lacking, uncultivated and idle private lands will be expropriated. These expropriations may be carried into effect only when they deal with uncultivated plots that exceed a hundred hectares or that, being of less extent, belong to persons that do not devote them exclusively to agriculture or stock-raising as a means of subsistence.

2. To reserve lands for indigenous communities and to prohibit their adjudgment under any title.

The existence of indigenous reservations already established is recognized.

3. To create by all adequate means services of agrarian credit or of technical institutions that carry to the peasants and Indians the necessary knowledge and resources for establishing among them scientific systems of cultivation.

4. To take measures to assure stable markets and equitable prices for their products and to prompt the establishment of co-operatives for production, distribution, and consumption.

5. To establish means of communication and transportation to unite the peasant and indigenous communities with centres of distribution and consumption.

6. To promote and stimulate the development of agriculture, rural industry, and regional arts by means of prizes or other similar incentives, in the form that the law determines.

Art. 96. In addition to the general ends of national culture, schools for peasants and Indians must satisfy the following:

1. To create a consciousness of the duties, rights, dignity, and possibilities of the Panamanian citizen.

2. To awaken interest in country life by means of objective instruction in the material elements indispensable for a secure, healthful, and decent rural life; and

3. To carry to peasant and indigenous homes the action of agencies of education and assistance that tend to elevate their moral, cultural, and social level.

PARAGUAY

CONSTITUTION OF THE REPUBLIC OF PARAGUAY¹

of 10 July 1940

GENERAL DECLARATIONS

Art. 3. The religion of the State is the Roman Catholic Apostolic, but other faiths, which may not be opposed to morality and the public order, are tolerated. The head of the Paraguayan Church and the bishops must be native-born citizens.

Art. 6. The principles, guarantees, obligations, and rights, proclaimed by this constitution, may not be altered by the laws that may regulate its exercise. Any law, decree, or regulation that may be in violation of the provisions of this constitution is null and without effect.

Art. 7. Equality is the basis of public taxation. The Government provides for the expenses of the State by the proceeds of the imposts, contributions, and assessments created by law, the sale or leasing of public lands, the exploitation of mines, the utilities arising from public services and monopolies under the charge of the State, and loans and other credit operations.

Art. 10. Primary education is obligatory and free. The Government shall develop secondary, professional, and university instruction.

Art. 11. Care for the health of the population, and social assistance, as well as the moral, spiritual, and physical education of youth, are fundamental duties of the State.

Art. 14. The exploitation of man by man is outlawed. In order to assure to every worker a standard of living compatible with human dignity, the system of contracts of labour and social insurance, and the conditions of safety and hygiene of buildings shall be under the watchful and critical supervision of the State.

Art. 15. The State shall regulate the national economic life. It alone has the power of coinage or emission of money, of establishing systems of weights and measures, and of controlling patents. Combinations that may tend towards a monopoly of articles of consumption or the artificial raising or lowering of prices, or obstructing free competition, shall not be permitted. The manufacture of and traffic in articles injurious to health and good habits is prohibited. The law shall establish the penalties for acts that violate these principles.

The State may, with indemnification, nationalize the public services, and may monopolize the production, circulation, and sale of articles of primary necessity.

Art. 16. The Chamber of Representatives may not grant extraordinary powers to the Executive outside the prescriptions of this constitution, nor may it grant him powers by which the life, honour, and property of Paraguayans may be left to the mercy of the Government or any person.

Art. 17. All superior authorities, officials, and public employees are individually responsible for the offences and crimes that they may commit in the exercise of their functions, without prejudice to the indirect responsibility of the State, which may be exercised by the law. In no case may they exercise functions foreign to their jurisdiction, and their acts must always be in conformity with the law. Any strike of public officials or any collective abandonment of their duties is prohibited.

RIGHTS, OBLIGATIONS, AND GUARANTEES

Art. 19. All the inhabitants of the Republic enjoy the following rights, in conformity with the laws that may regulate their exercise: to choose an occupation; to work and to practise any legitimate trade or industry, except for the limitations that, for social and economic reasons of national interest, the law may impose; to assemble peaceably; to petition the authorities; to publish their ideas by the press without prior censorship, provided they refer to matters of general interest; to dispose of their property; to associate with one another for legitimate purposes; to profess their faith freely; to learn and to instruct.

Art. 20. The law shall determine which are the professions that need diplomas for their practice, the conditions that must be fulfilled in order to obtain said diplomas, and the authority that shall confer them. The regulation and inspection of instruction is a charge of the State.

Art. 21. The Constitution guarantees private property, the content and limits of which shall be fixed by law, with reference to its social function. No one may be deprived of his property except by virtue of a decision based on law. Property in any kind of goods may legally be transferred by means of expropriation for reasons of social utility defined by the law, which shall likewise determine

¹ Spanish text in Andrés María Lazcano y Mazón *Constituciones políticas de América*. La Habana, 1942, vol. II, pp. 309-330. English translation in *The Constitutions of the Americas* (cited above, p. 6).

the form of the indemnification. The law may fix the maximum extent of lands of which one single individual or legally constituted corporation may be owner, and the excess must be sold at public auction or be expropriated by the State for distribution.

Art. 22. All inhabitants of the Republic are obliged to earn their living by legitimate work. Every Paraguayan home should be located on a place of owned land.

Art. 23. The civil rights of women shall be regulated by law, taking heed of the unity of the family, the equality of woman and man, and the diversity of their respective functions in society.

Art. 24. No personal service is mandatory except by virtue of law. Every author or inventor is the owner of his own work, invention, or discovery for the term that the law may decide.

Art. 25. In no case may the death penalty be applied for political reasons, or the penalty of confiscation of property.

Art. 26. No law may have retroactive effect. No inhabitant may be punished except by a prior judgment founded upon some law prior to the violation under prosecution, nor may he be judged by special tribunals. No one may be obliged to testify against himself, nor be arrested except by virtue of a written order by a competent authority, or be detained more than twenty-four hours without being informed of the reason for his detention, or be detained except in his own house or in public places intended for that purpose. The recourse of *habeas corpus* is guaranteed to all inhabitants. The law considers anyone innocent who may not have been declared guilty, or legally suspected of so being by decree of a competent judge. Guilt or dishonour that persons may incur does not affect their relatives.

Art. 27. The defence of the person or rights by trial is inviolable. The domicile, written correspondence, and private papers are also inviolable. The law shall determine in what cases the inviolability of domicile and correspondence may be suspended.

Art. 28. Jails must be sanitary and clean. Punishment by any form of torture, including whipping, is prohibited.

Art. 29. Excessive bond shall not be required, nor shall disproportionate fines be imposed.

Art. 30. Private acts that do not in any way disturb order, violate public morality, or injure third parties are exempt from the authority of the

magistrates. No inhabitant shall be obliged to do anything the law does not command him to do, nor shall he be deprived of what the law does not prohibit. The law may authorize the Executive, or specified administrative authorities, to enact general police regulations and to impose appropriate sanctions within the subjects and limits prescribed by the law itself.

Art. 31. The issuing and publication of books, pamphlets, and periodicals shall be regulated by law. Anonymous publication is not permitted.

Art. 32. The State shall oversee and regulate the organization, the functioning, and the activities of groups or bodies of a public character.

Art. 33. The Paraguayan nation does not admit prerogatives of blood or of birth; there are no personal privileges or titles of nobility. All the inhabitants of the Republic are equal before the law. Nationals are admissible to any employment with no other condition than that of fitness, and aliens are subject to the limitations that the laws may establish. There are no slaves in the Republic of Paraguay.

Art. 34. No person may take justice into his own hands, or employ violence to reclaim his rights. The people do not deliberate or govern except by means of their representatives and the authorities created by this constitution. Any armed force or assemblage of persons that assumes the rights of the people, and petitions in the name of the latter, commits the crime of sedition.

Art. 35. The liberties that this constitution guarantees are all of a social character. Exigencies of the public order may limit them in their exercise in the manner and form that the laws may establish. To preach hatred or class conflict among the Paraguayans is not permitted.

Art. 36. Aliens enjoy the civil rights of the citizens within the territory of the Republic, in accordance with the laws regulating their exercise; they may practise their industry, trade, or profession; they may own land, bequeath property, and marry. If they shall make attempts against the security of the Republic or disturb public order, the Government may effect their expulsion from the country, in conformity with the regulatory laws. Aliens shall not be obliged to assume citizenship.

Art. 37. One who joins its enemies, taking up arms or helping them, or who makes attempts of any kind against the independence and security of the Republic of Paraguay, commits treason against the Fatherland.

PERU

POLITICAL CONSTITUTION OF THE REPUBLIC OF PERU¹

of 9 April 1933

TITLE II

CONSTITUTIONAL GUARANTEES

Chapter I

NATIONAL AND SOCIAL GUARANTEES

Art. 8. The law may create, alter, or suppress taxes, and exempt their payment in whole or in part for public services only.

There are no personal privileges in the matter of taxes.

Art. 16. Monopolies and combines in restraint of trade and industry are prohibited. The law shall fix the penalties to be imposed upon offenders. The law alone may establish State monopolies and privileges in the exclusive national interest.

Art. 17. Mercantile companies, national or foreign, are subject without restrictions to the laws of the Republic. In any contract between the State and aliens, or in the concessions that the former may grant in favour of aliens, the express submission of the latter to the laws and tribunals of the Republic and their renunciation of all diplomatic claims must be made clear.

Art. 19. Acts of those who usurp public functions and positions without the requisites prescribed by the Constitution and the laws are null.

Art. 20. Those who discharge public office are directly and immediately responsible for the acts practised in the exercise of their functions. The manner of making this responsibility effective shall be determined by the law. The Fiscal Ministry is obliged to see to the fulfilment of the provisions of this article.

Art. 21. No one may exercise the public functions designated in this constitution if he has not sworn to comply with it.

Art. 22. Every official or public employee, civil or military, who has property or income independent of his status as such, is obliged to declare them expressly and specifically, in the manner determined by law.

Art. 23. The Constitution and the laws protect and obligate all the inhabitants of the Republic equally. Special laws may be enacted because the nature of things may require it, but not because of any difference between persons.

Art. 24. No one is obliged to do that which the law does not require, or may be impeded from doing what it does not prohibit.

Art. 25. No law has retroactive force or effect.

Art. 26. Claims regarding infractions of the Constitution may be brought before the Congress.

Art. 27. The State recognizes liberty of association and of contract. The conditions for its exercise are regulated by the law.

Art. 28. The maximum interest for the lending of money shall be established by law. Any pact in opposition to this is null. Those who violate this order shall be punished.

Art. 29. Property is inviolable, whether material, intellectual, literary, or artistic. No one may be deprived of his property except by reason of legally established public utility and after justly appraised prior indemnification.

Art. 30. The State guarantees and protects the rights of authors and inventors. Their exercise shall be regulated by law.

Art. 31. Property, whoever may be the owner, is governed exclusively by the laws of the Republic and is subject to the taxes, charges, and limitations established in the laws themselves.

Art. 32. The same provision regarding property applies to aliens as well as to Peruvians, except that in no case may said aliens make use of their exceptional position or resort to diplomatic appeals.

Art. 33. Public properties used by everyone, such as rivers, lakes, and public roads, are not subject to private ownership.

Art. 34. Property must be used in harmony with the social interest. The limits and nature of the right of property shall be fixed by law.

Art. 35. The law may, for reasons of national interest, establish special restrictions and prohibitions for the acquisition and transference of specified kinds of property, on account of the nature, condition, or location of such property in the country.

Art. 36. Aliens may not, within fifty kilometres of the frontiers, acquire or possess, by any title, lands, waters, mines, or combustibles, directly or indirectly, and individually or corporatively, under penalty of losing the acquired property, to the benefit of the State, except in a case of national necessity declared by an express law.

¹Spanish text in *La Constitución del Peru*, Lima (no date). English translation in *The Constitutions of the Americas* (cited above, p. 6).

Art. 37. Mines, lands, forests, waters, and, in general, all natural sources of wealth belong to the State, except for rights legally acquired. The conditions of their utilization by the State, or their concession, in ownership or usufruct, to private parties, shall be fixed by law.

Art. 38. The State, may, by means of a law, take under its charges or nationalize land, maritime, river, lake and aerial transportation, or other public services of private ownership, with prior indemnification and in conformity with the existing laws.

Art. 39. Tariffs on passage and freight shall be fixed and shall be collected only in national money, with no exception.

Art. 40. The State recognizes the freedom of commerce and industry. The law shall indicate the requisites to which the exercise of such freedom is subject and the guarantees granted it. When public security or necessity require it, the law may establish limitations or reservations in said exercise, or may authorize the Executive to establish them, but in no case may such restrictions have a personal or confiscatory character.

Art. 41. The State shall receive part of the proceeds of mining enterprises, in the amount and proportion that shall be determined for alienating them under the conditions fixed by law.

Art. 42. The State guarantees freedom of labour. Any profession, industry, or business that may not be opposed to morality, health, or public security, may be practised freely.

Art. 43. The State shall legislate upon the collective bargaining of labour.

Art. 44. Any stipulation in a labour contract that may restrict the exercise of civil, political, and social rights is prohibited.

Art. 45. The State shall favour a system of participation by employees and workers in the benefits of enterprises, and shall legislate upon other aspects of the relations between capital and labour, and upon the protection of employees and workers in general.

Art. 46. The State shall legislate upon the general organization and the safeguards of industrial labour and upon the guarantees for life, health, and hygiene as related to it. The maximum conditions of labour, the compensation for services and for accidents, as well as for minimum salaries in relation to age, sex, the nature of the work, and the conditions and necessities of the various regions of the country, shall be regulated by law.

Art. 47. The State shall favour the preservation and growth of moderate and small rural ownership; it may, by means of a law, and prior indemnification, expropriate lands of private ownership, especially those not being exploited, in

order to subdivide them or transfer them under conditions that may be regulated by law.

Art. 48. A system providing for the economic consequences of unemployment, age, illness, disability, and death shall be established by law. The law shall encourage institutions of social solidarity, establishments for savings and insurance, and co-operatives.

Art. 49. In extraordinary circumstances of social necessity, laws may be enacted or authorized by the Executive for adopting provisions tending to lower the cost of living.

In none of these cases may property be expropriated without just indemnification.

Art. 50. The State has in its charge public health, and it cares for individual health, enacting the laws for hygiene and sanitary control that may be necessary, as well as those that favour the physical, moral, and social improvement of the population.

Art. 51. Marriage, the family, and maternity are under the protection of the law.

Art. 52. The protection of the physical, mental, and moral health of infancy is a primary duty of the State. The State protects the right of the child to home life, education, vocational orientation, and ample assistance when in a situation of neglect, illness, or misfortune. The State shall commit the fulfilment of the provisions of this article to adequate technical organizations.

Art. 53. The State does not recognize the legal existence of political parties of international organization. Those who may belong to such political parties may not discharge any political function.

Art. 54. The penalty of death may be imposed for the crimes of treason to the Fatherland and qualified homicide, and for all crimes that may be determined by the law.

Chapter II

INDIVIDUAL GUARANTEES

Art. 55. No one may be obliged to give personal labour without his free consent and without just recompense.

Art. 56. No one may be detained save by written order authorized by a competent judge or by the authorities charged with preserving public order, except in case of crimes *in flagrante delicto*, with the stipulation in every case that the detained person be placed, within twenty-four hours, or within the limits of the distance, at the disposal of the corresponding court, which shall either order his release or order a prison sentence for the period that the law stipulates.

Art. 57. No one may be condemned for an act or an omission which at the time of being committed was not qualified in the law in an express and unequivocal manner as a punishable violation, or be judged except by tribunals established by the laws. Any declaration obtained by violence is without value.

The penalty of confiscation of property may not be imposed.

Art. 58. There is no detention for debts.

Art. 59. Freedom of conscience and of belief is inviolable. No one may be persecuted by reason of his ideas.

Art. 60. The right of petition may be exercised individually or collectively. It may not be exercised by the armed force.

Art. 61. The domicile is inviolable. It may not be entered unless a written order authorized by a judge or a competent authority has previously been shown.

Art. 62. Everyone has the right to assemble peacefully without arms and without compromising the public order. The exercise of the right of assembly shall be regulated by law.

Art. 63. The State guarantees freedom of the press. Everyone has the right freely to express his ideas and his opinions by means of printing or by any other method of diffusion under the responsibility established by the law. Responsibility for libellous publication shall pertain to the author and the editor, who shall collectively be responsible for the indemnification due the injured person.

Art. 64. The ordinary tribunals shall have jurisdiction over crimes of the press.

Art. 65. Public spectacles are subject to censorship.

Art. 66. Correspondence is inviolable. Letters and private papers may not be seized, intercepted, or recorded, except by judicial authority in the cases and in the form established by law.

Letters and private papers that have been violated or removed have no legal effect.

Art. 67. The right of entering, travelling in, and leaving the territory of the Republic is free, with the limitations that may be established by the penal, sanitary, and alienage laws.

Art. 68. No one may be exiled from the territory of the Republic, or removed from the place of his residence, except by an executed sentence or by application of the law of alienage.

Art. 69. All the individual and social rights recognized by the Constitution are open to the action of *habeas corpus*.

Art. 70. When the security of the State may require it, the Executive may suspend, completely or partially, in all or in a part of the national territory, the guarantees stated in articles 56, 61,

62, 67, and 68. If the suspension of guarantees is decreed during the session of the Congress, the Executive shall give to the Congress an immediate account of it.

The terms of suspension of guarantees shall not exceed thirty days. An extension requires a new decree.

The law shall determine the powers of the Executive during the suspension of guarantees.

TITLE III EDUCATION

Art. 71. The technical direction of education belongs to the State.

Art. 72. Primary instruction is obligatory and gratuitous.

Art. 73. There shall be at least one school in each locality in which the school population is thirty pupils.

Complete primary instruction shall be apportioned in each capital of a province and of a district.

Art. 74. Schools that may function in industrial, agricultural, or mining centres, shall be supported by the respective proprietors or enterprises.

Art. 75. The State encourages instruction in the secondary and higher grades tending to making it gratuitous.

Art. 76. There shall be at least one school of industrial orientation in each department.

Art. 77. The State encourages the technical instruction of workers.

Art. 78. The State encourages and contributes to the support of pre-school and post-school education and of schools for retarded or abnormal children.

Art. 79. Moral and civic education of children is obligatory and shall necessarily be inspired by the national growth and human solidarity.

Art. 80. The State guarantees academic freedom.

Art. 81. Professorship is a public career and gives the right to the privileges that may be fixed by the law.

Art. 82. Archeological, artistic, and historical treasures are under the safeguard of the State.

Art. 83. The minimum amount of the income intended for the support and diffusion of instruction, and the proportion by which it must annually be increased, shall be stipulated by the law.

TITLE XIV RELIGION

Art. 232. The State protects the Roman Catholic Apostolic religion in deference to the belief of the majority of the citizens. The other religions enjoy freedom of worship.

LAW ON THE PRESS¹

of 30 November 1945, as amended 14 December 1945

Art. 1. Every person has the right freely to express his ideas and opinions by means of the press, subject to the responsibility established by law.²

Art. 2. Every publication shall bear the printer's mark and the name of the editor-in-chief. The responsible political authority shall be informed of the title and character of the publication, the names of the publisher and director and their place of residence, the address of the press where it is published and the exact working capital.

Art. 3. Journalistic enterprises established in limited liability companies may issue registered shares only during the period of sixty days following the promulgation of this law.

Art. 4. In addition to the declaration required by article 2, journalistic enterprises must furnish full information regarding the composition of their capital, the name or names of their proprietors with the shareholding of each and a list of mort-

gage or collateral security holders, if any, specifying the amount of each item, with legal proof in addition.

Art. 5. Undertakings referred to in articles 3 and 4 are obliged to publish in their own organs, in May each year, a list of their shareholders, showing the number of shares held by each and their nominal value.

Art. 6. Any offence specified in the Penal Code, committed by newspapers or pamphlets, shall be judged according to the legal provisions in force, double penalties being inflicted, and where alternative penalties are provided, the more severe. Information may be laid by the public regarding any infringement or failure to comply with the obligations imposed by this law.

Art. 7. Any person affected by a published statement in which his name appears has the right to demand publication of his explanation or correction in the same organ, such publication being limited to a space not exceeding that of the item in dispute, and subject to the condition that it be couched in proper language. The editor is obliged to publish such reply immediately and free of charge. Refusal renders him liable to the penalty of suspension, which shall in no case exceed seven consecutive editions, and shall be determined by the responsible examining magistrate. Final appeal against the magistrate's verdict may be made to the correctional court.

Art. 8. The Executive Authority is responsible for the enforcement of this law.

¹Spanish text received through the courtesy of Dr. Juan Bautista de Lavalle, Peruvian Ambassador to the Pan American Union, Washington. English translation from the Spanish text by the United Nations Secretariat.

²Amendment of 14 December 1945; the version of 30 November 1945 was as follows: "All persons have the right to publish any organ of publicity provided always that it does not attack individual liberties. Information may be laid by the public against newspapers infringing this principle. In such a case, the Supreme Court of Justice of the Republic is the only authority which can decide for or against the suppression of a newspaper."

THE PHILIPPINES

CONSTITUTION OF THE PHILIPPINES¹

of 1935

ARTICLE III

BILL OF RIGHTS

Sect. 1. 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

2. Private property shall not be taken for public use without just compensation.

3. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, to be determined by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched, and the persons or things to be seized.

4. The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired.

5. The privacy of communication and correspondence shall be inviolable except upon lawful order of the court or when public safety and order require otherwise.

6. The right to form associations or societies for purposes not contrary to law shall not be abridged.

7. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof; and the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

8. No law shall be passed abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances.

9. No law granting a title of nobility shall be enacted, and no person holding any office of profit or trust shall, without the consent of the Congress of the Philippines, accept any present, emolument, office, or title of any kind whatever from any foreign State.

10. No law impairing the obligation of contracts shall be passed.

11. No *ex post facto* law or bill of attainder shall be enacted.

12. No person shall be imprisoned for debt or non-payment of a poll tax.

13. No involuntary servitude in any form shall exist except as a punishment for crime whereof the party shall have been duly convicted.

14. The privilege of the writ of *habeas corpus* shall not be suspended except in cases of invasion, insurrection, or rebellion, when the public safety requires it, in any of which events the same may be suspended, wherever during such period the necessity for such suspension shall exist.

15. No person shall be held to answer for a criminal offence without due process of law.

16. All persons shall before conviction be bailable by sufficient sureties, except those charged with capital offences when evidence of guilt is strong. Excessive bail shall not be required.

17. In all criminal prosecutions the accused shall be presumed to be innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses in his behalf.

18. No person shall be compelled to be a witness against himself.

19. Excessive fines shall not be imposed, nor cruel and unusual punishment inflicted.

20. No person shall be twice put in jeopardy of punishment for the same offence. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

21. Free access to the courts shall not be denied to any person by reason of poverty.

ARTICLE XIII

CONSERVATION AND UTILIZATION OF NATURAL RESOURCES

Sect. 1. All agricultural, timber and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, and other natural resources of

¹ *Constitution of the Philippines*, official edition, Republic of the Philippines. (No date.) The Constitution was adopted by a Constitutional Convention on 8 February 1935, approved by the President of the United States on 23 March 1935, and came into effect on 15 November 1935.

the Philippines belong to the State, and their disposition, exploitation, development, or utilization shall be limited to citizens of the Philippines, or to corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens, subject to any existing right, grant, lease, or concession at the time of the inauguration of the Government established under this constitution. Natural resources, with the exception of public agricultural land, shall not be alienated, and no licence, concession, or lease for the exploitation, development, or utilization of any of the natural resources shall be granted for a period exceeding twenty-five years, except as to water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, in which cases beneficial use may be the measure and the limit of the grant.

Sect. 2. No private corporation or association may acquire, lease, or hold public agricultural lands in excess of one thousand and twenty-four hectares, nor may any individual acquire such lands by purchase in excess of one hundred and forty-four hectares, or by lease in excess of one thousand and twenty-four hectares or by homestead in excess of twenty-four hectares. Lands adapted to grazing, not exceeding two thousand hectares, may be leased to an individual, private corporation, or association.

Sect. 3. The Congress may determine by law the size of private agricultural land which individuals, corporations, or associations may acquire and hold, subject to rights existing prior to the enactment of such law.

Sect. 4. The Congress may authorize, upon payment of just compensation, the expropriation of lands to be subdivided into small lots and conveyed at cost to individuals.

Sect. 5. Save in cases of hereditary succession, no private agricultural land shall be transferred or

assigned except to individuals, corporations or associations qualified to acquire or hold lands of the public domain in the Philippines.

Sect. 6. The State may, in the interest of national welfare and defence, establish and operate industries and means of transportation and communication, and, upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the Government.

ARTICLE XIV

GENERAL PROVISIONS

Sect. 4. The State shall promote scientific research and invention. Arts and letters shall be under its patronage. The exclusive right to writings and inventions shall be secured to authors and inventors for a limited period.

Sect. 5. All educational institutions shall be under the supervision of and subject to regulation by the State. The Government shall establish and maintain a complete and adequate system of public education, and shall provide at least free public primary instruction, and citizenship training to adult citizens. All schools shall aim to develop moral character, personal discipline, civic conscience, and vocational efficiency, and to teach the duties of citizenship. Optional religious instruction shall be maintained in the public schools as now authorized by law. Universities established by the State shall enjoy academic freedom. The State shall create scholarships in arts, science, and letters for specially gifted citizens.

Sect. 6. The State shall afford protection to labour, especially to working women and minors, and shall regulate the relations between landowners and tenants, and between labour and capital in industry and in agriculture. The State may provide for compulsory arbitration.

REPUBLIC ACT NO. 53¹

Approved 5 October 1946

AN ACT

TO EXEMPT THE PUBLISHER, EDITOR OR REPORTER OF ANY PUBLICATION FROM REVEALING THE SOURCE OF PUBLISHED NEWS OR INFORMATION OBTAINED IN CONFIDENCE

Sect. 1. The publisher, editor or duly accredited reporter of any newspaper, magazine or periodical of general circulation cannot be compelled to reveal the source of any news-report or information appearing in said publication which was related in confidence to such publisher, editor or reporter,

unless the court or a House or committee of Congress finds that such revelation is demanded by the interest of the State.

Sect. 2. All provisions of law or rules of court inconsistent with this Act are hereby repealed or modified accordingly.

Sect. 3. This Act shall take effect upon its approval.

¹English text through the courtesy of Miss Nelly X. Burgos, Assistant Information Officer, Embassy of the Philippines, Washington, D. C.

POLAND

NOTE—On 22 July 1944, the Polish Committee of National Liberation which had been constituted at Lublin, issued at Chelm a manifesto declaring that, pending the adoption of a new constitution, "the basic provisions of the Constitution of 17 March 1921 will remain in force". The manifesto is reproduced (in Polish) in: *From the Polish Committee of National Liberation to the Government of National Unity* (A Collection of Documents), Warsaw, 1945, p. 6.

CONSTITUTION OF POLAND¹ of 17 March 1921

SECTION V GENERAL DUTIES AND RIGHTS OF CITIZENS

Art. 87. A Polish citizen may not be at the same time a citizen of another State.

Art. 88. Polish citizenship is acquired:

1. By birth if the parents are Polish citizens;
2. By naturalization granted by the competent State authority.

Special statutes define other rules as to Polish citizenship, its acquisition and loss.

Art. 89. Fidelity to the Republic of Poland is the first duty of a citizen.

Art. 90. Every citizen has the duty of respecting and obeying the Constitution of the State and other valid laws and ordinances of the State and self-government authorities.

Art. 91. All citizens are subject to military service; the character and manner, order and term of service, exemption from such duty, and any duties, contributions or services for military purposes, will be defined by legislation.

Art. 92. It is the duty of all citizens to submit to any public burdens, services, and duties imposed by virtue of statute.

Art. 93. All citizens are bound to respect legitimate authority and to facilitate the performance of its duties, as well as to perform conscientiously public duties to which they may be appointed by the nation or the proper authority.

Art. 94. It is the duty of citizens to bring up their children as righteous citizens of the mother country, and to secure to them at least elementary education.

This duty will be defined more in detail by a special statute.

Art. 95. The Republic of Poland guarantees on its territory, to all, without distinction of extraction, nationality, language, race, or religion, full protection of life, liberty and property.

Foreigners enjoy, on condition of reciprocity, rights equal to those of citizens of the Polish State, and have duties equal to those of such citizens unless statutes expressly require Polish citizenship.

Art. 96. All citizens are equal before the law. Public offices are accessible in equal measure to all, on conditions prescribed by the law.

The Republic of Poland does not recognize privileges of birth or of estate, or any coat-of-arms, family or other titles, with the exception of those of learning, office or profession. A Polish citizen may not accept foreign titles or orders without the permission of the President of the Republic.

Art. 97. Limitations of personal liberty, especially search of person and arrest, are admissible only in cases prescribed by law, and in the manner defined by statutes, by virtue of an order from judicial authorities.

In case a judicial order cannot be issued immediately, it should be served, at the latest, within forty-eight hours, with a statement of the reasons of the search or arrest.

Arrested persons who have not been served within forty-eight hours with a written statement of the cause of the arrest, signed by a judicial authority, regain their freedom at once.

The means of compulsory service by which the administrative authorities may enforce their orders are determined in statutes.

Art. 98. No one may be deprived of the court to which he is subject by law. Exceptional courts are admissible only in cases determined by statutes, which statutes must have been issued before the offence was committed. A citizen may be prosecuted and punishment inflicted only by virtue of a statute actually in force. Punishments involving physical suffering are not permitted, and no one may be subjected to such punishment.

No statute may deprive a citizen of access to the courts for the purpose of demanding reparation for injury or damage.

Art. 99. The Republic of Poland recognizes all property, whether belonging personally to individual citizens or collectively to associations of citizens, institutions, self-government organizations, or the State itself, as one of the most important

¹English translation through the courtesy of Dr. Oscar Lange, Ambassador of Poland, Washington, D.C.

bases of social organization and legal order, and guarantees to all citizens, institutions, and associations, protection of their property, permitting only in cases provided by a statute the abolition or limitation of property, whether personal or collective, for reasons of higher utility, against compensation. Only a statute may determine to what extent property, for reasons of public utility, shall form the exclusive property of the State, and how far rights of citizens and of their legally recognized associations to use freely land, waters, minerals, and other treasures of nature, may be subject to limitations for public reasons.

The land, as one of the most important factors of the existence of the nation and the State, may not be the subject of unrestricted transfer (commerce). Statutes will define the right of the State to buy up land against the will of the owners, and to regulate the transfer of land, applying the principle that the agrarian organization of the Republic of Poland should be based on agricultural units capable of regular production and forming private property.

Art. 100. The home and hearth of the citizen are inviolable. Infringements of this right by entering the home, searching it and taking papers or movables may, apart from the necessity of executing administrative orders based on specific statutory authorization, take place only by order of judicial authorities, in the manner and in the cases prescribed by the protection statute.

Art. 101. Every citizen has the liberty of selecting on the territory of the State his place of residence and abode, to move about and to emigrate, as well as to choose his occupation and profession, and to transport his property.

These rights may be restricted only by statute.

Art. 102. Labour is the main basis of the wealth of the Republic, and should remain under the special protection of the State.

Every citizen has the right to State protection for his labour, and in case of lack of work, illness, accident, or debility, to the benefits of social insurance which will be determined by a special statute.

The State has the duty of making accessible also moral guidance and religious consolation to citizens under its immediate care in public institutions, such as educational institutions, barracks, hospitals, prisons, and charitable homes.

Art. 103. Children without sufficient parental care, neglected with respect to education, have the right to State care and aid within the limits to be determined by statute.

Parents may not be deprived of authority over their children except by judicial decision.

Special statutes determine the protection of motherhood.

Children under fifteen years of age may not be wage-earners; neither may women be employed at

night, or young labourers be employed in industries detrimental to their health.

Permanent employment of children and young people of school age for wage-earning purposes is forbidden.

Art. 104. Every citizen has the right to express freely his ideas and convictions in so far as he does not thereby violate legal provisions.

Art. 105. Freedom of the press is guaranteed. Censorship, or the system of licensing printed matter, may not be introduced. Daily papers and other matter printed in the country may not be debarred from the mails, nor may their dissemination on the territory of the Republic be restricted.

A special statute will define the responsibility for the abuse of this freedom.

Art. 106. The secrecy of letters and other correspondence may be infringed upon only in cases provided by law.

Art. 107. Citizens have the right of presenting individual or collective petition to all State and self-government representative bodies and public authorities.

Art. 108. Citizens have the right of combining, meeting, and forming associations and unions.

The exercise of these rights is defined by statutes.

Art. 109. Every citizen has the right of preserving his nationality and developing his mother-tongue and national characteristics.

Special statutes of the State will guarantee to minorities in the Polish State the full and free development of their national characteristics, with the assistance of autonomous minority unions, endowed with the character of public law organizations, within the limits of unions of general self-government.

The State will have, in regard to their activity, the right of control and of supplementing their financial means in case of need.

Art. 110. Polish citizens belonging to national, religious, or linguistic minorities have the same right as other citizens of founding, supervising, and administering at their own expense, charitable, religious, and social institutions, schools and other educational institutions and of using freely therein their language, and observing the rules of their religion.

Art. 111. Freedom of conscience and of religion is guaranteed to all citizens. No citizen may suffer a limitation of the rights enjoyed by other citizens, by reason of his religion and religious convictions.

All inhabitants of the Polish State have the right of freely professing their religion in public as well as in private, and of performing the commands of their religion or rite, in so far as this is not contrary to public order or public morality.

Art. 112. Religious freedom may not be used in a way contrary to statutes. No one may evade the performance of public duties by reason of his religious beliefs; no one may be compelled to take part in religious activities or rites unless he is subject to parental or guardians' authority.

Art. 113. Every religious community recognized by the State has the right of organizing collective and public services; it may conduct independently its internal affairs; it may possess and acquire movable and immovable property, administer and dispose of it; it remains in possession and enjoyment of its endowments and funds, and of religious, educational, and charitable institutions. No religious community may, however, be in opposition to the statutes of the State.

Art. 114. The Roman Catholic religion, being the religion of the preponderant majority of the nation, occupies in the State the chief position among enfranchised religions. The Roman Catholic Church governs itself under its own laws. The relation of the State to the church will be determined on the basis of an agreement with the Apostolic See, which is subject to ratification by the Sejm.

Art. 115. The churches of the religious minorities and other legally organized religious communities govern themselves by their own laws, which the State may not refuse to recognize unless they contain rules contrary to law.

The relation of the State to such churches and religions will be determined from time to time by legislation after an understanding with their legal representatives.

Art. 116. The recognition of a new, or hitherto not legally recognized religion, may not be refused to religious communities whose institutions, teachings and organization are not contrary to public order or public morality.

Art. 117. Learned investigations and the publication of their results are free. Every citizen has the right to teach, to found a school or educational institution, and to direct it if he complies with the requirements laid down by statutes concerning the qualifications of teachers, the safety of the child entrusted to him, and a loyal attitude towards the State. All schools and educational institutions, public as well as private, are subject to supervision by State authorities within the limits prescribed by statutes.

Art. 118. Within the limits of the elementary school, instruction is compulsory for all citizens of the State. A statute will define the period, limits and manner of acquiring such education.

Art. 119. Teaching in State and self-government schools is gratuitous.

The State will ensure to pupils who are exceptionally able, but not well-to-do, scholarships for their maintenance in secondary and academic schools.

Art. 120. Instruction in religion is compulsory for all pupils in every educational institution, the curriculum of which includes instruction of youth under eighteen years of age, if the institution is maintained, wholly or in part by the State, or by self-government bodies. The direction and supervision of religious instruction in schools belong to the respective religious communities, reserving to the State educational authorities the right of supreme supervision.

Art. 121. Every citizen has the right to compensation for damage inflicted upon him by civil or military organs of State authorities, by an official act not in accordance with the right or duties of the service. The State is responsible for the damage, jointly with the guilty organs; actions may be brought against the State and against officials, independently of any permission by a public authority. Communes and other self-government bodies, as well as their organs, are responsible in the same manner.

Special statutes will define the application of this principle.

Art. 122. The rules as to citizens' rights apply also to persons belonging to the armed force. Special military statutes define exceptions to this principle.

Art. 123. Armed force may be used only by request of a civil authority under strict obedience to statutes, for the purpose of putting down disturbances, or of enforcing the execution of legal rules. Exceptions to this principle are admissible only by virtue of statutes on the state of siege and of war.

Art. 124. A temporary suspension of citizens' rights; of personal liberty (art. 97), of inviolability of home and hearth (art. 100), of freedom of the press (art. 105), of secrecy of correspondence (art. 106), of the right of combining, meeting and forming associations (art. 108), may take place for the whole territory of the State or for localities in which it may prove necessary for reasons of public safety.

Such suspension may be directed only by the Council of Ministers, by permission of the President of the Republic, during a war or when an outbreak of war threatens, as well as in case of internal disturbances or of widespread conspiracies which bear the character of high treason and threaten the Constitution of the State or the safety of the citizens.

Such a decision of the Council of Ministers, if made while the Sejm is in session, must be immediately submitted to the Sejm for confirmation. If such a decision, to apply on a territory which comprises more than one Voyerodship, be issued during an interval between meetings of the Sejm, the Sejm meets automatically within eight days from the publication of the decision in order to take the proper step.

Should the Sejm refuse confirmation, the state of siege immediately loses its binding force. If the Council of Ministers directs a state of siege after the expiration of the term of the Sejm, or after dissolution of the Sejm, the decision of the Government must be submitted to the newly elected Sejm without delay, at its first meeting.

These principles will be defined more in detail by a statute on the state of siege.

A statute on the state of war will define the principles of temporary suspension of the above-enumerated rights of citizens in time of war on the territory affected by war operations.

PENALTY FOR FASCIST AND HITLERITE CRIMINALS GUILTY OF HOMICIDE AND ATROCITY COMMITTED ON AND AGAINST CIVILIANS AND PRISONERS OF WAR AS WELL AS FOR TRAITORS TO THE POLISH NATION

Decree of the Polish Committee of National Liberation of 31 August 1944¹

Art. 1. Whoever, acting for and on behalf of the German authorities of occupation,

(a) Participated or participates in killings of civilians or of prisoners of war, in maltreating or persecuting them, or

(b) Acted or acts in a way injurious to persons residing within the territory of the Polish State, especially by apprehending and deporting persons sought or persecuted for any reason whatever (except common crimes) by the authorities of occupation, shall be punished by death.

POLISH MILITARY PENAL CODE

Decree of the Polish Committee of National Liberation of 23 September 1944²

Art. 102. Par. 1. Whoever publicly incites to nationalistic, racial or religious strife, or whoever produces, distributes or keeps in custody publica-

tions, printed matter and graphics intended for the above purposes, shall be punished by imprisonment.

OFFENCES PARTICULARLY DANGEROUS DURING THE PERIOD OF THE COUNTRY'S RECONSTRUCTION

Decree of 13 June 1946, replacing the Decree of 16 November 1945³

Art. 30. Whoever publicly incites to nationalistic, religious or racial strife or approves of them shall be punished by imprisonment up to five years.

Art. 31. Par. 1. Whoever publicly insults, derides or traduces any group of the population, or any individual person because of nationality, religion or race, shall be punished by a penitentiary sentence up to five years or by imprisonment.

Par. 2. The same penalty shall apply to anyone who bodily assaults or inflicts light body injuries

on a person because of the latter's nationality, religion or race.

Art. 32. Whoever commits an offence against a group of the population because of nationality, religion or race, followed by death, or grave bodily injuries, or disturbance of, or danger to the public peace and order resulting from such offence, shall be punished by imprisonment for not less than three years, or for life, or by death.

Art. 33. Whoever participates in a conspiracy aiming at committing an offence as set forth in paragraphs 1 and 2 of art. 31 or who participates in a public riot which collectively commits such offence, shall be punished by imprisonment.

Art. 34. Whoever, contrary to his duty, fails to counteract offences as set forth in articles 30 to 33 shall be punished by a penitentiary sentence up to five years, or by imprisonment.

¹ *Journal of Laws of the Republic of Poland*, No. 4, item 16. The translation of this and the following texts is due to the courtesy of Professor Aleksander Rudzinski, LL.D., Ph.D., member of the Polish Delegation to the United Nations.

² *Journal of Laws of the Republic of Poland*, No. 6, item 27.

³ *Journal of Laws of the Republic of Poland*, 1946, No. 30, item 192, and 1945, No. 53, item 300.

SURVEY OF EDUCATION IN POST-WAR POLAND

I. *Higher Education.* Before the war Poland had five universities, the oldest of which was the Jagellonian University in Cracow; the others were located respectively in Lwow, Warsaw, Poznan and Wilno. Two engineering colleges were located in Warsaw and Lwow and a School of Mines in Cracow. A private Catholic university containing only departments of arts and law functioning in Lublin.

While the hostilities were still going on in October 1944, the Polish Government established in Lublin a university named after Marie Curie Sklodowska, the famous discoverer of radium, containing a faculty of sciences, medicine, agriculture and veterinary medicine (decree of 23 October 1944, *Journal of Laws of the Republic of Poland*, No. 9, item 42). The Catholic university in Lublin, closed and suppressed by the Germans, as were all other Polish collegiate and secondary institutions of learning, was immediately reopened after the liberation and functions with full Government support. Directly following the armistice, the Government opened a Silesian engineering college in Gliwice (decree of 24 May 1945, No. 21, item 118) and a university and engineering college in Lodz (decrees of 24 May 1945, No. 21, items 119 and 120). The University of Lodz, under the able leadership of the well-known Polish philosopher Tadeusz Kotarbinski, attracted not only many prominent Polish scientists, who due to political conditions were discriminated against by the pre-war Polish regime, as well as professors from Lwow and Wilno, but also a great number of students. The building and facilities of the German engineering school at Gdansk were used to establish a new engineering college staffed by Poles (decree of 24 May 1945, No. 21, item 121). In addition, a Medical Academy was opened in Gdansk (decree of 8 October 1945, No. 44, item 53).

After the signing on 6 July 1945 of a treaty with the USSR concerning an exchange of population, all persons of Polish or Jewish descent originating from Poland and residing within the present boundaries of the USSR became free to return to Poland with their chattels. Most of the scientific staff of the University and of the Engineering School of Lwow were in consequence thereof moved to Wroclaw, and the faculty from Wilno was for the most part transferred to Torun. In Wroclaw the Polish Government used the buildings and facilities of the German university and engineering school in

order to establish there with a Polish staff, most of whom functioned previously in Lwow, a university and engineering school (decree of 24 August 1945, No. 34, item 207). The newly established university in Torun was given the name of Nicholas Copernicus, famous Polish astronomer and illustrious son of that city (decree of 24 August 1945, No. 34, item 208). The School of Mines in Cracow was enlarged by the addition of two new departments (decree of 22 March 1946, No. 13, item 92).

II. The elementary schools and secondary schools (high schools of all types) were reopened immediately after the liberation. They were overrun by students eager to fill the gap in their education caused by their having been deprived of public education facilities for more than five years. The Polish Government has tried to give educational opportunities to children of peasants and workers who show aptitude and inclination for higher learning. To this end the decree of 24 May 1945, No. 21, item 122, established a one-year preparatory course of studies in high schools open to candidates who passed a special examination showing their qualifications to enter a collegiate career. During the preparatory course the candidates are instructed in the elements of their future curriculum of a given department. By the decree of 23 November 1945, No. 2, item 9, of the year 1946, persons having a teacher's certificate for grade schools were permitted to enrol as university students. A score of legislative acts coped with post-war emergencies resulting from shortages of material and personnel in the educational field and the improvement of the economic situation of the teaching staff and of the student body.

III. The Germans systematically and purposely destroyed Polish books of every type—scientific, fiction, etc. There is now in Poland a great shortage of newsprint and a demand for good books. By the decree of 17 April 1946, No. 26, item 163, the Government introduced a system of public libraries of different types throughout the country in order to bring books into the hands of every man, woman and child eager for study or the entertainment to be gleaned from good books.

Aleksander RUDZINSKI

LL.D., Ph.D.

Member of the Polish Delegation
to the United Nations

PORTUGAL

CONSTITUTION OF PORTUGAL¹

of 19 March 1933

PART I

THE FUNDAMENTAL GUARANTEES

Section I

THE PORTUGUESE NATION

Art. 5. The Portuguese State is a unitary and corporative Republic founded on the equality of its citizens before the law, the free access of all classes to the benefits of civilization, and the participation of all the structural elements of the nation in its administrative life and the enactment of its laws.

Equality before the law includes the right of provision for public employment in conformity with capability or services rendered, and does not admit any privilege of birth, titular or other nobility, sex or social position, subject, however, where women are concerned, to differences due to their nature and the welfare of the family, and in regard to the obligations and privileges of citizens, to differences imposed by varying circumstances or natural conditions.

Art. 6. It is the duty of the State:

1. To promote the unity of the nation and establish its juridical order by determining and compelling respect for the rights and guarantees derived from morality, justice or law, for the benefit of individuals, families, local autonomous bodies and other public or private corporations.
2. To co-ordinate, instigate, and direct all social activities, and to promote due harmony of interests, subject to those of a private nature being lawfully subordinated to the general interests.
3. To strive for improvement in the conditions of the least favoured classes of society, and to prevent their standard of life from falling below an adequate human minimum.

Section II

THE CITIZENS

Art. 7. The civil law shall determine the manner in which Portuguese citizenship is acquired and forfeited. A citizen shall enjoy the rights and guarantees laid down by the Constitution, but naturalized citizens shall be subject to the restrictions prescribed by law.

Foreigners resident in Portugal shall enjoy the same rights and guarantees, unless the law de-

termines otherwise. This shall not apply to political and public rights which correspond to a duty towards the State, although, as regards public rights, reciprocity of advantages granted to Portuguese nationals by other States shall be observed.

Art. 8. The following constitute the rights and individual guarantees of Portuguese citizens:

1. The right to life and personal inviolability.
2. The right to good name and reputation.
3. Liberty and inviolability of belief and religious practice, on the ground of which no one may be persecuted, deprived of a right or exempted from any obligation or civic duty. No one shall be compelled to answer questions concerning the religion he professes unless for statistical inquiry prescribed by law.
4. The free expression of thought in any form.
5. The freedom of education.
6. Inviolability of domicile and secrecy of correspondence on conditions determined by law.
7. Freedom of choice of profession, or nature of work, industry or commerce, subject to the legal restrictions required for the public welfare and the exceptions which only the State and administrative bodies can grant according to the provisions of the law, for reasons of recognized public utility.
8. No one shall be deprived of personal liberty or arrested without a charge being brought, except in the cases contemplated in paragraphs 3 and 4.
9. No one shall receive a penal conviction except by virtue of a law of earlier date which declares the act or omission to be punishable.
10. The right of examination, both sides being heard, and the accused being given the necessary guarantees for defence before and after the drawing up of the charge.
11. No one shall suffer corporal punishment in perpetuity, or the penalty of death, except, as regards the latter, during a state of belligerency with a foreign country, and when the sentence has to be carried out in the theatre of war.
12. There shall be no confiscation of goods or transfer of any punishment from the person of the delinquent.
13. No one shall suffer imprisonment for failure to pay costs or stamps.
14. Freedom of meeting and association.
15. The right of property and the right to transfer it during the life or, owing to death, ac-

¹ *Political Constitution of the Portuguese Republic*, official translation, Lisbon, 1937.

according to the conditions laid down by the civil law.

16. There shall be no payment of taxes which have not been decreed in accordance with the Constitution.

17. The right to reparation for all actual damage in conformity with the provisions of the law, which may also prescribe pecuniary reparation for wrongs of a moral character.

18. The right of making representation or petition, claim, or complaint, to Government departments or any authorities, in defence of personal right or general interests.

19. The right of resistance to any order which may infringe individual guarantees, unless they have been legally suspended, and of repelling by force private aggression, when recourse to public authority is impossible.

20. Penal sentences shall be subject to revision, and the right of indemnification by the National Treasury for loss and damage shall be assured to the convicted person or his heirs by measures to be defined by law.

PAR. 1. The enumeration of the above rights and guarantees shall not exclude any others derived from the Constitution or the laws, it being understood that citizens must always exercise them without injuring the rights of third parties, or damaging the interests of society or the principles of morality.

PAR. 2. Special laws shall control the exercise of the liberty of the expression of opinion, education and meeting and association. As regards the first item, they shall prevent, by precautionary or restrictive measures, the perversion of public opinion in its function as a social force, and shall protect the moral integrity of citizens who, when libelled or abused in a periodical publication, shall have the right to have inserted in the same, free of charge, a correction or explanation, without prejudice to any other liability or proceedings prescribed by law.

PAR. 3. Apprehension without specific charge is authorized in cases of *flagrante delicto*, and for the following offences when either committed, prevented, or attempted: those against the safety of the State; the counterfeiting of money, and forgery of banknotes and Government bonds; wilful homicide; burglary and robbery with violence; theft, fraud, or breach of trust, when perpetrated by an habitual criminal; fraudulent bankruptcy; arson; the manufacture, possession, or use of explosive bombs and other similar appliances.

PAR. 4. Except in the cases specified in the preceding paragraph, imprisonment in a public jail, or detention in a private residence or institution for lunatics, may be effected only on a written order from the competent authorities, and shall not be continued on the accused offering proper

bail or bond in regard to residence, if allowed by law.

The exceptional safeguard of *habeas corpus* may be used against an abuse of authority in the circumstances prescribed in a special law.

Art. 9. All persons employed by the State, administrative bodies and corporations, or by companies which have a contract with any of these, are guaranteed the right to their posts during the period of their compulsory military service.

Art. 10. The State shall bestow distinctions of honour or awards on those citizens who became conspicuous by reason of their personal merit, or civic or military deeds, and likewise on foreigners for international services; orders, decorations, medals or diplomas shall be instituted by law for this purpose.

Art. 11. The sovereign organs are jointly and severally precluded from suspending the Constitution or limiting the rights therein granted, except in the cases contemplated in the same.

Section III

THE FAMILY

Art. 12. The State shall ensure the constitution and protection of the family as the source of the maintenance and development of the race, the primary basis of education, discipline, and social harmony, and the fundamental requirement of political and administrative order, by its association and representation in the parish and the municipality.

Art. 13. The constitution of the family is based upon:

1. Marriage and legitimate offspring.
2. Equality of the rights and duties of husband and wife in regard to the maintenance and education of their legitimate children.
3. The obligation to register the marriage and the birth of children.

PAR. 1. The civil law shall determine the principles governing the persons and goods of husband and wife, parental authority and its revocation, the rights of succession in the direct or collateral line, and the rights of maintenance.

PAR. 2. Legitimate children shall be guaranteed the full rights necessary for the strength and unity of the family, and rights corresponding to their position shall also be recognized in the case of illegitimate adopted children, and likewise children not yet born, particularly the right to maintenance, which shall be provided by those upon whom, after investigation, the duty is found to fall.

Art. 14. With the object of protecting the family, it appertains to the State and local authorities:

1. To encourage the establishment of separate homes under healthy conditions, and the institution of the family household.

2. To protect maternity.

3. To adjust taxation in accordance with legitimate family obligations and a family wage scale.

4. To assist parents in the discharge of their duty of instructing and educating their children, and to co-operate with them by means of public institutions for education and correction, or by encouraging private establishments destined for the same purpose.

5. To take all precautions likely to avert the corruption of morals.

Art. 15. The registration of the civil status of citizens is within the competence of the State.

Section IV

CORPORATE BODIES

Art. 16. It shall be the duty of the State to legalize, except when a contrary provision of the law exists, all corporative, moral, cultural or economic bodies, and to promote and assist in their formation.

Art. 17. The principal aims of the corporative bodies to which the preceding article refers shall be scientific, literary, or artistic or physical training; relief, benevolence, or charity; and technical improvement or solidarity of interests.

The constitution and functions of these bodies shall be controlled by special regulations.

Art. 18. Foreigners domiciled in Portugal may participate in the corporative bodies on conditions to be determined by law; they shall, however, be forbidden to share in the exercise of the political rights granted to these bodies.

Section VI

PUBLIC OPINION

Art. 22. Public opinion is a fundamental element of the politics and administration of the country; it shall be the duty of the State to protect it against all those agencies which distort it contrary to truth, justice, good administration, and the common welfare.

Art. 23. The press exercises a function of a public nature and may not therefore refuse to insert any official notices of normal dimensions, on matters of national importance, sent to it by the Government.

Section VIII

THE ECONOMIC AND SOCIAL ORDER

Art. 29. The economic organization of the nation must provide the maximum production and wealth for the welfare of society, and create a collective existence from which the State shall derive power and the citizens justice.

Art. 30. The State shall regulate its economic relations with other countries according to the principle of appropriate co-operation, without prejudice to the commercial advantages to be ob-

tained from particular countries, or the necessity for protection against external threats or attacks.

Art. 31. It shall be the right and duty of the State to supervise the co-ordination and control of economic and social life with the following objects:

1. To establish a proper balance of the population between the professions, occupations, capital and labour.

2. To protect the national economic system from agricultural, industrial and commercial ventures of a parasitic nature, or of a character incompatible with the higher interests of human life.

3. To secure the lowest price and the highest wage consistent with the fair remuneration of the other factors of production, by means of the improvement of technical methods, services and credit.

4. To develop the settlement of the national territories, protect emigrants and regulate emigration.

Art. 32. The State shall encourage those private economic activities which, when the costs are relatively equal, are the most profitable, but without detriment to the social benefit conferred by small home industries and the protection due to them.

Art. 33. The State may intervene directly in the management of private economic operations only when it is essential to finance them and in order to secure greater social benefits than would otherwise be obtained.

State undertakings carried on for the purpose of profit, even if they are working on the basis of free competition, shall likewise be subject to the stipulation laid down in the latter part of the present article.

Art. 34. The State shall promote the construction and development of the national corporative economic system. Care shall be taken to prevent any tendency among its constituent parts to indulge in unrestrained competition with each other, contrary to their own just aims and those of society, but they shall be encouraged to collaborate as members of the same community.

Art. 35. Property, capital and labour shall fulfil a social duty in a system of economic co-operation and mutual interest, and the law may determine the conditions of their use or exploitation in accordance with the common aim in view.

Art. 36. Labour, whether unskilled, skilled, or technical, may be associated in an undertaking in any form that circumstances may render advisable.

Art. 37. Only the corporative economic bodies which are authorized by the State may, under the terms of the law, conclude collective labour contracts, and those made without their intervention shall be null and void.

Art. 38. Litigation relating to matters affecting

collective labour shall be within the competence of special tribunals.

Art. 39. In their economic relations with one another, neither capital nor labour shall be allowed to suspend operations with the object of vindicating their respective interests.

Art. 40. It is the right and duty of the State to protect morality, the wholesomeness of food and drink, and public health.

The holding of a plurality of posts in private undertakings shall be discouraged as being contrary to public economy and morality.

Art. 41. The State shall promote and encourage community concerns, and provident, co-operative, and mutual benefit institutions.

Section IX

EDUCATION, INSTRUCTION AND NATIONAL CULTURE

Art. 42. Education and instruction shall be obligatory and the concern of the family in co-operation with public or private institutions.

Art. 43. The State shall officially maintain primary, complementary, secondary and high schools, and institutions for advanced education.

PAR. 1. Elementary primary education is obligatory and may be given in the home, or in private or State schools.

PAR. 2. The arts and sciences shall be encouraged and their development, teaching and propaganda favoured, so long as respect is maintained for the Constitution, the authorities and the co-ordinating activity of the State.

PAR. 3. The instruction furnished by the State shall aim not only at physical improvement and the perfecting of the intellectual faculties, but also at the development of character and professional worth and all the moral and civic virtues, in conformity with the principles of Christian doctrine and ethics which are a tradition of the country.

PAR. 4. No authority shall be required for the teaching of religion in private schools.

Art. 44. The establishment of private schools on the lines of the State schools shall be free, but subject to State inspection; the schools may be subsidized by the State or authorized to grant diplomas if their curricula and the standard of their teaching staff are not inferior to those of the corresponding public institutions.

Section X

THE RELATIONS OF THE STATE WITH THE CATHOLIC CHURCH, AND RELIGIOUS MATTERS

Art. 45. The public or private practice of all religions shall be free. Religious bodies may organize themselves freely, in accordance with the rules of their hierarchy and discipline, and form in this manner associations or organizations, whose civil

existence and juridical personality shall be recognized by the State.

Religious practices incompatible with the life and physical integrity of the individual and with good morals are excepted.

Art. 46. Without prejudice to the provisions of concordats in the matter of the *Padroado*, the State shall maintain the regime of separation in relation to the Catholic Church and any other religion or cult practised within Portuguese territory, and the diplomatic relations between the Holy See and Portugal, with reciprocity of representation.

Art. 47. The State may not assign to any other purpose any chapel, building, appurtenance, or object of worship belonging to a religious body.

Art. 48. Public cemeteries shall be secular in character, and ministers of any religion may freely practise their respective rites therein.

Section XI

THE PUBLIC AND PRIVATE DOMAINS OF THE STATE

Art. 49. The public domain of the State shall comprise the following:

1. Mineral deposits, medicinal mineral water springs, and other natural wealth below the surface.

2. Maritime waters and their bed.

3. Lakes, lagoons and navigable watercourses, and waters on which floating operations can be performed, with their respective beds or channels, as well as those which shall be recognized, by special decree to be of public utility as suitable for the production of electric power, national or regional, or for irrigation.

4. Dikes opened up by the State.

5. The aerial strata above the land, beyond such limits as the law fixes in favour of the owner of the surface.

6. Railways of public importance of any kind, public streets and roads.

7. Territorial areas reserved for military defence.

8. Any other property placed by law under the regime of the public domain.

PAR. 1. The authority of the State over the property of the public domain and its use on behalf of citizens shall be regulated by law and by the international conventions concluded by Portugal, the prior rights of the State and the acquired rights of private persons continuing to be reserved. The latter rights, however, shall be subject to expropriation to be determined by the public requirements upon payment of reasonable compensation.

PAR. 2. Rocks and common lands, and materials commonly employed in buildings, shall be expressly excepted from the natural wealth specified in 1.

PAR. 3. The State shall undertake the delimitation of those lands which are private property and about on the property of the public domain.

Art. 50. The administration of property on the mainland and in the adjacent islands and belonging to the private domain of the State appertains to the Ministry of Finance, except when it is expressly attributed to any other Ministry.

Art. 51. No State property or rights which affect its prestige or the more important national interests may be alienated.

Art. 52. Artistic, historical and natural monuments, and artistic objects officially recognized as such, shall be under the protection of the State, and their alienation in favour of foreigners is prohibited.

Section XII

NATIONAL DEFENCE

Art. 56. The State shall promote, encourage and

assist civil institutions whose aim is to teach and discipline young persons in preparation for the fulfilment of their military and patriotic duties.

PART II

POLITICAL ORGANIZATION OF THE STATE

Section III

THE NATIONAL ASSEMBLY

Art. 91. It shall be the business of the National Assembly:

8. To declare a state of siege with total or partial suspension of the constitutional guarantees, in one or more places in the national territory, in the case of actual or imminent aggression by foreign forces, or when public order and safety are seriously disturbed or threatened.

DECREE-LAW NO. 35:043¹

of 20 October 1945

In accordance with the powers conferred by part 1 of section 2 of article 109 of the Constitution, the Government decrees and I hereby promulgate with force of law the following:

Art. 1. The confinement of any person in a house of detention shall be allowed only on an order issued, dated and signed by the competent authority, identifying the prisoner and specifying the reasons for his arrest.

A copy of the confinement order shall in every case be transmitted to the governor of the prison.

Art. 2. Persons in the custody of authorities whose jurisdiction does not extend beyond the area of the district may, in accordance with the competence of district courts, request the judge of the district in which they are held to order their immediate trial on any of the following grounds:

(a) Because the time limit for bringing the case before the judicial authority has expired;

(b) Because they are detained elsewhere than in a place authorized for this purpose by law or by the Government;

(c) Because they were detained in prison on the orders of an incompetent authority;

(d) Because they were detained in prison for reasons not recognized by the law as grounds for detention.

SECT. 1. For the purposes of the present article, appeals based on any of the grounds specified therein shall be executed by a barrister and signed jointly by the prisoner or his spouse, ascendant or descendant possessing legal capacity.

Art. 3. Upon receipt of the appeal, the judge

shall at once instruct the authority having the prisoner in its custody to transmit to the court a copy of the warrant for his arrest; the date of and legal grounds for his arrest and the place where the prisoner is held shall also be specified.

Should the prisoner have been arrested *in flagrante delicto*, in cases where arrest is permissible on these grounds alone, this fact shall be expressly mentioned.

SECT. 1. The authority having the prisoner in its custody shall also be notified that, pending final decision, the latter may not be transferred to any other place of detention without the authority of the judge.

Art. 4. A reply to the notification referred to in the previous article shall be given within twenty-four hours in cases where the place of detention is situated in the chief town of the district, and in other cases within a maximum period of three days.

Art. 5. Upon receipt of the reply, the judge, in oral consultation with the Public Prosecutor, whose statements shall appear in the record, shall decide whether the conditions specified in art. 2 have been observed, and if so, shall order the prisoner to be brought before him in accordance with the formalities laid down in the Code of Criminal Procedure.

SECT. 1. The judge may ask for further evidence, or order such investigations as he may think fit, before giving his decision in accordance with the present article.

SECT. 2. The order to bring the prisoner before the court shall be obeyed within twenty-four hours on penalty of gross contempt of court.

SECT. 3. Should the Public Prosecutor consider that the judge is not competent to take cognizance of the matter, the case, accompanied by his opin-

¹ Portuguese text in *Diário do Governo*, 1 Série, no 233, pp. 850-853. English translation from the Portuguese text by the United Nations Secretariat. This Decree-Law which bears no title has the protection of individual liberty as its object.

ion and that of the judge, shall be brought before the Supreme Court of Justice in accordance with the provisions of articles 9 et seq. of the present decree-law.

Art. 6. In cases where the complaint is clearly groundless, the judge shall of his own accord sentence the plaintiff and the barrister jointly to a fine varying from five hundred to five thousand escudos for the benefit of the General Fund of the Courts.

Art. 7. Recourse to the exceptional measure of *habeas corpus* may be had, in accordance with the following articles, on behalf of any individual who is illegally confined and to whom the provisions of art. 2 do not apply because the district courts are not competent to take cognizance of the grounds for detention or because this was ordered by an authority whose jurisdiction extends beyond the area of the district or because it was carried out and has been maintained by order of a judicial authority against which there is no appeal.

SECT. 1. Recourse to the measure referred to in the present article may be had only when the individual has been arrested and is actually imprisoned on grounds which, for any of the following reasons, are deemed to be illegal:

(a) Because his arrest was made or ordered by an authority not legally competent;

(b) Because he was imprisoned for reasons not recognized by the law as grounds for detention;

(c) Because he is being held beyond the legal time limit for bringing the case before the court and charging him with the offence;

(d) Because he is being held beyond the time stipulated by judicial decision for the duration of his sentence or his admission to bail or the period of its extension.

Art. 8. The *habeas corpus* petition shall be lodged by the prisoner or his spouse, ascendant or descendant possessing legal capacity, by means of an appeal signed by a barrister and addressed to the President of the Supreme Court of Justice.

SECT. 1. The appeal shall establish the prisoner's identity, and specify the authority that arrested him or was responsible for his arrest, the date of arrest, the place where he is imprisoned, the grounds for his imprisonment and the reasons why it is illegal.

SECT. 2. Appeals shall be transmitted in duplicate to the President of the Court of Second Instance in the Districts of Lisbon, Oporto or Coimbra and to the judges of the Court of First Instance in other districts.

SECT. 3. In cases where the warrant for arrest was issued by the district judge, the appeal shall be transmitted directly to the President of the competent Court of Second Instance.

Art. 9. The President of the Court of Second Instance, or the judge to whom the appeal referred

to in art. 8 is transmitted, shall at once forward the duplicate to the authority responsible for the arrest, who shall reply at the earliest possible date.

SECT. 1. Should the reply state that the prisoner has been released, the judge shall stop the appeal, the appellant having the right of recourse to the normal channels for redress of any damages he may have sustained.

SECT. 2. Should the reply be to the effect that the prisoner is being held, the judge shall at once forward it, together with the appeal, to the President of the Supreme Court of Justice.

SECT. 3. Should no reply be given within what the judge considers to be reasonable time limit, the appeal shall simply be forwarded with a statement to that effect.

Art. 10. The appeal and the reply, if any, shall be submitted at the first ordinary session of the criminal section of the Supreme Court of Justice, unless the President, in view of the urgency of the matter, decides to convene an extraordinary session of the section for that purpose.

Art. 11. All the judges—not less than three—whose turn it is to serve shall attend the hearings of the criminal section, and the Public Prosecutor shall also be present. During vacations the President of the Supreme Court or his representative shall convene any judges of the criminal section who are in Lisbon; failing the required number, he shall call upon the senior judges of the civil section who are in the capital. Should it still be found impossible to constitute the court the judges of the criminal section who are nearest to Lisbon shall be recalled.

Art. 12. The decision shall be taken by a majority vote. It may be decided:

(a) To reject the appeal because the grounds on which it is based are inadequate;

(b) To order the prisoner to be placed immediately at the disposal of the Supreme Court in the prison specified by it and to appoint an examining magistrate to hold an investigation, within the stipulated time limit, into the legality of the arrest;

(c) To order the prisoner to appear as soon as possible before the competent court for trial;

(d) To declare the arrest illegal and order the prisoner's immediate release.

SECT. 1. Should the reply from the authority responsible for the arrest referred to in art. 9 not be attached to the appeal, either of the decisions set forth in paragraphs (a) and (b), but not those specified in (c) and (d), of the present article may be taken, according to the decision on the appeal. In the meantime the attachment of the reply may be ordered, should this be considered a necessary basis for any decision. In the

latter case, without prejudice to the provisions laid down in part 1 of paragraph (b), the President of the Court shall order the responsible authority to be notified that its reply must be given within the stipulated time limit, on penalty of contempt of court. Upon receipt of the reply, the decision shall be given in accordance with the present article.

Art. 13. Should an investigation be ordered, the relevant report shall be sent to the President of the Supreme Court of Justice, who shall cause it to be submitted at the first ordinary session of the criminal section or at an extraordinary session, should it be decided to convene one, so that the appropriate decision may be reached in accordance with the previous article.

Art. 14. The illegality of an arrest, resulting solely from the incompetence of the authority by whom it was ordered or made, may at all times be remedied, if appropriate measures to this end are ordered by the Supreme Court of Justice after it has satisfied itself that the arrest is in order.

Art. 15. The grounds for the decision shall be entered in the record of the proceedings by the junior judge.

Art. 16. Orders, issued to any authorities whatsoever, for the execution of the Court's decisions shall be transmitted by the Secretary and signed by the President.

SECT. 1. The authorities so notified shall inform the Supreme Court of Justice as promptly as possible that the orders have been carried out, so that this fact may be entered in the record of the proceedings.

Art. 17. The penalties laid down in article 291 of the Criminal Code shall be imposed in the event of:

(a) Refusal to deliver the prisoner to the prison, specified by the Supreme Court, where he is to be detained at its order;

(b) Refusal to release the prisoner on the orders of the Supreme Court of Justice and to bring him before the judge whom the said court deems to be competent;

(c) Re-imprisonment on the same grounds and under the same conditions of any individual whom the Supreme Court of Justice orders to be released in accordance with the present decree-law, where the authority responsible for his re-arrest is aware of the court's decision.

Art. 18. Administrative guarantees shall not be accepted in proceedings instituted in respect of the crimes referred to in section 2 of article 5 and article 17 of the present decree-law.

Art. 19. Should it consider the appeal to be clearly unfounded, the Supreme Court shall sentence the appellant and his counsel jointly to a fine varying from five thousand to twenty thousand escudos for the benefit of the General Fund

of the Courts, without prejudice to the provisions of the following paragraphs.

SECT. 1. Should it be established that the appellant's intention was to delay or prejudice the investigations in progress concerning him or to upset any proceedings against him or otherwise to impede the regular course of justice, he shall be sentenced to imprisonment in the second division for contempt of court, for which purpose the Prosecutor-General of the Republic shall order the appropriate criminal proceedings to be instituted on the grounds of the testimony in the record, which shall have the force of *corpus delicti*.

SECT. 2. Counsel who was or should have been aware of the absence of any legal grounds for the appeal shall have his right to plead suspended by the Supreme Court for a period of from three months to one year.

Art. 20. The Prosecutor-General of the Republic may, whenever he deems it expedient and whether or not there are any accused persons imprisoned, request the Supreme Court of Justice, through its criminal section, to hear and decide any case or order the necessary investigations to be made where the time limits stipulated in section 4 of article 337 of the Code of Criminal Procedure have expired. Where there are no accused persons imprisoned, such time limits shall be reckoned from the date on which the Public Prosecutor was notified of the crime. They shall be increased by six months, three months, and forty-five days respectively in the case of lawsuits brought before a court of summary jurisdiction or a police court, where the defendants have appealed to the higher courts.

SECT. 1. The same right shall be granted to parties to the case who have been imprisoned.

SECT. 2. After hearing the judge and the Public Prosecutor of the district in which the proceedings were instituted, the Supreme Court of Justice shall take whatever decision it deems best calculated to expedite the procedure.

Art. 21. If any delay in the proceedings is attributable to negligence on the part of the officials or to deliberate dilatoriness on the part of counsel or the accused persons themselves, the Supreme Court of Justice shall order the latter, if they are at liberty, to be imprisoned and disciplinary proceedings to be taken against the officials and counsel, for which purpose the competent authority shall be notified of the decision.

Art. 22. The provisions of the present decree-law shall not apply to members of the armed forces who are amenable to a special court.

Art. 23. The present decree-law shall come into force, so far as concerns the measure of *habeas corpus*, as soon as the criminal section of the Supreme Court of Justice has been established.

To be published and carried out as stipulated herein.

ROUMANIA

CONSTITUTION OF ROUMANIA¹

of 28 March 1923

TITLE II

RIGHTS OF ROUMANIANS

Art. 5. Roumanians, without distinction as to ethnical origin, language or religion, enjoy freedom of conscience, freedom of education, freedom of the press, freedom of assembly, and of association and all the liberties and rights established by law.

Art. 6. The present Constitution and the other laws relating to political rights determine what, in addition to Roumanian nationality, are the conditions necessary for the exercise of these rights.

Special laws adopted by a two-thirds voting majority shall determine the conditions in which women may exercise political rights.

The civil rights of women are to be established on the basis of full equality of the sexes.

Art. 7. Differences of religious belief and confession or of ethnical origin and language shall not in Roumania be an impediment preventing the achievement or exercise of civil and political rights.

An alien shall not be on an equal footing with Roumanians as regards the exercise of political rights, until after he has been naturalized.

Art. 8. No distinctions of birth or social class are recognized in the State.

All Roumanians, without distinction as to ethnical origin, language or religion, are equal before the law and have, without any distinction, the duty to contribute to taxes and public charges.

They alone are eligible for public, civil and military duties and honours.

Special laws shall determine the regulations relating to public officials.

Aliens may not be admitted to public office save in exceptional cases specially determined by law.

Art. 9. All aliens in Roumanian territory enjoy the protection extended by the law to property and persons generally.

Art. 10. All class privileges of whatever nature and immunities and monopolies are prohibited in the State of Roumania in perpetuity.

Titles of nobility are not and never shall be recognized in the State of Roumania.

Foreign decorations shall not be worn by Roumanians except with the consent of the King.

Art. 11. The liberty of the individual is guaranteed.

No person may suffer prosecution or search except in the cases and according to the procedure prescribed by law.

No person may be detained or arrested except by virtue of a judge's warrant which shall state the reason and must be communicated at the time of arrest or not later than twenty-four hours after such detention or arrest.

Where an offence is manifest, detention or arrest may take place immediately, but a warrant shall be issued within twenty-four hours and communicated in accordance with the provisions of the preceding paragraph.

Art. 12. No person may be removed against his will from the jurisdiction of the judges appointed over him by law.

Art. 13. The home is inviolable.

No house searches may be made except by the competent authorities in the cases specially provided for and in accordance with the procedure prescribed by law.

Art. 14. No penalty may be created or applied except in pursuance of a law.

Art. 15. No law may create the penalty of forfeiture of property.

Art. 16. The death penalty may not be re-established except in the cases provided for by the military penal code for times of war.

Art. 17. Ownership in whatever form and credit claims on the State are guaranteed.

The public authorities are by law entitled to exploit, in the interests of public utility, the subsoil of any immovable property whatsoever, subject to the obligation to make compensation for damage caused to the surface, or to existing structures and works. Failing a friendly arrangement, such compensation shall be fixed by the courts.

Private property shall not be taken from any one except in the case of public utility and just compensation being first made in a manner to be prescribed by law.

A special law shall determine cases of public utility as well as the procedure and form of expropriation.

Apart from expropriation for means of communication, or on grounds of public health, national defence and work of direct general interest to the State and public administration authorities, all other cases of public utility shall be established by laws adopted by a two-thirds majority.

¹ French text in *Ministère des Affaires Etrangères, Constitution*. Bucarest, 1923. English translation from the French text by the United Nations Secretariat.

Existing laws regarding the building lines and widening of communal roads, as well as the banks of water courses flowing past those highways, shall remain in force throughout the kingdom.

Art. 18. Only Roumanians and naturalized Roumanians may acquire any title to any possession of immovable property in rural areas in Roumania. Aliens shall be entitled to the value of such immovable property only.

Art. 19. Mineral deposits and subterranean wealth of every description belong to the State. Common rock deposits, building material quarries and peat deposits are excepted, without prejudice to the rights acquired by the State under earlier laws.

A special law relating to mines shall prescribe the regulations and conditions governing the development of these assets, determine the royalties payable to the owner of the surface and, at the same time, specify whether and how far he may participate in the exploitation of these resources.

Regard shall be had to vested interests which affect the development of the subsoil, and in accordance with the distinctions to be made in a special law.

Mining concessions established or granted in accordance with laws at present in force shall be respected for the duration of the term for which they were granted; and where owners themselves are engaged on exploiting mines, concessions shall be valid only for so long as they are so engaged. No concessions may be granted in perpetuity.

All the concessions and exploitations described in the preceding paragraph must, however, conform with the regulations to be prescribed by a law specifying the maximum term of such concessions and exploitations, which shall not exceed fifty years from the date of the promulgation of this Constitution.

Art. 20. Means of communication, the air space, and navigable and floatable waters are public property.

Water courses capable of producing motive power and those adaptable for utilization in the public interest are also public property.

Vested interests shall be respected or, in the case of public utility, shall be acquired by expropriation in return for just and prior compensation.

Special laws shall determine the limits within which all the rights aforementioned may continue to be exercised for the benefit of the owners, the methods of expropriation, and the compensation payable for the use of the surface and existing installations.

Art. 21. All factors of production enjoy equal protection.

The State may by law intervene in the relations between these factors to prevent economic or social conflicts.

The freedom of labour shall be protected.

The law shall regulate the social insurance of workers in cases of sickness, accidents, etc.

Art. 22. Freedom of conscience is absolute.

The State guarantees to all forms of worship equal liberty and protection provided that the practice of such forms of worship does not prejudice public order, morality or the constitutional law of the State.

The Christian Orthodox Church and the Greek Catholic Church are Roumanian churches.

The Roumanian Orthodox Church, being the religion of the majority of Roumanians, is the dominant church in the State of Roumania, whilst the Greek Catholic Church has priority over the other forms of worship.

The Roumanian Orthodox Church is, and shall remain, independent of any foreign episcopal see whilst maintaining doctrinal unity with the Eastern Oecumenical Church.

Throughout the kingdom of Roumania, the Christian Orthodox Church shall form a single organization with representatives of all the constituent elements, both clerics and laymen.

A special law shall determine the fundamental principles of the said organization as well as the methods by which the Church shall, through her own bodies and under State supervision, regulate, conduct and administer her religious and cultural questions and matters relating to her foundations and charitable trusts.

Spiritual and canonical matters pertaining to the Roumanian Orthodox Church are to be settled by a single central synodical authority.

The metropolitans and bishops of the Roumanian Orthodox Church shall be elected in accordance with a special law.

The relations between the various forms of religious worship and the State shall be regulated by law.

Art. 23. The issue of certificates of births, marriages and deaths is the province of the common law.

Such certificates must always be drawn up before the blessing of the church is given.

Art. 24. Instruction is free in the conditions established by special laws provided it is not contrary to morality or public order.

Elementary education is compulsory. In the State schools such instruction shall be free.

The State, and the district and communal authorities will grant assistance and facilities to pupils without means at all stages of instruction to the extent and along the lines prescribed by law.

Art. 25. The Constitution guarantees to everybody freedom to communicate and publish his ideas and his opinions by the spoken and written word and through the medium of the press, every

person being responsible for abuses of that freedom in cases determined by the Penal Code, which shall in no case restrict the right as such.

No special law may be introduced on this subject. Nor may any censorship or other preventive measure governing the appearance, sale or distribution of any publication be introduced.

No prior permission shall be required for the appearance, sale or distribution of any publication.

No bond or surety shall be required of journalists, writers, printers, publishers and lithographers.

The press shall never be subjected to a system of warnings.

No daily or other publication may be suspended or suppressed.

Every periodical publication, whatever its character, must have a responsible manager and, failing him, a responsible editor. The manager or the editor must enjoy civil and political rights. The name of the manager and the name of the editor shall always appear prominently on the title page of the publication.

Before the appearance of the periodical publication, its owner shall be bound to report and register his name with the Court of Commerce.

Penalties relative to these provisions are to be prescribed by special law.

Art. 26. As regards non-periodical publications, the author, and failing him, the publisher, shall be responsible for his writings; the proprietor of the printing office shall be responsible in the absence of the author and the publisher.

As regards periodical publications, responsibility shall devolve in turn upon the author, the manager or the editor in that order.

The owner is in every case jointly responsible for the payment of civil indemnities.

Press offences shall be tried by a jury, except the cases stated below which will be tried by the ordinary courts in accordance with common law.

(a) Offences against the sovereigns of the country, the Heir Apparent, members of the Royal Family and the Dynasty, the heads of foreign States and their representatives;

(b) Direct incitements to murder and rebellion if they were not actually followed by action;

(c) Libels, insults and defamations directed against private individuals or public officials whoever they may be, whereby their private life or personal honour is attacked.

Preventive arrest in connexion with press matters is prohibited.

Art. 27. The secrecy of letters, telegrams and telephonic conversations is inviolable.

A special law shall specify the cases where the

judiciary for the purposes of penal proceedings may depart from the present provision.

The same law shall determine the liability of agents of the State and private individuals for violations of the secrecy of letters, telegrams and telephonic conversations.

Art. 28. Roumanians, without distinction as to their ethnical origin, language or religion, have the right to assemble peaceably and without arms for the purpose of deliberating on questions of any description provided they comply with the laws governing the exercise of that right; no previous authorization is necessary therefor.

Open-air meetings are permitted except in public squares and on public highways.

Meetings, processions and demonstrations on public highways and squares are subject to the police regulations.

Article 29. Roumanians, without exception as to ethnical origin, language or religion, have the right to associate provided they comply with the laws governing the exercise of that right.

The right of free association does not *per se* imply the right to create legal persons.

The conditions in which legal personality is granted shall be prescribed by a special law.

Art. 30. Everybody has the right to apply to the public authorities by petitions signed by one or more persons, but such petitions may be presented only in the name of the signatories.

Only constituted authorities have the right to present petitions under a collective name.

Art. 31. No previous authorization is required by the injured parties to institute proceedings against public officials in respect of acts committed under their administration, without prejudice to the special regulations in force applicable to ministers.

The cases and the procedure of such proceedings shall be prescribed by a special law.

Special provisions in the Penal Code shall determine the penalties to be inflicted on offenders.

Art. 32. No Roumanian may, without the authority of the Government, enter the service of a foreign State without thereby forfeiting his nationality.

The extradition of political refugees is prohibited.

TITLE VI

GENERAL PROVISIONS

Art. 128. The present Constitution may not be suspended either as a whole or in part.

In case of national peril a general or partial state of emergency may be declared.

STATUTE FOR NATIONALITIES¹

Law No. 86 of 7 February 1945

CHAPTER I

GENERAL PROVISIONS

Art. 1. All Roumanian citizens are equal before the law and enjoy the same civil and political rights, regardless of race, nationality, language or religion.

Art. 2. Investigation of the racial origin of Roumanian citizens, with a view to establishing their juridical position, is forbidden.

Art. 3. Differences of language, religion, race or nationality cannot form an obstacle for a Roumanian citizen to the acquirement and enjoyment of civil and political rights, to his admittance to State offices, or to his exercising a profession.

Art. 4. Roumanian citizens belonging to nationalities whose language, race or religion are other than Roumanian, will be awarded the same treatment and the same *de jure* and *de facto* protection as other Roumanian citizens.

Any restrictions, direct or indirect, affecting the citizens' rights, or vice versa, any direct or indirect privileges granted to citizens on the grounds of principles of race, creed or nationality and any incitement to exclusion, hatred or contempt manifested with regard to race, creed or nationality are punished by law.

Art. 5. Every Roumanian citizen has the right to decide of his own free will as to his mother tongue or his nationality. Interference from any authority is forbidden, official organs being obliged to accept the declaration of the respective Roumanian citizen.

CHAPTER II

SPECIAL PROVISIONS

Section I

PROVISIONS RELATING TO THE LANGUAGE

Art. 6. The official language of the Roumanian State is the Roumanian language. Administrative or legal sectors, however, where a large part of the population uses a language other than Roumanian, come under the provisions of article 8 and the following articles of this law.

Art. 7. In private intercourse like correspondence, telephone conversations, etc., in industries and commerce, or in matters pertaining to religion, press, publications of any nature, or public meetings, Roumanian citizens may freely, and without restrictions, use any language.

Art. 8. Law courts functioning in a legal sector, where the last census proved that at least thirty per cent of the population has the same mother tongue, other than the Roumanian language, are under the following obligations:

(a) To accept documents presented by the inhabitants of the sector belonging to the thirty per cent quota and drawn up in their own language, without demanding a translation into the official language;

(b) To pronounce decisions regarding those documents in the same language;

(c) To allow parties in a lawsuit to address the court in their own language.

Art. 9. On the basis of official statistics, the Ministry of Justice determines which law courts come under the provisions of the preceding article.

Art. 10. Communal and district authorities with territorial competence over an administrative sector where the last census shows that the number of people using the same mother tongue—other than Roumanian—constitutes at least thirty per cent of the population of that sector, are under the following obligations:

(a) To accept any documents from those belonging to the thirty per cent quota in their own mother tongue without demanding a translation into the official language of the State;

(b) To pronounce decisions regarding those documents in the same language;

(c) To allow the applicants to use their own language when coming before the authorities;

(d) In communal or district councils of such territorial sectors the *de facto* and *de jure* members of the nationality forming the thirty per cent quota must be allowed to address the council in their own language.

Art. 11. On the basis of official statistics, the Ministry of the Interior will determine the boroughs and districts coming under the preceding article.

Art. 12. Magistrates and clerks of the law courts and the administrative authorities coming under articles 9 and 11 must also know the language of the respective nationality.

Art. 13. Newspapers and other periodicals published in a language other than Roumanian can indicate the name of the locality where the publication is issued as well as the names of other localities in the respective minority language.

Art. 14. Family names of the citizens must be entered in the register and in civil documents in their original form and spelling, as recorded in the personal documents of the respective citizen.

Art. 15. In the towns and rural communities where, according in the last census, thirty per cent of the total population has the same mother tongue other than the Roumanian language, the names of streets must also be indicated in the language of the respective nationalities.

Art. 16. Civil servants of any category appointed on the basis of degrees and certificates

¹ Translated by Dr. Jacob Robinson, New York.

issued by schools and institutions recognized by the State, will not be compelled, under any pretext, to pass any examination in the Roumanian language.

Art. 17. The laws enacted after 23 August 1944, as well as the rules in regard to their application, will be translated in the form of an official collection, into the languages of those co-habiting nationalities which, according to the last census, constitute five per cent of the total population of the country.

Rules, regulations and communiqués of the local authorities will be published in the language of the nationality which constitutes at least thirty per cent of the population of the respective sectors or localities.

Section II

DISPOSITIONS REGARDING EDUCATION

Art. 18. The Roumanian State guarantees that education will be provided in the mother tongue, through public secondary and superior schools, recognized by the State, if the number of solicitant students is sufficiently large, and, with the exception of those localities where private confessional schools correspond to necessity, the members of the faculty will be recruited preferably from the respective nationality.

Art. 19. Dispositions which apply to the Roumanian private confessional schools, also apply to the private confessional schools of the nationalities.

Art. 20. Students who in State schools and sections thereof were taught in a language other than Roumanian will be examined in the same language in which they were taught: this also refers to private confessional schools of the respective nationalities. This provision includes the examination for the baccalaureate.

Art. 21. Private confessional schools of the nationalities will receive from the State the same financial support given to Roumanian private confessional schools.

Art. 22. The faculty of Law and the faculty of Arts and Philosophy at Cluj University will open courses in Hungarian and German, as the need arises and with due consideration to the number of the respective students.

Section III

DISPOSITIONS REGARDING RELIGION

Art. 23. In the framework of the law establishing the general regime of religions, recognized cults have the right to independent management of their patrimony in conformity with their basic statutes.

Art. 24. With the exception of the control of the Ministry of Religions, any interference on the part of administrative authorities, in matters regarding religious services of the recognized confessions, is forbidden.

Art. 25. Clergymen belonging to all religions recognized by the State will receive equal salaries, provided they are equal in learning and rank, so long as their parish amounts to the number demanded by the regime of religions for the granting of financial support by the State.

CHAPTER III

FINAL AND TRANSITIONAL PROVISIONS

Art. 26. The Ministry of Nationalities, in agreement with the Ministry of Justice, will take the legislative measures necessary for the solving of all petitions forwarded on the basis of the decree-law for the amendment and completion of certain provisions of the law concerning the acquirement of Roumanian citizenship, published in *Monitorul Oficial* No. 171 of 27 July 1939, which were left pending, and for the granting of a new term for registering.

Art. 27. The Ministry of Nationalities will supervise the execution of the dispositions of this law.

All administrative and police organs will execute the instructions issued by this Ministry with regard to the application of this law.

Complaints on the part of Roumanian citizens belonging to any religion or nationality, with regard to the violation or the mistaken application of the principles established by this law, will be addressed to the Ministry of Nationalities.

Art. 28. Provisions of all previous laws and regulations contrary to the provisions of the present law are and remain abrogated.

DETERMINATION AND PUNISHMENT OF CERTAIN INFRINGEMENTS OF THE LAW ON THE STATUS OF NATIONALITIES¹

Law No. 630 of 6 August 1945

Art. 1. Any person undertaking an investigation into the ethnical origin of a Roumanian citizen in order to establish his legal position in

the course of judicial, administrative, police or other proceedings, shall be deemed to have committed the offence of racial discrimination and shall be punished by the penalty of imprisonment for a period of three months to one year.

Any official employing in a public document the expression "ethnical origin" or any other term of

¹ French text in *Le Nouveau régime des nationalités en Roumanie*. Textes. Bucharest, Imprimerie de l'Etat, 1946, pp. 10-12. English translation from the French text by the United Nations Secretariat.

like intent, shall be deemed to have committed the same offence and be liable to the same penalty.

Where such public official refuses to issue a document on the grounds that the applicant has not yet proved his ethnical origin, the provisions of article 243 of the Penal Code shall apply.

The provisions of the present article shall not apply in cases where any racial origin whatsoever (other than that previously determined on the basis of racial criteria) is invoked by the parties concerned only and where the authorities, in pursuance of such information, are engaged in ascertaining the legal position of such parties; provided always that such an operation shall have been requested in accordance with the provisions of Art. 2, item (d), paragraph 3 of the decree-law No. 2440 of 1945.

Art. 2. Any person preventing a Roumanian citizen from freely establishing his nationality or his mother tongue in accordance with the provisions of article 5 of Law No. 86 of 1945, by arbitrarily changing the data given by such citizen or by asking him to submit certain data, shall be guilty of the offence of unlawful practices in the establishment of a nationality or language and shall be punished by imprisonment for a period of three months to one year and a fine of 10,000 to 50,000 lei.

In the case of a second offence, a sentence of loss of civil rights for one to three years shall be added to the penalty prescribed in paragraph 1 of the present article.

Art. 3. Any person deliberately changing or altering in any register, certificate of birth, marriage or death or other public document the surname of a citizen, as proved by the official documents relating to the person of such citizen, shall, in cases where the act does not constitute a misdemeanour provided for by and punishable under article 401 of the Penal Code, be guilty of the offence of falsification of a name and shall be punished by imprisonment for a period of one to three months and a fine of 5,000 to 20,000 lei.

Art. 4. Any person who in the exercise of his duties (1) directly or indirectly restricts the rights of citizens; (2) establishes direct or indirect privileges in favour of citizens by fixing special conditions regarding the engagement or appointment of staff, either by differential treatment or in any other discriminating manner, on grounds of race, religion or nationality, shall be guilty of an offence against the equality of citizens and shall be punished by imprisonment for a period of three months to one year and a fine of 10,000 to 50,000 lei.

If the offence is repeated a sentence of loss of civil rights for one to three years shall be added to the penalty described in paragraph 1.

Art. 5. Any person preventing the use of a language other than the official language of the State under the provisions of Law No. 86 of 1945 concerning the Status of Nationalities, chapter II, section 1 or for that purpose interfering with private relations shall be guilty of the offence of violation of civic liberty and shall be punished by a sentence of three to six months' imprisonment and a fine of 5,000 to 10,000 lei.

Any attempt to do so is punishable.

Art. 6. Any person refusing or preventing the free transmission of the spoken or written word, by the usual internal channels employed for postal, telephonic and telegraphic correspondence, on the grounds that the contents are written or spoken in a language other than the official language of the State, with the exception of the name of the locality (which must be written in the official language in the address), shall be guilty of the offence of violation of civic liberty and shall be punished by a fine of 5,000 to 10,000 lei.

Art. 7. Any person who by defamatory or insulting means and on the grounds of race, worship or religion attacks the honour or reputation of a nationality, exposes it to ridicule, or by his attitude or acts prejudices the intention and desire of national groups to live together in harmony shall, unless his act constitutes a more heinous offence, be guilty of the offence of disturbing the harmonious relations between the said national groups and shall be punished by six months' imprisonment and a fine ranging from 20,000 to 50,000 lei.

Art. 8. Any person who (1) makes defamatory statements or assertions likely to arouse hatred or contempt for a race, nationality or religion; (2) employs defamatory statements or allegations in support of national discrimination shall, unless the act constitutes a more serious misdemeanour, be guilty of the offence of sowing discord between the national groups living together or religious discord as the case may be, and shall be punished by imprisonment from six months to two years and a fine of 50,000 to 100,000 lei.

Where the offence was committed through the medium of the press or other medium of publicity the penalty shall be imprisonment from one to three years and a fine of 50,000 to 100,000 lei.

In the case of a second offender or where the offender is a public official, a sentence of one to three years, loss of civil rights shall be added to the penalty prescribed in the preceding paragraphs.

Art. 9. Any person who, by inaccurate, unfounded or malicious statements and by invoking the penalties of this law, shall have attributed an offence to another person, shall, unless the act constitutes the misdemeanour provided for in

art. 269 of the Penal Code or a more heinous offence, be guilty of the offence of sowing discord between national groups and shall be punished by detention for one to five years.

There shall be no stay of execution in the case of acts and penalties provided for in this article.

Art. 10. Penal proceedings are instituted by the

Public Ministry, by the legal authorities and persons duly authorized, and by the injured party.

Proceedings, whether public or private, must be instituted within a period of three months from the date when the Public Ministry, the authorities duly authorized or the injured party first had knowledge of the offence and of the identity of the party committing it.

EL SALVADOR

POLITICAL CONSTITUTION OF EL SALVADOR¹

of 13 August 1886

TITLE II

RIGHTS AND GUARANTEES

Art. 5. No hereditary offices or privileges are recognized in the Republic.

All property is transferable in the manner that the laws determine, and in consequence, all kinds of entails are prohibited, except the following:

1. Trusts, when they may be established in favour of the nation, of charitable or cultural institutions of the country, that exist or that may be created, of incompetent natural persons in conformity with the law for the management of their interests, or of persons who may not have been born but are already in the maternal womb.

2. Family property.

Art. 6. No taxes shall be levied except by virtue of a law, and for the public service.

Art. 7. Everyone who exercises any public office is directly and immediately responsible for the acts that he commits in the exercise of his functions. The law shall determine the manner of making this responsibility effective.

Art. 8. El Salvador recognizes rights and duties prior and superior to the positive law, having as principles liberty, equality, and fraternity, and based on the family, labour, property, and public order.

Art. 9. All inhabitants of El Salvador have an indisputable right to preserve their lives, liberty, and property, and to dispose freely of their goods in conformity with the law.

Art. 10. Every man in the Republic is free. No one who enters its territory shall be a slave, nor can anyone who deals in slaves be a citizen.

Art. 11. The Republic is a sacred asylum for the alien who may reside in its territory, except for those guilty of common offences who are claimed by another nation by virtue of existing treaties in which extradition is provided.

Extradition shall never be stipulated, in any case, with respect to nationals; nor with respect to aliens, for political crimes, even though in consequence a common crime may result from them.

Art. 12. The free exercise of all religions, without further restriction than that required by

morality and public order, is guaranteed. No religious act shall serve to establish the civil status of persons.

Churches and their dependencies shall be exempt from every kind of tax on real property.

The State recognizes the juridical personality of the Catholic Church, representative of the religion that the majority of Salvadorians profess. Other churches may obtain recognition of their juridical personality in conformity with the law.

Art. 13. Every person has the right to remain in the place that he may prefer; and that of travelling, emigrating, and returning without a passport, except in case of an executed sentence and without prejudice to what is provided in article 28 of this constitution.

Art. 14. Similarly, the inhabitants of El Salvador may associate and assemble peacefully, and without arms, for any lawful purpose.

Art. 15. No one shall be obliged to give work or personal services without just compensation and without his full consent, except for reasons of public necessity or utility established by law. The law cannot authorize any act or contract that may have for its object the loss or irrevocable sacrifice of the liberty of man, whether by reason of work, education, or religious vows. Nor can it authorize agreements in which a man contracts his proscription or exile.

Art. 16. Every person has the right to address his petitions to the legally established authorities, provided that they are made in a decorous manner; and to have them acted upon and to be informed of the decision reached regarding them.

Art. 17. No person who may have the free administration of his property may be deprived of the right to terminate his civil affairs by compromise or arbitration. In regard to those who may not have that free administration, the law shall determine the cases and requirements in which it may be handled thus.

Art. 18. Confiscation, whether as a penalty, or in any other way, is prohibited. The authorities who violate this provision shall answer at all times with their persons and property for the damage caused; the things confiscated are imprescriptible.

Art. 19. The penalty of death may not be imposed, except for very grave crimes, purely military, and committed in campaign and determined by the military code; and for the crimes of paricide, murder, or robbery or arson if death follows.

¹ English translation from *The Constitutions of the Americas* (cited above, p. 6). The Constitution of 13 August 1886 was superseded by a Constitution of 20 January 1939 but restored with amendments in 1945.

Perpetual penalties, flogging, and all kinds of torture are prohibited.

Art. 20. No person may be deprived of his life, his liberty, or his property without previously being heard and convicted in a trial in accordance with the laws; nor may anyone be prosecuted twice, civilly or criminally, for the same cause.

Art. 21. Inspection or search of a person may be undertaken only to prevent or investigate crimes or offences.

The domicile is inviolable, and its invasion may not be decreed except for the investigation of crimes or the pursuit of offenders, in the form and in the cases determined by law.

Art. 22. No individual shall be tried in another jurisdiction than that where the crime was committed, except in the cases determined by law, or in those in which the law itself authorizes the court of justice to designate another jurisdiction.

Art. 23. All men are equal before the law.

Art. 24. The laws cannot have retroactive effect, except in penal matters when the new law may be more favorable to the offender.

Art. 25. No one may be tried except by laws enacted prior to the offence and by a tribunal that the law had previously established.

Art. 26. The same judge may not take cognizance of the same case on appeal.

Art. 27. No power or authority may remove pending cases to another court or open terminated cases.

Art. 28. Neither the Executive nor the Judiciary, nor any other authority, may issue orders of detention or imprisonment if they are not in conformity with the law. These orders must always be written, except in criminal matters, when the offender may be taken *in flagrante delicto*, in which case he may be detained by any person, to be delivered immediately to the respective authorities. Detention for inquiry shall not exceed forty-eight hours, and the investigating judge is obliged, within the said period, to order the liberty or the provisional arrest of the suspected person.

Art. 29. Every man may freely express, write, print, and publish his thoughts, without previous examination, censorship, or bond; but he must answer before a jury for any offence he may commit.

Art. 30. Correspondence by letter and telegraph is inviolable. Intercepted correspondence cannot be given faith and cannot figure in any kind of action.

Art. 31. Property is inviolable. No person may be deprived of his property except by reason of public utility, legally proved and after just indemnification. In cases of war, public calamity, the opening of new highways or the modification of existing ones, and the supply of water, the indemnification need not be previous.

When the necessities of an international war may require it, the State may intervene in the administration of property belonging to nationals of enemy countries; it may dispose of it and apply its income as indemnity of war, according to circumstances and a previous decree in which reasons are expressed.

The law shall regulate the form of making these provisions effective.

Art. 32. No permanent civil or ecclesiastical corporation, whatever its character, denomination, or object may be, shall have the legal capacity to own real property in fee simple or to administer it for itself, with the single exception of that intended immediately and directly for the service or the purpose of the institution.

Art. 33. Instruction is free; primary instruction, moreover, is obligatory. Instruction that is given in establishments supported by the State shall be gratuitous and shall be subject to proper regulations.

Art. 34. All industry is free, and may be monopolized only for the benefit of the nation, with the *aguardiente*, saltpeter, and gunpowder business to be administered by the Executive.

There shall be no other monopoly of any kind, or any prohibitions on industrial liberty, even for protection. There are excepted only those relative to the coining of money and to the privileges that, for a limited time, are granted by law to inventors or to those improving any industry.

Art. 35. The right of association is guaranteed, and the establishment only of conventual congregations and all kinds of monastic institutions is prohibited.

Art. 36. The right of insurrection shall in no case produce the abrogation of the laws, its effects being limited to the removal, as may be necessary, of persons discharging governmental office and the provisional appointment of those who shall substitute for them until the vacancies are filled in the manner established by the Constitution.

Art. 37. Every person has the right to ask and obtain protection from the Supreme Court of Justice or the chamber of second instance, when any authority or individual may restrict his personal liberty or the exercise of the other individual rights that the present Constitution guarantees. A special law shall regulate the manner of making this right effective.

Art. 38. None of the constituted authorities may negotiate or approve treaties or conventions in which the established form of government is altered in any manner or by which the integrity of the territory or the national sovereignty is impaired; this is to be understood without prejudice to what is provided in article 174 of this constitution.

Art. 39. Neither the Legislature nor the Executive, nor any tribunal, authority, or person, may restrict, alter, or violate the constitutional guaran-

tees, without being subject to the responsibilities established by law. A law on the state of siege shall determine those that may be suspended and the cases in which the suspension may take place.

Art. 40. The rights and guarantees that this con-

stitution enumerates shall not be understood as a denial of other rights and guarantees not enumerated, but that are born of the principle of the sovereignty of the people and of the republican form of government.

SAUDI ARABIA

CONSTITUTION OF THE HEJAZ¹

of 29 August 1926

PART III

THE DEPARTMENTS OF THE KINGDOM OF THE HEJAZ

5. *Public Education*

Art. 23. Public education comprises the diffusion of science, education and the arts, and the opening of libraries, schools and religious insti-

tutes, great care and attention being taken to act in accordance with the foundations of religion in all the Kingdom of the Hejaz.

Art. 24. The Directorate of Public Education should be attached to the office of the Agent General.

Art. 25. A law for public education shall be decreed and shall be brought into force gradually.

Elementary education shall be free of cost throughout the Kingdom of the Hejaz.

¹ *British and Foreign State Papers*, vol. 124 (1926, part II), pp. 880-888, and Helen Miller Davis, *op. cit.*, pp. 248-258.

SIAM

CONSTITUTION OF 10 DECEMBER 1932¹

CHAPTER II

RIGHTS AND DUTIES OF THE SIAMESE

Art. 12. All persons are equal before the law. Titles acquired by birth, by bestowal, or in any other way do not confer any privilege whatever.

Art. 13. Every person is entirely free to profess any religion or creed and to exercise the form of worship in accordance with his own belief, pro-

vided that it is not contrary to public order or public morals.

Art. 14. Subject to the provisions of the law, every person enjoys full liberty of person, abode, property, speech, writing, printing, publication, education, public meeting, association and vocation.

Art. 15. Every person has the right to submit petitions under the conditions and in the manner prescribed by law.

Art. 16. It is the duty of every person to respect the law, to defend the country and to assist the Government by the payment of taxes and in other ways, under the conditions and in the manner prescribed by law.

¹The Constitution was amended on 10 May 1946. Text and information through courtesy of Mr. Dilokrit Kridakon, Secretary of the Royal Siamese Embassy, Washington, D.C.

SPAIN

PENAL CODE¹

Decree of 23 December 1944, as amended by the law of 17 July 1946

BOOK II

OFFENCES AND THEIR PUNISHMENT²

Title I

Offences against the external security of the State

CHAPTER II

OFFENCES COMPROMISING THE PEACE OR INDEPENDENCE OF THE STATE

Art. 126. Any person introducing into the country, publishing or executing any order, regulation or document of a foreign government, harmful to the independence or security of the State, conflicting with its laws, or provoking disregard of such laws, shall be punished by minor imprisonment (*prisión menor*), unless the said offence lead directly to other and more serious offences in which event he shall be punished as if he were the principal author of such offences.

Art. 127. Any person who, by any illegal or not duly authorized act, provokes or furnishes grounds for a declaration of war against Spain by another Power, or who exposes Spaniards to molestation or reprisals against their persons or property, shall, if a public official, be punished by minor confinement (*reclusión menor*), and if not, by major imprisonment (*prisión mayor*).

If war is not declared and the molestations or reprisals are not carried into effect, the penalty next in descending order of severity shall be imposed.

¹ Spanish text in *Boletín Oficial*, No. 13, 13 January 1945, and No. 199, 18 July 1946. English translation from the Spanish text by the United Nations Secretariat.

² *Editor's note:* The scale of penalties restricting personal liberty foreseen by the Spanish Penal Code is as follows:

Minor arrest (*arresto menor*): From one to thirty days. This penalty may in certain cases be carried out in the residence of the guilty person.

Major arrest (*arresto mayor*): From one month and one day to six months.

Minor imprisonment (*prisión menor*): From six months and one day to six years.

Major imprisonment (*prisión mayor*): From six years and one day to twelve years.

Minor confinement (*reclusión menor*): From twelve years and one day to twenty years.

Major confinement (*reclusión mayor*): From twenty years and one day to thirty years.

Art. 128. The same penalties referred to in the preceding article shall apply in the appropriate cases to any person who, during a war in which Spain is not a belligerent, performs any act compromising the neutrality of the State or infringing the regulations published by the Government for maintaining its neutrality.

Art. 129. Any person who, for the purpose of prejudicing the authority of the State or compromising the dignity or vital interests of Spain, maintains intelligence or relations of any kind whatsoever with foreign governments or their agents or with international or foreign groups, bodies or associations shall be punished by major imprisonment.

If the offender attempts to provoke a war or a rebellious or seditious movement or other serious hostile acts against Spain, he shall be punished in accordance with articles 120, 215, or 217 of this code respectively.

Art. 130. Any person violating a truce or armistice arranged between the Spanish nation and an enemy State, or between their armed forces, shall be punished by minor confinement.

Art. 131. Any public official who, in abuse of his office, compromises the dignity or interests of the Spanish nation in a manner not covered in this chapter, shall be punished by major imprisonment and partial loss of civil rights.

Art. 132. Any Spaniard who, outside national territory, communicates or spreads false, distorted or tendentious news or rumours, or performs acts of any kind likely to prejudice the credit or the authority of the State, or to compromise the dignity or interests of the Spanish nation, shall be punished by major imprisonment, total loss of civil rights, and a fine of from 10,000 to 50,000 pesetas.

The same penalties shall apply to any alien who, on Spanish territory, commits any of the acts referred to in the preceding paragraph.

Art. 133. Any person who, without sufficient authority, levies troops in the nation for the service of a foreign Power, irrespective of his aim or of the nation upon which he proposes to wage war, shall be punished by major imprisonment.

Any person who, without sufficient authority, fits out vessels for privateering, shall be punished by minor confinement.

Art. 134. Any person who, in time of war, maintains correspondence with an enemy country or with a country occupied by enemy troops shall be punished:

1. By major imprisonment if the correspondence is carried on in cipher or conventional signs, or by radio-telegraph or radio-telephone.

2. By minor imprisonment if carried on in ordinary form after the Government has prohibited it.

3. By minor confinement if in the correspondence information or news is communicated which is likely to be of use to the enemy, irrespective of the form of such correspondence and even if correspondence has not been prohibited by the Government.

The same penalties shall apply to any person committing the offences referred to in this article even if, in order to evade the law, he carry on the correspondence through a friendly or neutral country.

If the offender intended to assist the enemy with news or information, he shall be deemed to come under article 122, paragraph 4.

Art. 135. Any Spaniard found guilty of attempting to enter enemy territory after it has been prohibited by the Government shall be punished by major arrest (*arresto mayor*).

Title II

Offences against the internal security of the State

CHAPTER I

OFFENCES AGAINST THE HEAD OF THE STATE, THE CORTES, THE COUNCIL OF MINISTERS AND THE FORM OF GOVERNMENT

Section 4. Offences against the form of government.

Art. 163. Any person committing acts aimed directly at replacing the Government of the nation by another, at changing illegally the organization of the State, or at depriving the Head of the State of all or some of his prerogatives and rights, shall be punished by major confinement (*reclusión mayor*) if he was the instigator or held any kind of command, even though subordinate, or was placed in authority, and by major imprisonment in other cases.

Where for the attainment of such purposes use is made of armed force, the penalty shall be major confinement or death for the ringleaders and chiefs, and any persons committing serious acts of violence, and minor confinement for those merely taking part.

Art. 164. The following shall be punished by minor confinement:

1. Persons who, at public demonstrations or meetings or in places of public concourse, by cheers or other acts provoke applause aimed directly at the achievement of any of the purposes specified in the preceding article.

2. Any persons who at such meetings and

places make speeches, read or distribute printed matter or carry devices or flags aimed directly at the achievement of the purposes referred to in the preceding article.

CHAPTER II

OFFENCES COMMITTED WITH REGARD TO THE EXERCISE OF THE RIGHTS OF THE INDIVIDUAL RECOGNIZED BY LAW

Section 1. Offences committed by private persons with regard to the exercise of the rights of the individual recognized by law.

Art. 165. The following shall suffer the punishment of major arrest:

1. The authors, directors, editors and printers of clandestine publications.

As such shall be considered any persons not satisfying the conditions required by existing law for the publication of books, leaflets, pamphlets and posters.

2. Any persons purporting to found a newspaper who do not comply with the provisions laid down by the law on the press.

The same penalty shall be incurred by any persons not satisfying the requirements of the printing or press laws regarding the appointment, rotation and retirement of the director of the newspaper.

3. A director of a newspaper not complying with the provisions regarding the submission of copies of each edition to the authority.

Art. 166. The following shall not be considered peaceful meetings or demonstrations:

1. Any meeting or demonstration held in violation of the police regulations generally applicable in the place where it is conducted.

2. Meetings or demonstrations attended by a considerable number of persons bearing arms of any kind.

3. Meetings or demonstrations held for the purpose of committing any of the offences punishable under law, or in the course of which any of the offences punishable under this Title is committed.

Art. 167. The promoters and ringleaders of any meeting or demonstration coming within the terms of art. 166 shall be liable to minor imprisonment and a fine ranging from 1,000 to 5,000 pesetas.

Where the meeting or demonstration did not actually take place, the penalty shall be major arrest and a fine ranging from 1,000 to 3,000 pesetas.

Art. 168. For the purposes of the foregoing articles, the ringleaders of the meeting or demonstration shall be deemed to be any person or persons who by reason of their speeches made there, or of their publications published or distributed there, or of badges, flags, or other signs displayed there, or of any other action, appear to be the persons inspiring the actions of such meeting or demonstration.

Art. 169. Persons merely attending the meetings or demonstrations referred to in art. 166 shall be punished by major arrest.

Art. 170. The promoters, ringleaders and persons attending any meeting or demonstration shall, upon failure to dissolve such meeting or demonstration at the summons of the authorities or their officers, be respectively liable to the penalties next in ascending order of severity.

Art. 171. Any persons attending meetings or demonstrations who carry arms of any kind shall be punished by minor imprisonment without prejudice to their liability for unlawfully carrying arms.

Art. 172. The following shall be considered illegal associations:

1. Those which in their purposes or conditions are contrary to public morality.
2. Those having as their purpose the commission of an offence.
3. Those prohibited by the competent authority.
4. Those constituted without compliance with the requirements or procedure laid down by law.

Art. 173. The foregoing article shall be deemed to apply to:

1. Groups or associations likely to lead to the destruction or weakening of national feeling.
2. Groups or associations constituted inside or outside national territory in order to attack in any manner whatsoever the unity of the Spanish nation or to promote or encourage separatist activities.

Persons found guilty under this head shall, in addition to the penalties referred to, be liable to a fine ranging from 10,000 to 100,000 pesetas.

3. Associations, organizations, political parties and other bodies declared to be outlawed, and any others of like tendencies, even where they have been reconstituted in a different form and under different names.

4. Those aiming at the establishment of a regime based on dividing Spaniards into political or class groups of any nature whatsoever.

5. Para-military formations expressly forbidden by law.

Where the offender is a member of the army or of an armed body or organization, he shall be liable to the penalty next in ascending order of severity.

Art. 174. The following shall be liable to the penalties of minor imprisonment, partial loss of civil rights and a fine ranging from 1,000 to 5,000 pesetas:

1. The founders, directors and presidents of associations covered by the foregoing article and by art. 172, paragraphs 1, 2 and 3.

Where the association has not been actually established, the penalty shall be major arrest, sus-

pension and a fine ranging from 1,000 to 3,000 pesetas.

Where the association has as its object the violent subversion or the destruction of the political, social, economic or legal organization of the State, the founders, organizers or directors shall be punished by minor confinement, and those who merely participated by minor imprisonment.

Where the actions punishable under the foregoing paragraph are not of a heinous nature, or where the association was not actually established, the court shall inflict the punishment next in descending order of severity, or banishment and a fine ranging from 1,000 to 5,000 pesetas.

2. Persons who by their financial assistance, even where concealed, encouraged the foundation, organization, reconstitution or activity of the associations, groups, organizations, parties, bodies and formations referred to in the foregoing article.

In such a case, the courts may, where the assets of the offender allow, raise the amount of the fine up to 250,000 pesetas, due regard being had to the circumstances and consequences of the act.

Art. 175. The following shall be liable to the penalty of major arrest:

1. The founders, directors and presidents of associations referred to in art. 172, paragraph 4.
2. The directors, presidents and ordinary members of associations who denied to the authority or its officers access to or presence at their meetings.
3. The directors and presidents of associations who fail to comply with the summons made to them by the authority or its officers to close the meeting, and ordinary members of such associations who in such an event do not withdraw from the meeting.
4. The ordinary members of associations coming within the terms of art. 172, paragraphs 1, 2 and 3, and of art. 173.

Art. 176. The penalties next in ascending order of severity to those referred to respectively in the two foregoing articles shall be imposed on the founders, directors, presidents and members of associations who, after a meeting has been suspended by the authority or its officers, hold a further meeting, whilst the competent authority has not revoked the suspension order.

Art. 177. Any persons founding teaching establishments which are contrary to the law in their objects or methods shall be liable to minor imprisonment and a fine ranging from 1,000 to 10,000 pesetas.

CHAPTER IV

SEDITION

Art. 218. Any person or persons who publicly or tumultuously agitate in order to attain by force or by other than legal means any of the following ends shall be deemed to be guilty of sedition:

1. To prevent the promulgation or execution of

the law or the free holding of elections to public offices.

2. To prevent any authority, official corporation, or public official from freely carrying out their duties and fulfilling their administrative or judicial functions.

3. To commit any act of hatred or vengeance against the person, family or property of any authority or its officers.

4. To commit for a political or social purpose any act of hatred or vengeance against private persons of any class of the State.

5. To deprive for a political or social purpose any class of persons or the municipality, province or State of all or part of their property, or to damage or destroy such property.

Art. 219. Persons guilty of sedition shall be punished by the following penalties:

1. Those having promoted or supported the sedition and those directing it or appearing as its principal authors shall suffer penalties ranging from major confinement to death if they were persons holding positions of civil or ecclesiastical authority or if there was a conflict between the force under their command and the public force loyal to the Government, or if such force caused damage to the property of private persons, townships or the State, or if it interrupted telegraphic, railway or other communications, committed serious violence against individuals, levied contributions, or diverted public funds from their legitimate destination.

Except in the above cases the offender shall be punished by major confinement.

2. Persons holding subordinate positions of authority shall be punished by major confinement in the cases referred to in the first paragraph of the foregoing article, and by minor confinement in the cases covered by the second paragraph of the said article.

3. Persons merely taking part in the sedition shall be punished by major imprisonment in the cases covered by the first sub-paragraph of paragraph 1 of this article, and by minor imprisonment in cases covered by the second sub-paragraph of the said paragraph.

Art. 220. The provisions of art. 216 shall be applicable to the case of sedition whenever such sedition has not been actually organized under known leaders.

Art. 221. Any person seducing troops or any other type of armed force from their allegiance for the purpose of committing the offence of sedition shall be punished by minor imprisonment.

If the sedition actually takes place, the seducers shall be deemed to be promoters, and shall suffer the punishment provided for such persons under art. 219.

Art. 222. The following shall be punished as guilty of sedition:

1. Officials or employees in charge of any type of public services and private persons professionally rendering services of recognized and essential necessity, who, for the purpose of endangering the security of the State, interrupting its normal activity or prejudicing its authority or prestige, cease their work or interrupt the regularity of their service.

2. Combinations of employers with a view to a lockout.

3. Strikes.

Art. 223. The persons guilty of the offences referred to in the preceding article shall be punished:

1. By major imprisonment if they were the promoters, organizers or ringleaders or if for the commission of the said offences they used violence or intimidation.

2. By minor imprisonment in other cases.

The court, taking into consideration the circumstances of the act and of the delinquent, in particular his financial position, may, in addition to the penalties referred to, inflict a fine ranging from 5,000 to 50,000 pesetas.

Art. 224. Where the sedition did not reach the point of seriously interfering with the exercise of public authority and also did not lead to the commission of another offence for which punishments heavier than minor penal servitude (*presidio menor*) or imprisonment are applicable, the courts shall reduce the penalties provided for in this chapter by one or two degrees.

CHAPTER VII

BLASPHEMY

Art. 239. Any person uttering blasphemies in writing or in words or deeds which cause serious public scandal, shall be punished by major arrest and a fine ranging from 1,000 to 5,000 pesetas.

CHAPTER VIII

CONTEMPT, INSULTS, ABUSE AND THREATS AGAINST AUTHORITY, AND INSULTS, ABUSE AND THREATS AGAINST ITS OFFICERS AND OTHER PUBLIC OFFICIALS

Art. 240. Any person who slanders, abuses, insults, or threatens by word or deed a Minister or authority in the exercise of his duties and in connexion therewith, in his presence or in writing addressed to him, shall be deemed to have committed an act of contempt.

Where the slander, abuse, insult or threat was serious, the offender shall be punished by minor imprisonment and a fine ranging from 1,000 to 5,000 pesetas, and otherwise by major arrest and a fine ranging from 1,000 to 2,000 pesetas.

Where the offender was a public official subordinate in rank to the person offended, he shall be liable to penalties next in ascending order of severity to those referred to in the foregoing paragraph, and where he is not subordinate in

rank, such penalties shall be inflicted to their full degree.

Art. 241. Any public official who slanders, abuses, insults or threatens his superior in rank in the exercise of his duty, by word or deed in his presence or in writing addressed to him, shall be punished by minor imprisonment where such slander, abuse, insult or threat is serious, and by major arrest in other cases.

Where the offending official was not subordinate in rank to the person offended, the most lenient of the penalties referred to in the foregoing paragraph shall be inflicted.

Art. 242. The penalties referred to in art. 240 shall apply to slanders against the national movement represented by the Falange Española Tradicionalista (Spanish Traditionalist Front) and the J.O.N.S., and to insults or abuse of their heroes, their dead and their flags and emblems.

Art. 243. A challenge to a duel, even though disguised and having the appearance of a private affair, shall be deemed to be a serious threat for the purpose of this chapter.

Art. 244. Any person who slanders, abuses, insults or threatens by word or deed a Minister or authority in the exercise of his duties and in connexion therewith otherwise than in his presence or in writing not addressed to him shall be punished by major arrest, and a fine ranging from 1,000 to 10,000 pesetas.

Art. 245. Any persons abusing, insulting or threatening by word or deed public officials or the officers of authority in their presence or in writing addressed to them shall be punished by major arrest.

CHAPTER IX

PUBLIC DISORDERS

Art. 246. Any persons producing an uproar or serious disturbance of order in the auditorium of a court or tribunal, at the public function of any authority or corporation, in any electoral college, office or public establishment, at shows, ceremonies or large meetings, shall be punished by major arrest and a fine ranging from 1,000 to 5,000 pesetas.

Art. 247. Any persons causing a serious disturbance of public order for the purpose of causing injury or other harm to any person shall be liable to major arrest.

Where this offence was intended to prevent any person from exercising his civic rights, the offender shall be liable to major arrest and a fine ranging from 1,000 to 5,000 pesetas.

Art. 248. Any persons uttering shouts inciting to rebellion or sedition at any meeting or association or in a public place, or displaying in such places devices or flags directly inciting to the disturbance of public order, shall be punished by major arrest.

Art. 249. Any persons causing damage to railway lines, or to telegraph or telephone wires, or intercepting communications or correspondence shall be punished by minor imprisonment.

CHAPTER X

PROVISION COMMON TO THE FOREGOING CHAPTERS

Art. 250. Where any person having committed any of the offences referred to in the foregoing chapters is in a position of authority, he shall, in addition to the appropriate penalty, be liable to total loss of civil rights.

CHAPTER XI

ILLEGAL PROPAGANDA

Art. 251. Any person carrying on propaganda of any kind whatsoever, whether inside or outside Spain, for any of the following purposes shall be liable to minor imprisonment and a fine ranging from 10,000 to 100,000 pesetas:

1. To subvert by violence or to destroy the political, social, economic, or legal structure of the State;
2. To destroy or weaken the national feeling;
3. To attack the unity of the Spanish nation or to promote or encourage separatist activities;
4. To carry out or plan an attack on the security of the State, to prejudice its credit, prestige or authority, or to harm the interests or damage the dignity of the Spanish nation.

Propaganda shall be deemed to include the printing of any type of books, leaflets, handbills, newspapers and any other kind of typographical or other publication, as well as their distribution or possession for distribution, speeches, radio broadcasting, and any other process assisting publicity.

Where propaganda punishable under this article is carried on in abuse of teaching functions, the offender shall, in addition to incurring the penalties referred to, be suspended from the said functions.

Art. 252. The courts, taking into account the circumstances of the offender and particularly his financial position, may increase the fine up to 5,000,000 pesetas in respect of all the offences referred to in this chapter.

The courts may also take into account the personal circumstances of the offender and inflict the penalty of total or partial loss of civil rights.

Art. 253. Any person who, with the intention of prejudicing the credit or authority of the State in any manner, communicates or spreads false, distorted or tendentious news or rumours, or performs acts of any kind having the same purpose, shall be punished by major imprisonment and total loss of civil rights.

Where the acts are not of a heinous nature, the court, taking into account the personal circumstances of the offender, may reduce the punishment to minor imprisonment or to banishment and a fine ranging from 2,000 to 20,000 pesetas.

CHAPTER XII

POSSESSION AND STORAGE OF ARMS AND AMMUNITION AND OFFENCES OF TERRORISM AND
POSSESSION OF ARMS*Section 2. Offences of terrorism and possession of explosives.*

Art. 260. Any person who, for the purpose of damaging the security of the State or disturbing public order, commits acts aiming at the destruction of works, factories or other military dependencies, churches or other religious edifices, museums, libraries, archives, public or private buildings, bridges, dykes, harbours, canals or reservoirs, means of communication and of transport, installations of electric or other motive power, and other similar constructions intended for the public service, mines, powder magazines, stores of gaso-

line or other fuel, ships, airships and aeroplanes, or causes fires, employs explosive, inflammable, asphyxiating or other homicidal substances, or causes railway accidents, shipwrecks or other similar disasters, shall be punished:

1. By penalties ranging from major confinement to death where death or serious injury has resulted to any other person.

2. By major confinement if as a result of the act any person suffers less severe injuries, or where there was imminent danger of persons present at the place of the outrage suffering injuries.

3. By minor confinement if the effect produced by the offence is of any other nature, or where, after the explosives or inflammable materials had been assembled or used for the purposes referred to in the first paragraph of this article, the explosion or fire did not actually take place.

SWEDEN

CONSTITUTION (FORM OF GOVERNMENT) OF THE KINGDOM OF SWEDEN¹

of 6 June 1809

Art. 16. The King shall maintain and further justice and truth, and prevent and forbid iniquity and injustice; he shall not deprive anyone or allow anyone to be deprived of life, honour, personal liberty or well-being, without legal trial and sentence; he shall not deprive anyone or permit anyone to be deprived of any real or personal property without trial and judgment in accordance with the provisions of Swedish law and statutes; he shall not disturb or allow to be disturbed the peace of any person in his home; he shall not banish any person from one place to another; he shall not constrain or allow to be constrained the conscience of any person, but shall protect everyone in the free exercise of his religion, provided he does not thereby disturb public order or occasion general offence. The King shall cause everyone to be tried by the court to the jurisdiction of which he is properly subject.

Art. 28. . . . In pursuance of rules approved by the King and the Riksdag, women may be appointed and promoted to the posts and services set out above, but no woman may be appointed to the priestly office, unless otherwise prescribed in accordance with article 87, paragraph 2.

Only persons professing the pure evangelical faith may be appointed to the priestly office or to other offices involving the obligation to give instruction in the Christian religion or in theology. To all other offices and positions, excepting membership of the Council of State as provided by article 4, persons belonging to another Christian faith or adherents of the Mosaic belief may be appointed; no person not belonging to the pure evangelical faith shall, however, take part, as judge or incumbent of any other office, in the discussion or decision of questions relating to divine worship, to religious instruction, or to appointments within the Swedish Church.

In all promotions the King shall take into consideration only the merit and ability of the candidates, but not their birth. Each head of a department shall submit and deal with all business relative to the promotion, appointment, leave of

absence and discharge of all officials and employees in the offices and establishments under the department.

Art. 85. The following shall be considered fundamental laws: the present Constitution, the Riksdag law, the succession law, and the law relating to the freedom of the press, which shall be adopted by the King and the Riksdag jointly, in accordance with the principles laid down by the present Constitution.

Art. 86. By "freedom of the press" is understood the right of every Swede to publish his writings without any previous interference on the part of public authorities; that of only being prosecuted afterwards before a regular court on account of the contents of his publication, and that of not being punished unless such contents are in conflict with a law enacted to preserve the public peace, without interfering with public enlightenment. All proceedings and minutes of whatever character, except the minutes of the Council of State and those of the King relating to military command, may be published without restriction. The minutes and proceedings of the Riksbank and of the Office of the National Debt, concerning matters which should be kept secret, may not be published.

Art. 108. Every fourth year the Riksdag in ordinary session shall, in the manner prescribed by the Riksdag law, appoint six persons of known intelligence and erudition who, together with the Procurator for Judicial Affairs as president, shall watch over the liberty of the press. These Commissioners, of whom two, in addition to the Procurator for Judicial Affairs, shall be lawyers, shall have the following duty: In case an author or printer, before printing, submits a manuscript to them and asks their advice as to whether it would be subject to an action under the law relating to the freedom of the press, the Procurator for Judicial Affairs, and not fewer than three members of the Committee, of whom one shall be a lawyer, shall give such opinion in writing. If they declare that the manuscript may be printed, both author and publisher shall be free from all responsibility, which shall fall on the Commissioners.

¹ English text from *British and Foreign State Papers*, vol. 132 (1930), Part I, pp. 887-914.

HUMAN RIGHTS IN SWEDEN

In constitutions dating from about 1800—as well as in many later constitutional documents—a statement of the rights of man or the rights of a citizen is generally found. This is the case with the French Constitution of 1791, the United States Constitution of 1788 (although the Bill of Rights is contained in amendments not ratified until 1789–1791) and the Norwegian Constitution of 1814. The Swedish Constitution of 1809, however, contains no list of rights comparable to those of its contemporaries. On the other hand, this does not mean that the framers of the Swedish Constitution disregarded the question or were lacking in interest in the protection of individual rights. This is obvious particularly from the arguments advanced in defence of the 1809 revolution: that the King had forfeited his authority and that the right to frame a new constitution had, therefore, devolved on Parliament (or rather, on the Estates of the Realm).

The reason for this peculiarity in the fundamental Swedish law should be sought in the special circumstances surrounding the framing of the new Constitution. The framers of the Swedish Constitution were in a hurry: the country was at war, and the legislature was threatened by serious danger, both from the outside and from the inside supporters of absolute or nearly absolute monarchy. Actually, the new document had to be drafted and the law passed in a couple of weeks. In order to facilitate the process, the constitutional committee was anxious to minimize all novelties in its proposals. With one exception—the freedom of the Press—the statement of fundamental rights was therefore embodied in a single article (article 16) and given the same form as in a much older legal document, the Code of Common Law, dating from the Middle Ages. The wording was archaic; it was formulated so as to limit specifically only the power of the King, and nothing was stated as to the machinery which should put the rules into effect.

A certain ambiguity was the result of this method of constitutional draftsmanship. It is still a moot point whether and to what extent the constitutional guarantees can be invoked against legislation enacted by King and Parliament together. So far, over a period of nearly a hundred and forty years, the courts have never, on constitutional grounds, invalidated a statute, although they seem to have reserved to themselves, in principle, the right to do so. Also, human rights safeguarded in the Constitution have in several cases been found to need additional safeguards in ordinary legislation.

1. *Personal integrity*

Article 16 of the Constitution requires the King not to impair the "life, honour, personal freedom and welfare of anybody, unless he is legally tried

and convicted . . . not to disturb anybody's peace in his house or to transport him forcibly from one place to another".

Accordingly, statutory legislation has strictly circumscribed the right to *arrest* any Swedish citizen. A formal arrest may be made only when a detained person is suspected of a crime punishable by two years or more of hard labour or, in the case of a lesser crime, when he can be expected to flee or to destroy proofs of the crime, or when he refuses to state truly his name or domicile. An arrest must be reported to the proper court within five days, and the arrested person has to be brought before a court within a fortnight. It is then for the court to decide whether he shall be released or remanded in custody for a further period.

Privacy of the home is also guaranteed by legislation. It is thus a punishable offence to break into the home of any citizen or to execute a search there without proper authorization. Such authorization can be given only by certain authorities, specified in the law, and only in the case of a person suspected of a crime punishable by imprisonment or hard labour or for the purpose of making a search for such a person. It is specifically stated that the search shall be conducted so as to cause no unnecessary harm or inconvenience.

Privacy of the mail is guaranteed in the same manner. It is a punishable offence to open other citizens' mail without proper permission, and the authorities empowered to grant search-warrants may permit the opening of mail or telegrams only in the case of persons suspected of a crime punishable by hard labour and may use their contents only to the extent necessary to secure conviction.

It should be noted that the rules referred to above can be modified under war-time conditions or when there is serious danger of war. Such modifications, however, must be effected by special legislation.

2. *Freedom of religion*

According to article 16 of the Constitution, the King may not coerce anybody's conscience, but should defend the free exercise of anybody's religion, as long as it does not disturb the peace of society or create a public nuisance. In the first half of the nineteenth century, this rule had a certain effect, in so far as difficulties were put in the way of religious services outside the established church and only members of the church were allowed political rights or were eligible to public office. Since then, these limitations, with very few exceptions, have disappeared. It is thus a punishable offence to disturb any religious service, whether that of the established church or of any other recognized congregation (and practically all

types of congregations are recognized). As to eligibility for office, only members of the established church can be members of the Government or teach religion in the universities or in the public schools. Otherwise, all Christians and Jews are eligible to office.

3. *Freedom of speech; freedom of association*

Curiously enough, the principle of *freedom of thought and speech* is nowhere specifically recognized either in the Constitution or in any statute. When article 16 of the Constitution guarantees freedom of conscience (c.f. above), it refers, obviously, to religious belief, not to other kinds of ideas. On the other hand, the principle is implied in other legislation. It is thus a punishable offence to induce the public to sedition or violence against the authorities or against private persons, to speak libellously against a person by accusing him without cause of crime or misdemeanour or by otherwise injuring his honour, or to spread maliciously false rumours, which might undermine public order or injure a private person, etc. It is concluded, *e contrario*, that no other limitations exist on the right of public speaking.

The question of *freedom of association* is closely related to that of freedom of speech; for freedom of speech is virtually valueless without the right to assemble peacefully for lawful purposes. The latter right, also, is not mentioned in the Constitution, but it is recognized by statute. Thus, the public authorities may not be refused admission to any public meeting, but they must not dissolve the meeting unless something takes place which is contrary to law or public order. It is also a punishable offence to attempt to prevent, dissolve, or disturb any public meeting, whether by force, by noise or by other objectionable conduct.

4. *Freedom of the press*

Of all rights of the citizen, that of freedom of the press is more carefully safeguarded than any other. Article 86 of the Constitution both guarantees and defines it; in addition, the law governing its application in detail is also given constitutional character and can thus not be amended by ordinary statute.

The main principles are as follows. Every Swedish citizen has the right to publish, and the public authorities may not put any obstacle in the way of publishing books, pamphlets, or newspapers, even if they should contain seditious, libelous or otherwise illegal matters. Only *after* publication has taken place, may the author or publisher be prosecuted before a proper court, and in connexion therewith the publication may be impounded, subject to the decision of the court. It is specifically stated that acquittal shall be granted not only when the publication is found to be lawful, but also when there is doubt as to whether it is criminal or not. Further, in cases of this kind, the accused person has the right to demand trial by jury, although such trials otherwise have no place in the Swedish judicial

system, and the make-up of the jury—which can give its verdict by a two-thirds majority—is such as to give the defendant a certain influence in its composition.

Thus, every kind of censorship is precluded by constitutional law. It should be noted, however, that constitutional amendments were passed in 1941 to make such censorship possible in times of war or threat of war. The necessary legislation to put these amendments into effect was, however, never passed and in 1945 new amendments were adopted restoring the Constitution to the tenor it had before the war. They also abolished the right to confiscate, without subsequent prosecution, printed matters deemed likely to aggravate Sweden's relations with foreign powers. Such a law had existed ever since the second decade of the nineteenth century.

But the Constitution does not stop there. It also contains an almost unique passage guaranteeing to the citizen the right to inspect all documents of a public character. Exception to this rule can be made only by statutory legislation, which should have a specific character and be warranted by necessity regarding the safety of the realm, its relations to other powers, the prevention or punishment of crime, safeguarding of the legitimate economic interests of the State in its economic relations to private undertakings, or the integrity of private persons of their legitimate economic interests. The result of these rules has been, in the wording of a nineteenth century author, to "place the arsenal of the opposition in the archives of the Government". It has in fact given a special character to Swedish public debate, in which the opinions and arguments of public officials are frequently quoted against the Government itself. The rules apply, however, not only to the national administration, but also to the self-governing local units and their work.

5. *Constitutional tenure of office*

In connexion with the principles just referred to, it is necessary to mention another special characteristic of the Swedish Constitution, which does not apply to the citizens in general, but which in spite of this is not without importance to their rights. With the exception of officers of local self-government and, of course, members of the two Houses of Parliament, Swedish officials are not elected, but appointed, generally by the Crown. Some of these, such as members of the Government and about a hundred of the highest administrative officers enumerated in the Constitution, can also be removed by the Crown. But in the case of all judges and also of most higher administrative officers, dismissal from office (removal, or, indeed, promotion to another office) against the will of the official in question can take place only if a proper court has found the official guilty of an offence punishable by such action. It may thus happen—and frequently does happen—that civil servants, even in Government departments, hold and, indeed, sometimes give public utterance to opinions opposing those of their superiors and of the Government itself, with-

out resigning or being compelled to resign their posts.

6. *Economic freedom and social security*

In these fields, the Constitution contains no rules except that of article 16 that "the King may not deprive any citizen of his property . . . without due process of law". The latter formula, the purport of which is now rather extensively debated in connexion with pending taxation proposals, has so far never been so construed as to imply any limitation on the legislative powers of the Parliament. The right of expropriation for public purposes, however, is so modelled as to put the final decision in the hands of a proper court.

Freedom of industry, on the other hand, is guaranteed by special legislation, dating from the middle of the nineteenth century. The aim of this legislation was to abolish former restrictions on trade and industry, and it gave to every citizen the right to choose his occupation and to trade and produce freely with no other limitations than those necessary to protect the public from, e.g., quacks and charlatans in the field of medicine. On the other hand,

tradesmen and craftsmen are required to register and to keep proper books.

With regard to *social security*, it is impossible here to state even the fundamental principles of the large body of legislation passed within the last decades and earlier. It must suffice to state that it has been the rule ever since the sixteenth century that each parish should be required to give relief to poor and needy persons among its members. The importance of the Poor Law, however, has in later times been reduced, especially by comprehensive schemes of social insurance dealing more or less completely with the need caused by old age, injuries, illness or unemployment, and by the fact that hospitals are in principle provided by the self-governing provincial bodies or by the State. The result of all this legislation may well be said to be that the right to a certain amount of economic security is now one of the most important of the rights of a Swedish citizen.

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SWITZERLAND

THE FEDERAL CONSTITUTION OF THE SWISS CONFEDERATION¹

of 29 May 1874

FIRST DIVISION

GENERAL PROVISIONS

Art. 2. The purpose of the Union is: the maintenance of national independence, establishment of tranquillity and order within the country, protection of freedom, and of the rights of the Allies, and the promotion of their common welfare.

Art. 4. All Swiss shall be equal before the law. In Switzerland there shall be no subjects, nor any privileges of place, birth, family or person.

Art. 5. The Union guarantees to the cantons their territory, their sovereignty within the limits set by art. 3,² their constitutions, liberty, the rights of the people, the constitutional rights of the citizens, and the rights and privileges which the people may have conferred upon their public authorities.

Art. 6. The cantons are required to demand of the Union its guarantee for their constitutions.

The Union shall accord this guarantee, provided:

(a) That they contain nothing contrary to the provisions of the federal Constitution.

(b) That they provide for the exercise of political rights according to republican (either representative or democratic) forms.

(c) That they have been accepted by the people and can be revised whenever an absolute majority of the citizens demand it.

Art. 27. . . . The cantons shall provide for satisfactory primary instruction, which shall be solely under public supervision. Such instruction shall be obligatory, and in the public schools free of charge.

The public schools shall be open to the adher-

ents of all faiths, without prejudice to their freedom of belief or of conscience.

The Union shall take such measures as may seem necessary against cantons which do not conform to these provisions.

Art. 27 bis. Subventions shall be granted to the cantons in order to aid them to fulfil their duties in the field of primary instruction.

A law shall regulate the execution of this provision.

The organization, direction and supervision of the primary schools shall remain within the competence of the cantons, under the reservation of the provision of art. 27 of the federal Constitution.

Art. 31. Freedom of commerce and industry is guaranteed throughout the Confederation.

The following are excepted:

(a) The monopoly of salt and gunpowder, federal customs, import duties on wines and other spirituous liquors, together with the other taxes on articles of consumption formally recognized by the Confederation in accordance with article 32.

(b) The manufacture, importation, purification, sale and taxing of distilled beverages, in conformity with articles 32(a) and 32(b).

(c) All matters affecting public houses and trade in spirituous liquors, in conformity with article 32(c).

(d) Sanitary police measures for the purpose of combating diseases which are infectious, widespread and exceptionally dangerous to human beings and animals.

(e) Regulation as to the exercise of commercial and industrial occupations, taxes in connexion therewith, and the control of roads. Such regulations may not contain any provisions contravening the principles of freedom of commerce and industry.

Art. 34. The Union may pass uniform laws as to the employment of children in factories and the length of the working day for adults in the same. It is also authorized to issue regulations for the protection of labourers in dangerous or unhealthful employments. . . .

Art. 34 bis. The Confederation will introduce, by means of legislation, accident and sickness insurance, regard being had to assistance funds in existence.

¹ *The Federal Constitution of Switzerland.* Translated by Edmund J. James (University of Pennsylvania Political Economy and Public Law Series, No. 8), Philadelphia, 1890. Articles 34 bis and quater from International Labour Office, *Constitutional Provisions concerning Social and Economic Policy*, Montreal, 1944, p. 159. Art. 34 quinquies translated from the French text by the United Nations Secretariat. Acknowledgement is made of the valuable information received from Messrs. Raymond Christinger, Charles E. Rosset and Henri Zoelly, vice-consuls, New York.

² **Art. 3.** The cantons are sovereign, so far as their sovereignty is not restricted by the federal Constitution, and as such they may exercise all rights which are not delegated to the federal power.

It may declare participation in such insurance to be compulsory in general or as regards certain specified categories of citizens.

Art. 34 quater. The Confederation shall, by means of legislation, institute a system of old-age and surviving dependents' insurance; it may later introduce invalidity insurance.

It may declare such insurance to be obligatory in general or as regards certain categories of citizens.

The insurance plan shall be carried into effect with the co-operation of the cantons; application may be made to the public or private insurance societies for their collaboration.

The first two branches of insurance shall be introduced simultaneously. . . .

Art. 34 quinquies. The Confederation in the exercise of the powers conferred upon it and within the limits of the Constitution shall have regard to family needs.

The Confederation is empowered to introduce legislation relative to family compensation funds. It may declare membership compulsory either generally or for certain groups of the population. It shall take existing funds into account, and give support to the efforts of cantons and vocational associations with a view to establishing new funds, and may create a central compensation fund. It may make its financial advances conditional upon equitable participation on the parts of the cantons.

The Confederation is empowered, in the matter of housing and settlements in the country, to lend support to the efforts of cantons and vocationalily. A federal law shall prescribe the conditions in which the Confederation may pledge its financial participation; such law shall not affect cantonal regulations relative to building inspection.

The Confederation shall, by legislation, establish maternity insurance. It shall be empowered to declare membership compulsory either generally or for certain groups of the population, and to enforce the payment of contributions even by persons not eligible to receive insurance benefits. It may make its financial advances conditional upon equitable participation on the part of the cantons.

Laws decreed under this article shall be executed in collaboration with the cantons; public or private associations may be called upon to collaborate.

Art. 36. . . . The inviolability of postal and telegraph secrecy is guaranteed.

Art. 49. The freedom of faith and conscience shall be inviolable.

No one shall be compelled to take part in any religious society or in any religious instruction, or to undertake any religious act; nor shall he be punished in any way whatever for his religious views.

The religious education of children to the close

of their sixteenth year shall be under the control of father or guardian, subject to the principles enumerated above.

The exercise of civil or political rights shall not be abridged by any conditions or provisions of a confessional or religious nature.

Religious views shall not absolve from the performance of civil duties.

No one shall be required to pay taxes which are levied specially for the purely religious purposes of any religious society to which he does not belong. The exact application of this principle shall be determined by federal legislation.

Art. 50. The free exercise of religion is guaranteed within the limits of morality and public order.

The cantons and the Union shall have the right to take necessary measures for the establishment of order and public peace among the adherents of the various religious societies, as well as against any interference in the rights of citizens or of the State by church authorities.

Disputes within either the field of public or private law arising from the formation or division of religious societies may be brought before the proper federal authorities for decision by means of formal complaint.

The establishment of bishoprics on Swiss soil is subject to federal approval.

Art. 51. Neither the Society of Jesus nor any allied society shall be suffered in any part of Switzerland, and all participation of their members either in church or school is prohibited.

This prohibition may also be extended by federal law to other religious orders whose action is dangerous to the State or tends to destroy the peace between the various confessions.

Art. 52. The establishment of new, or the restoration of disestablished, monasteries or orders is forbidden.

Art. 53. The determination and certification of facts of the civil state belong to the civil authorities. More exact regulations shall be made by federal law.

The disposition of burial places shall belong to the civil authorities. It is their duty to see that every one can be decently buried.

Art. 54. The right of marriage shall be under the protection of the Union.

This right shall not be limited for confessional or economic considerations, nor on account of previous conduct or other police reasons.

All marriages contracted in a canton or in a foreign country according to the laws there prevailing shall be recognized as marriage within the territory of the Confederation.

By marriage the wife acquires the right of domicile and settlement belonging to the man.

By subsequent marriage of the parents, children are rendered legitimate who were born before marriage.

All collection of bridal settlement fees and similar taxes is prohibited.

Art. 55. Freedom of the press is guaranteed.¹

Art. 56. The citizens shall have the right to form associations, so far as they are not either in their purpose or methods illegal or dangerous to the State. The abuse of this right may be prevented by cantonal legislation.

Art. 57. The right of petition is guaranteed.

Art. 58. No one shall be deprived of his constitutional judge, and there shall consequently be no exceptional courts.

Ecclesiastical jurisdiction is hereby abolished.

Art. 59. A solvent debtor with a permanent residence in Switzerland must be summoned in personal suits before a judge of his own place of residence, and the property of such a person (out-

side of the canton in which he lives) cannot be seized or sequestered for claims against him.

Provided that with reference to foreigners the provisions of the respective international treaties shall apply.

Imprisonment for debt is hereby abolished.

Art. 60. All cantons are required to treat all Swiss citizens as their own citizens, both in their legislation and in judicial procedure.

Art. 65. No sentence of death shall be pronounced for political offences.

Corporal punishments are hereby forbidden.

Art. 66. Federal law shall determine the conditions in which a Swiss citizen may be declared to have forfeited his political rights.

Art. 67. Federal law shall prescribe the necessary regulations as to the extradition by one canton to another of accused persons, but such extradition shall not be made compulsory for political offences or offences against the press laws.

¹ Paragraphs 2 and 3 of this article have been abrogated as a result of the coming into effect, in 1942, of the Swiss Penal Code of 21 December 1937.

CANTONS OF SWITZERLAND¹

CONSTITUTION OF THE CANTON OF AARGAU

of 23 April 1885

I. PRINCIPLES OF CONSTITUTIONAL LAW

Art. 8. All authorities, officials and employees shall be answerable for their actions to the State, communes, and private persons in accordance with the detailed provisions of a law to be enacted forthwith.

Art. 9. The deliberations of the legislative and judicial authorities shall be public so far as the welfare of the State and morality permit.

II. CIVIC AND PERSONAL RIGHTS

Art. 17. All citizens of the canton and all Swiss nationals shall be equal before the law.

Art. 18. The freedom to express an opinion by speech, writing or visual media, and the rights of association, assembly and petition are guaranteed. The exercise of these rights shall not be subject to any restrictions other than those required by general law and morality.

A law relating to the press shall be enacted.

Art. 19. Individual liberty is guaranteed.

No person may be arrested or prosecuted except in the cases provided for and in accordance with the procedure prescribed by law, and every person so arrested shall be given a hearing within twenty-four hours of his arrest. Persons suffering unlawful or unwarranted arrest shall receive suitable compensation and redress from the State.

Art. 20. The sanctity of the home shall be inviolable, without prejudice, however, to the performance of official acts in accordance with the law.

A house may not be searched without the householder's consent or the written warrant of a competent official, which shall specify the purpose and the scope of such search. Exceptions to this rule shall be permitted in cases of imminent danger.

Art. 21. The following are guaranteed within the meaning of the Federal Constitution:

- (a) The freedom of trade and industry (art. 31).
- (b) The freedom of belief and conscience (art. 49).
- (c) The freedom of worship (art. 50).

(d) The right of free settlement (art. 45).

(e) The prohibition of extraordinary courts (art. 58).

Art. 22. Property shall be inviolable.

Apart from the cases provided for in federal and cantonal law, any owner of landed or other real private property may not be expropriated except in pursuance of a decree of the Grand Council (*Grosser Rat*) for reasons of public expediency and in return for full prior compensation.

Ways and means for determining such compensation and the procedure in cases of dispute shall be prescribed by law.

VII. EDUCATION

Art. 63. The State shall promote general public education to the fullest possible extent.

The State and the communes shall make general provision for education in the schools. The communes shall equip the necessary public elementary schools.

The State shall make regular contributions to public elementary schools, and to civil continuation schools supplementary thereto.

Attendance at both kinds of institutions shall be compulsory and free. The law shall provide that schools shall also pay heed to the requirements of practical life.

Pending the enactment of a law, the Council of State may, at the request of individual communes, declare attendance at civil continuation schools compulsory.

Private instruction in lieu of education in public elementary schools shall in principle be subject to the same legal provisions as public elementary instruction. Regulations for this purpose shall be prescribed by law.

In co-operation with bodies providing voluntary and compulsory poor relief, the State shall participate in the education and care of blind, deaf and dumb, mentally deficient and morally neglected children.

Art. 64. The State shall support the communes in the construction and maintenance of secondary schools, and shall maintain or subsidize such other educational establishments as may become necessary.

The State shall, by the grant of scholarships and other suitable measures, facilitate attendance at the

¹ French texts of the Constitutions of the cantons of Berne, Fribourg, Geneva, Neuchâtel, Valais and Vaud, Italian text of the Constitution of the canton of Ticino and German texts of the Constitutions of the other cantons in *Sammlung der Bundes- und Kantonalverfassungen (Recueil des constitutions fédérales et cantonales)*, fifth edition, Berne, 1937. English translations by the United Nations Secretariat.

aforesaid institutions, as well as at technical and high schools.

The State shall encourage the training of efficient teachers.

The right to teach in all educational institutions shall be dependent on a licence issued by the State.

VIII. THE CHURCH

Art. 67. The freedom of worship is guaranteed within the limits compatible with morality and public order.

IX. STATE AND PUBLIC ECONOMIC ADMINISTRATION

2. PUBLIC ECONOMIC ADMINISTRATION

Art. 82. Poor relief shall be subject to the supervision of the State.

The care of the poor resident in the canton shall be the concern of the communes with the co-operation of the State. The State shall provide for the care of citizens of the canton settled outside the canton.

The State shall promote and subsidize voluntary poor relief.

The State shall construct or subsidize institutions for the education of indigent, neglected or invalid children as well as of juvenile delinquents and idlers, and for the housing of indigent adults incapable of earning a living.

Art. 83. A penal servitude institution with agricultural and artisan equipment shall be established so that persons serving a term of penal servitude may so far as possible earn their keep.

Art. 84. The State shall, with the co-operation of the communes, regulate and supervise the public health system.

Laws and regulations shall be enacted as soon as possible concerning the care of health, with special attention to statistics, and concerning food control; the revision of the existing regulations shall be put in hand.

The State shall assist the communes in their efforts in the field of sanitation by means of financial contributions in proportion to the work and resources which they devote to this purpose.

The State recognizes the principle of Sunday rest, and shall in particular take precautions against overwork to the detriment of health.

Art. 85. The public care of the sick shall be the concern of the State. Admission into the cantonal sanatoria and hospitals shall be facilitated as far as possible. Charges for treatment shall be determined in accordance with the financial and fiscal circumstances of the communes and the financial circumstances of the persons receiving care.

The State shall, with due regard to available means and local requirements, subsidize the construction of regional or local hospitals.

The State shall encourage the co-operative care of the sick, and may declare sickness insurance compulsory for certain classes of society.

Art. 86. The State shall encourage the insurance system, and particularly insurance against damage to agriculture.

The State shall, by contributing to the premiums, facilitate the use of insurance against hail.

Foreign insurance companies carrying on business in the cantons shall be required to furnish a suitable surety.

Art. 87. Real property may not be charged with an irredeemable encumbrance. The redeemability of all existing encumbrances thereon, such as tithes, timber rights, entails and village rights, is guaranteed.

Art. 88. In order to encourage and promote agriculture, the State shall subsidize agricultural education and experimental work, plant and animal production and improvement of the soil. The State shall take measures against damage likely to affect agricultural production.

The State shall provide a comprehensive system of agricultural statistics.

Art. 91. In order to improve the earning capacity of the people, the State shall encourage and subsidize collections, educational institutions and training courses in arts and crafts.

The State shall provide a comprehensive system of industrial statistics. The State shall encourage efforts to introduce new branches of industry.

An industrial decree to be enacted with the approval of the Grand Council shall prescribe regulations for the exercise of trade and industry, with special attention to apprenticeship and the system of tendering for contracts.

Art. 92. The State shall encourage and subsidize agricultural and industrial associations likely to stimulate agriculture. The State may grant special privileges to artisans' unions.

Art. 93. The State shall encourage and regulate the credit system.

The State shall exercise supervision over the administration of credit institutes, and shall take measures to protect creditors and debtors.

The Grand Council shall enact regulations concerning the business activities of and the caution money to be deposited by business agents.

Art. 95-96(a). [Provisions for the duty of the State to maintain roads, canalize public water courses, and provide electric power.]

CONSTITUTION OF THE CANTON OF APPENZELL AUSSERRHODEN of 26 April 1908

CHAPTER IV PERSONAL RIGHTS

Art. 5. All inhabitants of the canton are equal before the law.

Art. 6. The freedom of belief and conscience shall be inviolable.

No person may be compelled to join a religious community, to attend religious instruction or to

perform any religious act, and no person may suffer any penalties whatsoever on the grounds of his religious views.

In accordance with the above principles, persons exercising authority as parents or guardians shall be entitled to determine the religious education of minors up to the age of sixteen.

The exercise of civic or political rights may not be limited by any ecclesiastical or religious requirements or conditions.

Religious views shall not relieve any person of his duties as a citizen.

No person shall be obliged to pay taxes specifically imposed for the strictly religious purposes of a religious community of which he is not a member. Regulations for the application of this principle shall be prescribed by the federal legislation (Federal Constitution, art. 49).

Art. 7. The freedom of worship is guaranteed within the limits compatible with morality and public order.

The canton and the Federation may take measures necessary for the maintenance of public order and peace between the members of the various religious communities, and for preventing infringements of the rights of citizens and of the State on the part of any ecclesiastical authorities.

Questions of public or private law arising out of the formation of schism of religious communities may be referred in the form of a complaint to the competent federal authorities for a decision (Federal Constitution, art. 50).

Arts. 8-10. [Provisions regarding the organization of a religious community or other body corporate of a public nature.]

Art. 11. The freedom of the individual is guaranteed.

No person may suffer prosecution or arrests or other restriction of his personal freedom except in the cases provided for and in accordance with the procedure prescribed by law.

Any person suffering unlawful or unwarranted arrest shall receive suitable compensation from the State.

The sanctity of the home is guaranteed. A citizen's home may not be searched except in accordance with the conditions prescribed by law.

Corporal punishment is prohibited; likewise the use of violence in order to obtain a confession is inadmissible.

No person may be removed from the jurisdiction of his proper judge.

Art. 12. The safety and inviolability of property are guaranteed.

Compulsory expropriation shall only be permitted if required in the public interest and in return for full compensation. The necessary regulations shall be prescribed by law.

It shall also be permissible on the ground of public interest for servitudes impeding economic development to be compulsorily expropriated. The

procedure shall be the same as in other cases of compulsory expropriation.

Art. 13. Civic capacity shall commence at the age of twenty or upon marriage. Exceptionally, and where conditions warrant it, the Council of State may declare majority to have been attained at the age of eighteen.

Art. 14. The right of free settlement is guaranteed in accordance with art. 45 of the Federal Constitution. The necessary regulations shall be prescribed by law.

Art. 15. Trade and industry shall be free, without prejudice, however, to the monopoly rights of the State, and, within the limits of the Federal Constitution, to legal provisions dictated by the public interest.

Art. 16. The State shall protect the exercise of the right of association and assembly, provided they do not endanger public order. The State shall enact the necessary legal provisions and penalties for interference with and abuse of such rights.

Art. 17. Every inhabitant of the canton shall be free to express his opinions whether by word of mouth or in writing or in print; he shall, however, be answerable under the law for any abuse of this right.

Art. 18. The right to submit wishes, petitions or complaints in writing to the authorities of the canton and of the communes is guaranteed.

Art. 22. Every eligible inhabitant of the canton shall be obliged to accept a communal appointment to an office for a specific term.

Otherwise there shall be no compulsory official service.

CHAPTER VI

GENERAL PRINCIPLES

Art. 25. Every commune shall have the duty to provide for its indigent citizens whether resident in the canton or elsewhere, except where otherwise provided by law. Should the income from available property not suffice for these purposes, the commune of residence shall defray such expenditure.

The legal poor relief institutions shall assist each other by exercising supervision and control over and giving information on indigent persons resident in their respective communes. In emergencies they shall give first aid at the expense of the commune of origin which they shall immediately notify. In cases of dispute the Council of State shall be the final instance.

The State shall exercise general supervision over the poor relief system.

Other aspects of the poor relief system shall be determined by law.

Art. 27. The entire educational system shall be subject to the supervision of the State, and, without prejudice to the special position of cantonal and private schools, shall be the concern of the communes.

Attendance at primary and girls' handicraft schools shall be compulsory, attendance at secondary schools optional. Instruction shall be free in all public schools, including secondary schools for the pupils of the commune concerned.

The State shall pay a suitable contribution to communes which, having no secondary school of their own, enable their pupils to attend secondary schools free of charge by arrangement with a neighbouring school.

Pupils whose parents reside outside the canton may be required to pay an annual fee in respect of their attendance at secondary schools.

The financial arrangements of cantonal schools shall be regulated by their statutes.

Public schools shall be open to members of all religions without prejudice to their freedom of belief and conscience.

In general, the entire school system shall be regulated by law.

It shall be the duty of the State to promote the educational system and to advance the occupational and general instruction of the people.

The State shall grant financial assistance to the educational system as a whole.

Every pupil attending a public elementary school shall be supplied with the compulsory school books by the State and with school materials by the commune free of charge.

The State shall make suitable contributions to the secondary school system, in particular to the foundation of new schools and the supply of school books and materials free of charge, and shall share in the expenses incurred by the communes through the voluntary acceptance of pupils from other communes.

The State shall, furthermore, in accordance with the law, grant scholarships or interest-free advances for educational purposes, and shall by suitable contributions participate in the education of abnormal children amenable to instruction.

Art. 30. It shall be the duty of the State by

legislation and financial assistance to encourage and promote:

1. Agriculture, forestry, trade, industry, crafts and communications (in particular, roads and railways);
2. The care of the sick and a system of public health;
3. The care of the aged and invalids;
4. The protection of workers, in particular women and children, and public labour exchanges;
5. Associations serving the public interest;
6. Other aspects of public welfare.

Art. 31. The savings bank system of the canton in general, and the protection of savings deposits in particular, shall be regulated by law.

Art. 32. The commune shall provide decent burial free of charge.

Art. 33. Sundays and days recognized as official holidays by the Cantonal Council shall be guaranteed as public days of rest.

The necessary regulations shall be prescribed by law.

Art. 35. All authorities and officials shall, in accordance with the law, be answerable for their actions performed in the course of duty.

Art. 37. In the case of strikes or of disputes likely to lead to strikes, the Council of State shall initiate negotiations for their settlement. The Council shall conduct these negotiations itself or appoint a special board of conciliation for this purpose.

CHAPTER VII

ORGANIZATION AND ATTRIBUTIONS OF THE OFFICIAL POWERS

B. *Dispensation of justice*

Art. 58. The right to free legal aid and representation in court is guaranteed, except where otherwise provided by law. . . .

Art. 70. Public defence and free legal aid shall be regulated by law.

CONSTITUTION OF THE CANTON OF APPENZELL INNERRHODEN

of 24 November 1872

CHAPTER I

GENERAL PROVISIONS

Art. 2. Full freedom is recognized as a constitutional principle, and the following rights are thus guaranteed: the equality of citizens and of persons enjoying similar rights before the law, and personal freedom; further, in accordance with the general provisions of the law, the freedom to express an opinion by speech or in writing, as well as the right of association and assembly; the inviolability of the home is also expressly guaranteed.

The freedom of trade, communications and industry is guaranteed according to the terms of the relevant provisions.

Art. 3. The Christian Catholic religion, being the religion of the people, shall enjoy the guarantees and protection of the State.

The toleration of other religions is recognized, and persons professing them shall be free to worship within the limits compatible with morality.

Art. 4. Property of every kind, whether belonging to private persons, companies, bodies corpo-

rate recognized by the State, foundations or communes, shall be inviolable.

In cases where the public interest requires the assignment of landed property or other private rights to the State, the State shall be entitled to expropriate such property in return for just and fair compensation.

This provision shall also apply to communes, provided that in their case the application of this right shall require a resolution of the Grand Council.

In cases of dispute, the constitutional courts shall decide.

Art. 5. The State guarantees the security of the property of ecclesiastical communities and its management and utilization in accordance with the terms of foundation.

The administration of the property of monasteries shall enjoy the protection and supervision of the State as hitherto. . . .

Art. 6. No person may be removed from the jurisdiction of his proper judge. . . .

Art. 7. All inhabitants of the canton, as well as associations and rural communities, shall be entitled to address their requests and petitions to the local or cantonal authorities. . . .

Art. 11. The administration of the State budget shall be public to the extent that the official accounts shall be published at the end of each year.

The liability of every administrative official shall extend up to the time when accounts are handed over.

All laws and ordinances, as well as official resolutions of general interest, shall be given suitable publicity.

The meetings of the Grand Council shall as a rule be public; that body shall itself decide when its meetings should be private.

Art. 12. In pursuance of the relevant provisions, the public educational system shall be the concern of the State.

Public compulsory elementary school instruction shall be free. Expenses arising under this head shall be borne by the local education authority with suitable assistance from the State; the State shall aim at improving the public elementary school system and shall, in particular, make provision for the continuation school system.

CHAPTER III

PUBLIC RIGHTS AND DUTIES OF INDIVIDUALS

Art. 17. Every person entitled to vote shall have not only the right, but the duty, to take part in all popular assemblies (*Landsgemeinde*) and constitutional public meetings.

Art. 18. Every person entitled to vote shall have the duty, up to the age of 65, to accept election to the district commission (*Standeskommission*) or to the cantonal court, as well as any official functions assigned to him by the Council of State, the district commission or the local, ecclesiastical or educational authority, or functions conferred upon him by a court or by the local, ecclesiastical, or educational council.

This duty shall not be incumbent upon a person who, before the age of 65, has served an aggregate period of not less than twenty years as a member of the district commission, of a court or of a local council. Further, no person shall be required to perform any of these functions for a period of more than ten years.

In cases of dispute regarding the application of these provisions, the Grand Council shall be the last instance of appeal.

CONSTITUTION OF THE CANTON OF BASLE (RURAL) of 4 April 1892

I. GENERAL PROVISIONS; RIGHTS AND FREEDOMS OF CITIZENS

Art. 4. The right to petition all authorities and free access to all papers relating to the budget of the canton are guaranteed.

Art. 5. Any citizen of the canton may, with the consent of the commune concerned and in compliance with the law, acquire the right of citizenship in any other commune of the canton. Similarly, persons from other cantons and aliens may become citizens of the canton in accordance with the existing legislation; such persons shall not, however, be deemed to have acquired citizenship of a commune until they have acquired citizenship of the canton.

Art. 6. The freedom of the individual is guaranteed.

No person may be arrested except in the cases

provided for and in accordance with the procedure prescribed by law.

All undue harshness in the course of arrest, and all forms of violence to secure a confession are prohibited.

Any person who has been arrested must be heard within twenty-four hours of his arrest, and all criminal proceedings shall be conducted with the utmost dispatch.

Persons having suffered unlawful or unwarranted arrest shall be entitled to compensation and redress from the State.

Art. 7. The sanctity of the home shall be inviolable. No search may be carried out in a citizen's home except in the cases provided for and in accordance with the procedure prescribed and by the officers appointed by law.

Art. 8. Suitable arrangements shall be made to provide free legal aid to the poor.

Art. 9. The State shall protect properly acquired private rights. Expropriation of landed property and other real estate rights on grounds of public expediency shall not take place except in return for full compensation paid in advance.

Disputes regarding expropriation not covered by the existing law shall be decided by the cantonal council. Where the law contains nothing to the contrary, the compensation shall be determined by the Supreme Court.

II. ORGANIZATION AND POWERS OF THE PUBLIC AUTHORITIES

4. GENERAL PROVISIONS AFFECTING THE AUTHORITIES AND OFFICIALS OF THE STATE

Art. 29. The authorities, officials and employees of the State shall be answerable for their administration. Civil claims arising out of such liability may be made directly against the State; the State retains the right of recovery from the offenders and their sureties.

The officials may not be suspended or dismissed except in the cases provided for and in accordance with the procedure prescribed by law.

The necessary regulations shall be prescribed by the law on liability.

III. FUNDAMENTAL PROVISIONS REGARDING THE FULFILMENT OF THE PURPOSES AND DUTIES OF THE STATE

1. EDUCATIONAL SYSTEM

Art. 35. The State shall exercise general supervision over the entire educational system. In conjunction with the communes, the State shall provide for adequate and free instruction in the schools, and shall extend its effective support to all public teaching establishments.

A licence issued by the State is required for the exercise of the teaching profession.

It shall be the duty of the State and the communes to make the secondary educational system as proficient as possible in the interest of both sexes. Attendance at secondary schools shall be facilitated as far as possible, with due considera-

tion for the local conditions of the communes. The necessary regulations shall be prescribed by law.

The State shall also assist craft schools and similar teaching establishments.

3. PUBLIC WELFARE

Art. 37. Poor relief shall be the concern of the communes of residence with the co-operation of the State and of the communes of origin.

Inhabitants of the communes concerned shall also be elected to serve with the poor relief authorities; women shall be eligible to this authority.

The necessary regulations shall be prescribed by law.

The State shall assist private organizations having as their object the advancement of the poorer classes of the people. The State shall also participate in the education and care of blind, deaf and dumb, mentally deficient and morally neglected children.

Art. 38. The commune shall protect and promote the interests of trade, industry and the crafts.

Art. 39. Agriculture shall be encouraged as much as possible, in particular through assistance granted to agricultural training institutions, the establishment of domestic science schools, the regulation of the rural police force, the encouragement of cattle breeding, the support of undertakings for the improvement of the soil and its utilization (land regulations), as well as through provisions for regulating the mortgage system.

Associations and unions which pursue the same purposes shall to this end receive support from the State.

The State shall support and promote the insurance system.

Art. 40. Forestry matters shall be subject to the supervision and legislation of the State.

The State shall provide for the training of subordinate forestry officials. The State shall assist such afforestation as may be likely to afford protection against harmful climatic influences.

Art. 42. The State shall provide for the strict control of foodstuffs.

CONSTITUTION OF THE CANTON OF BASLE (TOWN)

of 28 April 1893

I. GENERAL PROVISIONS

Art. 3. There may be no suspension of the exercise of civil rights, and no arrests and searches of the home may take place except in the cases provided for and in accordance with the procedure prescribed by law.

Bankrupts may suffer suspension of their civic rights only where the competent court has declared the bankruptcy to be fraudulent.

Art. 4. The right to petition all public authorities is guaranteed.

Art. 5. Property shall be secure from arbitrary violation. Expropriation in the public interest shall take place in return for just compensation as prescribed by law.

Art. 6. Every citizen and inhabitant of the canton has the duty to contribute to the public charges as prescribed by law.

Art. 9. Public authorities and officials shall, as prescribed by law, be answerable for their actions and for damage caused by them. Persons suffering damage may claim compensation direct from the

State, which shall have the right of recovery from those responsible.

II. DUTIES OF THE STATE

Art. 11. The State shall promote public welfare and the earning capacity of the people as far as its means permit.

Art. 12. The promotion of the system of education and public instruction shall be the duty of the State administration. The State shall set up and maintain public teaching establishments for general and vocational training.

Attendance at school shall be compulsory for all children within the legal age limits.

Instruction in public, primary, secondary and high schools shall be free. It shall be open to the legislature to extend free education to other teaching establishments.

Teaching material shall be supplied free of charge to pupils in public, primary and secondary schools. The State may also extend this free service to other teaching establishments.

Art. 13. The public schools shall be open to members of all religious denominations without prejudice to their freedom of belief and conscience.

Members of religious orders or fraternities shall not be permitted to have the direction of, or to teach at, schools or educational establishments.

Art. 14. In conjunction with the poor relief institutions, and in consultation with the parents and local authorities, the State shall provide for the housing and education of neglected and physically handicapped children.

Art. 15. Teaching and training establishments not set up by the State shall not be entitled to claim support from the State, but are subject to the provisions of the law and to the supervision of the State.

Art. 16. Poor relief shall be the concern of the communes and of voluntary charity with the co-operation and assistance of the State. Regulations for the application of this principle shall be prescribed by law.

Art. 17. The State shall enact legal provisions regarding the care of the sick and shall provide subsidies for this purpose. It shall also promote and subsidize voluntary efforts for caring for the aged.

III. RELATIONSHIP OF THE STATE TO THE CHURCH

Art. 18. The freedom of belief and conscience shall be inviolable. No person may be compelled to join a religious community, to participate in religious instruction or to perform a religious act, or to be penalized on account of his religious views.

The freedom of worship is guaranteed within the limits compatible with morality and public order.

It shall be the exclusive concern of the State authority to take suitable measures for maintaining public order and peace between the members of the various religious communities and to prevent infringements of the rights of citizens and of the State on the part of ecclesiastical authorities.

CONSTITUTION OF THE CANTON OF BERNE

of 26 April 1893

CHAPTER III

STATE AUTHORITIES

General Provisions

Art. 15. Authorities, officials and employees shall be answerable for their actions committed in the exercise of their duties.

Civil actions arising out of this liability may be brought directly against the State in the courts. Such actions shall not, however, be receivable unless the claimant has proved that, not less than thirty days previously, he unsuccessfully applied to the higher executive authority. The State alone shall be entitled to proceed against the offender.

Regulations for the application of these principles shall be prescribed by law.

Art. 17. German and French are the national languages.

Laws, decrees, orders and regulations of general interest shall be published. They shall be published in French and German in the French part of the canton. The authentic text shall be the German text.

Decisions, orders, judgments and letters from higher authorities regarding persons or corporations in the French part shall be drafted in French.

CHAPTER V

GENERAL PRINCIPLES AND GUARANTEES

Art. 72. All citizens are equal before the law.

The State shall not recognize any privilege of place, birth, person or family.

It shall not recognize any title of nobility.

Art. 73. The freedom of the individual is guaranteed.

No person shall suffer arrest except in cases provided for and according to the procedure prescribed by the law.

The law shall determine the compensation payable to a person having suffered unlawful or unwarranted arrest.

Art. 74. All undue harshness in the course of arrest or detention and all forms of violence to secure a confession are prohibited.

Art. 75. No person may be removed from the jurisdiction of his proper judge.

Art. 76. The home shall be inviolable.

No public official or police officer may enter a citizen's home except in the cases and in accordance with the procedure prescribed by law.

It shall be legitimate to offer resistance to any attempt to enter a dwelling in violation of the law.

The necessary regulations shall be prescribed by law.

Art. 77. Freedom to express an opinion by the spoken or written word, the press or emblems is guaranteed.

The law shall provide penalties for the abuse of this freedom.

Censorship or any other form of similar interference is prohibited in all circumstances.

Art. 78. The right of petition is guaranteed.

Art. 79. Public associations or meetings which are not illegal in their objects and methods may not be restricted or prohibited.

Art. 80. Any citizen of the canton shall, upon production of a birth certificate or equivalent document and upon payment of a small registration fee, be entitled to settle in any part of the cantonal territory without being liable to the payment of any rates or taxes other than those payable by residents therein. The provisions of the law relating to domicile for the purpose of relief and to the return to their commune of persons in receipt of permanent relief are excepted.

The settlement of citizens of other cantons is governed by the Federal Constitution.

Art. 81. The free pursuit of agriculture, trade and industry is guaranteed. The legislature may impose restrictions on these activities within the limits laid down by the Federal Constitution.

Art. 82. The State shall recognize the principle of Sunday rest and shall prescribe regulations to prevent all persons from being forced to engage in excessive work to the detriment of their health.

Art. 83. Freedom of belief and of conscience is guaranteed.

The exercise of civil or political rights may not be limited by any ecclesiastical or religious requirements or conditions.

Religious views shall not relieve any person of his duties as a citizen.

No person shall be obliged to pay taxes, the proceeds of which are specifically assigned to the purely religious expenses of a religious community of which he is not a member. Regulations for the application of this principle shall be prescribed by law.

Art. 84. The Reformed Protestant Church, the Roman Catholic Church and the Christian Catholic Church shall be the recognized national churches in the parishes acknowledging these creeds. . . .

Art. 85. The freedom of other religions is guaranteed within the limits of morality and public order.

Art. 86. The right of the State to make the ordinances and amendments of the supreme

ecclesiastical authorities subject to its approval (or placet) is hereby abolished.

The State may take measures necessary for the maintenance of public order and peace between the members of the various religious communities, and for preventing infringements of its own rights and those of the citizens on the part of any ecclesiastical authorities.

Art. 87. Freedom of education is guaranteed subject to the provisions of the law.

Each person shall be bound to give to the minors entrusted to his care the degree of education prescribed for public elementary schools.

It shall be the duty of the State and the communes to make public educational establishments as proficient as possible. The law shall determine the proportion in which the State and the communes shall contribute to their expenses.

Elementary education shall be exclusively under the control of the civil authorities and shall be free in public schools.

Public schools shall be open to members of all creeds without prejudice to their freedom of conscience and creed.

The State shall also provide for higher education.

Regulations for the organization of schools and of education generally shall be prescribed by law.

Art. 88. It shall be forbidden to religious corporations or orders not domiciled in the canton, or to any society affiliated to them, to establish themselves on the territory of the canton; and no person belonging to such order, corporation or society shall engage in teaching on State territory without the authority of the Grand Council.

Article 51 of the Federal Constitution is excepted from these provisions.

Art. 89. All property shall be inviolable.

Expropriation on grounds of public expediency shall not take place except in return for full compensation, if possible paid in advance, the amount to be determined by the courts.

Art. 90. No real property may be encumbered by law, by contract or by a unilateral provision with a non-redeemable rent or charge.

Art. 91. Public assistance shall be provided for by privately organized charity, by the communes and by the State jointly.

The State shall take steps to eliminate, as far as possible, the causes of pauperism, to distribute equitably the charges arising out of public assistance and to relieve the communes of such charges.

Should the funds available for public assistance out of ordinary State revenue not suffice, there may be levied a tax up to one-quarter of the direct rate of taxation for the specific purpose of paying for the excess costs of such assistance.

The law shall ensure the application of these principles and the organization of relief. It may empower the Grand Council to decree the special public assistance tax.

CONSTITUTION OF THE CANTON OF FRIBOURG

of 7 May 1857

CHAPTER I

PRINCIPLES AND GUARANTEES

Art. 2. The free practice of the Roman Catholic Apostolic religion, being that of the majority of the people of Fribourg, is guaranteed.

The free practice of the Reformed Protestant religion is likewise guaranteed.

The relationship between the State and the Catholic Church in matters affecting both of them which have given or may give rise to dispute shall be determined by a concordat to be concluded between the two authorities.

With respect to the Protestant population of the canton, there shall be ecclesiastical officers for religious affairs with powers to be determined by law.

Art. 3. The freedom of the individual is guaranteed.

No person may be arrested except in the cases provided for and in accordance with the procedure prescribed by law.

Art. 4. The home shall be inviolable.

No agent of authority may enter a citizen's home except in the cases and in accordance with the procedure prescribed by law.

Art. 5. No person may be removed from the jurisdiction of his proper judge.

Under no circumstances may there be established any courts other than those recognized by the Constitution.

Art. 6. All undue harshness in the course of arrest or detention and all forms of violence to secure a confession are prohibited.

Art. 7. No penalty may be inflicted except by a competent authority applying a law and in accordance with the procedure prescribed therein.

Art. 8. The death penalty may not be imposed for a political offence.

Art. 9. All citizens are equal before the law.

In the canton there shall be no privileges of place, birth, person or family.

Art. 10. The freedom of the press, the right of petition and the right of association are guaranteed to the extent laid down in the Federal Constitution.

Art. 11. The right of free settlement and the freedom of trade and industry are similarly guaranteed in accordance with the Federal Constitution and subject to the provisions of the law.

Art. 12. Property shall be inviolable.

This principle may be departed from only in cases of public expediency as prescribed by law and in return for prior payment or for the guarantee of full and just compensation.

Art. 13. No real property may be encumbered with a non-redeemable rent in perpetuity.

Art. 17. The State shall supervise public education and instruction which shall be organized and directed in a religious and patriotic spirit.

The clergy shall be given an opportunity to assist effectively in this matter.

Art. 18. Any person shall be free to teach, subject to the provisions of the law.

Art. 19. Elementary education shall be free.

The communes shall provide for such education.

The law shall determine the cases and proportions in which they shall be assisted by the State.

Every citizen shall give to his children, or to those entrusted to his care, an education at least equal to that prescribed in public elementary schools.

Art. 20. State expenditure in respect of religion and public education in excess of amounts covered by existing foundations, shall be fairly distributed between the two denominations on the basis of the numbers of the native population belonging to each.

Art. 21. Laws, decrees and regulations shall be published in French and German. The French text shall be authentic.

CONSTITUTION OF THE CANTON OF GENEVA

of 24 May 1847

CHAPTER II

DECLARATION OF THE RIGHTS OF INDIVIDUALS

Art. 2. All citizens of Geneva are equal before the law.

Art. 3. The freedom of the individual is guaranteed.

No person may be arrested except in the cases provided for and in accordance with the procedure prescribed by law. Any person who has been arrested must be heard by the competent magistrate within twenty-four hours of his arrest.

Art. 4. The home shall be inviolable.

No search may be carried out in a citizen's home except in the cases provided for and in accordance with the procedure prescribed by law.¹

Art. 5. No person may be removed from the jurisdiction of his proper judge.²

¹The Constitutional Law of 21 March 1849 on the freedom of the individual and the inviolability of the home contains detailed provisions on the application of this article.

²Cf. also art. 95, paragraph 2, of the present Constitution: "No extraordinary temporary tribunals may be established in any circumstances."

Art. 6. Property shall be inviolable.

The law may, however, require, in the interests of the State or of a commune, the expropriation of real property in return for just and prior compensation. In such an event the reasons of public or communal expediency shall be declared by the legislature, and the compensation shall be fixed by the courts.

Art. 7. There shall not be any general confiscation of goods; there shall be no sequestration of the goods of persons accused or convicted in their absence.

Art. 8. The freedom of the press is guaranteed.

The law shall provide penalties for the abuse of this freedom.

No censorship may be established.

No tax may be imposed on press publications.

Art. 9. The right of free settlement is guaranteed to all citizens, as well as the freedom of industry, subject to the modifications which the law may introduce for the general good.

Art. 11. Freedom of education is guaranteed to all citizens of Geneva, subject to the provisions prescribed by law in the interests of public order and morality.

Aliens may not teach without the authority of the Council of State.

Art. 12. The right to petition the Grand Council and other constituted authorities is guaranteed. Regulations with regard to the exercise of this right shall be prescribed by law.

CHAPTER XI

PUBLIC EDUCATION

Art. 135. The law shall prescribe the organization of such public educational establishments as are wholly or partly a charge upon the State.

These establishments shall form an organic whole, comprising:

Elementary education,

Secondary education (classical, industrial and commercial),

Higher academic or university education.

Art. 136. Each commune shall possess establishments for elementary education and shall contribute jointly with the State to the cost of their institution and maintenance.

Education shall be free in the elementary schools.

Art. 137. Religious education shall be separate from other education so as to enable all citizens of Geneva to be admitted to the various public educational establishments of the canton.

CONSTITUTION OF THE CANTON OF GLARIS

of 22 May 1887

CHAPTER I

GENERAL PROVISIONS

Art. 4. All citizens of the canton and of the Federation are subject to the same law and exercise the same political rights subject to the exceptions provided for in art. 23. Hence there shall not be in the canton any privilege of religion, place, birth, rank, family or property.

Art. 5. The freedom of the individual is guaranteed.

No person may be prosecuted or arrested except in the cases provided for and according to the procedure prescribed by law.

No person may be removed from the jurisdiction of his proper judge.

Appropriate compensation shall be payable by the State to persons having suffered unlawful or unwarranted arrest.

The use of violence to obtain a confession is prohibited.

Art. 6. Freedom of belief and of conscience shall be inviolable.

No person may be forced to become a member of a religious community or to participate in religious instruction or to perform a religious act, and no person may suffer any penalties whatsoever on the grounds of his religious views.

The religious education of minors until the age

of sixteen shall, in accordance with the spirit of the aforesaid principles, be subject to the jurisdiction of the person in whom parental powers or guardianship are vested.

The exercise of civic or political rights may not be limited by any ecclesiastical or religious requirements or conditions.

Religious views shall not relieve any person of his duties as a citizen.

No person shall be obliged to pay taxes which are specifically assigned to the purely religious expenses of a religious community of which he is not a member. Regulations for the application of this principle shall be prescribed by federal law (Federal Constitution, art. 49).

The freedom of worship is guaranteed within the limits compatible with morality and public order (Federal Constitution, art. 50, paragraph 1).

Art. 8. Property shall be inviolable. The law shall determine the cases where, on grounds of public interest and in return for full and just compensation, landed property or rights shall be expropriated for the benefit of the State, communes, corporations, associations or private persons.

The above shall be subject to the relevant provisions of the Federal Constitution and of the federal law.

Art. 9. The freedom of the press is guaranteed. Offences committed by the press shall be subject to the provisions of the general penal law.

Art. 10. Citizens shall have the right to form associations whose objects and methods are not illegal or dangerous to the State.

The law may provide penalties for abuse of this right (Federal Constitution, art. 56).

Art. 11. The formation of corporations of a perpetual nature shall be subject to permission by the State.

Art. 12. Trade and industry shall be free, subject to the right of the State to constitute monopolies and, within the limits of the Federal Constitution, to enact legal provisions in the common interest.

Art. 13. The right of free settlement is guaranteed in accordance with the provisions of the Federal Constitution.

The necessary regulations shall be prescribed by law.

Art. 16. The principle of publicity shall apply to the accounts of the State and of the communes.

Regulations shall, if necessary, be prescribed by law. . . .

Art. 18. The State shall promote public education as far as possible.

The communes shall be responsible for the

school system, subject to the supervision and with the substantial assistance of the State.

Elementary school education shall be exclusively under the direction of the State, and will be compulsory and free.

The State shall also exercise supervision over higher education.

The State shall further assist the communes in the establishment and maintenance of the schools referred to in section 78 by means of contributions.

Art. 19. The relief and care of the poor shall be the duty of the poor relief authorities subject to the supervision of the State (art. 79).¹

Regulations for the application of this principle shall be prescribed by law.

The State shall bear a share of the annual deficits of poor relief authorities in whose areas the proceeds of the poor relief fund, together with other income from the legally authorized maximum poor relief tax, is inadequate to meet requirements.

Art. 21. It shall be the task of the legislature to further agriculture, industry, trade and crafts as far as possible, and to promote the welfare of the people.

CONSTITUTION OF THE CANTON OF GRISONS

of 2 October 1892

CHAPTER II

PERSONAL RIGHTS

Art. 9. The freedom of the individual is guaranteed.

No person may be removed from the jurisdiction of his constitutional judge, and no person may be arrested or prosecuted except as prescribed by law.

The sanctity of the home shall be inviolable; no searches in the home may be carried out except by duly authorized officials and only in the cases provided for and in accordance with the procedure prescribed by law.

Property and other private rights shall be inviolable, except where otherwise provided by law.

Art. 10. The exercise of all professions in art and science, trade and industry shall be free.

The above shall be subject to the legal and police regulations within the limits of section 31 of the Federal Constitution.

Art. 11. The freedom of conscience, belief and worship is guaranteed.

CHAPTER VI

EDUCATION

Art. 41. The State shall supervise the entire educational system.

It shall be the duty of the State to make public elementary education in all its aspects as proficient as possible, but it shall in the first instance be the duty of the commune to procure the necessary funds in accordance with federal and cantonal regulations and with the aid of suitable contributions from the canton.

Public elementary schools shall be subject to State control; elementary education shall be compulsory and, in the public schools, free.

The canton shall provide for secondary and high school education and for the training of public elementary school teachers. Public schools shall be open to members of all religious confessions without prejudice to their freedom of belief and conscience.

ECONOMIC ADMINISTRATION

Art. 42. It shall be the general duty of the canton to assist and promote to the fullest possible extent all aspects of the economic system and, in particular, agriculture, Alpine husbandry, and crafts as well as public transport institutions (roads, railways, etc.).

There shall be guarantees for the redemption of common pasture rights on private estates.

¹ *Art. 79.* The duty to provide poor relief belongs, in virtue of art. 19, to the commune of origin.

RESPONSIBILITY

Art. 44. Authorities, officials and public employees shall be answerable for their administration.

The necessary regulations shall be prescribed by law.

Art. 46. The three languages of the canton are guaranteed as the official languages.

CONSTITUTION OF THE CANTON OF LUCERNE

of 28 February 1875

CHAPTER I

GENERAL PRINCIPLES

Art. 2. The freedom of belief, conscience, and divine worship are guaranteed in accordance with arts. 49-52 and 58 of the Federal Constitution.

Art. 3. Subject to the provisions of art. 27 of the Federal Constitution, the canton shall provide for public education.

The direction of public schools shall be the concern of the State authorities exclusively.

Without prejudice to the legal supervision by the State authorities over the attainment of the educational objectives of public primary schools, the principle of freedom of private instruction is recognized.

The communes shall be entitled to choose the public elementary school teachers.

Art. 4. In the canton of Lucerne there shall be no privileges of place, birth, person or family; all citizens are equal before the law and possess equal political rights.

Every citizen possessing the requisite qualifications shall have access to all positions and offices.

Art. 5. The freedom of the individual and the sanctity of the home are guaranteed.

No person may be prosecuted, arrested or detained, and no house may be searched, except in the cases provided for, and in accordance with the procedure prescribed by law.

The death penalty shall be re-introduced; its application shall be regulated by law.

Any person unlawfully arrested shall be entitled to full compensation.

No person may be removed from the jurisdiction of his proper judge.

Art. 6. Freedom to express an opinion by word of mouth or in writing and the freedom of the press are guaranteed. Abuse of this freedom shall be punishable by the courts as prescribed by law.

No arrest may be made for a press offence until after a judgment has been delivered by the court unless the offence is criminal.

Art. 7. The freedom of petition is guaranteed.

Any inhabitant, individually or jointly with others, and any commune or corporation, shall have the right to submit petitions or complaints

or to state requests to the authorities in writing and in proper form.

Art. 8. The Constitution guarantees to the inhabitants the right to form associations, provided that such associations shall not either in their objects or methods be unlawful or dangerous to the State.

Art. 9. The Constitution guarantees the inviolability of property of all kinds to private persons, communes and ecclesiastical or secular corporations recognized by the State, or the payment of just and prior compensation for property the expropriation of which may become necessary on grounds of public expediency.

Such compensation shall, in case of dispute, be decided by the courts.

Art. 10. The freedom of trade and industry is recognized. Within the limits of the Federal Constitution, the law shall prescribe such restrictions as are required in the public interest.

Art. 12. The perpetual redeemability of tithes and ground rents is guaranteed. . . .

The land shall not be charged with any irredeemable encumbrance imposing a servitude on the owner.

Art. 12a. The canton shall contribute to the construction of public farm roads as well as to the improvement of the soil and other efforts to improve the system of agriculture and alpine husbandry to which the Federation grants subsidies. The conditions in which such contributions shall be made and their amounts shall be prescribed by law.

Art. 13. Citizens are as a general rule bound to accept public offices conferred upon them by direct popular elections; but this duty shall not extend beyond one period in office. Exceptions to this general obligation shall be prescribed by law.

Art. 16. Every official is personally accountable for his administration and may be held answerable and, where necessary, liable to damages for exceeding or abusing the power entrusted to him in virtue of his office.

Art. 20. Every citizen shall be free to plead his legal causes in person, or to appoint others to plead in his behalf in accordance with the laws of the Federation or of the canton. . . .

CONSTITUTION OF THE CANTON OF NEUCHÂTEL

of 21 November 1858

CONSTITUTIONAL LAW OF NEUCHÂTEL

Art. 5. All citizens are equal before the law. In the canton there shall be no privileges of place, birth, person or family.

The State shall not recognize any titles of nobility.

Art. 6. All citizens are equally admissible to public office.

Art. 7. The freedom of the individual and the inviolability of the home are guaranteed: no person may be prosecuted or arrested and no search may take place in a home except in the cases and in accordance with the procedure prescribed by law.

Any person who has been arrested shall be interrogated within three days, and his arrest confirmed or set aside within the same period by the competent judicial authority.

Art. 8. Property shall be inviolable. The State may, however, require a specific property to be surrendered on grounds of public expediency, lawfully recognized, in return for just and prior compensation without prejudice to the provisions of the federal law in this matter.

Art. 9. The press shall be free. The activities of the press may not be regulated, suspended or impeded by law.

Abuses of this freedom shall be punishable under common law.

Art. 10. The right of petition is guaranteed. Petitions must be signed by one or more persons as individuals. Communes, municipalities or other legal persons may, however, petition as such in matters coming within their competence.

Art. 11. Public assemblies and associations having neither in their objects nor in their methods any unlawful intent may not be restricted or prohibited.

Art. 12. No person may be removed from the jurisdiction of his proper judge. No extraordinary temporary courts may be set up at any time.

Art. 13. Each person shall be equally free to profess his creed, and shall be equally entitled to protection of his worship provided he complies with the provisions of the laws governing their external practice.

The public practice of a creed other than the Christian or Jewish shall, however, be permissible only within the limits compatible with public order

and morality. The law may enact special provisions governing this matter.

Art. 14. The law shall recognize no distinction between citizens based on the creed they profess.

Art. 15. Freedom of education and the right of free settlement and industry throughout the country are guaranteed to all citizens of Neuchâtel, provided they comply with the police regulations regarding the exercise of certain professions and pay the public dues.

Swiss and foreign nationals shall enjoy the same rights subject to the conditions determined by the Federal Constitution and by treaties.

FORM OF GOVERNMENT

Art. 21. All officials shall be answerable for their actions.

Regulations governing this liability shall be prescribed by law.

EDUCATION

Art. 74. The supreme control and supervision of public education shall be exercised by the State.

The service of public education shall include all educational establishments dependent on the cantonal, communal, or municipal administrations.

Art. 75. It shall be the duty of the State and the communes or municipalities throughout their territories to make public educational establishments as proficient as possible.

Art. 76. These establishments shall form an organic whole comprising elementary education; secondary education (classical, industrial and commercial); higher education, related to university studies or technical colleges.

The organization of public education shall be governed exclusively by the law.

Art. 77. Elementary education is compulsory.

Each citizen shall be bound to ensure that his children or wards attend public elementary schools or make arrangements for them to receive instruction equal at least to the instruction given in these establishments.

Art. 78. Public elementary education shall be free. Its cost shall be defrayed by the State, communes and municipalities in the proportions determined by law.

Art. 79. Religious instruction shall be separate from the other fields of instruction.

CONSTITUTION OF THE CANTON OF ST. GALL

of 30 August 1890

CHAPTER I

DUTIES OF THE STATE

Art. 1. It shall be the duty of the State to promote the welfare of the people as a whole.

Art. 2. The supervision, direction and improvement of public education shall be the concern of the State.

Art. 3. The canton shall provide adequate primary instruction under the exclusive direction of

the State; such instruction shall be compulsory and, in the public schools, free.

Public schools shall be open to members of all religious communities without prejudice to their freedom of belief or conscience (Federal Constitution, art. 27).

Religious instruction shall be given by the bodies appointed by the appropriate religious authorities. Public school premises and the requisite time in the syllabus shall be made available for these purposes.

Subject to the provisions of the law, the freedom of private instruction is guaranteed.

Art. 6. The State shall make contributions to the primary school system.

The State shall provide, free of charge, the compulsory printed school material.

The State shall provide for the instruction of children who on account of physical or mental handicaps are unable to attend public schools, and shall give suitable financial assistance for these purposes.

The State shall participate in providing separate education for neglected children.

The State shall found the necessary reformatories for juvenile delinquents or participate in the construction or management thereof.

Art. 7. The State shall subsidize continuation schools; regulations concerning their organization shall be prescribed by law.

Pending the enactment of such a law, attendance at continuation schools may be declared compulsory by the political communes and in certain cases also by the educational authorities.

Art. 8. The State shall subsidize and encourage existing secondary schools as well as the foundation of new secondary schools.

Art. 9. The continued existence of the cantonal school and of the teachers' training college is guaranteed; they shall be maintained exclusively out of State funds.

Art. 10. Attendance at the cantonal school and at the teachers' training college by indigent but promising students shall be facilitated by the grant of suitable scholarships. The State shall also subsidize the higher training of gifted but indigent students at technical colleges and high schools by means of scholarships.

Art. 11. The care of public health shall form a branch of State administration.

The State shall subsidize the public care of the sick; it shall participate in the foundation of hospitals and in their management.

Art. 12. The State shall be empowered, with the co-operation of the communes, to provide for the care of drunkards in suitable institutions.

The State shall either found the necessary asylums or participate in their construction or management.

Art. 13. The State shall protect labour, particularly women and children working in such crafts

and industries as are not subject to federal legislation.

Sundays and the generally recognized holidays are guaranteed as public days of rest.

Art. 14. The public relief of the poor shall be the concern of the communes in accordance with existing legal regulations. For this purpose the financial assistance of the State may be invoked, in particular, for providing the best possible care of orphans, the mentally deranged, incurables, and the senile.

Art. 15. For the purpose of improving the earning power of the population, the State shall promote and assist agriculture, industry, and handicrafts, particularly by the following means:

(a) By founding and subsidizing technical schools or by participating therein;

(b) By encouraging and assisting the co-operative system in agriculture, industry and the crafts; special rights may be granted to such co-operatives by the law;

(c) By encouraging insurance against damage likely to affect agriculture and by taking steps to prevent such damage.

Art. 16. The State shall contribute to the canalization of watercourses, the drainage of marshes, afforestation, and collective farming.

The State shall provide for expert direction and supervision of the necessary embankments affording protection against floods harmful to the community and against other elemental forces.

With a view to the construction and maintenance of the necessary embankments, the State may pay suitable contributions to those taking part in the work; exceptionally, it may also undertake the construction and maintenance of such embankments itself, with suitable assistance from those taking part in the work.

Art. 17. The State shall be responsible for the construction and maintenance of highways.

The State shall exercise general supervision over the construction and maintenance of all public roads.

The State shall make suitable contributions to political communes in whose area the expense of constructing and maintaining public highways is exceptionally high.

The State shall from time to time pay such contributions to improvements in communications as appear justified in the interest of the canton or of part thereof.

Art. 18. Sovereign rights over water courses are vested in the State, and their use shall be regulated and promoted by law. In this connexion the transmission of hydro-electric power may be declared to be under the control of the State.

This shall not prejudice federal regulations or private rights where such exist.

Art. 19. The State shall exercise general supervision over the administration of savings banks and sickness insurance funds.

The necessary regulations shall be prescribed by law.

Art. 20. It shall be the duty of the legislature to introduce a civil court procedure which shall be as expeditious as possible, which shall protect material rights and which shall not be surrounded with more formality than is absolutely necessary.

CHAPTER II

GUARANTEED RIGHTS OF CITIZENS

Art. 22. Freedom of belief and conscience shall be inviolable.

The exercise of civic or political rights may not be limited by any ecclesiastical or religious requirements or conditions.

No person may be prejudiced in his constitutional rights on account of his religious beliefs.

Art. 23. The Catholic and the Protestant churches, as well as the free and unrestricted exercise of the Catholic and Protestant faith and worship, are guaranteed.

The freedom of worship within the limits compatible with morality and public order is also guaranteed to other religions and religious communities.

Art. 25. The right of petition is guaranteed.

Art. 26. The freedom of the Press is guaranteed; abuses of this freedom are punishable by law.

Art. 27. The freedom of trade and industry is guaranteed; any restrictions introduced by the legislature shall be kept within the limits of the Federal Constitution; in particular the law shall prescribe effective measures to combat unfair business practices harmful to the community.

Art. 28. The freedom of association is guaranteed by the Constitution. The law shall prescribe such provisions as may be necessary to safeguard against abuse of this right.

Art. 29. No person may be removed from the jurisdiction of his constitutional judicial authority, and no extraordinary courts may be established.

Art. 30. The freedom of the individual and the sanctity of the home are guaranteed.

No person may be arrested or detained, and no search may be carried out in a citizen's home except in the cases provided for and according to the procedure prescribed by law.

Any person suffering unlawful or unwarranted arrest shall be entitled to compensation.

In all criminal proceedings, the accused is guaranteed the right of defence.

Art. 31. Private property shall be inviolable.

Where necessary in the public interest, the expropriation or encumbrance of all types of real estate may be ordered in return for full compensation which shall in case of dispute be determined by the court.

The necessary regulations shall be prescribed by law.

Art. 32. The communes and all public corporations and associations are guaranteed the right to their property, to the lawful administration thereof and to dispose of income therefrom in accordance with law and equity, or with the deed of foundation, if any.

Such property may under no circumstances be divided among the members for their private use.

Property settled by deed of foundation shall, if subject to State supervision, be held subject to the same conditions as the property of communes, public associations and corporations.

CHAPTER IV

STATUS, ELECTION, AND POWERS OF THE AUTHORITIES

1. *Responsibility of authorities, officials and employees.*

Art. 108. Authorities, officials and employees shall be answerable for their actions performed in the course of duty. The responsibility shall be purely personal and shall not extend to acts performed by predecessors or colleagues in office in the course of their duties.

CONSTITUTION OF THE CANTON OF SCHAFFHAUSEN

of 24 March 1876

CHAPTER II

PERSONAL RIGHTS

Art. 7. All citizens are equal before the law.

Art. 8. Personal freedom is guaranteed.

No person shall be removed from the jurisdiction of the judge who has been appointed over him by the constitution or the law.

Arrests and prosecutions in the courts may only take place as prescribed by law. Every person arrested shall be heard within twice twenty-four hours.

Every person who is brought for trial under the penal law must be declared guilty or not

guilty, unless he is satisfied with a simple dismissal of the case by the competent authority.

A person who is brought to trial through no fault of his own shall be entitled to redress and compensation.

All forms of violence to obtain a confession are prohibited.

The law shall contain the necessary provisions to ensure the defence of the accused, without, however, interfering with the purposes of the criminal law.

Art. 9. Free expression of opinion is guaranteed. The law shall provide penalties for abuse.

Art. 10. Freedom of belief and conscience shall be inviolable.

No person may be compelled to join a religious community to attend religious instruction, or to perform any religious act, and no person may suffer any penalties whatsoever on the grounds of his religious views.

Persons exercising authority as parents or guardians shall be responsible for the religious upbringing of minors up to the age of sixteen.

The exercise of civic or political rights may not be limited by any ecclesiastical or religious requirements or conditions.

Religious views shall not relieve any person of his duties as a citizen.

No person shall be obliged to pay taxes specifically imposed for the strictly religious purposes of a religious community of which he is not a member. The detailed application of this principle is reserved to the legislative authorities (art. 49 of the Federal Constitution).

Art. 11. The freedom of worship is guaranteed within the limits compatible with morality and public order (art. 50 of the Federal Constitution, paragraph 1).

Art. 12. The right of association and assembly is guaranteed within the limits compatible with morality and public order.

Art. 13. The right of petition is guaranteed.

Art. 14. Full civic capacity begins on reaching the age of twenty.

Art. 15. The right of marriage is under the protection of the State.

This right shall not be limited for either ecclesiastical or economic reasons nor on account of previous behaviour nor on any other police grounds.

Marriages shall be contracted in the presence of the civil authorities.

A marriage which has been contracted in another canton, or in a foreign country in accordance with the law existing there, shall be recognized as a marriage in the territory of the canton of Schaffhausen.

Through marriage the wife acquires the husband's right of domicile.

Through the subsequent marriage of the parents, their children born before marriage shall be legitimized.

The levying of a bridal tax or any similar tax is not allowed (art. 54 of the Federal Constitution).

Art. 16. Every Swiss citizen has the right to settle in any locality within the territory of the canton of Schaffhausen, provided he is in possession of a certificate of citizenship or other equivalent document.¹

Art. 17. Art, science, trade and industry may be freely practised.

¹ The subsequent paragraphs contain provisions relating to exceptions in connexion with crimes and misdemeanours.

The above is subject to such legal and police provisions as may be necessary in the public interest.

Art. 18.*

Art. 19. Private rights are under the protection of the State; compulsory expropriation may not take place unless required in the interests of the community or of the State.

The necessary regulation shall be prescribed by law.

Private rights may also be alienated in favour of private individuals, but this may only be done in the cases provided for and in accordance with the procedure prescribed by law.

For all compulsory expropriation full compensation shall be paid.

Art. 20. The sanctity of the home is guaranteed.

Before a house can be searched it is necessary to obtain either the approval of the owner or a written warrant from a competent official which shall specify the scope and purpose of such search. Exceptions to this rule shall be permitted in cases of imminent danger.

Art. 21. No estate may be subjected to an encumbrance which cannot be redeemed in accordance with the procedure prescribed by law.

CHAPTER IV PUBLIC ADMINISTRATION IN PARTICULAR

1. *Branches of public administration*

Art. 46. Responsibility for public instruction lies with the State and the communes.

Art. 47. Primary education is obligatory.

In all public schools instruction for the inhabitants of the canton or commune shall be free of charge.

Art. 54. The legislature retains the right to take appropriate steps to maintain public order and peace among the members of the various religious communities, and to prevent infringements of the rights of citizens and of the State on the part of any ecclesiastical authorities.

Questions of public or private law arising out of the formation or schism of religious communities shall be referred to the State authorities for decision.

Art. 55. Poor relief shall be the concern of the communes, with the assistance of the State.

The necessary regulations shall be prescribed by law.

Art. 56. The State shall undertake the task of furthering the economic interests of the community. It shall therefore take suitable steps to advance and protect the interests of agriculture, forestry, the handicrafts, industry and trade.

* Replaced by the new art. 84: "Free legal aid is guaranteed. A cantonal authorization is necessary for the regular exercise of the profession of advocate. Regulations on this subject shall be prescribed in a decree of the Grand Council."

CONSTITUTION OF THE CANTON OF SCHWYZ

of 23 October 1898

CHAPTER I

GENERAL PROVISIONS

Art. 2. The Roman Catholic Church and the free and unrestricted practice of its faith and worship are guaranteed.

Freedom of worship within the limits compatible with morality and public order is also guaranteed for all other denominations and religious communities.

Art. 3. [Provisions relating to the exercise of sovereignty.]

Art. 4. All citizens are equal before the law and shall enjoy equal civil rights.

Art. 5. Personal freedom and the sanctity of the home are guaranteed. No person may be arrested or have his house searched save in accordance with the provisions of the law; likewise no person may be removed from the jurisdiction of the judge appointed over him by the Constitution.

Art. 6. No official may be removed from his post without a sentence of the courts. Dismissal from office may take place only if a demand for punishment is lodged by the competent authority on account of serious dereliction of duty.

As an exception, managerial and bankruptcy officials may be relieved of their posts in accordance with the law by the competent supervisory authorities.

Art. 7. In all questions of civil law every person shall have access to the courts without let or hindrance. Courts of arbitration established by agreement are allowed.

Art. 8. The proceedings of the Cantonal Council and of the courts, except when they are considering sentence, shall as a rule be public. Exceptions may only be decided on in public session.

Art. 9. The canton shall be responsible, in observance of the provisions of article 27 of the Federal Constitution, for ensuring adequate primary education, including repetition schools; it shall also support the secondary schools.

Primary education is obligatory and in the public schools shall be free of charge.

Art. 10. Free expression of opinion, written and spoken, is guaranteed. Penalties for abuse shall be prescribed by law, and the courts shall decide on charges arising therefrom.

Art. 11. Each person possesses the right to submit requests or complaints to the Cantonal Council by petition.

Art. 12. The right to form associations which are not contrary to the law in their objects, nor in their means for attaining those objects, is guaranteed.

Art. 13. The Constitution guarantees the inviolability of property. The right of each district, commune, and religious or lay corporation to administer its property and to decide for itself on the manner in which its property shall be utilized and administered is likewise guaranteed.

In cases of expropriation in the public interest, the State shall grant just compensation in accordance with the provisions of the law.

In so far as it is necessary to acquire the ownership of, or rights over, land for the establishment of public or private hydraulic installations which are in the common interest or in that of a large part of the canton, such acquisition may take place by expropriation. The necessary regulations shall be prescribed by law.

Art. 14. Freedom of trade and industry, and the right of free settlement, are guaranteed in accordance with the provisions of federal law and of the cantonal law based thereon.

The legislature shall prescribe, within the framework of the Federal Constitution, such restrictions as the welfare of the community may require, in particular with regard to hawking and tenders for public contracts.

Art. 21. No estate may be subjected to an irredeemable encumbrance, imposing a servitude on the owner; and the perpetual redeemability of tithes and ground rents is guaranteed.

CONSTITUTION OF THE CANTON OF SOLOTHURN

of 23 October 1887

I. PRINCIPLES OF CONSTITUTIONAL LAW

Art. 7. All officials and employees are responsible according to the law for their actions, and are liable for damages caused by abuse of their official position or neglect. In so far as they or their official sureties are unable to provide compensation, the liability for such compensation lies with the State.

Officials can be dismissed and recalled only in the cases provided for and in accordance with the

procedure prescribed by law. Members of the Cantonal Council and of the Council of State and judges cannot be held responsible for the votes and opinions given by them in their respective official capacities.

II. RIGHTS AND FREEDOMS OF INDIVIDUALS

Art. 12. In accordance with and in execution of the Federal Constitution, the following shall be expressly guaranteed:

1. The equality of citizens before the law and the abolition of all political privileges (article 4 of the Federal Constitution);

2. Freedom of trade and industry (article 31 of the Federal Constitution).

Such orders as the canton is allowed to make in limitation of the above rights must be issued by the Cantonal Council. Individual measures enacted by the Council of State must remain strictly within the limits of the Constitution and of such orders.

3. The right of free settlement (article 45, Federal Constitution).

4. Freedom of belief and conscience (article 49, Federal Constitution).

5. Freedom of worship within the limits compatible with morality and public order (article 50, Federal Constitution).

Measures passed by the Council of State in this connexion must be submitted to the Cantonal Council at its next session for approval.

6. The right of matrimony (article 54, Federal Constitution).

7. Freedom of the press (article 55, Federal Constitution).

The law shall in principle contain no exceptional provisions relating to abuse of freedom of the press as compared with the penalties for any other abuse of the rights of free expression of opinion.

8. The right of association (article 56, Federal Constitution).

9. The right of petition (article 57, Federal Constitution).

10. The courts as established by law, all exceptional courts and all forms of clerical jurisdiction being prohibited.

Art. 13. Personal freedom is guaranteed.

No person may be arrested, except in the cases provided for and in accordance with the procedure prescribed by law. Every prisoner who is held for an inquiry must be heard within twice twenty-four hours at the latest.

Persons having suffered illegal or unwarranted arrest, and persons unjustly sentenced, must be suitably compensated by the State. The ultimate decision as to appropriate compensation lies with the court quashing the sentence.

Art. 14. The sanctity of the home shall be inviolable.

The necessary limitations to this right shall be prescribed by the penal law.

If a house is searched in disregard of the legal provisions on this subject, the person concerned has a claim to compensation and redress.

Art. 15. The State shall protect properly acquired private rights.

In exceptional cases the expropriation of a private right may be required by the legislative

authority or by decision of the competent authorities, on grounds of public expediency provided the owner is given full compensation.

VII. EDUCATION

Art. 47. All education in the canton shall be under State supervision.

All primary schools and other educational institutions which are established and maintained by the State and the communes shall be exclusively under the direction of the State.

Attendance at public primary schools shall be free of charge and, subject to certain exceptions prescribed by law, obligatory.

Any person wishing to maintain a school or educational institution which is not under the direction of the State, must obtain State permission for that purpose.

Art. 48. The communes shall provide the means of study and school materials for primary schools free of charge.

Art. 50. The State shall support, in so far as its resources allow, the establishment and maintenance of professional continuation schools and the holding of agricultural courses.

It shall take appropriate steps to facilitate the attendance of indigent but gifted pupils at the district and cantonal schools.

IX. STATE AND PUBLIC ECONOMIC ADMINISTRATION

1. State Economic Administration

Art. 62. [Provisions relating to taxation.]

Art. 66. Tithes, and similar charges on real property, which have been abolished by law, may not be reintroduced.

2. Public Economic Administration

Art. 68. Poor relief shall be under the general supervision of the State.

The duty of supporting the indigent shall be the responsibility of the communes of origin and residence. The details of this responsibility shall be defined and delimited by law.

The requirements of poor relief shall be covered by the revenue of poor law property, special foundations within the limits of their endowments, the general property of the commune of origin, and the taxable capacity of the inhabitants of the communes of origin and residence.

The State shall contribute to the relief expenses of the communes of origin and residence. It shall encourage the voluntary care of the sick and needy, and the vocational training of indigent children.

Art. 71. The State shall encourage insurance, particularly health, accident, and personal property insurance, and insurance against damage by hail.

It may introduce general or limited compulsory health, accident and life insurance.

It shall take steps to ensure the freedom of movement of sickness insurance funds.

The assets of workers' sickness insurance funds must be deposited with public monetary institutions.

Art. 72. The State shall protect and further the interests of trade, industry and crafts by, *inter alia*, suitable apprenticeship rules.

Art. 73. The State shall support:

1. Industrial and agricultural societies and associations.

2. Stock-breeding and dairy farming.

3. The efforts of the communes, corporations and private individuals for soil improvement, collective farming, irrigation and drainage, anti-flood measures and the afforestation of open spaces.

Art. 75. The State shall promote and regulate the credit system. There shall be severe penalties against usury.

Demands of more than three per cent above the official rate of interest charged by the Solothurn Cantonal Bank per annum for interest, commission and brokerage shall be punished as usury.

CONSTITUTION OF THE CANTON OF THURGAU

of 28 February 1869

CHAPTER II

RIGHTS AND FREEDOMS OF INDIVIDUALS

Art. 7. [Provisions relating to the right to vote and qualifications of voters.]

Art. 8. All citizens are equal before the law.

Art. 9. Personal freedom is guaranteed.

No person shall be removed from the jurisdiction of the judge rightfully appointed over him by the Constitution, and no person may be arrested or prosecuted except as prescribed by law.

Any person who is arrested shall be heard within twenty-four hours.

The arrest of a citizen contrary to the law, the ill-treatment of accused persons or of witnesses, or the use of violence to obtain a confession shall entitle the person concerned to satisfaction and compensation. The official at fault shall be punished for dereliction of duty.

Art. 10. The sanctity of the home is guaranteed. Houses may only be searched in the cases provided for and in accordance with the procedure prescribed by law.

Art. 11. Property shall be inviolable. In exceptional cases, all persons are bound, in accordance with the provisions of the law, in so far as may be required in the public interest, to surrender the ownership of land or other private rights to the State or to a commune or to private concerns (in the latter case, however, only as a result of a decision of the Grand Council), subject to full compensation.

Art. 12. Freedom of the press and freedom of express an opinion are guaranteed. Abuses shall be dealt with in accordance with penal law.

The legislative authority must, in principle, take no preventive or other exceptional measures against the press.

Art. 13. The right of petition, the right of association and the right of assembly are guaranteed. Their exercise is subject only to the limitations of common law and morality.

Art. 14. The right of sojourn, the right of settlement and the right of citizenship are guaranteed to every citizen of the canton and of Switzerland who fulfils the requirements of the law.

Art. 15. Every person shall be free to exercise his calling in art, science, trade or industry, subject to the police regulations and legal provisions required in the public interest.

Art. 16. No estate may be burdened with an encumbrance which cannot be redeemed in accordance with the procedure prescribed by law.

Art. 17. Freedom of belief and of worship is guaranteed. No person shall be subject to interference in the practice of his religion at home or in public, provided that civic obligations in no way suffer thereby.

No person shall be compelled to participate in ecclesiastical activities or ceremonies.

In addition to the national Evangelic and Catholic churches, other religious communities may be set up within constitutional limits.

Political and civic rights are independent of religious denomination.

Art. 18. Marriage for all inhabitants of the canton is subject to the provisions of civil law.

CHAPTER IV

ECONOMIC DUTIES OF THE STATE

Art. 24. The State is responsible for seeing that instruction in the schools is adequate in all respects; it shall give full support to lower and higher schools, and it shall assist, as far as possible, the attendance at such schools of indigent children.

Particular attention shall be paid to increasing the number of continuation schools and classes, on the understanding that differences in religious belief shall not form an obstacle.

Art. 26. The State is responsible for improving and protecting the credit system. A cantonal bank shall be established under State guarantee. The purpose of the bank shall be to provide, as

far as possible, and against sufficient security, the necessary capital to cover the needs of agriculture and industry; it shall be placed under the direct control of a board of governors to be chosen and supervised by the Grand Council.

Art. 27. It is the task of the legislature to promote agriculture, trade and industry, and to protect and further the health and welfare of the working classes.

A special institution shall be established for the accommodation of indigent and incurable sick persons.

Art. 28. The State shall give the necessary support, commensurate with its resources, to undertakings concerned with the development of the Thurgau railway system.

CONSTITUTION OF THE CANTON OF TICINO

of 23 June 1830

GENERAL PROVISIONS AND GUARANTEES

Art. 1. The Roman Catholic and Apostolic religion is the religion of the canton.

Art. 2. There shall not be in the canton any privilege of place, birth, person, class, jurisdiction or family.

Art. 4. No person may be arrested or prosecuted except as prescribed by law; no person may be removed from the jurisdiction of his proper judge; no person may be detained more than twenty-four hours without being brought before the competent judge.

Art. 5. The freedom of the press is guaranteed, provided that it does not offend against good

morals, the religion of the canton, or the relations of the Confederation. All such abuses shall be punishable by law.

Art. 6. The right of petition is guaranteed.

Art. 7. The freedom of private education is guaranteed within the limits of the Federal Constitution.

Art. 8. The patrician rights (*patriziati*) are guaranteed. They shall be governed by law.

Art. 9. All games of chance, including lotteries, are prohibited.

Arts. 10-12. [Provisions relating to right to vote, etc.]

CONSTITUTION OF THE CANTON OF UNTERWALDEN NID DEM WALD

of 27 April 1913 and 11 October 1936

CHAPTER I

GENERAL PROVISIONS

Art. 3. The Roman Catholic Church, being that of the great majority of the people of the canton, shall enjoy the full protection of the State.

Freedom of belief, conscience, and worship are guaranteed in accordance with arts. 49 and 50 of the Federal Constitution.

Art. 5. The freedom of the individual and the sanctity of the home of every inhabitant of the canton are guaranteed within the limits of the Constitution and the law.

Persons who have suffered unlawful or unwarranted arrest or wrongful conviction shall be suitably compensated by the State.

The court quashing the sentence shall at the same time determine the compensation to be granted.

The State retains the right of recovery.

Art. 6. Where there is evidence of real indigence, the State shall provide free legal counsel and aid.

Art. 7. All citizens of the canton, and Swiss citizens rightfully settled therein in accordance with the Federal Constitution, shall have equal civic rights.

They shall be entitled to exercise their right to vote in their place of residence only.

Art. 8. No person may be removed from the jurisdiction of his judge appointed under the Constitution.

Courts of arbitration elected under freely concluded agreements shall be permissible, and their awards shall be as binding as the judgments of the ordinary courts.

Art. 10. The freedom of trade and industry is guaranteed in accordance with the Federal Constitution, subject to the monopoly rights of the State and the provisions of the law governing the exercise of specific crafts in the public interest.

Art. 11. The right of petition is guaranteed.

Art. 12. The right to form associations which are not illegal in their objects and their methods is guaranteed.

The right of free assembly is similarly guaranteed.

Art. 13. The freedom to express an opinion and the freedom of the press are guaranteed; abuse of such freedom shall be subject to penalties to be ordered by the court.

Art. 14. The State shall protect Sunday and holiday rest. The necessary regulations shall be prescribed by law.

Where necessary the State shall prescribe regulations to prevent excessive work detrimental to health.

Art. 15. The inviolability of property and acquired rights is guaranteed.

There may be no compulsory expropriation of landed property or acquired rights except in the public interest and in return for full compensation which shall in case of dispute be determined by the courts. The necessary regulations shall be prescribed by law.

Art. 20. Every enfranchised Swiss citizen resident in the canton, who has not forfeited his civic privileges and rights and is not under any disability, shall be eligible to any public office.

Art. 21. Every resident of the canton entitled to vote shall be obliged to accept any official function assigned to him under the Constitution for a specific term. Exceptions shall be prescribed by law.

Art. 31. The State shall supervise and promote public education. As prescribed by art. 27 of the Federal Constitution, primary instruction shall be the concern of the local education authority under the direction and supervision of the State.

The State shall assist education by suitable contributions.

Education and instruction shall be directed in a religious and patriotic spirit.

Religious instruction shall be given and supervised by the bodies appointed by the respective religious authorities; provision shall be made in

the syllabus for setting aside the time considered requisite for this purpose.

Without prejudice to legal supervision by the State authorities over the attainment of the purposes of education in public primary schools, the principle of freedom of private education is recognized.

Art. 32. The communes, through their poor relief authorities, shall provide for the poor.

The State shall make contributions in respect of special expenses to heavily burdened communes. The necessary regulations shall be prescribed by law.

Art. 33. For the purpose of improving the earning power of the population, the State shall promote and assist agriculture, handicrafts, and industry, particularly by the following means:

(a) The promotion and assistance of instruction and education in domestic science, agriculture and crafts;

(b) The encouragement of insurance against damage which may threaten workers and farmers, and the enactment of regulations for fighting such damage;

(c) The encouragement of efforts to introduce new sources of income and means of communication.

Art. 34. It shall be within the scope of the canton's duties to encourage and promote public health and the care of the sick by legislation.

CONSTITUTION OF THE CANTON OF UNTERWALDEN OB DEM WALD

of 27 April 1902

CHAPTER I

GENERAL PROVISIONS

Art. 3. The Roman Catholic Church, being that of the majority of the people of the canton, shall enjoy the full protection of the State. Furthermore freedom of belief, conscience and worship within the limits compatible with morality and public order are guaranteed in accordance with the Federal Constitution.

Art. 5. The freedom of trade and industry is guaranteed in accordance with the Federal Constitution, subject to the monopoly rights of the State and the provisions of the law governing the exercise of specific crafts in the public interest.

Art. 6. The freedom of the individual and the sanctity of the home are guaranteed, subject to the provisions of the law on criminal proceedings.

Persons who have suffered unlawful or unwarranted arrest or wrongful conviction shall be entitled to claim compensation from the State. The law shall prescribe whether and how far the State shall have the right of recovery from third parties.

Art. 7. The property of private persons, corporations, partnerships, associations and communes shall be inviolable.

There may be no compulsory expropriation of landed property or acquired rights, except in the public interest and in return for full compensation which shall in case of dispute be determined by the courts.

In cases where the State does not appear as the expropriating authority, the person called upon to assign his property shall be entitled to appeal to the Council of State regarding the need for such expropriation, and the said Council shall decide after hearing the parties. For the purposes of such decision, the said Council shall, in the event of the absence of individual members, make up its full membership from the Cantonal Council.

Art. 8. The State shall supervise and promote public education as prescribed by law. The communes shall be responsible for primary education under the direction and supervision of the State. The law shall determine the contributions to be made to education by the State.

Education and instruction shall be directed in a religious and patriotic spirit.

Religious instruction shall be given and supervised by the bodies appointed by the respective religious authorities; provision shall be made in the

syllabus for setting aside the time considered requisite for this purpose.

Without prejudice to supervision by the State over the attainment of the educational objectives laid down for public primary schools, the freedom of private education is guaranteed.

Art. 9. The administration of the State budget shall be open to public inspection. The principle of proper economy shall apply to the State budget as a whole. Due regard shall also be paid to promoting greater uniformity in the said budget.

The accounts of the State and the estimates of income and expenditure shall be printed and published each year, and the report on State

administration every two years. The report on State administration shall alternate with the report on the dispensation of justice.

Art. 10. The State shall, in so far as the available means permit, promote public welfare and economic progress.

The law shall prescribe whether and how far compulsory insurance shall be introduced.

CHAPTER II

RIGHTS AND DUTIES OF CITIZENS

Art. 16. The authorities, officials and employees shall be answerable for the performance of their duties as prescribed by law.

CONSTITUTION OF THE CANTON OF URI

of 6 May 1888

CHAPTER I

GENERAL PROVISIONS

Art. 2. The great majority of the population of the canton of Uri profess the Roman Catholic religion.

Freedom of belief and conscience and freedom of worship are, however, also guaranteed to the other denominations in accordance with the provisions of the Federal Constitution.

Art. 5. The State recognizes the duty of public education and instruction. In observance of article 27 of the Federal Constitution it shall ensure that adequate primary education is provided.

The present provisions governing hours of attendance and teaching arrangements in primary schools, together with the contributions of the canton to the primary schools, must not be reduced.

Communes which do more in the educational field than is obligatory by law are entitled to special assistance from the State.

The choice of teachers shall be made by the communes. Such choice shall, however, be confined to holders of official diplomas subject to compliance with the regulations in force for the public schools relating to school hours and the purposes of education.

Art. 6. Private instruction is permissible.

Art. 7. The State shall promote higher education, assist secondary, industrial and agricultural schools, and make grants for attendance at such educational institutions.

Art. 9. The State is responsible for supervising communal affairs, poor relief and guardianship. It shall provide financial support to the communes for poor relief. The State contributions granted hitherto are to be regarded as a minimum.

The legislature shall issue regulations regarding poor relief and guardianship, and the State's right of supervision over communal budgets.

Art. 10. The inviolability of property is guaranteed. Compulsory expropriation is only permissible in cases where public welfare and necessity require, and then only on payment of full compensation, which in case of dispute shall be settled by the courts.

Art. 17. Authorities, officials and employees of the State shall as a rule take an oath that they will loyally carry out their duties and apply the Constitution and the law. They are responsible for the way in which they carry out their duties, the State having a subsidiary liability up to twice the amount of the official surety in cases of disloyalty and neglect of duty.

The extent and the amount of the official sureties shall be determined by law.

CHAPTER II

CIVIC AND PERSONAL RIGHTS AND DUTIES

Art. 29. In accordance with the Constitution, the following are guaranteed:

- (a) The equality of citizens before the law and in the courts.
- (b) The right of free settlement.
- (c) The right of petition.
- (d) The freedom of the press, of association, and of trade and industry.
- (e) Personal freedom and the sanctity of the home, subject to the exceptions prescribed by law.

The legislature shall pass measures to prevent the abuse of guaranteed rights and freedoms.

Art. 30. Persons wrongfully arrested shall be entitled to compensation from the State. The latter retains the right of recovery.

Art. 32. No person shall be removed from the jurisdiction of the judge appointed over him by the Constitution. Sentences of arbitration tribunals

shall be carried out in the same way as those of the ordinary courts.

Art. 33. Each citizen who is legally competent can conduct his own legal affairs or those of his ward, either himself or through other persons who are legally competent.

CHAPTER IV

PUBLIC ECONOMIC ADMINISTRATION

Art. 42. The Uri Cantonal Bank and its activities are under the control and guarantee of the State. The Cantonal Bank shall, without prejudice to sound business principles, assist efforts to improve agriculture and industry.

Art. 43. The redeemability of tithes and ground-rent is guaranteed.

No ground or land shall be encumbered with an irredeemable lien involving the performance of a service by the owner. Defence duties leviable on parcels of land are reserved.

The Cantonal Council (*Landrat*) shall establish the procedure for the redemption of charges on land.

Art. 44. The State is responsible for furthering the public interest, the prosperous development

of the canton and the welfare of its citizens. It shall strive to attain these objects in particular by the following means:

- (a) Maintenance of the sanctity and rest of the Sabbath;
- (b) The ordering of economic affairs in accordance with health and police considerations and with regard to the public welfare;
- (c) Supervision of the trade in food and drink;
- (d) Support for the care of the mentally deficient, and indigent and neglected children, and as far as possible measures to facilitate admission to the cantonal hospital;
- (e) Setting the idle and profligate to compulsory labour;
- (f) Encouragement of efforts in the sphere of experiment and insurance to raise the standard of agriculture, industry and communications, and to introduce new sources of earnings;
- (g) Support for institutions, societies and associations of value to the community;
- (h) Regard for the welfare of the inhabitants in the allocation of public works in so far as price and quality are satisfactory.

CONSTITUTION OF THE CANTON OF VALAIS

of 8 March 1907

CHAPTER I

GENERAL PRINCIPLES

Art. 2. The Roman Catholic Apostolic religion is the religion of the State.

Freedom of conscience and belief shall be inviolable.

Freedom of worship is guaranteed within the limits compatible with public order and morality.

Art. 3. All citizens are equal before the law.

There shall not be in the Valais any privilege of place, birth, person or family.

Art. 4. The freedom of the individual and the inviolability of the home are guaranteed.

No person may be prosecuted or arrested, and no house may be searched except in the cases and in accordance with the procedure prescribed by law.

The State shall pay equitable compensation to any person who has been the victim of miscarriage of justice or unlawful arrest. Regulations governing the application of this principle by law.

Art. 5. No person may be removed from the jurisdiction of his proper judge.

Art. 6. Property shall be inviolable.

This principle may not be departed from except on grounds of public expediency in return for just compensation and in accordance with the procedure prescribed by law.

The law may, however, on grounds of public expediency, determine cases where common or communal land shall be expropriated without compensation.

Art. 7. No real property may be encumbered with a non-redeemable rent in perpetuity.

Art. 8. The freedom of expression of opinion by the written or the spoken word and the freedom of the Press are guaranteed. The law shall provide penalties for the abuse of this freedom.

Art. 9. The right of petition is guaranteed and shall be subject to the regulations prescribed by law.

Art. 10. The right of free settlement, the right of association and assembly, the free exercise of liberal professions and the freedom of trade and industry are guaranteed.

The exercise of these rights shall be subject to the regulations prescribed by law.

Art. 12. French and German are the national languages.

Equal treatment shall be given to these two languages in legislation and administration.

Art. 13. Public and private elementary education shall be subject to the control and supervision of the State.

Elementary education shall be compulsory; it shall be free in the public schools.

Freedom of education is guaranteed, subject to

the provisions of the law regarding elementary schools.

Art. 14. The State shall prescribe rules regarding the protection of the worker and the freedom of labour.

Art. 15. The State shall promote and subsidize, within the limits of its financial resources:

1. Agriculture, industry, trade, and generally all branches of public economy affecting the canton;
2. Vocational training in trade, industry, agriculture, arts and crafts;
3. Cattle-breeding, dairy-farming, wine growing, arboriculture, Alpine husbandry, improvement of the soil, forestry, and agricultural and professional trade unions.

Art. 16. The State shall organize and subsidize the insurance of cattle. It may establish other forms of insurance and in particular the compulsory insurance of movable and immovable property against fire.

Art. 17. The State shall encourage the development of a road network and other means of communication.

It shall contribute subsidies towards the maintenance of the Rhone embankment as well as to the

embanking and control system of rivers and torrents.

Art. 18. The State shall establish or maintain by subsidies educational establishments for distressed children and for charitable institutions.

Art. 19. The State shall promote and subsidize the establishment of hospitals, clinics and nursing homes serving the districts and departments.

It may also set up a similar establishment serving the canton.

Art. 20. The extent to which the State shall participate financially in the cases provided for in articles 15, 16, 17, 18 and 19 shall be regulated by special legislation.

Art. 21. Public authorities and officials shall be answerable for their actions committed in the exercise of their duties.

The State shall bear secondary responsibility for actions by officials appointed by it committed in the course of their duties.

The law shall determine which officials shall deposit caution and money.

Art. 22. A public official or employee may not be dismissed or recalled until he has been heard or summoned and the authority which appointed him has shown due cause.

CONSTITUTION OF THE CANTON OF VAUD

of 1 March 1885

CHAPTER I

GENERAL PROVISIONS AND GUARANTEES

Art. 2. The citizens of Vaud shall be equal before the law.

There shall not be in the canton of Vaud any privilege of place, birth, person or family.

Art. 4. The freedom of the individual is guaranteed.

No person may be prosecuted or arrested except in the cases and in accordance with the procedure prescribed by law. Any person arrested shall be entitled to a hearing from the competent magistrate within the twenty-four hours following his arrest.

Except in cases of military discipline, no person may be arrested except on a warrant issued by a judge duly authorized by law.

The constituted authorities may by law be given the right to punish by detention any person failing to show them due respect in the exercise of their functions.

Art. 5. The home shall be inviolable. No search may be carried out in a citizen's home except in the cases and according to the procedure prescribed by law. Such cases should be as rare and as clearly defined as possible; and proceedings should not be conducted in an arbitrary manner.

Art. 6. Property shall be inviolable; this principle shall not be departed from except in the cases determined by law.

The law may require the surrender of any property on grounds of public expediency, lawfully recognized, in return for just and prior compensation.

Art. 7. The press shall be free. Abuses of this freedom shall be punishable by law. No preventive measure or requirement of deposit may restrict the full application of this privilege.

Art. 8. The right of association is guaranteed. Assemblies whose objects and methods are not contrary to public order and morality may not be subjected to any restriction or prohibition.

Art. 9. The right of free settlement and freedom of trade and industry are guaranteed in accordance with the Federal Constitution and subject to the provisions of the law.

Art. 10. The right of petition is guaranteed.

Art. 11. The death penalty is prohibited.

The above is subject, however, to provisions of the federal military criminal code.

Art. 13. The National Reformed Protestant Church shall be maintained and guaranteed in its integrity.

The law shall govern the relationship between the State and the Church.

The parishes shall take part in the administration of the Church and in the appointment of their clergy.

The exercise of the Catholic religion shall be guaranteed in the communes of Echallens, Assens, Bottens, Bioley-Orjulaz, Egnieres, Poliez-le-Grand, Poliez-Petit, Saint-Barthelemy, Bretigny, Villars-le-Terroir, and Malapalud in the form customary hitherto.

Art. 14. The costs of the National Church and of the Catholic Church in the communes named in the preceding article shall alone be defrayed out of State or public funds, which have obligations in this respect.

Art. 15. The free practice of religions is guaranteed within the limits compatible with public order and morality.

Art. 16. All persons shall be entitled to teach provided they comply with the relevant laws.

Art. 17. It shall be the duty of the State and communes to make public educational establishments as proficient as possible, due regard being had to the requirements and resources of the country.

Similar measures shall be taken to provide for vocational training in agriculture, trade, industry and crafts. The law shall determine the extent to which the State and the communes shall participate in this branch of instruction.

Instruction shall be in accordance with the principles of democracy.

Art. 18. Elementary instruction shall be compulsory and, in the public schools, free.

It shall be adequate and exclusively under the control of the civil authorities.

Public schools shall be open to members of all creeds, without prejudice to their freedom of conscience or belief.

In public schools, religious instruction shall be in accordance with the principles of Christianity and shall be separate from the other branches of instruction.

Each person shall be responsible for seeing that his children or wards attend public elementary schools, or for arranging for them to receive, under the supervision of the educational authorities, instruction at least equal to that given in such establishments.

The law on public elementary instruction shall be subject to revision.

CHAPTER IV

CANTONAL AUTHORITIES

Section III

JUDICIAL AUTHORITIES

Art. 69. No person may be removed from the jurisdiction of his proper judge. Consequently, no extraordinary courts under any name whatsoever may be established.

CONSTITUTION OF THE CANTON OF ZUG

of 18 March 1894

CHAPTER I

GENERAL PRINCIPLES

Art. 3. Freedom of belief and conscience, and freedom of worship shall be guaranteed in conformity with articles 49-53 of the Federal Constitution of 29 May 1874.

Art. 4. The canton, with the support of the communes, is responsible for public education in accordance with article 27 of the Federal Constitution.

Freedom to establish private schools and private educational institutions is guaranteed; in so far as they are concerned with primary education, this shall be without prejudice to the provisions of article 27, paragraph 2, of the Federal Constitution.

Art. 5. All citizens are equal before the law.

Art. 6. No person may be removed from the jurisdiction of the courts appointed over him by the Constitution, and no exceptional courts may be introduced.

Arbitration tribunals are allowed.

Art. 7. Legal counsel and legal aid shall be provided free of charge in cases of proved indigence.

The conditions and organization shall be prescribed by law.

Art. 8. Personal freedom is guaranteed.

Every accused person shall be regarded as innocent until he has been convicted by the courts.

No person may be arrested except in the cases provided for and in accordance with the procedure prescribed by law. Every arrested person shall as a rule be heard forthwith.

Redress and appropriate compensation shall be afforded by the State to persons having suffered by illegal or unwarranted arrest.

No kind of violence may be used to obtain a confession.

Art. 9. The sanctity of the home shall be inviolable.

Before searching a house it is necessary to obtain either the householder's consent or a warrant from a competent official, which shall specify the purpose and scope of such search. Exceptions to this rule shall be permitted in cases of imminent danger.

Art. 10. The free expression of opinion, spoken and written, together with the right of petition, association and assembly, are guaranteed. Abuse

of these rights shall be dealt with in accordance with the provisions of the penal law.

Art. 11. The property of private persons, of religious and lay corporations and of the communes shall be inviolable. The administration of the said property and the disposal of the revenues in accordance with the law or the foundation concerned under the supervision of the State is also guaranteed to the communes and to religious and lay corporations.

The founding of new corporations is subject to the permission of the Cantonal Council.

Expropriation of land for public purposes may only be required on grounds of the general welfare of the State or of the communes and in return for full compensation.

Art. 12. The whole of the State budget shall be public; the right to inspect it may not be refused to any inhabitant of the canton who has the right to vote.

Art. 13. The freedom of trade and industry is recognized. Such restrictions as are required in the interests of the community shall be prescribed by law, within the limits of the Federal Constitution.

Art. 16. The redeemability of tithes and ground-rents and any other encumbrances placing a restriction on agriculture is guaranteed.

No new encumbrances may be imposed after a period of two years from the entry into force of the Constitution. The necessary regulations shall be enacted by the authorities within that period.

When encumbrances are being redeemed, every owner of ground-rents who refuses to give his as-

sent to such redemption shall be obliged, in return for the repayment of capital and interest, to surrender the ground-rent immediately to the Mortgage Office with a view to redemption of the encumbrances and the subsequent cession of the title to the debtor.

At the latest two years after the coming into force of the Constitution, the Council of State shall begin a general cancellation of mortgages and servitudes and shall complete the same within fifteen years.

Art. 17. It is the duty of every person who is entitled to vote to appear at communal assemblies and to take part in the proceedings.

Bribery and intimidation at elections are forbidden. The penal law shall prescribe penalties for offences in this connexion.

Art. 19. Every official is personally accountable for the performance of his official duties, and in cases where the official powers entrusted to him have been exceeded or abused, he may be made answerable for his actions and shall be liable for damages in all such cases. This responsibility shall be established by law.

Without a sentence of the courts, no official may be removed from his post before completing his term of office.

Art. 22. Every citizen of the canton shall enjoy, subject to observance of the provisions of the law, the right of free settlement in all communes.

Settlement of Swiss citizens shall be subject to the federal regulations, and that of foreigners to existing international treaties.

CONSTITUTION OF THE CANTON OF ZURICH

of 18 April 1869

I. CIVIC PRINCIPLES

Art. 1. The authority of the State is based on the whole community. It shall be exercised directly by the active citizens, and indirectly by the authorities and officials.

Art. 2. All citizens are equal before the law and enjoy the same civic rights, except in so far as exceptions are established in the Constitution itself.

Art. 3. The free expression of opinion, spoken and written, together with the right of association and the right of assembly, are guaranteed. The exercise of these rights is subject to no restrictions other than those of common law.

In charges connected with libel, evidence of truth can be submitted. Should it then be shown that the statement complained of as libellous is true and that it was published or uttered with honourable intent and for lawful purposes, the accused shall be acquitted.

Art. 4. The State shall protect properly acquired private rights. Expropriation of such rights is allowed, if the public interest so requires. In

the case of such expropriation, just compensation shall be paid. Disputes concerning the amount of compensation shall be decided by the courts.

Art. 5. The penal law shall conform to humane principles. Death sentences and confinement in chains are not allowed.

Art. 6. Persons accused of a crime or misdemeanour, as well as plaintiffs, shall be afforded an opportunity to be present at all proceedings which take place before the examining magistrate, to obtain legal counsel, and to cross-examine witnesses.

Art. 7. Personal freedom is guaranteed.

No person shall be arrested except in the cases provided for and in accordance with the procedure prescribed by law.

A person arrested contrary to the law shall be given compensation or redress by the State.

No kind of violence may be used to obtain a confession.

Arrest as a means of recovering debts is not allowed.

Art. 8. The sanctity of the home shall be inviolable. Before searching a house it is necessary

to obtain either the householder's consent or a warrant from a competent official specifying the exact purpose and scope of such search. Exceptions to this rule shall be permitted in cases of imminent danger.

Art. 9. Where the court has to make restitution, suitable redress shall be given by the State to the person wrongfully sentenced.

Art. 10. Every official is responsible for his actions to the State, to the commune and to private individuals as prescribed by law.

Art. 12. An official who is dismissed from his post during his tenure of office for no fault of his own shall be entitled to full and, where such dismissal occurs as the result of a change in the Constitution or in the law, to equitable compensation.

Art. 14. Citizens of the canton and of Switzerland can, if they comply with the conditions laid down by law, settle and obtain civic rights in any commune of the canton.

The right to refuse or withdraw the right of settlement shall be governed by federal law.

Persons who settle in the canton shall not be subject to other or higher taxes than citizens; there shall, however, be a small official charge for issuing a settlement permit.

Art. 16. Full civic rights, the right to vote and the right to stand for election to all official posts are acquired on reaching the age of twenty.

The legislature shall decide the extent to which the right to vote and the right to stand for election for official posts may be also granted to Swiss women citizens.

II. PRINCIPLES OF STATE AND PUBLIC ECONOMIC ADMINISTRATION

Art. 21. The exercise of every type of calling in art and science, trade and industry, shall be free,

subject to the legal and police provisions required in the public interest.

Art. 22. Poor relief is the responsibility of the communes. The State shall make appropriate contributions to ease the burden of poor relief in the communes which need such assistance. It shall support the efforts of communes and associations to reduce poverty, particularly as regards the care of indigent children and the sick, and the rehabilitation of neglected persons.

Art. 23. The State shall encourage and facilitate the development of mutual assistance societies. The necessary provisions for the protection of workers shall be prescribed by law.

VI. EDUCATIONAL AND ECCLESIASTICAL AFFAIRS

Art. 62. The encouragement of general education and of republican civic training is the responsibility of the State.

With a view to the improvement of the vocational efficiency of all classes of the population, public schools shall be extended so as to include later ages. The higher educational institutions shall, without prejudice to their intellectual purposes, be adapted to present-day requirements and be organically linked to the public schools.

Compulsory education shall be free of charge. The State shall make the necessary arrangements with the assistance of the communes.

Teachers in the public schools shall be given comprehensive training from both the scholastic and professional points of view, particularly for the purpose of conducting continuation schools.

Art. 63. The freedom of belief, worship and education is guaranteed. Civic rights and duties are independent of denomination.

No kind of compulsion may be used against communes, associations or individuals.

SYRIA

CONSTITUTION OF THE STATE OF SYRIA¹

of 14 May 1930

PART I FUNDAMENTAL PROVISIONS

Chapter 2

RIGHTS OF INDIVIDUALS

Art. 5. The conditions under which Syrian nationality may be acquired or forfeited shall be laid down by the law.

Art. 6. All Syrians shall be equal in the eyes of the law. They shall enjoy equal civil and political rights; they shall be bound by the same obligations and subjected to the same charges. No distinction shall be made between them in respect of religion, faith, race or language.

Art. 7. Personal freedom shall be guaranteed. No person may be arrested or kept in custody, except in cases determined by the law and in observance of the forms prescribed by it.

Art. 8. Every person who is arrested or detained in custody shall be informed within twenty-four hours of the grounds for such detention or arrest, and of the authority at whose instance it has been carried out; and such persons shall, within the same period, be accorded all possible facilities for preparing their defence.

Art. 9. No offence shall be punished and no conviction may be pronounced, except in conformity with the law.

Art. 10. No person shall be tried except before the courts prescribed by law.

Art. 11. Corporal punishment is forbidden; it is likewise forbidden to deport Syrians from their national territory or to compel them, or forbid them, to reside in any place, except as provided by the law.

Art. 12. Dwellings shall be inviolable; no one may enter therein, except in the circumstances and in the manner prescribed by law.

Art. 13. Rights of ownership shall be protected by law; no person may be expropriated, except on grounds of public utility and in the circumstances defined by law, and on condition that fair compensation is paid beforehand.

Art. 14. The general confiscation of property is forbidden.

Art. 15. There shall be absolute liberty of conscience; the State shall respect all creeds and religions established in the country; it shall guarantee and protect the free exercise of all forms of worship consistent with public order and good morals; it shall also guarantee for all peoples, to whatever creed they belong, the respect of their religious interests and their personal rights.

Art. 16. Freedom of thought shall be guaranteed; all persons shall be entitled to express their views verbally, in writing, in speeches, or graphically, subject to the limitations provided by the law.

Art. 17. Freedom of the press and of printing shall be guaranteed, subject to the conditions laid down in the law.

Art. 18. Postal, telegraphic and telephonic communications shall be inviolable and may not be delayed or censored, except as provided by law.

Art. 19. Education shall be free, in so far as it is not contrary to public order and good morals and is not detrimental to the dignity of the country or of religion.

Art. 20. Education shall be directed to raising the moral and intellectual standard of the people on lines best suited to the national characteristics, and to promoting concord and a fraternal spirit among all citizens.

Art. 21. Primary education shall be compulsory for all Syrians of both sexes, and shall be given free of charge in the public schools.

Art. 22. The curriculum for public education shall be laid down by a law and shall ensure educational uniformity.

Art. 23. All schools shall be placed under Government supervision.

Art. 24. Arabic shall be the official language in all the public services except in so far as other languages may be used in addition, in virtue of a law or an international agreement.

Art. 25. Freedom of assembly and association shall be guaranteed in the manner prescribed by the law.

Art. 26. All Syrians shall have access to public employment, without any other distinction than that due to their qualifications or capacity, subject to the conditions laid down by the law.

Art. 27. All Syrians shall be entitled to submit requests or petitions, in conformity with the law,

¹League of Nations, Geneva, 1930 (C352.1930.VI) (C.P.M.1075), pp. 14-24, and Helen Miller Davis, *op. cit.*, pp. 263-276.

to the authorities or to Parliament, whether collectively or individually, and in regard to business, personal or general matters.

Art. 28. The rights of the different religious communities shall be guaranteed, and such bodies may found schools for the education of children in their own language, provided always that they conform to the principles laid down by the law.

PART V

MISCELLANEOUS PROVISIONS

Art. 112. The President of the Republic may, on the proposal of the Cabinet, proclaim a state of siege in districts where disorder is prevalent, provided that he immediately informs the Chamber thereof. If the Chamber is not in session, the President of the Republic shall convene it forthwith.

TRANSJORDAN

ORGANIC LAW OF TRANSJORDAN¹

of 16 April 1928

PART I RIGHTS OF THE PEOPLE

Art. 4. Transjordan nationality shall be determined and acquired and lost in accordance with a special law.

Art. 5. There shall be no difference in rights before the law among Transjordanians, although they may differ in race, religion and language.

Art. 6. The personal freedom of all dwellers in Transjordan shall be safeguarded from aggression and interference, and no person shall be arrested or detained or punished or forced to change his residence or submitted to bonds or compelled to serve in the army except in accordance with law. All dwelling-houses shall be safe from aggression, and no entry therein shall be permitted except in the circumstances and in the manner prescribed by law.

Art. 7. The courts are open to all, but no person shall be forced to submit to a court other than the court having jurisdiction in his case except in accordance with law.

Art. 8. The rights of ownership shall be safeguarded, and there shall be no forced loan or confiscation of movable or immovable property, except in accordance with the law. Compulsory or forced labour may be exacted for public purposes only. This labour shall invariably be of an exceptional character, shall always require adequate remuneration and shall not involve the removal of the labourers from their usual place of residence. The property of no person shall be expropriated except for the purpose of public utility in circumstances to be defined by law and on condition that equitable compensation is paid for it.

Art. 9. No taxation shall be imposed except by law, and taxation shall be applied to all classes.

Art. 10. Islam shall be the religion of the State, and there shall be ensured to all dwellers in Transjordan complete freedom of belief and freedom to practise forms of worship in accordance with their customs unless detrimental to public safety or order or contrary to morals.

Art. 11. All Transjordanians shall be free to express and publish their opinions and to assemble together and to form and be members of associations within the provisions of law.

Art. 12. Transjordanian subjects are entitled to submit complaints or representations respecting

matters concerning their persons or concerning public affairs to the Amir and the Legislative Council in such manner and under such conditions as may be prescribed by law.

Art. 13. All postal, telegraphic and telephonic communications shall be treated as secret and shall not be subject to censorship or to detention except under such terms and conditions as may be prescribed by law.

Art. 14. The various communities shall have the right to establish and maintain their schools for the teaching of their own members in their own language provided that they conform to the general requirements prescribed by law.

Art. 15. The official language shall be Arabic.

PART VII GENERAL

Art. 69. In the event of disturbances occurring or should there be indications of anything of that nature in any part of Transjordan, or in the event of danger of hostile attack on any part of Transjordan, the Amir in Council shall have power to proclaim martial law in a temporary measure in all such parts of Transjordan as may be affected by such disturbances or attack.

The ordinary law of the State may be temporarily suspended in such district or districts as may be named and to such an extent as may be specified in any such proclamation, provided that all persons shall be and remain legally liable in respect of all acts done by them in pursuance of such proclamation unless and until they shall have been indemnified by special law passed for that purpose.

The method of administration of districts proclaimed to be under martial law shall be proclaimed by *irade*.

Art. 70. The Amir may by proclamation at any time within two years from the date of the commencement of this organic law, and subject to his treaty obligations, vary, annul or add to any of the provisions of this organic law in order to carry out the purposes of the same, and may provide for any other matters necessary in order to carry into effect the provisions thereof.

Art. 71. After such period of two years and subject always to the treaty obligations of His Highness the Amir, no change may be made in this organic law except by a law passed by a majority of not less than two-thirds of the members of the Legislative Council.

¹ *British and Foreign State Papers*, vol. 128 (1928, Part I), pp. 252-258, and Helen Miller Davis, *op. cit.*, pp. 203-31.

TURKEY

CONSTITUTIONAL LAW OF THE TURKISH REPUBLIC¹

of 20 April 1924

CHAPTER V

GENERAL RIGHTS OF TURKISH CITIZENS

Art. 68. Every Turk is born free, and free he lives.

Liberty consists of any action which is not detrimental to others. The limits of an individual's liberty, which is his natural right, extend only to the point where they infringe on the liberties enjoyed by his fellow citizens. The said limits are defined solely by law.

Art. 69. All Turks are equal before the laws and are expected conscientiously to abide by them. Every type of group, class, family, and individual privilege is abolished and prohibited.

Art. 70. Personal immunity, freedom of conscience, of thought, of speech and press, the right to travel, to make contracts, to work, to own and dispose of property, to meet and associate and to incorporate, form part of the rights and liberties of Turkish citizens.

Art. 71. The life, property, honour, and residence of each individual are inviolable.

Art. 72. No individual shall be seized or arrested under any other circumstance or manner than that provided by law.

Art. 73. Torture, bodily mistreatment, confiscation and forced labour are prohibited.

Art. 74. No person may be deprived of his possession and property or have them expropriated unless it be formally established that it is required for public benefit and unless he has first been indemnified in cash for the value of the property in accordance with the pertinent laws.

The expropriation indemnity and the manner of payment of such indemnity of land and forest to be expropriated in order to make the farmer proprietor of land and to place administration of forests under the State, shall be determined by special laws.

No person shall be constrained to make any sort of sacrifice except such as may be imposed in

kind, or money, or in the form of labour in extraordinary circumstances and in conformity with the law.

Art. 75. No one may be censured for the philosophical creed, religion or doctrine to which he may adhere. All religious services not in contravention of public order, morals, or laws are authorized.

Art. 76. No one's domicile may be entered or his person searched except as in the manner and under the conditions stipulated by law.

Art. 77. The press shall enjoy freedom within the framework of the law and shall not be subject to any censorship or control prior to publication.

Art. 78. Travel is subject to no restriction whatsoever, except in cases of general mobilization, martial law, or legislative restrictions of a hygienic nature necessitated by epidemics.

Art. 79. The limits imposed on the liberty of making contracts, of labour, of ownership, of meeting and associating, and of incorporating shall be determined by law.

Art. 80. Instruction of any kind is free within the limits laid down by law under the supervision and control of the State.

Art. 81. Documents, letters and all kinds of parcels delivered to the postal authorities may not be opened without a decision by a competent examining magistrate and tribunal. Likewise the secrecy of telegraphic and telephonic conversation may not be violated.

Art. 82. Turkish citizens shall have the right, should they notice any instances which are in contravention of the laws and regulations in force, to report such cases or complain, individually or collectively, either in their own interest or in the interest of the community, to the competent authorities or to the Grand National Assembly. The reply to a personal application must be communicated to the petitioner in written form.

Art. 83. No one may be summoned before or taken to a court other than to that court having jurisdiction in the question in accordance with the law.

¹ English text, furnished by the Turkish Embassy, Washington, in Helen Miller Davis, *op. cit.*, pp. 341-354.

Art. 84. Taxes shall be understood to be the participation of the people in the general expenditures of the State. The collection of toll, tithes, or any other kind of taxes in a manner incompatible with the aforesaid principle by individuals or corporations or in their behalf is prohibited.

Art. 85. Taxes may be levied and collected only by virtue of a law.

However, the collecting of such taxes as have been customarily levied by the State or by provincial and municipal administrations shall be continued pending the enactment of new laws.

Art. 86. In the event of a war, rebellion or in the case of convincing evidence of a positive and serious conspiracy against the country and the Republic, the Council of Ministers may proclaim partial or general martial law on condition that this does not exceed one month and that this measure is submitted without delay to the Grand National Assembly for approval. The Assembly may, if deemed necessary, extend or reduce the duration of martial law. Should the Assembly not be in session, it shall be convened immediately.

The prolongation of martial law is subject to the decision of the Grand National Assembly. Martial law implies the temporary restriction or suspension of personal and residential immunity, of inviolability of correspondence, of the freedom

of the press and of the right of assembling and associating.

The area over which martial law may be proclaimed, the application of the provisions of this regulation over the said area, as well as the mode of restriction or suspension of immunity and freedom in time of war is determined by law.

Art. 87. Primary education is compulsory for all Turks and is free in public schools.

Art. 88. The people of Turkey, regardless of religion and race, are Turks as regards citizenship.

Any person born of a Turkish father, in Turkey or elsewhere, as well as any person born of an alien father domiciled in Turkey and who, residing in Turkey, formally assumes Turkish citizenship upon attaining majority, as well as any person granted Turkish citizenship by law, are Turks. Turkish citizenship may be lost under circumstances defined by law.

CHAPTER VI

MISCELLANEOUS

Provisions relating to the Constitution

Art. 103. No provision of the Organic Law shall be disregarded nor its application suspended for any reason or under any pretext whatsoever.

No law may contain provisions contrary to the Organic Law.

LAW REGARDING THE FORMATION OF ASSOCIATIONS¹

of 5 June 1946

Art. 4. Every association is required to inform the highest administrative authority during the first weekday following its formation and to submit two copies of its constitution.

Political associations and associations active in more than one town shall submit their application according to the above paragraph. The application will be sent to the Ministry of the Interior.

Associations resulting from the union of several other associations are treated as one and are subject to the same regulations. Their application is submitted to the Ministry of the Interior in like manner.

Art. 9. The formation of the following associations is prohibited by law:

- (a) Associations having for purpose to undermine the administrative integrity of the State or the national or political unity.
- (b) Associations based on religion or various sects.
- (c) Associations based on or having names of families, groups or races.

(d) Clandestine associations or those having concealed purposes.

(e) Associations pursuing regionalist purposes or having such names.

Art. 33. All persons founding or administering such associations as listed in the last paragraph of article 1 and those prohibited by article 9, unless there are other offences incurring more severe penalties, are subject to punishment according to article 526 of the Turkish Penal Code, and the activities of such associations shall be suspended.

The court has the power to suspend the activities of the association before the verdict and may take its property under custody. All persons founding associations not fulfilling the requirements of articles 4 and 5 shall be fined up to ten Turkish pounds. If during a period of fifteen days accorded by the court these requirements are not fulfilled, the abolishment of the association may be decided.

Art. 34. All persons taking part in the administration of associations pursuing other purposes than those stated in their constitution shall be fined up to ten Turkish pounds. If the association's activities are those listed in the last paragraph of article 1, or those prohibited by article 9, article 33, paragraph 1, is applied.

¹ Turkish text through the courtesy of Dr. H. R. Baydur, Ambassador of Turkey, Washington. English translation from the Turkish text by Mr. Mustafa Sukru Day, M. A., Columbia University, New York.

LAW CONCERNING THE PRESS¹

As amended on 20 September 1946

Article 9. Persons wanting to publish daily or periodical papers or magazines shall submit to the highest administrative official an application signed by them and containing the information as stated below:

- (a) The name of the paper or the magazine.
 - (b) The first and last names, occupation, office and home addresses of the owner.
 - (c) The first and last names, citizenship, office and home addresses of the editor-in-chief.
 - (d) The place where it is written, administered and printed, the printing office, the first and last names of the printer.
 - (e) The nature of publication—whether political or not.
 - (f) The period of publication.
 - (g) The language of publication.
 - (h) The first and last names, nationalities, office and home addresses of the persons furnishing the capital in case they are other than those administering the association, and of the executive members of the corporation in case the capital belongs to a corporation formed according to the law, and the original or the certified copy of the contract forming the corporation.
 - (i) If the paper or the magazine belongs to a society, a certified copy of the constitution, names, nationalities, home and office addresses of the members of the executive committee of the society.
- Any change in the contents of the application should be made known within five days of the change.

The persons submitting the application are according to the law called the owners of the paper or the magazine.

Art. 12. The owner of the paper or the magazine should possess the following qualifications:

- (a) Turkish citizenship.
- (b) He shall be over twenty-one.
- (c) He shall not have served a foreign State without the permission of his own Government.
- (d) He shall not have claimed foreign citizenship against any Government authority.
- (e) He shall not be deprived of civil rights.
- (f) He shall not be a Government employee or a member of the armed forces.

(In the event that it is not specifically prohibited by a special law concerning employment, he may publish professional or scientific papers or magazines.)

- (g) He shall not have been convicted for offences incurring the penalties mentioned in article 587 of the Turkish Penal Code; embezzlement or

larceny cited in the third chapter of the second book; abuse cited in the second chapter; bribery cited in the third chapter; deceit cited in the first paragraph of articles 229 and 286, in article 278 and the third chapter of the second book, leading to prostitution, theft, plundering, fraudulent bankruptcy; breach of confidence cited in the first chapter of the eighth book, article 415 and the last paragraph of article 416, second paragraph of article 419, articles 426, 427, 428, first paragraphs of articles 430 and 431 and the third chapter.

(h) He shall not have been convicted by a tribunal or any other competent authority for having been hostile to the country, to the fight for national liberation, the Republic or the "Reform".

(i) He shall not have issued any publication helping the enemy when the country was occupied during the fight for national liberation.

Art. 17. The Government official receiving the application shall register its contents in a special book and give the applicant a receipt.

If the application does not furnish all the information required by the law, the administrative official shall ask the applicant to fulfil the requirements within three days.

If the information is not completed within three days the application is rejected.

If the information given in the application is not in conformity with the truth, the public prosecutor shall be informed to open prosecution according to article 18.

If the owner or the editor-in-chief of the paper or the magazine does not possess the qualifications required by law, the application is considered not received.

Art. 30. All persons publishing articles which violate the national feelings or give false information to this end, shall be fined not less than 300 Turkish pounds.

Those who jeopardize the honour or the dignity of the members of the National Assembly, members of the Cabinet or official delegations, or civil servants, by publishing dubious or offending articles (without mentioning their names), or pictures concerning their jobs or the accomplishment of their tasks, in a manner to arouse suspicion shall be punished as follows (in so far as they do not come under articles 159, 226 and 268 of the Turkish Penal Code):

1. If such actions are against all, some or one of the members of the National Assembly, or of the Cabinet, the verdict shall be imprisonment from six months to two years and a fine of from 100 to 500 Turkish pounds.

2. If the action is against all, some or one of the members of official delegations or against a civil servant, the verdict shall be imprisonment from

¹ Turkish text through the courtesy of Dr. H. R. Baydur, Ambassador of Turkey, Washington. English translation from the Turkish text by Mr. Mustafa Sukru Day, M. A., Columbia University, New York.

three months to one year, and a fine of from 50 to 200 Turkish pounds.

Art. 34. I. Correspondents propagating false or entirely biased information or persons who knowingly publish or transmit such information shall be punished as follows:

(a) If such information is liable to disturb the internal peace or to cause excitement among the public, the penalty shall be imprisonment from three months to one year and a fine of not less than 500 Turkish pounds.

(b) If such action may jeopardize the confidence of the public in their government or in all, some or one of the branches of the Government, the penalty shall be imprisonment from two months to two years and a fine of not less than 1,000 Turkish pounds.

(c) All those who publish certificates of persons holding official positions and make alterations or fundamental changes in the contents thereof or attribute such certificates to other persons, as well as those who publish counterfeit certificates attributed to any person, shall be condemned to imprisonment from three months to one year and shall be fined an amount of not less than 500 Turkish pounds.

II. All those who publish the subject of discussion of closed-door official meetings, the publication of which is prohibited, and make alterations or add false information, shall be imprisoned for a period of not less than three months and shall be fined not less than 500 Turkish pounds.

III. If the titles of articles and news published in newspapers or magazines are not in conformity with the contents of the articles or the news, and if this may disturb internal peace or cause excitement among the public, the fine is from 100 to 500 Turkish pounds.

Art. 50. If the offences cited in the first and second chapters of the second book of the Turkish Penal Code are committed through publication, the court may decide to close the paper or the magazine for a period not exceeding two years, in addition to the punishment that the offence incurs.

The court may also decide to close the paper or the magazine during any period of the prosecution. However, the period of closure shall not exceed the upper limit of the period mentioned in the first paragraph.

Against those who continue to publish papers or magazines, closed according to the above-mentioned paragraph, article 18 shall be applied.

UKRAINIAN SOVIET SOCIALIST REPUBLIC

CONSTITUTION OF THE UKRAINIAN SOVIET SOCIALIST REPUBLIC

of 30 January 1937¹

CHAPTER I

THE ORGANIZATION OF SOCIETY

Art. 1. The Ukrainian Soviet Socialist Republic is a socialist State of workers and peasants.

Art. 2. The Soviets of Working People's Deputies, which grew and attained strength as a result of the overthrow of the landlords and capitalists, the achievement of the dictatorship of the proletariat, the liberation of the Ukrainian people from the national oppression by tsarism and by the Russian imperialist *bourgeoisie*, and the destruction of the nationalist counter-revolution, constitute the political foundation of the Ukrainian Soviet Socialist Republic.

Art. 3. In the Ukrainian SSR all power belongs to the working people of town and country as represented by the Soviets of Working People's Deputies.

Art. 4. The socialist system of economy and the socialist ownership of the means and instruments of production firmly established as a result of the abolition of the capitalist system of economy, the abrogation of private ownership of the means and instruments of production and the abolition of the exploitation of man by man, constitute the economic foundation of the Ukrainian SSR.

Art. 5. Socialist property in the Ukrainian SSR exists either in the form of State property (the possession of the whole people), or in the form of co-operative and collective-farm property (property of a collective farm or property of a co-operative association).

Art. 6. The land, its natural deposits, waters, forests, mills, factories, mines, rail, water, and air transport, banks, post, telegraph and telephones, large State-organized agricultural enterprises (State farms, machine and tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling-houses in the cities and industrial localities, are State property, that is, belong to the whole people.

Art. 7. Public enterprises in collective farms and co-operative organizations, with their live-stock and implements, the products of the collective farms and co-operative organizations, as well as their common buildings, constitute the common, socialistic property of the collective farms and co-operative organizations.

In addition to its basic income from the public collective-farm enterprise, every household in a collective farm has for its personal use a small plot of land attached to the dwelling and, as its personal property, a subsidiary establishment on the plot, a dwelling-house, livestock, poultry and minor agricultural implements—in accordance with the statutes of the agricultural *artel*.

Art. 8. The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time, that is, in perpetuity.

Art. 9. Alongside the socialist system of economy, which is the predominant form of economy in the Ukrainian SSR, the law permits the small private economy of individual peasants and handicraftsmen based on their personal labour and precluding the exploitation of the labour of others.

Art. 10. The right of citizens to personal ownership of their incomes from work and of their savings, of their dwelling-houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

Art. 11. The economic life of the Ukrainian SSR is determined and directed by the State national economic plan with the aim of increasing the public wealth, of steadily improving the material conditions of the working people and raising their cultural level, of consolidating the independence of the socialist State, and strengthening its defensive capacity.

Art. 12. In the Ukrainian SSR work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the Ukrainian SSR is that of socialism: "From each according to his ability; to each according to his work."

¹ *The Constitutions of the Soviet Socialist Republics.* Published by the People's Commissariat of Justice, Moscow, 1937 (in Russian). English translation based on *Constitution (Fundamental Law) of the Union of Soviet Socialist Republics.* OGIZ, State Publishing House of Political Literature, 1938.

CHAPTER XI

THE ELECTORAL SYSTEM

Art. 133. Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the Ukrainian SSR, the Supreme Soviet of the Moldavian Autonomous SSR, the Soviets of Working People's Deputies of the Regions, administrative area, district, city, settlement, *stanitsa*¹ and the village Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 134. Elections of deputies are universal: all citizens of the Ukrainian SSR who have reached the age of eighteen, irrespective of race or nationality, religion, educational and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Art. 135. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 136. Women have the right to elect and be elected on equal terms with men.

Art. 137. Citizens serving in the Red Army have the right to elect and be elected on equal terms with all other citizens.

Art. 138. Elections of deputies are direct: all Soviets of Working People's Deputies, from rural and city Soviets of Working People's Deputies to the Supreme Soviet of the Ukrainian SSR, inclusive, are elected by the citizens by direct vote.

Art. 139. Voting at elections of deputies is secret.

Art. 140. [Deals with rules for elections of deputies to provincial Soviets, Soviets of administrative districts, city Soviets, village Soviets, etc.]

Art. 141. Candidates for election are nominated according to electoral areas.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 142. It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Working People's Deputies, and he is liable to be recalled at any time in the manner established by law upon decision of a majority of the electors.

CHAPTER X

FUNDAMENTAL RIGHTS AND DUTIES
OF CITIZENS

Art. 117. Citizens of the Ukrainian SSR have the right to work, that is, are guaranteed the right

to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

Art. 118. Citizens of the Ukrainian SSR have the right to rest and leisure.

The right to rest and leisure is ensured by the reduction of the working day to seven hours for the overwhelming majority of the workers, the institution of annual vacations with full pay for workers and employees and the provision of a wide network of sanatoria, rest homes and clubs for the accommodation of the working people.

Art. 119. Citizens of the Ukrainian SSR have the right to maintenance in old age and also in case of sickness or loss of capacity to work.

This right is ensured by the extensive development of social insurance of workers and employees at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

Art. 120. Citizens of the Ukrainian SSR have the right to education.

This right is ensured by universal, compulsory elementary education; by education, including higher education, being free of charge; by the system of State stipends for the overwhelming majority of students in the universities and colleges; by instruction in schools being conducted in the native language, and by the organization in the factories, State farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

Art. 121. Women in the Ukrainian SSR are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, pre-maternity and maternity leave with full pay, and the provision of a wide network of maternity homes, nurseries and kindergartens.

Art. 122. Equality of rights of citizens of the Ukrainian SSR, irrespective of their nationality or race, in all spheres of economic, state, cultural, social and political life, is an indefeasible law.

Any direct or indirect restriction of the rights of, or, conversely, any establishment of direct or indirect privileges for, citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art. 123. In order to ensure to citizens freedom of conscience, the church in the Ukrainian SSR is separated from the State, and the school from

¹ Cossack village.

the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

Art. 124. In conformity with the interests of the working people, and in order to strengthen the socialist system the citizens of the Ukrainian SSR are guaranteed by law:

- (a) Freedom of speech;
- (b) Freedom of the press;
- (c) Freedom of assembly, including the holding of mass meetings;
- (d) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communications facilities and other material requisites for the exercise of these rights.

Art. 125. In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the Ukrainian SSR are ensured the right to unite in public organizations—trade unions, co-operative associations, youth organizations, sport and defence organizations, cultural, technical and scientific societies; and the most active and politically most conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party (Bolsheviks) of the Ukraine, which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and State.

Art. 126. Citizens of the Ukrainian SSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 127. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Art. 128. The Ukrainian SSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

Art. 129. It is the duty of every citizen of the Ukrainian SSR to abide by the Constitution of

the Ukrainian Soviet Socialist Republic, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 130. It is the duty of every citizen of the Ukrainian SSR to safeguard and strengthen public, socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, as the source of the prosperous and cultured life of all the working people.

Persons committing offences against public, socialist property are enemies of the people.

Art. 131. Universal military service is law.

Military service in the Workers' and Peasants' Red Army is an honourable duty of the citizens of the Ukrainian SSR.

Art. 132. To defend the fatherland is the sacred duty of every citizen of the Ukrainian SSR. Treason to the country—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, espionage—is punishable with all the severity of the law as the most heinous of crimes.

CHAPTER IX

THE COURTS AND THE PROCURATOR'S OFFICE

Art. 108. People's courts are elected by the citizens of the district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 109. Judicial proceedings in the Ukrainian SSR are conducted in the Ukrainian language and in the Moldavian Autonomous SSR in the Moldavian or Ukrainian language, depending on the national composition of the majority of the population of the district in question, persons not knowing the language of the majority being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Art. 110. In all courts of the Ukrainian SSR cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to be defended by counsel.

Art. 111. Judges are independent and subject only to the law.

UNION OF SOUTH AFRICA

The Union of South Africa is one of those countries which has no bill of rights. It had been intended, therefore, to publish a statement on the law concerning human rights in South Africa. It

was not possible to prepare such a statement in time for publication in this Yearbook; but a statement will be published next year.

UNION OF SOVIET SOCIALIST REPUBLICS

FUNDAMENTAL HUMAN RIGHTS IN THE USSR¹

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¹ Study transmitted through the courtesy of Mr. Alexander P. Morozov, acting representative of the USSR to the Economic and Social Council of the United Nations. English translation from the Russian text by the United Nations Secretariat. See the constitutional provisions of the Byelorussian and Ukrainian Soviet Socialist Republics, p. 52 and p. 304. The fundamental human rights in the constitutions of the other Soviet Socialist Republics which are members of the USSR will be treated in the next Yearbook.

I. THE ORGANIZATION OF SOCIETY

1. CHAPTER I OF THE CONSTITUTION OF THE USSR¹

Art. 1. The Union of Soviet Socialist Republics is a socialist State of workers and peasants.

Art. 2. The Soviets of Working People's Deputies, which grew and attained strength as a result of the overthrow of the landlords and capitalists and the achievement of the dictatorship of the proletariat, constitute the political foundation of the USSR.

Art. 3. In the USSR all power belongs to the working people of town and country as represented by the Soviets of Working People's Deputies.

Art. 4. The socialist system of economy and the socialist ownership of the means and instruments of production firmly established as a result of the abolition of the capitalist system of economy, the abrogation of private ownership of the means and instruments of production and the abolition of the exploitation of man by man, constitute the economic foundation of the USSR.

Art. 5. Socialist property in the USSR exists either in the form of State property (the possession of the whole people), or in the form of co-operative and collective-farm property (property of a collective farm or property of a co-operative association).

Art. 6. The land, its natural deposits, waters, forests, mills, factories, mines, rail, water and air transport, banks, post, telegraph and telephones, large State-organized agricultural enterprises (State farms, machine and tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling-houses in the cities and industrial localities, are State property—that is, belong to the whole people.

Art. 7. Public enterprises in collective farms and co-operative organizations, with their livestock and implements, the products of the collective farms and co-operative organizations, as well as their common buildings, constitute the common, socialist property of the collective farms and co-operative organizations.

In addition to its basic income from the public collective-farm enterprise, every household in a collective farm has for its personal use a small plot of land attached to the dwelling and, as its personal property, a subsidiary establishment on the plot, a dwelling-house, livestock, poultry and minor agricultural implements in accordance with the statutes of the agricultural *artel*.

Art. 8. The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time—that is, in perpetuity.

Art. 9. Alongside the socialist system of economy, which is the predominant form of economy in the USSR, the law permits the small private economy of individual peasants and handicraftsmen based on their personal labour and precluding the exploitation of the labour of others.

Art. 10. The right of citizens to personal ownership of their incomes from work and of their savings, of their dwelling-houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

Art. 11. The economic life of the USSR is determined and directed by the State national economic plan with the aim of increasing the public wealth, of steadily improving the material conditions of the working people and raising their cultural level, of consolidating the independence of the USSR and strengthening its defensive capacity.

Art. 12. In the USSR work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the USSR is that of socialism: "From each according to his ability, to each according to his work."

2. J. STALIN. FROM THE REPORT ON THE DRAFT CONSTITUTION OF THE USSR

The main basis of the draft of the new Constitution for the USSR consists of the principles of socialism, its basic supports, which have already been won and made effective: the socialist ownership of the land, forests, factories and other implements and means of production; the abolition of exploitation and of the exploiting classes; the abolition of poverty for the majority and luxury for the minority; the abolition of unemployment; work as an obligation and an honourable duty for every able-bodied citizen in accordance with the formula: "He who does not work, neither shall he eat." The right to work—that is to say, the right of each citizen to receive guaranteed employment—the right to rest and leisure, the right to education, and so forth—the draft of the new Constitution is founded on these and similar supports of socialism. It reflects them and consolidates them by legislation.

Such is the second distinctive feature of the draft of the new Constitution.

Furthermore, *bourgeois* constitutions are tacitly based on the supposition that society consists of antagonistic classes, of classes owning wealth and classes not owning wealth, that no matter what party comes into power, the guidance of society by the State (dictatorship) must be in the hands of the *bourgeoisie*, that the constitution is required in order to consolidate a social order acceptable and beneficial to the owner classes.

Unlike *bourgeois* constitutions, the draft of the

¹ All articles of the Constitution of the USSR are reproduced according to *Constitution (Fundamental Law) of the Union of Soviet Socialist Republics*. OGIZ, State Publishing House of Political Literature, 1938.

new Constitution of the USSR is based on the fact that there are no longer any antagonistic classes in society; that society consists of two classes friendly to each other, of workers and peasants; that these same working classes are in power; that the guidance of society by the State (dictatorship) is in the hands of the working class, the most important class in society; and that the Constitution is required in order to consolidate a social order acceptable and beneficial to the workers.

Such is the third distinctive feature of the draft of the new Constitution.

Furthermore, *bourgeois* constitutions are tacitly based on the supposition that nations and races cannot have equal rights; that some nations have full rights and others do not have full rights; and that in addition there is yet a third category of nations or races—in the colonies, for example, which have even fewer rights than the nations without full rights. This means that all these constitutions are basically nationalistic; that is to say, they are constitutions of ruling nations.

Unlike these constitutions, the draft of the new Constitution of the USSR is, on the contrary, profoundly international. It is based on the fact that all nations and races have equal rights. It is based on the fact that neither difference of colour, language, cultural level or political development nor any other difference between nations and races can serve as grounds for justifying national inequality of rights. It is based on the fact that all nations and races, irrespective of their past or present position, irrespective of their strength or weakness, must enjoy equal rights in all fields of the economic, social, political and cultural life of society. Such is the fourth distinctive feature of the draft of the new Constitution.

The fifth distinctive feature of the draft of the new Constitution is its consistent democracy, carried to its logical conclusion. From the point of view of democracy, *bourgeois* constitutions may be divided into two groups: one group of constitutions either openly denies or in actual fact nullifies the equality of rights of citizens and democratic freedoms. The other group of constitutions willingly accepts and even advertises democratic principles, but at the same time introduces such reservations and limitations that democratic rights and freedoms are utterly distorted. They speak of equal electoral rights for all citizens, but at the same time limit them by residential, educational and even property qualifications. They speak of equal rights of citizens, but at the same time make reservations that this does not apply to women or only partially applies to them, and so forth.

A distinctive feature of the draft of the new Constitution of the USSR is that it is free from such reservations and limitations. It does not acknowledge the existence of active or passive citizens, for in so far as it is concerned all citizens are active. It acknowledges no difference between the

rights of men and women "residents" and "non-residents", the "haves" and "have-nots", the educated and uneducated. All citizens have equal rights in its eyes. It is not property status, national origin, sex, or official status, but personal ability and personal labour that determine the position of every citizen in society.

Finally, there is yet another distinctive feature of the draft of the new Constitution. *Bourgeois* constitutions usually confine themselves to establishing the formal rights of citizens, without concerning themselves with the conditions for exercising these rights, with the possibility of exercising them and with the means whereby they can be exercised. They speak of the equality of citizens, but forget that there can be no real equality between a master and a workman, between a landlord and a peasant, if the former possess wealth and political influence in society, while the latter are deprived of both, if the former are exploiters and the latter the exploited. Again, they speak of the freedom of speech, assembly and the press, but forget that all these freedoms may become hollow words for the working class if the latter do not have at their disposal suitable premises for meetings, good printing presses, sufficient quantity of printing paper, and so forth.

A distinctive feature of the draft of the new Constitution is that it does not confine itself to establishing the formal rights of citizens, but shifts the centre of gravity to the question of the means whereby these rights may be exercised. It does not merely proclaim the equality of the rights of citizens, but also ensures it by legislative confirmation of the fact that the regime of exploitation has been abolished, of the fact that citizens have been freed from all exploitation. It does not merely proclaim the right to work, but ensures it by legislative confirmation of the fact that crises do not exist in Soviet society, of the fact that unemployment has been abolished. It does not merely proclaim democratic freedoms, but ensures them by legislation providing certain material means. It is obvious, therefore, that the democracy in the draft of the new Constitution is not "ordinary" and "universally accepted" democracy in general, but socialist democracy.

Such are the fundamental distinctive features of the draft of the new Constitution of the USSR.¹

3. V. M. MOLOTOV. FROM A SPEECH DELIVERED AT THE EXTRAORDINARY VIII CONGRESS OF THE SOVIETS OF THE USSR²

The new Constitution will consolidate our profoundly democratic system still further. By the fact that, together with a clear indication of the

¹ J. Stalin. *Report on the draft Constitution of the USSR, 1945*, pp. 12-15.

² V. M. Molotov. *The Constitution of Socialism*. Speech delivered at the Extraordinary VIII Congress of the Soviets of the USSR, 29 November 1936.

definite duties of citizens of the USSR, it firmly guarantees such rights as the right to work, the right to rest and leisure, the right to material security in old age, the right to education, absolute equality of rights for men and women, absolute equality of rights for the nations and races of the USSR, and so forth, we loudly proclaim how socialist democracy should be interpreted.

4. THE ELECTORAL SYSTEM

CONSTITUTION OF THE USSR, ARTICLES 134-142

Art. 134. Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the USSR, the Supreme Soviets of the Union Republics, the Soviets of Working People's Deputies of the territories and regions, the Supreme Soviets of the Autonomous Republics, the Soviets of Working People's Deputies of Autonomous Regions, area, district, city and rural (*stanitsa*, village, hamlet, *kishlak*, *aul*) Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 135. Elections of deputies are universal: all citizens of the USSR who have reached the age of eighteen, irrespective of race or nationality, religion, educational and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Art. 136. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 137. Women have the right to elect and be elected on equal terms with men.

Art. 138. Citizens serving in the Red Army have the right to elect and be elected on equal terms with all other citizens.

Art. 139. Elections of deputies are direct: all Soviets of Working People's Deputies, from rural and city Soviets of Working People's Deputies to the Supreme Soviet of the USSR, inclusive, are elected by the citizens by direct vote.

Art. 140. Voting at elections of deputies is secret.

Art. 141. Candidates for election are nominated according to electoral areas.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 142. It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Working People's Deputies, and he is liable to be recalled at any time in the manner established by law upon decision of a majority of the electors.

II. THE RIGHT TO WORK

5. CONSTITUTION OF THE USSR, ARTICLE 118

Citizens of the USSR have the right to work, that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

6. FROM THE LABOUR CODE¹

(Sections 109, 114, 115)

Sect. 109. Every employee shall be granted an uninterrupted weekly rest period of not less than forty-two hours. The weekly rest days shall be fixed by the local labour sections, in agreement with the trade union councils, and may be assigned on Sunday or on any other day of the week, according to the national and denominational composition of the body of wage-earning and salaried employees in each locality.

Sect. 114. Every person employed for remuneration who has worked uninterruptedly for not less than five and a half months shall be granted ordinary leave once a year for not less than twelve working days. The ordinary leave for persons who have not attained the age of eighteen years shall not be less than twenty-four working days.

Sect. 115. Persons employed in especially dangerous and noxious undertakings shall be granted an extra leave period of not less than twelve working days in addition to the leave specified in section 114.

III. THE RIGHT TO REST AND LEISURE

7. CONSTITUTION OF THE USSR, ARTICLE 119

Citizens of the USSR have the right to rest and leisure.

The right to rest and leisure is ensured by the reduction of the working day to seven hours for the overwhelming majority of the workers, the institution of annual vacations with full pay for workers and employees and the provision of a wide network of sanatoria, rest homes and clubs for the accommodation of the working people.

IV. THE RIGHT TO MAINTENANCE IN OLD AGE, AND ALSO IN CASE OF SICKNESS OR LOSS OF CAPACITY TO WORK.

8. CONSTITUTION OF THE USSR, ARTICLE 120

Citizens of the USSR have the right to maintenance in old age and also in case of sickness or loss of capacity to work.

This right is ensured by the extensive develop-

¹ *Labour Code*, 1937 edition, pp. 49-51.

ment of social insurance of workers and employees at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

9. GOVERNMENT COMMUNICATION ON SOCIAL INSURANCE¹

The proletariat of Russia has set itself the aim of complete social insurance for hired workers and also for the poor in towns and villages. Neither the tsarist Government of landlords and capitalists nor the coalition reformist Government met the needs of the workers with regard to insurance. The Workers' and Peasants' Government, supported by the Soviets of Workers', Soldiers' and Peasants' Deputies declares to the working class of Russia and also to the poor in towns and villages that it intends forthwith to issue decrees on a complete system of social insurance, based on the following slogans of workers' insurance:

1. The extension of insurance to all hired workers without exception and also to the poor in towns and villages.
2. The extension of insurance to cover all forms of loss of capacity to work—namely, in cases of illness, disability, invalidism, old age, maternity, widowhood, orphanhood, and also unemployment.
3. The assumption of all expenditure on insurance by the employees.
4. Compensation of at least the full earnings in cases of unemployment and loss of capacity to work.
5. Complete freedom of action of insured persons in all insurance organizations.
10. LEAVE FOR TREATMENT AT SANATORIA AND HEALTH RESORTS. DECREE OF THE COUNCIL OF PEOPLE'S COMMISSARS OF THE USSR OF 9 AUGUST 1937

1. Able-bodied workers and employees shall be given leave for treatment at sanatoria and health resorts with payment of an allowance from the Government social insurance fund, if the necessity for such treatment is confirmed by the Commission for Sanatoria and Health Resorts. Free travel shall be provided by the factory or local committee of the trade union concerned.

2. Leave for treatment in sanatoria and health resorts shall be granted to able-bodied workers and employees for the period necessary for such treatment and for the journey to and from the place of treatment, this period to include regular and any additional leave (during which time the wages shall continue at the place of work).

3. Workers and employees who are unable to work and are sent to sanatoria and health resorts in accordance with the findings of the Commission for Sanatoria and Health Resorts during the pe-

riod when they already hold hospitalization certificates in respect of an illness requiring treatment at sanatoria or health resorts, shall be given leave for such treatment and for the journey to the place of treatment and back with payment of an allowance, irrespective of the source of the travel warrant and without the inclusion of their regular and additional leaves.

In cases where the total regular and additional leave of a worker or employee who is unable to work exceeds one month, the part of his leave period in excess of one month shall be included in the leave period for treatment at a sanatorium or health resort.

V. THE RIGHT TO EDUCATION

11. CONSTITUTION OF THE USSR, ARTICLE 121

Citizens of the USSR have the right to education.

This right is ensured by universal, compulsory elementary education; by education, including higher education, being free of charge; by the system of State stipends for the overwhelming majority of students in the universities and colleges; by instruction in schools being conducted in the native language, and by the organization in the factories, State farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

VI. EQUAL RIGHTS OF MEN AND WOMEN

12. CONSTITUTION OF THE USSR, ARTICLE 122

Women in the USSR are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, pre-maternity and maternity leave with full pay, and the provision of a wide network of maternity homes, nurseries and kindergartens.

13. V. I. LENIN. "INTERNATIONAL WORKING WOMEN'S DAY"

(Volume XXV, pp. 63-64)

Not a single *bourgeois* State, not even the most progressive, republican, democratic State, has brought about complete equality of rights.

But the Soviet Republic of Russia promptly eliminated, without exception, all vestiges of inequality in the legal status of women and secured their complete equality in its laws.

It is said that the level of culture is best characterized by the legal status of women. There is a grain of profound truth in this saying. From this point of view, only the dictatorship of the proletariat, only the socialist State, could achieve and has achieved the highest level of culture.

¹ Published on 14 November 1917, signed by Lenin.

A new, unparalleled, powerful impetus to the working women's movement is therefore inevitably linked with the establishment (and consolidation) of the first Soviet Republic.

14. DECREE OF THE PRESIDIUM OF THE SUPREME COUNCIL OF 8 JULY 1944 ON INCREASING STATE AID TO EXPECTANT MOTHERS, MOTHERS OF LARGE FAMILIES AND UNMARRIED MOTHERS, AND PROTECTION OF MOTHERHOOD AND CHILDHOOD, THE INSTITUTION OF THE HONORARY TITLE OF MOTHER HEROINE AND THE ESTABLISHMENT OF THE ORDER OF THE GLORY OF MOTHERHOOD AND THE MOTHERHOOD MEDAL

The welfare of children and mothers and the consolidation of the family has always been one of the most important tasks of the Soviet State. In protecting the interests of mothers and children, the State extends substantial material assistance to expectant mothers and to mothers for the maintenance and upbringing of children. During and after the war, when many families are faced with more considerable material difficulties, measures for State aid must be further extended.

In order to increase material assistance to expectant mothers, mothers of large families and unmarried mothers, to encourage large families and to increase the protection of motherhood and childhood, the Presidium of the Supreme Council of the Union of Soviet Socialist Republics decrees:

I. On increasing State aid to mothers of large families and unmarried mothers

1. That State allowances be granted to mothers of large families (whether the husband is living or not), on the birth of the third and each subsequent child, instead of the existing system of granting State allowances to mothers of large families who have six children, on the birth of the seventh and each subsequent child.

2. That the payment of State allowances to mothers of large families shall be effected in accordance with the following system and scale:

	Single grant	Monthly allowance roubles
To a mother of two children, on the birth of a third child	400	—
To a mother of three children, on the birth of a fourth child	1,300	80
To a mother of four children, on the birth of a fifth child	1,700	120
To a mother of five children, on the birth of a sixth child	2,000	140
To a mother of six children, on the birth of a seventh child	2,500	200
To a mother of seven children, on the birth of an eighth child	2,500	200
To a mother of eight children, on the birth of a ninth child	3,500	250
To a mother of nine children, on the birth of a tenth child	3,500	250
To a mother of ten children, on the birth of each subsequent child ...	5,000	300

Monthly allowances to mothers of large families shall be paid from the second year after the child's birth and shall continue until the child reaches the age of five.

Mothers who have three, four, five or six children at the date of the issue of the present decree, shall receive allowances under the present article for each child born after the issue of the present decree.

Mothers who have seven or more children at the date of the issue of the present decree shall retain the right to receive large-family allowances in accordance with the system and scales established in the decree of the Central Executive Committee and the Council of People's Commissars of the USSR of 27 June 1936; namely: for the seventh, eighth, ninth and tenth child, 2,000 roubles each annually for five years from the day of the child's birth; for the eleventh and each subsequent child, 5,000 roubles in a single grant and 3,000 roubles each annually for four years, from the second year after the child's birth. For every child born after the issue of the present decree, allowances shall be paid in accordance with the system and scales set forth in the present article of the decree.

Children killed or missing on the fronts of the Patriotic War shall be included in determining State allowances for large families.

3. That State allowances be granted to unmarried mothers, for the maintenance and upbringing of children born after the issue of the present decree, in accordance with the following scales: 100 roubles monthly for one child, 150 roubles for two children, and 200 roubles for three or more children.

State allowances to unmarried mothers shall be paid until the children reach the age of twelve.

Unmarried mothers with three or more children shall receive the State allowances provided for under the present article, in addition to the large-family allowances received in accordance with article 2 of the present decree.

Upon marriage, an unmarried mother shall retain the right to the allowances provided for under the present article.

Mothers of children born in 1944, before the issue of the present decree, shall not receive alimony for these children, but shall be entitled to receive the allowances provided for under the present article.

4. If an unmarried mother wishes to place her child in an institution for children, the said institution shall be obliged to accept the child, who will be maintained and brought up entirely at the expense of the State.

The mother shall have the right to reclaim the child from the children's institution and to bring it up herself.

While the child is in an institution for children the State allowance for it shall not be paid.

5. That single grants paid from social insurance funds and mutual aid funds of co-operative *artels* for new-born infants be increased from 45 roubles to 120 roubles. That facilities be extended for the sale to mothers of layettes for new-born infants for the amount indicated.

II. On increasing facilities for expectant mothers and mothers and on measures for extending the network of institutions for the protection of mother and child

6. Maternity leave for women factory workers and office employees from sixty-three calendar days shall be extended to seventy-seven calendar days, by establishing the length of leave at thirty-five calendar days before and forty-two calendar days after childbirth, with payment during this period of a State allowance on the scales established heretofore. In the event of abnormal birth or the birth of twins, post-natal leave shall be extended to fifty-six calendar days.

Managers of works and institutions shall grant expectant mothers regular leave, which must be timed to fit in with maternity leave.

7. After four months of pregnancy, women shall not be given overtime work in works and institutions, and women with infants at the breast shall be exempted from night work throughout the period of nursing.

8. The additional food rations shall be doubled for expectant mothers from the sixth month of pregnancy, and for nursing mothers during four months of nursing.

Managers of enterprises and institutions shall render assistance to expectant and nursing mothers by supplying them with additional food from auxiliary organizations.

10. The fees shall be reduced by fifty per cent at kindergartens and nurseries for parents:

With three children, and with monthly earnings up to 400 roubles;

With four children, and with monthly earnings up to 600 roubles;

With five or more children, irrespective of earnings.

III. On the institution of the Motherhood Medal and the Order of the Glory of Motherhood and on the establishment of the honorary title of Mother Heroine

12. There shall be instituted the Motherhood Medal, first and second class, for award to mothers who have given birth to and reared: five children, second-class medal; six children, first-class medal.

13. There shall be instituted the Order of the Glory of Motherhood, first, second and third class, for award to mothers who have given birth to and reared: seven children, third-class order; eight children, second-class order; nine children, first-class order.

14. The title of Mother Heroine shall be conferred on mothers who have given birth to and reared ten children, and such mother shall be presented with a scroll from the Presidium of the Supreme Council of the USSR.

15. The award of the Order of the Glory of Motherhood and the Motherhood Medal, as well as the title of Mother Heroine, shall take place when the last child born reaches the age of one year, if the other children of the same mother are living.

Children killed or missing at the fronts of the Patriotic War are to be included when these awards are made to mothers.

VII. EQUALITY OF RIGHTS OF CITIZENS OF THE USSR IRRESPECTIVE OF THEIR NATIONALITY OR RACE

15. CONSTITUTION OF THE USSR, ARTICLE 123

Equality of rights of citizens of the USSR, irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an indefeasible law.

Any direct or indirect restriction of the rights of, or, conversely, any establishment of direct or indirect privileges for, citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

16. FROM THE DECREE OF THE COUNCIL OF THE PEOPLE'S COMMISSARS OF THE USSR ON THE EXTIRPATION OF THE ANTI-SEMITIC MOVEMENT

Any kind of baiting of any nation is inadmissible and shameful.

The Council of the People's Commissars declares that the anti-semitic movement and pogroms against Jews are fatal to the interests of the workers' and peasants' revolution, and calls upon the toiling people of Socialist Russia to combat this evil with all the means at their disposal.¹

17. V. M. MOLOTOV. FROM "THE CONSTITUTION OF SOCIALISM"²

We should recall at this moment the withering words regarding anti-semites which Comrade Stalin used in his reply on 12 January 1931 to an inquiry made by the Jewish Telegraphic Agency of America.

In his reply, Comrade Stalin wrote:

"I reply to your inquiry. National and racial chauvinism is a survival of the misanthropic ethics characteristic of the period of cannibalism. Anti-semitism, as an extreme form of racial chauvinism, is the most dangerous survival of cannibalism. Anti-semitism benefits the exploiters, for it serves as a lightning-conductor to divert the blows

¹"The Policy of the Soviet Authorities on Nationality Affairs from November 1917 to 1920." *Izvestia*, 27 July 1918.

²V. M. Molotov. *The Constitution of Socialism* (1937 edition), page 24.

of the workers from capitalism. Anti-semitism is dangerous to the workers, for it is a false track which diverts them from the right path and leads them into the jungle. Hence, Communists, as consistent internationalists, cannot but be irreconcilable and sworn foes to anti-semitism. In the USSR, anti-semitism is strictly prosecuted as a phenomenon profoundly hostile to the Soviet system. Under the laws of the USSR, active anti-semites are punished with death."

J. STALIN

18. DECLARATION OF RIGHTS OF THE PEOPLES OF RUSSIA OF 15 NOVEMBER 1917¹

The October revolution of workers and peasants began under the banner of general emancipation.

The peasants are being emancipated from the power of the landlords, for there is no longer any ownership of land by landlords—it has been abolished. Soldiers and sailors are being emancipated from the authority of autocratic generals, for generals will henceforward be elected and removable. Workers are being emancipated from the capricious and arbitrary methods of capitalists, for henceforward the control of workers over factories and mills will be established. All that is alive and vital is being freed from hated chains.

There remain only the peoples of Russia, who have suffered and are still suffering oppression and arbitrary rule and whose emancipation must be accomplished decisively and irrevocably.

In the period of tsarism, the peoples of Russia were systematically incited against each other. The results of this policy are well known: slaughter and pogroms on the one hand, and slavery of the peoples on the other.

There must be no return to this shameful policy of incitement. Henceforward it must be replaced by a policy of voluntary and honest union of the peoples of Russia.

In the period of imperialism, after the February revolution, when the power passed into the hands of the "Cadet" *bourgeoisie*, the open policy of incitement gave way to a policy of cowardly distrust towards the peoples of Russia, a policy of persecution and provocation masked by verbal declarations of the "freedom" and "equality" of the peoples. The results of this policy are well known: increase in national hostility and the undermining of mutual confidence.

This unworthy policy of deceit and distrust, persecution and provocation must be brought to an end. Henceforward, it must give way to an open and honest policy, leading to absolute mutual confidence between the peoples of Russia.

An honest and lasting union of the peoples of Russia can only be achieved on the basis of such confidence.

Only on the basis of such a union can the workers and peasants of the peoples of Russia be

welded into a single revolutionary force, capable of resisting all attacks from the imperialist and annexationist *bourgeoisie*.

The Congress of Soviets of June this year proclaimed the rights of the peoples of Russia to free self-determination.

The second Congress of Soviets in October this year confirmed this inalienable right of the peoples of Russia in a more decisive and definite form.

Carrying out the will of these Congresses, the Council of People's Commissars has resolved to base its activities with regard to the question of the nationalities of Russia on the following principles:

1. The equality and sovereignty of the peoples of Russia.
2. The right of the peoples of Russia to free self-determination, including separation and the formation of an independent State.
3. The abolition of all national and national-religious privileges and limitations.
4. The free development of national minorities and ethnic groups inhabiting the territory of Russia.

The concrete decrees arising out of these principles will be elaborated immediately after the establishment of a Commission on the Affairs of Nationalities.

In the name of the Russian Republic,
V. ULIANOV (Lenin)

Chairman of the Council of People's
Commissars

Joseph DZHUGASHVILI (Stalin)
People's Commissar for the Affairs of
Nationalities

15/2 November 1917

VIII. FREEDOM OF CONSCIENCE

19. CONSTITUTION OF THE USSR, ARTICLE 124

In order to ensure to citizens freedom of conscience, the church in the USSR is separated from the State, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

20. V. I. LENIN. FROM "SOCIALISM AND RELIGION"

The State must not concern itself with religion; religious societies must not be bound to the State. Everyone must be absolutely free to profess whatever religion he likes, or to profess no religion, that is to say, to be an atheist, as every socialist usually is. Discrimination in the rights of citizens on religious grounds is absolutely inadmissible.²

IX. FREEDOM OF SPEECH, THE PRESS, ASSEMBLY, MASS MEETINGS, STREET PROCESSIONS AND DEMONSTRATIONS

21. CONSTITUTION OF THE USSR, ARTICLE 125

In conformity with the interests of the working

¹ *History of the Soviet Constitution, Edicts and Decrees of the Soviet Government, 1917-1936.*

² Lenin, "Socialism and Religion", *Collected Works*, third edition, volume VIII, page 420.

people, and in order to strengthen the socialist system, the citizens of the USSR are guaranteed by law:

- (a) Freedom of speech;
- (b) Freedom of the press;
- (c) Freedom of assembly, including the holding of mass meetings;
- (d) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations, printing presses, stocks of paper, public buildings, the streets, communications, facilities and other material requisites for the exercise of these rights.

22. J. STALIN. FROM AN INTERVIEW WITH ROY HOWARD¹

It is difficult for me to imagine what "personal liberty" is enjoyed by an unemployed person, who goes about hungry, and cannot find employment. Real liberty can exist only where exploitation has been abolished, where there is no oppression of some by others, where there is no unemployment and poverty, where a man is not haunted by the fear of being tomorrow deprived of work, of home and of bread.

X. THE RIGHT OF CITIZENS TO UNITE IN PUBLIC ORGANIZATIONS

23. CONSTITUTION OF THE USSR, ARTICLE 126

In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the USSR are ensured the right to unite in public organizations—trade unions, co-operative associations, youth organizations, sport and defence organizations, cultural, technical and scientific societies; and the most active and politically most conscious citizens in the ranks of the

working class and other sections of the working people united in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and State.

XI. THE INVIOABILITY OF HOMES AND PRIVACY OF CORRESPONDENCE

24. CONSTITUTION OF THE USSR, ARTICLE 128

The inviolability of the homes of citizens and privacy of correspondence are protected by law.

XII. THE DEFENCE OF HUMAN RIGHTS

25. CONSTITUTION OF THE USSR, ARTICLE 129

The USSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

26. CONSTITUTION OF THE USSR, ARTICLES 109–112

Art. 109. People's Courts are elected by the citizens of the district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 110. Judicial proceedings are conducted in the language of the union republic, autonomous republic or autonomous region, persons not knowing this language being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Art. 111. In all courts of the USSR, cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to be defended by counsel.

Art. 112. Judges are independent and subject only to the law.

CONSTITUTION (FUNDAMENTAL LAW) OF THE UNION OF SOVIET SOCIALIST REPUBLICS²

of 5 December 1936

CHAPTER X

FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Art. 118. Citizens of the USSR have the right to work, that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist

organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

Art. 119. Citizens of the USSR have the right to rest and leisure.

The right to rest and leisure is ensured by the reduction of the working day to seven hours for the overwhelming majority of the workers, the institution of annual vacations with full pay for workers and employees and the provision of a wide network of sanatoria, rest homes and clubs for the accommodation of the working people.

¹ Interview between Comrade Stalin and Mr. Roy Howard, *Partisdat*, 1936, p. 13.

² OGIZ, State Publishing House of Political Literature, 1938.

Art. 120. Citizens of the USSR have the right to maintenance in old age and also in case of sickness or loss of capacity to work.

This right is ensured by the extensive development of social insurance of workers and employees at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

Art. 121. Citizens of the USSR have the right to education.

This right is ensured by universal, compulsory elementary education; by education, including higher education, being free of charge; by the system of State stipends for the overwhelming majority of students in the universities and colleges; by instruction in schools being conducted in the native language, and by the organization in the factories, state farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

Art. 122. Women in the USSR are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, pre-maternity and maternity leave with full pay, and the provision of a wide network of maternity homes, nurseries and kindergartens.

Art. 123. Equality of rights of citizens of the USSR, irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an infeasible law.

Any direct or indirect restriction of the rights of, or, conversely, any establishment of direct or indirect privileges for, citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art. 124. In order to ensure to citizens freedom of conscience, the church in the USSR is separated from the State, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

Art. 125. In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the USSR are guaranteed by law:

- (a) Freedom of speech;
- (b) Freedom of the press;
- (c) Freedom of assembly, including the holding of mass meetings;
- (d) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the

disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communications facilities and other material requisites for the exercise of these rights.

Art. 126. In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the USSR are ensured the right to unite in public organizations—trade unions, co-operative associations, youth organizations, sport and defence organizations, cultural, technical and scientific societies; and the most active and politically most conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and State.

Art. 127. Citizens of the USSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 128. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Art. 129. The USSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

Art. 130. It is the duty of every citizen of the USSR to abide by the Constitution of the Union of Soviet Socialist Republics, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 131. It is the duty of every citizen of the USSR to safeguard and strengthen public, socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, as the prosperous and cultured life of all the working people.

Persons committing offences against public, socialist property are enemies of the people.

Art. 132. Universal military service is law.

Military service in the Workers' and Peasants' Red Army is an honourable duty of the citizens of the USSR.

Art. 133. To defend the fatherland is the sacred duty of every citizen of the USSR. Treason of the country—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, espionage—is punishable with all the severity of the law as the most heinous of crimes.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN THE UNITED KINGDOM

Human rights in Britain are not based on any fundamental laws which are, like the Constitution of the United States of America, specially entrenched against the normal processes of repeal and amendment. The legislature at Westminster has sovereign authority; it could modify an enactment of constitutional significance by just the same process as it would use in modifying an enactment about road traffic or housing. The important constitutional statute which prescribes that Parliaments are not to last longer than five years was suspended annually from 1940 to 1944 by acts which took only a few days to pass into law. There are, to be sure, a few ancient landmarks like Magna Carta (1297), the Petition of Right (1627), the Bill of Rights (1688) and the Act of Settlement (1700), with which a legislator would hesitate to tamper, because their historical value entitles them to peculiar reverence. "In the constitution of this country," observed Lord Wright in *Liversidge v. Anderson* in 1942, "there are no guaranteed or absolute rights; the safeguard of British liberty is in the good sense of the people and in the system of representative and responsible government which has been evolved." Examination of the legal foundation of particular human rights in Britain will lead us partly to scattered Acts of Parliament and partly to the common law asserted either by private persons or by the State. The common law is the law common to the realm, the law which is not set out in statutes, but which consists of rules derived from legal principles and judicial precedents recorded in the older commentaries and in the reports of decided cases. What is called "constitutional law" in England, especially that part of it which deals with the liberty of the subject, will be found largely embodied in the common law.

Before discussing particular liberties, there are certain general protections which it is worth while to recall. There is the right to trial by jury. There is the right of the citizen, if he be arrested, to be told in ordinary circumstances on what charge, or on suspicion of what crime, he is seized; in *Christie and Morris v. Leachinsky*, Lord Simon has lately given fresh emphasis to "the elementary proposition that in this country a person is *prima facie* entitled to his freedom, and is only required to submit to restraints on his freedom if he knows in substance the reason why it is claimed that this

restraint should be imposed". There are the general rules and traditions of English criminal procedure which favour the accused. The burden of proof, for instance, lies upon the prosecutor; it is not for the defendant to prove his innocence. In criminal (as in civil) cases, moreover, nothing may be given in evidence which does not directly tend to the proof or disproof of the matter in issue; the prosecution is not allowed to adduce evidence tending to show that the accused has been guilty of other criminal acts so as to suggest that he is likely from his conduct or character to have committed the offence for which he is being tried. Any confession he has made to a policeman will be inadmissible as evidence against him if it was obtained by threats or promises. An accused person whose means are insufficient can obtain free legal aid. He has a right to appeal without delay from conviction or sentence. In general, the citizen has a right to challenge, before judges who are entirely independent of the executive, the legality of the actions of Government departments and officials.

THE RIGHT OF PERSONAL FREEDOM

There are two major defences of the right of personal freedom—first, the writ of *habeas corpus*, which puts an end to illegal confinement; and secondly, the remedy of proceedings, civil or criminal, for "false imprisonment." Any restraint of one person under the custody of another, whether in a prison, a house or elsewhere, is regarded by English law as an imprisonment.

The writ of *habeas corpus*, which superseded older writs, may be obtained by the imprisoned person (or anyone acting on his behalf) on probable cause being shown in an affidavit. It is a judicial command to the person who imprisons him to have his body forthwith before the King's Bench Division of the High Court, "to undergo and receive all and singular such matters and things as our court shall then and there consider of concerning him in this behalf."

A famous clause in Magna Carta declared that "no free man shall be taken or imprisoned . . . or in any way destroyed . . . except by the lawful judgment of his peers or by the law of the land".

Whatever these words meant to their authors, they came in the seventeenth century to be identified with *habeas corpus* as well as with trial by

jury and due process of law. The Habeas Corpus Act of 1679, removing defects from the older remedies, provided a prompt judicial inquiry into the justice of any imprisonment on a criminal charge and a prompt trying of prisoners remanded to await their trial. In 1688 the Bill of Rights put an end to the abuse by which judges in the reign of James II sought to nullify the rights of a prisoner by exacting security in sums too great for him to pay. In 1816 another Habeas Corpus Act extended the remedy to persons imprisoned otherwise than on a criminal charge. The act of 1679 had forbidden the re-internment of persons released under *habeas corpus*. Well-established judicial decisions ensure that a person detained may go from court to court and from judge to judge by way of appeal against a refusal of the writ. Conversely, discharge under the writ is final and cannot be questioned.

The remedy of *habeas corpus* has occasionally been temporarily suspended in times of great public danger (for example in 1817), so as to allow arrest on mere suspicion and detention without trial. War, in the words of Lord Justice Scrutton, cannot be carried on according to the principles of Magna Carta. Temporary detention, preventive rather than punitive, was sanctioned under emergency powers in the wars which began in 1914 and 1939. In the first of these the Defence of the Realm Act authorized the making of regulations "for securing the public safety and the defence of the realm"; the judges held that this power authorized the making of a regulation for the internment of persons of hostile origin or associations without trial. In the second, the Emergency Powers (Defence) Act specifically authorized the making of defence regulations for the purpose (amongst others) of similar detentions as deemed expedient in the interests of the public safety or the defence of the realm. While these exceptional powers were being exercised, Parliament kept an anxious and vigilant watch upon them. Ministers were constantly pressed with questions about Defence Regulation 18B, which authorized such detentions during the war of 1939; detention orders were frequently attacked in the law courts, but with negligible success. The regulation itself was revoked on 9 May 1945, within a few hours of the surrender of Germany.

False imprisonment, already mentioned as a secondary safeguard of personal liberty, is not only an actionable trespass for which the detained person has the right to obtain damages; it is also indictable as a crime, being a misdemeanour at common law.

FREEDOM OF SPEECH

In Britain a man may say and write what he pleases, so long as the matter is not defamatory, obscene, treasonable, seditious, or otherwise likely to provoke a breach of the peace.

As regards defamation, there is no space here to set out the law of libel. At the risk of over-

simplification, it may be said that anyone who is unjustly defamed may sue the writer or speaker for damages for libel or slander. The defendant, however, will have various defences; he may, for example, plead successfully that the words were true or that the occasion was privileged—that is to say that the statement was made with just cause and excuse and without malice in discharge of some legal, moral or social duty. Apart from being an actionable wrong, libel is also punishable as a criminal offence, though prosecutions are rare in comparison with actions for damages. The main element in the offence is the danger of a breach of the peace, inasmuch as the language used may provoke the defamed person to wrath because it exposes him to public hatred, ridicule or contempt. Though a complete answer to an action for damages, truth is not a defence to a prosecution for criminal libel, unless it is also to the public benefit that the matters stated in the libel should be published.

Some ancient laws against blasphemy have not yet been repealed in England, but the highest judicial authority has held that today the offence of blasphemy is not constituted by a temperate attack on religion in which the decencies of controversy are maintained; to constitute blasphemy at common law there must be such an element of vilification, ridicule or irreverence as would be likely to exasperate the feelings of others and so to lead to a breach of the peace.

FREEDOM OF THE PRESS

Akin to freedom of speech is the freedom of the press. The Tudor and early Stuart sovereigns punished by statute or proclamation the publishing of treasonable, seditious, heretical and blasphemous books. As an alternative method of control they delegated to the Company of Stationers (incorporated by charter in 1556) authority to regulate presses and printing. Star Chamber ordinances of 1586 and 1637, amongst others, prescribed a system of licensing. This was continued during the Cromwellian regime by another ordinance of 1643. After the Restoration a temporary Licensing Act was passed in 1662 and prolonged from time to time till it was allowed to expire in 1694. Thenceforth, publication was subject to no censorship or control other than the law of libel already mentioned.

Newspapers must, under the Newspaper Libel and Registration Act of 1881, be registered, this requirement being introduced in connexion with fresh statutory protections. Otherwise there are few restrictions. It is true that during the recent war, Defence Regulations 2D and 94B allowed the Secretary of State both to suppress newspapers which were systematically publishing matter calculated to foment opposition to the successful prosecution of the war and to seize printing presses used for that purpose; but these two regu-

lations were among the first to be revoked as soon as Germany was defeated.

Like private persons, newspapers are exposed to proceedings for libel, but they have certain special protections. By virtue of the Law of Libel Amendment Act of 1888 they cannot be prosecuted on a charge of criminal libel without the order of a judge at chambers. The risk of such an attack is remote. If sued for damages for libel, they can plead truth or fair comment. To be "fair" the comment must be on some matter of public interest, it must be honest, it must not be distorted by malice and it must not misstate facts. It will be for a jury to say whether the comment went beyond the limits of what is fair.

Fair and accurate reports of court proceedings or of public meetings are privileged, but newspapers must not commit contempt of court by printing words which scandalize a judge or by commenting prejudicially on pending proceedings. Some modern statutes have restricted the publication of specific matters. An Act of 1926 limits the freedom of reporting trials by proscribing indecent details, particularly in relation to matrimonial causes. The Children and Young Persons Act, 1933, in dealing with juvenile courts, forbids any information which would identify juvenile parties and witnesses as by revealing a boy's name, address or school. Under the Criminal Justice Act, 1925, it is an offence to publish (or to make, or try to make, with a view to publishing) a sketch or photograph of judge, jurors, parties or witnesses in court.

Press representatives have a statutory right to attend the meetings of local authorities, unless excluded by the decision of a majority. The reporting of Parliamentary debates was long forbidden by the House as an infraction of its privileges, but the prohibition has now fallen into disuse. Parliamentary reports are nowadays officially published. Newspaper misrepresentation of a debate might be treated as a contempt of the House; so long as the newspaper report is accurate and faithful, the Parliamentary privilege which restrains newspaper publication is waived.

FREEDOM OF RELIGION

Penalties upon religious nonconformity were first relaxed by the Toleration Act of 1689, "forasmuch as some ease to scrupulous consciences in the exercise of religion may be an effective means to unite Their Majesties' Protestant subjects in interest and affection". The Act gave to Protestant dissenters a relief which was extended in 1813 to Unitarians and in 1846 to Jews. The emancipation of Roman Catholics was slowly developed by statutes of 1791 and 1829; their schools and places of worship received the same recognition as those of Protestant nonconformists in 1832; a few surviving disabilities were at last removed in 1926. Religious tests and disqualifications have long ago ceased to be a cause of grievance or controversy.

Mention has already been made of the change in law (reflecting a change in public opinion) which has converted the old hostility to blasphemy or indeed atheism into a tolerant attitude concerned primarily with preventing breaches of the peace. Freedom of conscience, it may be added, was scrupulously respected in the pre-war Military Training Act of 1939 and in the subsequent acts imposing national service; all these make express and careful provision for the conscientious objector.

RIGHTS OF ASSEMBLY

There are laws in Britain against riot and unlawful assembly; people, however, may meet freely so long as they do not commit a nuisance or trespass on private rights of property or otherwise break the ordinary police arrangements which govern traffic and public order. In the offence of riot the element of actual violence must be present; an unlawful assembly is a meeting which attempts to carry out a common purpose, lawful or unlawful, in such a manner as to give other persons reason to fear a disturbance of the peace.

Under the Public Meeting Act of 1908 it is an offence to act in a disorderly manner at a lawful public meeting for the purpose of preventing the transaction of its business. In 1936, when provocative processions of Black Shirts and others had created disturbances and had heavily increased the strain upon the patience of the citizens and police of London, the Public Order Act forbade the wearing of uniforms in public places or at public meetings if the uniform signified association with a political association or with the promotion of a political object. Reasonable exceptions were made for ceremonial or anniversary occasions not likely to involve risk of disorder. The Act also forbade the organization, training or equipment of quasi-military bodies "for the purpose of enabling them to be employed in usurping the functions of the police or of the armed forces of the Crown or for the use or display of physical force in promoting a political object". The police were given fresh powers for preserving order on the occasion of processions; the possession of offensive weapons at public meetings and processions was banned, and offensive conduct in public places or at public meetings was penalized if intended or likely to provoke a breach of the peace. This statutory declaration against the phenomenon of private armies was remarkably effective; there has been very little need to launch prosecutions thereunder. Apart from the act of 1936, it may be broadly said, in the words of Lord Sumner in *Bowman v. Secular Society Ltd.* (in 1917), that "in the present day meetings or processions are held lawful which a hundred and fifty years ago would have been deemed seditious; and this is not because the law is weaker, or has changed, but because, the times having changed, society is stronger than before".

RIGHT OF ASSOCIATION

English law has been generous in recognizing the right of association. Companies are easily formed under the Companies Act and trade unions enjoy great freedom. Restrictions imposed under the Trade Disputes and Trade Unions Act of 1927 (enacted in the year after the General Strike) were swept away in 1946.

FREEDOM FROM WANT

Freedom from want may perhaps not be deemed so fundamental a right as those already discussed. Of the conditions in Britain in this respect it may suffice to say that (apart from the long-established and sometimes criticised provision for poor relief, today called public assistance) old-age pensions were granted by statute in 1906 and State insurance against ill-health and unemployment in 1911; a system of contributory pensions for widows, orphans and old people was established in 1925. Employers had been made liable for compensating workers for injuries arising out of and in the course of the employment (irrespective of negligence) by statute in 1897. A Family Allowances Act was passed in 1945.

These statutory arrangements for social security have been substantially replaced by a comprehensive scheme of national insurance covering unemployment and sickness benefit, maternity benefit, retirement pension, widows' benefit, guardians' allowances, death grant, and additional increases for children and adult dependents, under the National Insurance Act of 1946.

CONCLUSION

Although human rights in Britain do not rest upon a written constitution, this brief survey will have shown that what Lord Wright described as "the good sense of the people" and "the representative and responsible government which has

been evolved here" have produced a society in which the fundamental human liberties are respected and protected to the full. The absence of any irrevocable "guaranteed or absolute rights" has set the highest value upon the spirit and the atmosphere in which the laws are made and administered—upon the rule of law and upon the national disposition towards tolerance. Recent statements by two Prime Ministers of the United Kingdom have affirmed the nature of the democratic liberty to which the British aspire.

"The essential aspects of democracy are the freedom of the individual, within the framework of laws passed by Parliament, to order his life as he pleases, and the uniform enforcement of tribunals independent of the Executive."

"Democracy is not just majority rule, but majority rule with due respect to the rights of minorities. It means that, while the will of the majority must prevail, there shall be a full opportunity for all points of view to final expression. It means toleration for opposition opinions. Wherever you find suppression of minority opinion, there is no real democracy."

The first quotation is from a speech by Mr. Churchill in January 1939; the second is from one by Mr. Attlee when he was addressing the Trades Union Congress in September 1945, soon after a general election had brought the Labour Party into power with a substantial majority. The two speakers lead political parties whose views are often in strong conflict. Their statements on the origins of human rights in Britain command the support of all their fellow countrymen.

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UNITED STATES OF AMERICA

THE CONSTITUTION OF THE UNITED STATES OF AMERICA¹ of 1789

ARTICLE I

Sect. 9. 2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3. No bill of attainder or *ex post facto* law shall be passed.

Sect. 10. 1. No state shall . . . pass any bill of attainder, *ex post facto* law or law impairing the obligation of contracts, or grant any title of nobility.

ARTICLE III

Sect. 2. 3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

Sect. 3. 1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

ARTICLE IV

Sect. 2. 1. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

ARTICLE VI

3. . . . no religious test shall ever be required as a qualification to any office or public trust under the United States.

AMENDMENTS

ARTICLE I

Congress shall make no law respecting an estab-

lishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ARTICLE II

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

ARTICLE V

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel for his defence.

ARTICLE VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried

¹New York State Constitutional Convention Committee, *Constitutions of the States and the United States*, Albany, 1938, vol. III, pp. 1-11. The Constitution was accepted by a Constitutional Convention on 17 September 1787. It was decided that the Constitution would go into effect upon ratification by 9 States. The ninth State ratified it on 21 June 1788. The President was elected and the Federal Government organized in 1789.

by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people.

ARTICLE XIII

Sect. 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

Sect. 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV

Sect. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Sect. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV

Sect. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, colour, or previous condition of servitude.

Sect. 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIX

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

HUMAN RIGHTS UNDER THE UNITED STATES CONSTITUTION

The framers of the Constitution of the United States believed that it was unnecessary to include in it a formal and comprehensive bill of rights. The bills of rights which formed a part of every state constitution would protect civil liberty against state infringement; and the new national Government, which was to have only the powers clearly delegated to it by the Constitution, need not be forbidden to invade civil liberties since no power to do so was given to it. Scattered clauses restricted the new Government in respect to the suspension of the writ of *habeas corpus* and the punishment of treason, forbade it to pass bills of attainder and *ex post facto* laws, required jury trial in federal criminal cases, and barred religious tests for federal public office. In addition, the states were forbidden to pass not only bills of attainder and *ex post facto* laws, but also laws impairing the obligation of contracts, and were directed by a "comity clause" to treat the citizens of other states as they did their own.

It at once became evident that the framers had misjudged the temper and desires of the country. The popular demand for a federal bill of rights was so strong that ratification of the Constitution could not have been achieved without an informal agreement that one would be promptly added. Ten amendments were adopted in 1791, comprising a bill of rights, and these are commonly thought of as part of the original Constitution.

The history of this federal bill of rights shows clearly that it was intended solely to protect civil liberty against invasions by the federal Government; it was not intended to apply in any way to the states. In 1833, the Supreme Court established as a rule of law that the federal bill of rights places no restraints upon the states. As a result the federal Constitution for some seventy-five years played a relatively minor role in the protection of the civil liberties of the American people.

Three important amendments were added to the Constitution after the Civil War ended. The Thirteenth Amendment (1865) forbade slavery and involuntary servitude, a term which includes peonage and the compulsory enforcement of contracts to perform labour. The Fourteenth Amendment (1868) broadened the base of American citizenship, and forbade the states to abridge the privileges and immunities of that citizenship, or deny due process of law or the equal protection of the laws to any persons. The Fifteenth Amendment (1870) forbade racial discrimination in respect to the right to vote. The framers of these amendments intended, particularly by the Fourteenth, to force upon the states a broad *federal* duty to respect and safeguard the general civil liberties of the people, a duty which would be enforceable in the federal courts. While this new protection was designed primarily for the newly

freed negroes, it was not limited to them, but was phrased in broad language. The old equilibrium between federal and state responsibility with respect to civil rights and liberties was to be replaced by a "nationalization of civil liberties", by which the states would be brought under effective federal discipline in respect to their treatment of their own citizens.

In a series of important decisions the Supreme Court blocked for a long period the achievement of this broad purpose. This was done by giving very narrow meanings to the terms "privileges and immunities of citizens of the United States", "due process of law", and "equal protection of the laws". The net result was that the states were still left free from any federal compulsion to respect within their jurisdictions the guarantees of civil liberty found in the federal bill of rights. It took nearly twenty years for the Supreme Court to weld the "due process clause" of the Fourteenth Amendment into a judicial measuring rod by which could be judged the constitutionality of state police legislation, legislation regulating business and seeking to ameliorate social and economic conditions.

It was not until 1925 that the Supreme Court, by a startling reversal of earlier doctrine, began to make parts of the federal bill of rights applicable to the states. As late as 1922, the Court had stated "neither the Fourteenth Amendment nor any other provision of the Constitution imposes any restrictions upon the states about freedom of speech". Three years later the Court declared: "For present purposes we may and do assume that freedom of speech and of the press—which are protected by the First Amendment from abridgement by Congress—are among the fundamental personal rights and liberties protected by the "due process" clause of the Fourteenth Amendment from impairment by the states." This began a series of decisions by which the four fundamental civil liberties protected by the First Amendment, freedom of religion, speech, press and assembly, were held to be essential parts of the "liberty" protected in the "due process" clause of the Fourteenth Amendment against state abridgement or denial. The practical importance of this new doctrine is shown by the fifty-odd cases since 1925 in which the Supreme Court has passed upon the validity of state action alleged to violate freedom of speech, press, assembly or religion.

Only those civil liberties, however, have been thus read into the term "liberty" in the Fourteenth Amendment which the Court has classified as fundamental. Those mentioned above are regarded as "of the very essence of a scheme of ordered liberty". Other provisions of the federal bill of rights are held not to be of this vitally important nature and are not, therefore, incorporated into the concept of "due process of law". In this group are those relating to criminal procedure, such as the requirements of jury trial and grand

jury indictment, and the protection against self-incrimination and, in some cases, double jeopardy. These are not indispensable to "a fair and enlightened system of justice", and the states may therefore deviate from them as long as they use a criminal procedure which is essentially fair.

It is important to know who is entitled to enjoy civil liberties guaranteed by any constitution. The federal bill of rights is not limited to citizens of the United States but applies broadly to all persons in this country, although the broad protection of "due process of law" may have a different concrete meaning when applied to aliens than when applied to citizens. The "due process" and "equal protection" clauses of the Fourteenth Amendment by their language extend broadly to "persons", not merely to citizens. Corporations are persons within the meaning of these clauses, but are not citizens. The "privileges and immunities of citizens of the United States", which are specifically protected by the Fourteenth Amendment, have been very narrowly limited by judicial decision, and the Government has seen fit to extend generally to aliens in this country many privileges which it could withhold if it so desired. The Constitution, in short, does not make basic civil liberties the peculiar privilege or rights of American citizens.

The Constitution gives American citizenship to all persons born in this country and subject to its jurisdiction, and this has been held to include the children born here to parents who could not, because of their race, become citizens by naturalization. This explains the number of American citizens of oriental descent. Congress has full discretion over naturalization and for many years denied that privilege to members of all races except the "white" race, persons of African nativity or descent, or descendants of races indigenous to the Western Hemisphere. Chinese were barred by specific statute, but in 1946 they were by a new statute made eligible to naturalization.

A citizen may not be deprived of his citizenship except as a punishment for crime, although he may voluntarily give it up. A naturalized citizen, however, may have his certificate of naturalization cancelled if it was fraudulently procured. Beginning with World War I, naturalized citizens have been "denaturalized" in this way when later disloyal conduct was held to prove that their original oaths of allegiance to this country had been taken with mental reservations which made them fraudulent.

In the American constitutional system the civil rights of the individual are, in the main, protected against suppression or abridgement by governmental action, national or state. As we have seen, the Federal bill of rights limits the national Government, while the Fourteenth Amendment restricts the states. These limitations in behalf of civil liberty are enforceable in the courts, which

in exercising the power to pass on the constitutionality of legislative and executive acts, will determine whether the civil rights of the individual have been unconstitutionally infringed, and will afford him relief if they have.

The states, if they so desire, may exercise their police powers in such a way as to forbid private persons to interfere with the civil rights of other private persons. The recent New York statute forbidding racial discrimination in employment is an example of this. The power of the federal Government, which has no general police power, is, however, more limited. It may not punish an individual for violating the civil liberties protected by the bill of rights or the Fourteenth Amendment, since, as we have seen, these two sets of guarantees restrict governmental and not private action. Congress has, however, passed laws punishing individuals who obstruct or interfere with the enjoyment by private individuals of rights or privileges guaranteed to them by the Constitution or statutes. Thus one may be punished for interfering with the constitutional right of a citizen to vote in a federal election. Recently federal efforts to extend this area of protection to individuals have been more aggressive, but the limits on federal power are emphasized by the very serious doubts as to the constitutional authority of Congress to pass an effective federal statute against lynching.

A survey of the civil liberties which are protected in the American Constitution will indicate that they fall in several groups.

First are the guarantees of freedom of religion, press, speech, assembly and petition found in the First Amendment. These are protections to minority rights, since they are rights which a majority in a democratic nation might try to override. Neither the federal nor the state governments may abridge them. . . . They are rights which are essential to the democratic process, which must depend upon the free exchange of ideas. They have been singled out by the Supreme Court and given a "preferred" status, with the result that a statute which places restrictions upon these rights does not enjoy the customary initial presumption of constitutionality, but must be defended by assuming the burden of proof of showing the existence of a "clear and present danger" which justifies the restriction.

Second, there are varied protections against executive and military encroachment upon the rights of the individual. The right to bear arms and to be protected against the quartering of troops is now largely of historical interest. The protection against unreasonable searches and seizures is currently important and was especially so during the era of national prohibition. Here also belong the safeguards against the suspension of the writ of *habeas corpus*, and the judicial doctrines which forbid the supplanting of civil authority by martial rule. The impact of military power

on civil liberty, and the difficulty of measuring the limits of that power in time of war are illustrated by the Supreme Court's decision holding unconstitutional the compulsory evacuation from our West Coast of Japanese-American citizens, and the Court's decision holding invalid the supplanting of civil government by martial rule in Hawaii.

Third, a long list of federal and state constitutional provisions protect the rights of persons accused of crime. A good deal of English common law criminal procedure is made mandatory on the federal courts by the provisions of the federal bill of rights. As we have seen, however, these guarantees have not been assimilated into the "due process" clause of the Fourteenth Amendment and are not, therefore, binding on the states. The "due process" clauses, however, do require that any accused person be treated with essential *fairness* by state and federal governments alike.

Fourth, protection of property rights is found in the constitutional clauses which require the payment of just compensation for private property taken by eminent domain, and, more broadly in the "due process" clauses. Due process of law protects the individual against the "arbitrary" invasion of his liberty or of his property rights. What is or is not "arbitrary" is a question in final analysis for the courts. It may be suggested in a general way that a restriction of property rights, either by state police power, or by some federal regulation of business, will be found "arbitrary" when there is no clear and substantial social or economic interest grounded in the general welfare to justify it.

The states are forbidden to pass laws which impair the obligation of contracts. This has protected not only private business contracts, but also corporate charters and franchises from later disruption by legislative acts. The restriction, however, does not bar the state from the exercise of its police power, power of eminent domain, or any other "paramount" power of government. The contract clause does not apply to the federal Government, which is limited in dealing with contracts only by the requirement of due process of law.

Finally, state and federal governments alike are barred from resorting to arbitrary discrimination in dealing with individuals or groups. The states are specifically forbidden to deny the "equal protection of the laws", while the "due process" clause of the Fifth Amendment places perhaps a more general restraint on the federal Government. While classification is essential to law, the Supreme Court has required that the distinguishing factor on which a classification rests must be reasonably relevant to a legitimate legislative purpose, and that a class must be fairly inclusive of all who are similarly situated with respect to the law. The treatment of the American negro has highlighted the problem of discrimination under the Constitution. The framers of the Fourteenth Amendment

believed they had guaranteed equality of treatment, governmental and private, to the negro. This has been far from true either in practice or in law. There is no protection against private racial discrimination, unless the states by law provide it. The courts have attempted, without complete success, to secure to negroes equality in the administration of justice and, so far as governmental restraints go, in the ownership and occupation of property. The Supreme Court has held, however, that the segregation *per se* of negroes and whites in the use and enjoyment of public services and accommodation does not deny the equal protection of the laws. The comprehensive segregation system of the South rests on this rule. When segregated, however, negroes are entitled to "equal" treatment and services, and recent court decisions have tended to insist upon a reasonable standard of equality in this respect—an end, however, which is still far from being fully achieved.

The vitality of civil liberty cannot, of course, be measured in terms of constitutional guarantees, or court decisions enforcing them. It depends in the last analysis upon the degree to which the public opinion of a nation, state, or local community values civil liberty and demands its effective protection. This is why the generous guarantees of civil liberties in the American constitutions, and the increasingly effective enforcement of those guarantees by American courts, are constantly being supplemented by popular education and by other community devices in an effort to emphasize in the mind of the ordinary citizen the extent to which democratic government depends upon tolerance and fair play.

Robert E. CUSHMAN
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STATES OF THE UNITED STATES OF AMERICA AND TERRITORY OF PUERTO RICO

CONSTITUTION OF THE STATE OF ALABAMA¹

of 1901

ARTICLE I

DECLARATION OF RIGHTS

That the great, general and essential principles of liberty and free government may be recognized and established, we declare:

1. That all men are equally free and independent; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness.

2. That all political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit; and that, therefore, they have at all times an inalienable and indefeasible right to change their form of government in such manner as they may deem expedient.

3. That no religion shall be established by law; that no preference shall be given by law to any religious sect, society, denomination or mode of worship; that no one shall be compelled by law to attend any place of worship; nor to pay any tithes, taxes or other rates for building or repairing any place of worship, or for maintaining any minister or ministry; that no religious test shall be required as a qualification to any office or public trust under this state; and that the civil rights, privileges and capacities of any citizen shall not be in any manner affected by his religious principles.

4. That no law shall ever be passed to curtail or restrain the liberty of speech or of the press; and any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

5. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable seizures or searches, and that no warrants shall issue to search any place or to seize any person or thing without probable cause, supported by oath or affirmation.

6. That in all criminal prosecutions the accused has a right to be heard by himself and counsel, or either; to demand the nature and cause of the

accusation and to have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favour; to testify in all cases in his own behalf, if he elects so to do; and in all prosecutions by indictment, a speedy public trial, by an impartial jury of the county or district in which the offence was committed; and he shall not be compelled to give evidence against himself, nor be deprived of life, liberty or property except by due process of law; but the legislature may, by a general law, provide for a change of venue at the instance of the defendant in all prosecutions by indictment, and such change of venue on application of the defendant, may be heard and determined without the personal presence of the defendant so applying therefor; provided, that at the time of the application for the change of venue, the defendant is imprisoned in jail or some legal place of confinement.

7. That no person shall be accused, or arrested, or detained, except in cases ascertained by law, and according to the form which the same has prescribed; and no person shall be punished but by virtue of a law established and promulgated prior to the offence and legally applied.

8. That no person shall for any indictable offence be proceeded against criminally by information, except in cases arising in the militia and volunteer forces when in actual service, or when assembled under arms as a military organization, or by leave of the court, for misfeasance, misdemeanour, extortion, and oppression in office, otherwise than is provided in this constitution; provided, that in cases of misdemeanour, the legislature may by law dispense with a grand jury and authorize such prosecutions and proceedings before justices of the peace or such other inferior courts as may be by law established.

9. That no person shall, for the same offence, be twice put in jeopardy of life or limb; but courts may for reasons fixed by law, discharge juries from the consideration of any case, and no person shall gain any advantage by reason of such discharge of the jury.

10. That no person shall be barred from prosecuting or defending before any tribunal in this state, by himself or counsel, any civil cause to which he is a party.

¹ *The Constitution of the State of Alabama.* The Alabama Department of Archives and History, 1 May 1943.

11. That the right of trial by jury shall remain inviolate.

12. That in all prosecutions for libel or for the publication of papers investigating the official conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and that in all indictments for libel, the jury shall have the right to determine the law and the facts under the direction of the court.

13. That all courts shall be open; and that every person for any injury done him in his lands, goods, person, or reputation, shall have a remedy by due process of law; and right and justice shall be administered without sale, denial or delay.

14. That the State of Alabama shall never be made a defendant in any court of law or equity.

15. That excessive fines shall not be imposed nor cruel or unusual punishment inflicted.

16. That all persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great; and that excessive bail shall not in any case be required.

17. That the privilege of the writ of *habeas corpus* shall not be suspended by the authorities of this state.

18. That treason against the state shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or his own confession in open court.

19. That no person shall be attainted of treason by the legislature; and no conviction shall work corruption of blood or forfeiture of estate.

20. That no person shall be imprisoned for debt.

21. That no power of suspending laws shall be exercised except by the legislature.

22. That no *ex post facto* law, nor any law impairing any obligation of contracts, or making any irrevocable or exclusive grants of special privileges or immunities, shall be passed by the legislature; and every grant of a franchise, privilege or immunity, shall for ever remain subject to revocation, alteration or amendment.

23. That the exercise of the right of eminent domain shall never be abridged nor so construed as to prevent the legislature from taking the property and franchises of incorporated companies, and subjecting them to public use in the same manner in which the property and franchises of individuals are taken and subjected; but private property shall not be taken for, or applied to, public use, unless just compensation be first made therefor; nor shall private property be taken for private use, or for the use of corporations, other than municipal, without the consent of the owner; provided however, the legislature may by law secure to persons or corporations the right of way over the

lands of other persons or corporations, and by general laws provide for and regulate the exercise by persons and corporations of the rights herein reserved; but just compensation shall in all cases be first made to the owner; and provided, that the right of eminent domain shall not be so construed as to allow taxation or forced subscription for the benefit of railroads or any other kind of corporations, other than municipal, or for the benefit of any individual or association.

24. That all navigable waters shall remain for ever public highways, free to the citizens of the state and the United States, without tax, impost or toll; and that no tax, toll, impost or wharfage shall be demanded or received, from the owner of any merchandise or commodity for the use of the shores or any wharf erected on the shores, or in or over the waters, of any navigable stream, unless the same be expressly authorized by law.

25. That the citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the power of government for redress or grievances or other purposes, by petition, address or remonstrance.

26. That every citizen has a right to bear arms in defence of himself and the state.

27. That no standing army shall be kept up without the consent of the legislature, and, in that case, no appropriation for its support shall be made for a longer term than one year; and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

28. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

29. That no title of nobility or hereditary distinction, privilege, honour, or emolument, shall ever be granted or conferred in this state; and that no office shall be created, the appointment to which shall be for a longer time than during good behaviour.

30. That immigration shall be encouraged; emigration shall not be prohibited, and no citizen shall be exiled.

31. That temporary absence from the state shall not cause a forfeiture of residence once obtained.

32. That no form of slavery shall exist in this state; and there shall not be any involuntary servitude, otherwise than for the punishment of crime, of which the party shall have been duly convicted.

33. The privilege of suffrage shall be protected by laws regulating elections and prohibiting, under adequate penalties, all undue influences, from power, bribery, tumult, or other improper conduct.

34. Foreigners who are, or may hereafter become, *bona fide* residents of this state, shall enjoy the same rights in respect to the possession, enjoy-

ment and inheritance of property as native born citizens.

35. That the sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty and property, and when the government assumes other functions it is usurpation and oppression.

36. That this enumeration of certain rights shall not impair or deny others retained by the people; and, to guard against any encroachments on the rights herein retained, we declare that everything in this Declaration of Rights is excepted out of the general powers of government, and shall for ever remain inviolate.

CONSTITUTION OF THE STATE OF ARIZONA¹

of 1912

ARTICLE II

BILL OF RIGHTS

Sect. 1. A frequent recurrence to fundamental principles is essential to the security of individual rights and the perpetuity of free government.

Sect. 2. All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.

Sect. 3. The Constitution of the United States is the supreme law of the land.

Sect. 4. No person shall be deprived of life, liberty or property without due process of law.

Sect. 5. The right of petition, and of the people peaceably to assemble for the common good, shall never be abridged.

Sect. 6. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.

Sect. 7. The mode of administering an oath, or affirmation, shall be such as shall be most consistent with and binding upon the conscience of the person to whom such oath or affirmation may be administered.

Sect. 8. No person shall be disturbed in his private affairs, or his home invaded, without authority of law.

Sect. 9. No law granting irrevocably any privilege, franchise, or immunity shall be enacted.

Sect. 10. No person shall be compelled in any criminal case to give evidence against himself, or be twice put in jeopardy for the same offence.

Sect. 11. Justice in all cases shall be administered openly and without unnecessary delay.

Sect. 12. The liberty of conscience secured by the provisions of this constitution shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of the state. No public money or property shall be appropriated for or applied to any religious worship, exercise, or instruction, or to the support of any religious establishment. No religious qualification shall be required for any public office or employment, nor shall any person be incompe-

tent as a witness or juror in consequence of his opinion on matters of religion, nor be questioned touching his religious belief in any court of justice to affect the weight of his testimony.

Sect. 13. No law shall be enacted granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which, upon the same terms, shall not equally belong to all citizens or corporations.

Sect. 14. The privilege of the writ of *habeas corpus* shall not be suspended by the authorities of the state.

Sect. 15. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Sect. 16. No conviction shall work corruption of blood, or forfeiture of estate.

Sect. 17. Private property shall not be taken for private use, except for private ways of necessity, and for drains, flumes, or ditches, on or across the lands of others for mining, agriculture, domestic or sanitary purposes. No private property shall be taken or damaged for public or private use without just compensation having been first made, or paid into court for the owner, and no right of way shall be appropriated to the use of any corporation other than municipal, until full compensation therefor be first made in money, or ascertained and paid into court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived as in other civil cases in courts of record, in the manner prescribed by law. Whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined as such without regard to any legislative assertion that the use is public.

Sect. 18. There shall be no imprisonment for debt, except in cases of fraud.

Sect. 19. Any person having knowledge or possession of facts that tend to establish the guilt of any other person or corporation charged with bribery or illegal rebating, shall not be excused from giving testimony or producing evidence, when legally called upon to do so, on the ground that

¹ New York State Constitutional Convention Committee, *Constitutions of the States and the United States*, Albany, 1938, vol. III, pp. 65-94.

it may tend to incriminate him under the laws of the state; but no person shall be prosecuted or subject to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning which he may so testify or produce evidence.

Sect. 20. The military shall be in strict subordination to the civil power.

Sect. 21. All elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right to suffrage.

Sect. 22. All persons charged with crime shall be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great.

Sect. 23. The right of trial by jury shall remain inviolate, but provision may be made by law for a jury of a number of less than twelve in courts not of record, and for a verdict by nine or more jurors in civil cases in any court of record, and for waiving of a jury in civil cases where the consent of the parties interested is given thereto.

Sect. 24. In criminal prosecutions, the accused shall have the right to appear and defend in person, and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses against him face to face, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county in which the offence is alleged to have been committed, and the right to appeal in all cases; and in no instance shall any accused person before final judgment be compelled to advance money or fees to secure the rights herein guaranteed.

Sect. 25. No bill of attainder, *ex post facto* law, or law impairing the obligation of a contract, shall ever be enacted.

Sect. 26. The right of the individual citizen to bear arms in defence of himself or the state shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain, or employ an armed body of men.

Sect. 27. No standing army shall be kept up by this state in time of peace, and no soldier shall in time of peace be quartered in any house without the consent of its owner, nor in time of war except in the manner prescribed by law.

Sect. 28. Treason against the state shall consist only in levying war against the state, or adhering to its enemies, or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses, to the same overt act, or confession in open court.

Sect. 29. No hereditary emoluments, privileges, or powers shall be granted or conferred and no

law shall be enacted permitting any perpetuity or entailment in this state.

Sect. 30. No person shall be prosecuted criminally in any court of record for felony or misdemeanour, otherwise than by information or indictment; no person shall be prosecuted for felony by information without having had a preliminary examination before a magistrate or having waived such preliminary examination.

Sect. 31. No law shall be enacted in this state limiting the amount of damages to be recovered for causing the death or injury of any person.

Sect. 32. The provisions of this constitution are mandatory, unless by express words they are declared to be otherwise.

Sect. 33. The enumeration in this constitution of certain rights shall not be construed to deny others retained by the people.

Sect. 34. The State of Arizona and each municipal corporation within the State of Arizona shall have the right to engage in industrial pursuits.

ARTICLE XVIII

LABOUR

Sect. 1. Eight hours and no more shall constitute a lawful day's work in all employment by, or on behalf of, the state or any political subdivision of the state. The legislature shall enact such laws as may be necessary to put this provision into effect, and shall prescribe proper penalties for any violations of said laws.

Sect. 2. No child under the age of fourteen years shall be employed in any gainful occupation at any time during the hours in which the public schools of the district in which the child resides are in session, nor shall any child under sixteen years of age be employed underground in mines, or in any occupation injurious to health or morals or hazardous to life or limb; nor in any occupation at night, or for more than eight hours in any day.

Sect. 3. It shall be unlawful for any person, company, association, or corporation to require of its servants or employees as a condition of their employment, or otherwise, any contract or agreement whereby such person, company, association or corporation shall be released or discharged from liability or responsibility on account of personal injuries which may be received by such servants or employees while in the service or employment of such person, company, association, or corporation, by reason of the negligence of such person, company, association, corporation, or the agents or employees thereof, and any such contract or agreement if made, shall be null and void.

Sect. 4. The common law doctrine of fellow servants, so far as it affects the liability of a master for injuries to his servants resulting from the acts or omissions of any other servant or servants of the common master, is for ever abrogated.

Sect. 6. The right of action to recover damages for injuries shall never be abrogated, and the amount recovered shall not be subject to any statutory limitation.

Sect. 7. To protect the safety of employees in all hazardous occupations, in mining, smelting, manufacturing, railroad or street railway transportation, or any other industry, the legislature shall enact an Employer's Liability Law, by the terms of which any employer, whether individual, association, or corporation shall be liable for the death or injury caused by any accident due to a condition or conditions of such occupation, of any employee in the service of such employer in such hazardous occupation, in all cases in which such death or injury of such employee shall not have been caused by the negligence of the employee killed or injured.

Sect. 8. The legislature shall enact a Workmen's Compensation Law applicable to workmen engaged in manual or mechanical labour in all public employment whether of the state, or any political subdivision or municipality thereof as may be defined by law and in such private employments as the legislature may prescribe by which compensation shall be required to be paid to any such workman, in case of his injury and to his dependants, as defined by law, in case of his death, by his employer, if in the course of such employment personal injury to or death of any such workman from any accident arising out of and in the course of, such employment, is caused in whole, or in part, or is contributed to, by a necessary risk or danger of such employment or a necessary risk or danger inherent in the nature thereof, or by failure, of such employer, or any of his or its agents or employee or employees to exercise the due care or to comply with any law affecting such employment; provided that it shall be optional with any employee engaged in any such private employment to settle for such compensation, or to retain the right to sue said employer as provided by this constitution, and, provided further, in order to assure and make certain a just and humane compensation law in the State of Arizona, for the relief and protection of such workmen, their widows, children or dependants, as defined by law, from the burdensome, expensive and litigious remedies for the injuries to or death of such workmen, now existing in the State of Arizona, and producing uncertain and unequal compensation therefor, such employee, engaged in such private employment, may exercise the option to settle for compensation by failing to reject the provisions of such Workmen's Compensation Law prior to the injury.

Sect. 9. The exchange, solicitation, or giving out of any labour "black list" is hereby prohibited, and suitable laws shall be enacted to put this provision into effect.

Sect. 10. No person shall be denied the oppor-

tunity to obtain or retain employment because of non-membership in a labour organization, nor shall the state or any subdivision thereof, or any corporation, individual or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of non-membership in a labour organization.

ARTICLE XIX

MINES

The office of Mine Inspector is hereby established. The legislature, at its first session, shall enact laws so regulating the operation and equipment of all mines in the state as to provide for the health and safety of workers therein and in connexion therewith, and fixing the duties of said office. Upon approval of such laws by the Governor, the Governor, with the advice and consent of the Senate, shall forthwith appoint a Mine Inspector, who shall serve until his successor shall have been elected, at the first general election thereafter and shall qualify. Said successor and all subsequent incumbents of said office shall be elected at general elections, and shall serve for two years.

ARTICLE XX

ORDINANCE

The following ordinance shall be irrevocable without the consent of the United States and the people of this state:

First. Perfect toleration of religious sentiment shall be secured to every inhabitant of this state, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship, or lack of the same.

Fourth. The people inhabiting this state do agree and declare that they for ever disclaim all right and title to the unappropriated and ungranted public lands lying within the boundaries thereof, and to all lands lying within said boundaries owned or held by any Indian or Indian tribes, the right or title to which shall have been acquired through or from the United States or any prior sovereignty, and that until the title of such Indian or Indian tribes shall have been extinguished, the same shall be, and remain, subject to the disposition and under the absolute jurisdiction and control of the Congress of the United States.

Seventh. Provisions shall be made by law for the establishment and maintenance of a system of public schools which shall be open to all the children of the state and be free from sectarian control, and said schools shall always be conducted in English.

The state shall never enact any law restricting or abridging the right of suffrage on account of race, colour, or previous condition of servitude.

CONSTITUTION OF THE STATE OF ARKANSAS¹

of 1874

ARTICLE II

DECLARATION OF RIGHTS

Sect. 1. All political power is inherent in the people, and government is instituted for their protection, security and benefit; and they have the right to alter, reform or abolish the same in such manner as they may think proper.

Sect. 2. All men are created equally free and independent, and have certain inherent and inalienable rights, amongst which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property and reputation, and pursuing their own happiness. To secure these rights, governments are instituted among men, deriving just powers from the consent of the governed.

Sect. 3. The equality of all persons before the law is recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege or immunity, nor exempted from any burden or duty, on account of race, colour, or previous condition.

Sect. 4. The right of the people peaceably to assemble to consult for the common good, and to petition, by address or remonstrance, the government or any department thereof, shall never be abridged.

Sect. 5. The citizens of this state shall have the right to keep and bear arms for their common defence.

Sect. 6. The liberty of the press shall for ever remain inviolate. The free communication of thoughts and opinions is one of the invaluable rights of man; and all persons may freely write and publish their sentiments on all subjects, being responsible for the abuse of such rights. In all criminal prosecutions for libel, the truth may be given in evidence to the jury; and, if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party charged shall be acquitted.

Sect. 7. The right of trial by jury shall remain inviolate, and shall extend to all cases at law, without regard to the amount in controversy; but a jury trial may be waived by the parties in all cases in the manner prescribed by law; and in jury trials in civil cases, where as many as nine of the jurors agree upon a verdict, the verdict so agreed upon shall be returned as the verdict of such jury; provided, however, that where a verdict is returned by less than twelve jurors all the jurors consenting to such verdict shall sign same.

This amendment to the Constitution of Arkansas shall be self-executing and requires no enabling act, but shall take and have full force and effect immediately upon its adoption by the electors of the state.

Sect. 8. No person shall be held to answer a criminal charge unless on the presentment or indictment of a grand jury, except in cases of impeachment or cases such as the General Assembly shall make cognizable by justices of the peace, and courts of similar jurisdiction; or cases arising in the army and navy of the United States; or in the militia when in actual service in time of war or public danger; and no person for the same offence, shall be twice put in jeopardy of life or liberty; but if, in any criminal prosecution, the jury be divided in opinion, the court before which the trial shall be had may, in its discretion, discharge the jury, and commit or bail the accused for trial at the same or next term of said court; nor shall any person be compelled, in any criminal cases to be a witness against himself; nor be deprived of life, liberty or property, without due process of law. All persons shall, before conviction, be bailable, by sufficient sureties, except for capital offences, when the proof is evident or the presumption great.

Sect. 9. Excessive bail shall not be required, nor shall excessive fines be imposed; nor shall cruel or unusual punishment be inflicted; nor witnesses be unreasonably detained.

Sect. 10. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county in which the crime shall have been committed; provided that the venue may be changed to any other county of the judicial district in which the indictment is found, upon the application of the accused, in such manner as now is, or may be, prescribed by law; and to be informed of the nature and cause of the accusation against him, and to have a copy thereof; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favour, and to be heard by himself and his counsel.

Sect. 11. The privilege of the writ of *habeas corpus* shall not be suspended, except by the General Assembly in case of rebellion, insurrection or invasion, when the public safety may require it.

Sect. 12. No power of suspending or setting aside the law or laws of the state shall ever be exercised except by the General Assembly.

Sect. 13. Every person is entitled to a certain remedy in the laws for all injuries or wrongs he may receive in his person, property or character; he ought to obtain justice freely, and with-

¹ *Constitution of the State of Arkansas*, published September 1943 by C. G. "Crip" Hall, Secretary of State.

out purchase, completely, and without denial, promptly and without delay, conformably to the laws.

Sect. 14. Treason against the state shall only consist in levying and making war against the same, or in adhering to its enemies, giving them aid or comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Sect. 15. The rights of the people of this state to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated, and no warrant shall issue except upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

Sect. 16. No person shall be imprisoned for debt in any civil action or mesne or final process, unless in cases of fraud.

Sect. 17. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts shall ever be passed; and no conviction shall work corruption of blood and forfeiture of estate.

Sect. 18. The General Assembly shall not grant to any citizen or class of citizens privileges or immunities which upon the same terms shall not equally belong to all citizens.

Sect. 19. Perpetuities and monopolies are contrary to the genius of a republic, and shall not be allowed; nor shall any hereditary emoluments, privileges or honours ever be granted or conferred in this state.

Sect. 20. No distinction shall ever be made by law between citizens and resident aliens in regard to the possession, enjoyment or descent of property.

Sect. 21. No person shall be taken or imprisoned or disseized of his estate, freehold, liberties or privileges; or outlawed, or in any manner destroyed or deprived of his life, liberty or property; except by the judgment of his peers or the law of the land; nor shall any person under any circumstances be exiled from the state.

Sect. 22. The right of property is before and higher than any constitutional sanction; and private property shall not be taken, appropriated or damaged for public use, without just compensation therefor.

Sect. 23. The state's ancient right of eminent domain and of taxation is herein fully and expressly conceded; and the General Assembly may delegate the taxing power with the necessary restriction, to the state's subordinate political and municipal corporations to the extent of providing for their existence, maintenance, and well-being, but no further.

Sect. 24. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can,

of right, be compelled to attend, erect or support any place of worship; or to maintain any ministry against his consent; no human authority can, in any case or manner whatsoever, control or interfere with the right of conscience; and no preference shall ever be given, by law, to any religious establishment, denomination or mode of worship above any other.

Sect. 25. Religion, morality and knowledge being essential to good government, the General Assembly shall enact suitable laws to protect every religious denomination in the peaceable enjoyment of its mode of public worship.

Sect. 26. No religious test shall ever be required of any person as a qualification to vote or hold office, nor shall any person be rendered incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths or affirmations.

Sect. 27. There shall be no slavery in this state, nor involuntary servitude, except as a punishment for crime. No standing army shall be kept in time of peace; the military shall at all times be in strict subordination to the civil powers; and no soldier shall be quartered in any house, or on any premises, without the consent of the owner, in time of peace; nor in time of war, except in a manner prescribed by law.

Sect. 28. All lands in this state are declared to be allodial; and feudal tenures of every description, with all their incidents, are prohibited.

Sect. 29. This enumeration of rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachments on the rights herein retained, or any transgression of any of the higher powers herein delegated, we declare that everything in this article is excepted out of the general powers of the government, and shall for ever remain inviolate; and that all laws contrary thereto, or to other provisions herein contained, shall be void.

ARTICLE XIX

MISCELLANEOUS PROVISIONS

Sect. 1. No person who denies the being of a God shall hold any office in the civil departments of this state nor be competent to testify as a witness in any court.

AMENDMENT No. 34

Sect. 1. No person shall be denied employment because of membership in or affiliation with or resignation from a labour union, or because of refusal to join or affiliate with a labour union; nor shall any corporation or individual or association of any kind enter into any contract, written or oral, to exclude from employment members of a labour union or persons who refuse to join a labour union, or because of resignation from a labour union; nor shall any person against his will

be compelled to pay dues to any labour organization as a prerequisite to or condition of employment.

Sect. 2. The General Assembly shall have power to enforce this article by appropriate legislation.

CONSTITUTION OF THE STATE OF CALIFORNIA¹

of 1879

ARTICLE I

DECLARATION OF RIGHTS

Sect. 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness.

Sect. 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it.

Sect. 3. The State of California is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land.

Sect. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in this state; and no person shall be rendered incompetent to be a witness or juror on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

Sect. 5. The privilege of the writ of *habeas corpus* shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require its suspension.

Sect. 6. All persons shall be bailable by sufficient sureties unless for capital offences when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned.

Sect. 7. The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions three-fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases, by the consent of both parties, expressed in open court by the defendant and his counsel, and in civil actions by the consent of the parties, signified in such manner as may be prescribed by law. In civil actions and cases of mis-

demeanour, the jury may consist of twelve, or of any number less than twelve upon which the parties may agree in open court.

Sect. 8. Offences heretofore required to be prosecuted by indictment shall be prosecuted by information, after examination and commitment by a magistrate, or by indictment, with or without such examination and commitment, as may be prescribed by law. When a defendant is charged with the commission of a felony, by a written complaint subscribed under oath and on file in a court within the county in which the felony is triable, he shall, without unnecessary delay, be taken before a magistrate of such court. The magistrate shall immediately deliver to him a copy of the complaint, inform him of his right to the aid of counsel, ask him if he desires the aid of counsel, and allow him a reasonable time to send for counsel; and the magistrate must, upon the request of the defendant, require a peace-officer to take a message to any counsel whom the defendant may name, in the city or township in which the court is situated. If the felony charged is not punishable with death, the magistrate shall immediately upon the appearance of counsel for the defendant read the complaint to the defendant and ask him whether he pleads guilty or not guilty to the offence charged therein; thereupon, or at any time thereafter while the charge remains pending before the magistrate and when his counsel is present, the defendant may, with the consent of the magistrate and the district attorney or other counsel for the people, plead guilty to the offence charged or to any other offence the commission of which is necessarily included in that with which he is charged, or to an attempt to commit the offence charged; and upon such plea of guilty, the magistrate shall immediately commit the defendant to the sheriff and certify the case, including a copy of all proceedings therein and such testimony as in his discretion he may require to be taken, to the superior court, and thereupon such proceedings shall be had as if such defendant had pleaded guilty in such court.

The foregoing provisions of this section shall be self-executing. The legislature may prescribe such procedure in cases herein provided for as is not inconsistent herewith. In cases not hereinabove provided for, such proceedings shall be had as are

A grand jury shall be drawn and summoned at least once a year in each county.

now or may be hereafter prescribed by law, not inconsistent herewith.

¹ Constitution of the State of California and of the United States. California State Senate. State Printing Office, 1945.

Sect. 9. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. Indictments found, or information laid, for publications in newspapers shall be tried in the county where such newspapers have their publication office, or in the county where the party alleged to be libelled resided at the time of the alleged publication, unless the place of trial shall be changed for good cause.

Sect. 10. The people shall have the right to freely assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

Sect. 11. All laws of a general nature shall have a uniform operation.

Sect. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this state in time of peace, and no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

Sect. 13. In criminal prosecutions, in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf, and to appear and defend, in person and with counsel. No person shall be twice put in jeopardy for the same offence; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; but in any criminal case, whether the defendant testifies or not, his failure to explain or to deny by his testimony any evidence or facts in the case against him may be commented upon by the court and by counsel, and may be considered by the court or the jury. The legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses in criminal cases, other than cases of homicide when there is reason to believe that the witness, from inability or other cause will not attend at the trial.

Sect. 14. Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for, the owner, and no right of way or lands to be used for reservoir purposes shall be appropriated to the use of any corporation, except a municipal corporation or a county or the state or metropolitan water district, municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or

similar public corporation until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefits from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law; provided, that in any proceeding in eminent domain brought by the state, or a county, or a municipal corporation, or metropolitan water district, municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or similar public corporation, the aforesaid state or municipality or county or public corporation or district aforesaid may take immediate possession and use of any right of way or lands to be used for reservoir purposes, required for a public use whether the fee thereof or an easement therefor be sought upon first commencing eminent domain proceedings according to law in a court of competent jurisdiction and thereupon giving such security in the way of money deposited as the court in which such proceedings are pending may direct, and in such amounts as the court may determine to be reasonably adequate to secure to the owner of the property sought to be taken immediate payment of just compensation for such taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property, as soon as the same can be ascertained according to law. The court may, upon motion of any party to said eminent domain proceedings, after such notice to the other parties as the court may prescribe, alter the amount of such security so required in such proceedings. The taking of private property for a railroad run by steam or electric power for logging or lumbering purposes shall be deemed a taking for a public use, and any person, firm, company or corporation taking private property under the law of eminent domain for such purposes shall thereupon and thereby become a common carrier.

Sect. 14½. The state, or any of its cities or counties, may acquire by gift, purchase or condemnation, lands for establishing, laying out, widening, enlarging, extending, and maintaining memorial grounds, streets, squares, parkways and reservations in and about and along and leading to any or all of the same, providing land so acquired shall be limited to parcels lying wholly or in part within a distance not to exceed one hundred and fifty feet from the closest boundary of such public works or improvements; *provided*, that when parcels which lie only partially within said limit of one hundred and fifty feet only such portions may be acquired which do not exceed two hundred feet from said closest boundary and after the establishment, laying out, and completion of such improvements, may convey any such real estate thus and not necessary for such improvements, with

reservations concerning the future use and occupation of such real estate so as to protect such public works and improvements and their environs and to preserve the view, appearance, light, air and usefulness of such public works.

The legislature may, by statute, prescribe procedure.

Sect. 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud, nor in civil actions for torts, except in cases of wilful injury to person or property; and no person shall be imprisoned for a militia fine in time of peace.

Sect. 16. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts shall ever be passed.

Sect. 17. Foreigners of the white race, or of African descent, eligible to become citizens of the United States under the naturalization laws thereof, while bona fide residents of this state, shall have the same rights in respect to the acquisition, possession, enjoyment, transmission, and inheritance of all property, other than real estate, as native born citizens; *provided*, that such aliens owning real estate at the time of the adoption of this amendment may remain such owners; *and provided further*, that the legislature may, by statute, provide for the disposition of real estate which shall hereafter be acquired by such aliens by descent or devise.

Sect. 18. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

Sect. 19. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue, but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

Sect. 20. Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on evidence of two witnesses to the same overt act, or confession in open court.

Sect. 21. No special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the legislature; nor shall any citizen, or class of citizens, be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens.

Sect. 22. The provisions of this constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

Sect. 23. This enumeration of rights shall not be construed to impair or deny others retained by the people.

Sect. 24. No property qualification shall ever be required for any person to vote or hold office.

Sect. 25. The people shall have the right to fish upon and from the public lands of the state and in the waters thereof, excepting upon lands set aside for fish hatcheries, and no land owned by the state shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon, and no law shall ever be passed making it a crime for the people to enter upon the public lands within this state for the purpose of fishing in any water containing fish that have been planted therein by the state; *provided*, that the legislature may by statute provide for the season when and the conditions under which the different species of fish may be taken.

ARTICLE IX EDUCATION

Sect. 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

Sect. 2. A Superintendent of Public Instruction shall, at each gubernatorial election after the adoption of this constitution, be elected by the qualified electors of the state. He shall receive a salary equal to that of the Secretary of State, and shall enter upon the duties of his office on the first Monday after the first day of January next succeeding his election.

Sect. 3. A Superintendent of Schools for each county shall be elected by the qualified electors thereof at each gubernatorial election; *provided*, that the legislature may authorize two or more counties to unite and elect one superintendent for the counties so uniting.

Sect. 4. The proceeds of all lands that have been or may be granted by the United States to this state for the support of common schools which may be, or may have been, sold or disposed of, and the five hundred thousand acres of land granted to the new states under an act of Congress distributing the proceeds of the public lands among the several states of the Union, approved A.D. one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent as may be granted, or may have been granted, by Congress on the sale of lands in this state, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the legislature may provide, shall be inviolably appropriated to the support of common schools throughout the state.

Sect. 5. The legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

Sect. 6. The public school system shall include day and evening elementary schools, and such day and evening secondary schools, technical schools, kindergarten schools and normal schools or teachers' colleges, as may be established by the legislature, or by municipal or district authority.

The legislature shall add to the state school fund such other means from the revenues of the state as shall provide in said fund for distribution in each school year in such manner as the legislature shall provide an amount not less than thirty dollars per pupil in average daily attendance in the day and evening elementary schools in the public school system during the next preceding school year.

The legislature shall provide a state high school fund from the revenues of the state for the support of day and evening secondary and technical schools, which for each school year, shall provide for distribution in such manner as the legislature shall provide an amount not less than thirty dollars per pupil in average daily attendance in the day and evening secondary and technical schools in the public school system during the next preceding school year.

The legislature shall provide for the levying of a county, and city and county, elementary school tax, by the board of supervisors of each county, and city and county, sufficient in amount to produce a sum of money not less than the amount of money to be received during the current school year from the state for the support of the public day and evening elementary schools of the county, or city and county; provided that said elementary school tax levied by any board of supervisors shall produce not less than thirty dollars per pupil in average daily attendance in the public day and evening elementary schools of the county, or city and county, during the next preceding school year.

The legislature shall provide for the levying of a county, and city and county, high school tax by the board of supervisors of each county, and city and county sufficient in amount to produce a sum of money not less than twice the amount of money to be received during the current school year from the state for the support of the public day and evening secondary and technical schools of the county, or city and county; provided that the high school tax levied by the board of supervisors shall produce not less than sixty dollars per pupil in average daily attendance in the public day and evening secondary schools of the county, or city and county, during the next preceding school year.

The legislature shall provide for the levying of school district taxes by the board of supervisors of each county, and city and county, for the support of public elementary schools, secondary schools, technical schools, and kindergarten schools, or for any other public school purpose authorized by the legislature.

The entire amount of money provided by the state, and not less than sixty per cent of the amount of money provided by county, or city and

county, school taxes shall be applied exclusively to the payment of public school teachers' salaries.

The revenues provided for the public school system for the school year ending 30 June 1921 shall not be affected by this amendment except as the legislature may provide.

Sect. 6½. Nothing in this constitution contained shall forbid the formation of districts for school purposes situate in more than one county or the issuance of bonds by such districts under such general laws as have been or may hereafter be prescribed by the legislature; and the officers mentioned in such laws shall be authorized to levy and assess such taxes and perform all such other acts as may be prescribed therein for the purpose of paying such bonds and carrying out the other powers conferred upon such districts; *provided*, that all such bonds shall be issued subject to the limitations prescribed in section eighteen or article eleven hereof.

Sect. 7. The legislature shall provide for the appointment or election of a State Board of Education, and said board shall provide, compile, or cause to be compiled, and adopt, a uniform series of textbooks for use in the day and evening elementary schools throughout the state. The state board may cause such textbooks, when adopted, to be printed and published by the Superintendent of State Printing, at the State Printing Office; and wherever and however such textbooks may be printed and published, they shall be furnished and distributed by the state free of cost or any charge whatever, to all children attending the day and evening elementary schools of the state, under such conditions as the legislature shall prescribe. The textbooks, so adopted, shall continue in use not less than four years, without any changes or alteration whatsoever which will require or necessitate the furnishing of new books to such pupils, and said state board shall perform such other duties as may be prescribed by law. The legislature shall provide for a Board of Education in each county in the state. The county superintendents and the county Boards of Education shall have control of the examination of teachers and the granting of teachers' certificates within their respective jurisdictions.

Sect. 8. No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school, but under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this state.

[*Sect. 9 to 13 and Sect. 15* contain provisions for the University of California, the Leland Stanford Junior University, the California School of Mechanical Arts, the California Academy of Sciences, the Cogswell Polytechnical College, the Henry E. Huntington Library and Art Gallery.]

Sect. 14. The legislature shall have power, by general law, to provide for the incorporation and organization of school districts, high school districts, and junior college districts, of every kind and class, and may classify such districts.

ARTICLE XX

MISCELLANEOUS SUBJECTS

Sect. 17. The time of service of all labourers or workmen or mechanics employed upon any public works of the State of California, or of any county, city and county, city, town, district, township, or any other political subdivision thereof, whether said work is done by contract or otherwise, shall be limited and restricted to eight hours in any one calendar day, except in cases of extraordinary emergency caused by fire, flood, or danger to life and property, or except to work upon public, military or naval works or defences in time of war, and the legislature shall provide by law that a stipulation to this effect shall be incorporated in all contracts for public work and prescribe proper penalties for the speedy and efficient enforcement of said law.

Sect. 17½. The legislature may, by appropriate legislation, provide for the establishment of a minimum wage for women and minors and may provide for the comfort, health, safety and general welfare of any and all employees. No provision of this constitution shall be construed as a limitation upon the authority of the legislature to confer upon any commission now or hereafter created, such power and authority as the legislature may deem requisite to carry out the provisions of this section.

Sect. 18. No person shall, on account of sex, be disqualified from entering upon or pursuing any lawful business, vocation, or profession.

Sect. 21. The legislature is hereby expressly vested with plenary power, unlimited by any provision of this constitution, to create, and enforce a complete system of workmen's compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workmen for injury or disability, and their dependants for death incurred or sustained by the said workmen in the course of their employment, irrespective of the fault of any party. A complete system of workmen's compensation includes adequate pro-

visions for the comfort, health and safety and general welfare of any and all workmen and those dependent upon them for support to the extent of relieving from the consequence of any injury or death incurred or sustained by workmen in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects including the establishment and management of a State Compensation Insurance Fund; full provision for otherwise securing the payment of compensation; and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character; all of which matters are expressly declared to be the social public policy of this state, binding upon all departments of the state government.

The legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an Industrial Accident Commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this state. The legislature may combine in one statute all the provisions for a complete system of workmen's compensation, as herein defined.

Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the Industrial Accident Commission of this state or the State Compensation Insurance Fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed.

CONSTITUTION OF THE STATE OF COLORADO¹

of 1876

ARTICLE II

BILL OF RIGHTS

In order to assert our rights, acknowledge our

duties, and proclaim the principles upon which our government is founded, we declare:

Sect. 1. That all political power is vested in and derived from the people; that all government, of right, originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

¹ *The Constitution of the State of Colorado*, revised to 1 February 1942. Published by authority of Walter F. Morrison, Secretary of State, Denver.

Sect. 2. That the people of this state have the sole and exclusive right of governing themselves, as a free, sovereign and independent state; and to alter and abolish their constitution and form of government whenever they may deem it necessary to their safety and happiness; provided, such change be not repugnant to the Constitution of the United States.

Sect. 3. That all persons have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness.

Sect. 4. That the free exercise and enjoyment of religious profession and worship, without discrimination shall for ever hereafter be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his opinions concerning religion; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness or justify practices inconsistent with the good order, peace or safety of the state. No person shall be required to attend or support any ministry or place of worship, religious sect or denomination against his consent. Nor shall any preference be given by law to any religious denomination or mode of worship.

Sect. 5. That all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Sect. 6. That courts of justice shall be open to every person, and a speedy remedy afforded for every injury to person, property or character; and that right and justice should be administered without sale, denial, or delay.

Sect. 7. That the people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures; and no warrant to search any place or seize any person or thing shall issue without describing the place to be searched, or the person or thing to be seized, as near as may be, nor without probable cause, supported by oath or affirmation, reduced to writing.

Sect. 8. That, until otherwise provided by law, no person shall, for a felony, be proceeded against criminally otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases, offences shall be prosecuted criminally by indictment or information.

Sect. 9. That treason against the state can consist only in levying war against it or in adhering to its enemies, giving them aid and comfort; that no person can be convicted of treason, unless on the testimony of two witnesses to the same overt act or on his confession in open court; that no

person can be attainted of treason or felony by the General Assembly; that no conviction can work corruption of blood or forfeiture of estate; that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death.

Sect. 10. That no law shall be passed impairing the freedom of speech; that every person shall be free to speak, write or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that in all suits and prosecutions for libel the truth thereof may be given in evidence, and the jury, under the direction of the court, shall determine the law and the fact.

Sect. 11. That no *ex post facto* law, or law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges, franchises, or immunities, shall be passed by the General Assembly.

Sect. 12. That no person shall be imprisoned for debt, unless upon refusal to deliver up his estate, for the benefit of his creditors in such manner as shall have been prescribed by law, or in cases of tort or where there is a strong presumption of fraud.

Sect. 13. That the right of no person to keep and bear arms in defence of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question; but nothing herein contained shall be construed to justify the practice of carrying concealed weapons.

Sect. 14. That private property shall not be taken for private use unless by consent of the owner, except for private ways of necessity, and except for reservoirs, drains, flumes, or ditches on or across the lands of others, for agricultural, mining, milling, domestic or sanitary purposes.

Sect. 15. That private property shall not be taken or damaged, for public or private use, without just compensation. Such compensation shall be ascertained by a board of commissioners, of not less than three freeholders, or by a jury, when required by the owner of the property, in such manner as may be prescribed by law, and until the same shall be paid to the owner, or into court for the owner, the property shall not be needlessly disturbed, or the proprietary rights of the owner thereby divested; and whenever an attempt is made to use private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined as such without regard to any legislative assertion that the use be public.

Sect. 16. That in criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the

county or district in which the offence is alleged to have been committed.

Sect. 17. That no person shall be imprisoned for the purpose of securing his testimony in any case longer than may be necessary in order to take his deposition. If he can give security he shall be discharged; if he cannot give security his deposition shall be taken by some judge of the supreme, district, or county court, at the earliest time he can attend, at some convenient place by him appointed for that purpose, of which time and place the accused and the attorney prosecuting for the people shall have reasonable notice. The accused shall have the right to appear in person and by counsel. If he have no counsel, the judge shall assign him one in that behalf only. On the completion of such examination the witness shall be discharged on his own recognizance, entered into before said judge, but such deposition shall not be used if in the opinion of the court the personal attendance of the witness might be procured by the prosecution, or is procured by the accused; no exception shall be taken to such deposition as to matters of form.

Sect. 18. That no person shall be compelled to testify against himself in a criminal case nor shall any person be twice put in jeopardy for the same offence. If the jury disagree, or if the judgment be arrested after the verdict, or if the judgment be reversed for error in law, the accused shall not be deemed to have been in jeopardy.

Sect. 19. That all persons shall be bailable by sufficient sureties except for capital offences, when the proof is evident or the presumption great.

Sect. 20. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Sect. 21. That the privilege of the writ of *habeas corpus* shall never be suspended, unless when in case of rebellion or invasion, the public safety may require it.

Sect. 22. That the military shall always be in strict subordination to the civil power; that no soldier shall, in time of peace, be quartered in any

house without the consent of the owner, nor in time of war except in the manner prescribed by law.

Sect. 23. The right of trial by jury shall remain inviolate in criminal cases; but a jury in civil cases in all courts, or in criminal cases in courts not of record, may consist of less than twelve men, as may be prescribed by law. Hereafter a grand jury shall consist of twelve men, any nine of whom concurring may find an indictment; provided, the General Assembly may change, regulate or abolish the grand jury system.

Sect. 24. That the people have the right peaceably to assemble for the common good, and to apply to those invested with the powers of government for redress of grievances, by petition or remonstrance.

Sect. 25. That no person shall be deprived of life, liberty or property, without due process of law.

Sect. 26. That there shall never be in this state either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

Sect. 27. Aliens, who are or may hereafter become bona fide residents of this state, may acquire, inherit, possess, enjoy and dispose of property, real and personal, as native born citizens.

Sect. 28. The enumeration in this constitution of certain rights shall not be construed to deny, impair or disparage others retained by the people.

ARTICLE V

LEGISLATIVE DEPARTMENT

Sect. 25(a). The General Assembly shall provide by law, and shall prescribe suitable penalties for the violation thereof, for a period of employment not to exceed eight (8) hours within any twenty-four (24) hours (except in cases of emergency where life or property is in imminent danger), for persons employed in underground mines or other underground workings, blast furnaces, smelters; and any ore-reduction works or other branch of industry or labour that the General Assembly may consider injurious or dangerous to health, life or limb.

CONSTITUTION OF THE STATE OF CONNECTICUT¹ of 1818

ARTICLE FIRST

DECLARATION OF RIGHTS

That the great and essential principles of liberty and free government may be recognized and established,

WE DECLARE,

Sect. 1. That all men when they form a social

compact, are equal in rights; and that no man, or set of men are entitled to exclusive public emoluments or privileges from the community.

Sect. 2. That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and that they have at all times an undeniable and indefeasible right to alter their form of government in such manner as they may think expedient.

Sect. 3. The exercise and enjoyment of religious

¹ State of Connecticut. *Register and Manual 1943*, prepared by the Secretary. Hartford, 1943, pp. 41-64.

profession and worship, without discrimination, shall for ever be free to all persons in this state; provided, that the right hereby declared and established shall not be so construed as to excuse acts of licentiousness, or to justify practices inconsistent with the peace and safety of the state.

Sect. 4. No preference shall be given by law to any Christian sect or mode of worship.

Sect. 5. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

Sect. 6. No law shall ever be passed to curtail or restrain the liberty of speech or of the press.

Sect. 7. In all prosecutions or indictments for libels, the truth may be given in evidence, and the jury shall have the right to determine the law and the facts, under the direction of the court.

Sect. 8. The people shall be secure in their persons, houses, papers and possessions from unreasonable searches or seizures; and no warrant to search any place, or to seize any person or things, shall issue without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.

Sect. 9. In all criminal prosecutions, the accused shall have a right to be heard by himself and by counsel; to demand the nature and cause of the accusation; to be confronted by the witnesses against him, to have compulsory process to obtain witnesses in his favour; and in all prosecutions by indictment or information, a speedy, public trial by an impartial jury. He shall not be compelled to give evidence against himself, nor be deprived of life, liberty or property, but by due course of law. And no person shall be holden to answer for any crime, the punishment of which may be death or imprisonment for life, unless on a presentment or an indictment of a grand jury; except in the land or naval forces, or in the militia when in actual service in time of war, or public danger.

Sect. 10. No person shall be arrested, detained or punished, except in cases clearly warranted by law.

Sect. 11. The property of no person shall be taken for public use, without just compensation therefor.

Sect. 12. All courts shall be open, and every person, for an injury done him in his person, property or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

Sect. 13. Excessive bail shall not be required, nor excessive fines imposed.

Sect. 14. All prisoners shall, before conviction, be bailable by sufficient sureties, except for capital offences, where the proof is evident, or the pre-

sumption great; and the privileges of the writ of *habeas corpus* shall not be suspended, unless, when in case of rebellion or invasion, the public safety may require it; nor in any case, but by legislature.

Sect. 15. No person shall be attainted of treason or felony, by the legislature.

Sect. 16. The citizens have a right, in a peaceable manner, to assemble for their common good, and to apply to those invested with the powers of government, for redress of grievances, or other proper purposes, by petition, address or remonstrance.

Sect. 17. Every citizen has a right to bear arms in defence of himself and the state.

Sect. 18. The military shall, in all cases, and at all times, be in strict subordination to the civil power.

Sect. 19. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

Sect. 20. No hereditary emoluments, privileges or honours shall ever be granted, or conferred in this state.

Sect. 21. The right of trial by jury shall remain inviolate.

ARTICLE SEVENTH OF RELIGION

Sect. 1. It being the duty of all men to worship the Supreme Being, the great Creator and Preserver of the Universe, and their right to render that worship, in the mode most consistent with the dictates of their consciences; no person shall by law be compelled to join or support, nor be classed with, or associated to, any congregation, church or religious association. But every person now belonging to such congregation, church, or religious association, shall remain a member thereof, until he shall have separated himself therefrom, in the manner hereinafter provided. And each and every society or denomination of Christians in this state, shall have and enjoy the same and equal power and authority to support and maintain the ministers or teachers of their respective denominations, and to build and repair houses for public worship, by a tax on the members of any such society only, to be laid by a major vote of the legal voters assembled at any society meeting, warned and held according to law, or in any other manner.

Sect. 2. If any person shall choose to separate himself from the society or denomination of Christians to which he may belong, and shall leave a written notice thereof with the clerk of such society, he shall thereupon be no longer liable for any future expenses which may be incurred by said society.

CONSTITUTION OF THE STATE OF DELAWARE¹

of 1897

ARTICLE I

BILL OF RIGHTS

Sect. 1. Although it is the duty of all men frequently to assemble together for the public worship of Almighty God; and piety and morality, on which the prosperity of communities depend, are hereby promoted; yet no man shall or ought to be compelled to attend any religious worship, to contribute to the erection or support of any place of worship, or to the maintenance of any ministry, against his own free will and consent; and no power shall or ought to be vested in or assumed by any magistrate that shall in any case interfere with, or in any manner control the rights of conscience, in the free exercise of religious worship, nor a preference given by law to any religious societies, denominations, or modes of worship.

Sect. 2. No religious test shall be required as a qualification to any office, or public trust, under this state.

Sect. 3. All elections shall be free and equal.

Sect. 4. Trial by jury shall be as heretofore. Provided, however, that grand juries in New Castle County shall consist of fifteen members, one of whom shall be selected from, and shall be a resident of, each representative district in said county, and the affirmative vote of nine of whom shall be necessary to find a true bill of indictment; and the grand juries in Kent County and in Sussex County shall consist of ten members, one of whom shall be selected from, and shall be a resident of each representative district in the county in which he or she is selected, and the affirmative vote of seven of whom shall be necessary to find a true bill of indictment.

Sect. 5. The press shall be free to every citizen who undertakes to examine the official conduct of men acting in a public capacity; and any citizen may print on any subject, being responsible for the abuse of that liberty. In prosecutions for publications, investigating the proceedings of officers, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels the jury may determine the facts and the law, as in other cases.

Sect. 6. The people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as particularly as may be; nor then, unless there be probable cause supported by oath or affirmation.

Sect. 7. In all criminal prosecutions, the accused

bath a right to be heard by himself and his counsel, to be plainly and fully informed of the nature and cause of the accusation against him, to meet the witnesses in their examination face to face, to have compulsory process in due time, on application by himself, his friends or counsel, for obtaining witnesses in his favour, and a speedy and public trial by an impartial jury; he shall not be compelled to give evidence against himself, nor shall he be deprived of life, liberty or property, unless by the judgment of his peers or by the law of the land.

Sect. 8. No person shall for any indictable offence be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; and no person shall be for the same offence twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives, and without compensation being made.

Sect. 9. All courts shall be open; and every man for an injury done him in his reputation, person, movable or immovable possessions, shall have remedy by the due course of law, and justice administered according to the very right of the cause and the law of the land, without sale, denial, or unreasonable delay or expense; and every action shall be tried in the county in which it shall be commenced, unless when the judges of the court in which the cause is to be tried shall determine that an impartial trial thereof cannot be had in that county. Suits may be brought against the state, according to such regulations as shall be made by law.

Sect. 10. No power of suspending laws shall be exercised but by authority of the General Assembly.

Sect. 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted; and in the construction of jails a proper regard shall be had to the health of prisoners.

Sect. 12. All prisoners shall be bailable by sufficient sureties, unless for capital offences when the proof is positive or the presumption great; and when persons are confined on accusation for such offences their friends and counsel may at proper seasons have access to them.

Sect. 13. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

Sect. 14. No commission of oyer and terminer, or jail delivery, shall be issued.

Sect. 15. No attainder shall work corruption of

¹ *Constitution of the State of Delaware, 1944.*
Office of Secretary of State.

blood, nor except during the life of the offender forfeiture of estate. The estates of those who destroy their own lives shall descend or vest as in case of natural death, and if any person be killed by accident no forfeiture shall thereby be incurred.

Sect. 16. Although disobedience to laws by a part of the people, upon suggestions of impolicy or injustice in them, tends by immediate effect and the influence of example not only to endanger the public welfare and safety, but also in governments of a republican form contravenes the social principles of such governments, founded on common consent for common good; yet the citizens have a right in an orderly manner to meet together, and to apply to persons intrusted with the powers of government, for redress of grievances or other proper purposes, by petition, remonstrance or address.

Sect. 17. No standing army shall be kept up without the consent of the General Assembly, and the military shall in all cases and at all times be in strict subordination to the civil power.

Sect. 18. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war but by a civil magistrate, in manner to be prescribed by law.

Sect. 19. No hereditary distinction shall be granted, nor any office created or exercised, the appointment to which shall be for a longer term than during good behaviour; and no person holding any office under this state shall accept of any office or title of any kind whatever from any king, prince, or foreign state.

WE DECLARE that everything in this article is reserved out of the general powers of government hereinafter mentioned.

CONSTITUTION OF THE STATE OF FLORIDA¹ of 1887

DECLARATION OF RIGHTS

Sect. 1. All men are equal before the law, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing happiness and obtaining safety.

Sect. 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the citizens, and they have the right to alter or amend the same whenever the public good may require it; but the paramount allegiance of every citizen is due to the federal government, and the people of this state have no power to dissolve its connexion therewith.

Sect. 3. The right of trial by jury shall be secured to all, and remain inviolate forever.

Sect. 4. All courts in this state shall be open, so that every person for any injury done him in his lands, goods, person or reputation shall have remedy, by due course of law, and right and justice shall be administered without sale, denial or delay.

Sect. 5. The free exercise and enjoyment of religious profession and worship shall for ever be allowed in this state, and no person shall be rendered incompetent as a witness on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to justify licentiousness or practices subversive of, or inconsistent with, the peace or moral safety of the state or society.

Sect. 6. No preference shall be given by law to any church, sect or mode of worship and no money shall ever be taken from the public treasury directly or indirectly in aid of any church,

sect or religious denomination or in aid of any sectarian institution.

Sect. 7. The writ of *habeas corpus* shall be grantable speedily and of right, freely and without cost, and shall never be suspended unless, in case of rebellion or invasion, the public safety may require its suspension.

Sect. 8. Excessive bail shall not be required, nor excessive fines be imposed, nor cruel or unusual punishment or indefinite imprisonment be allowed, nor shall witnesses be unreasonably detained.

Sect. 9. All persons shall be bailable by sufficient sureties, except for capital offences where the proof is evident or the presumption great.

Sect. 10. No person shall be tried for a capital crime unless on presentment or indictment by a grand jury and no person shall be tried for other felony unless on presentment or indictment by a grand jury or upon information under oath filed by the prosecuting attorney of the court wherein the information is filed, except as is otherwise provided in this constitution, and except in cases of impeachment, and in cases in the militia when in active service in time of war, or which the state, with the consent of Congress, may keep in time of peace. Any person under such information, presentment or indictment for any felony not capital may be arraigned and may enter a plain term time or in vacation, and the judgment and sentence of the court on a plea of guilty may be made and entered either in term time or in vacation. The judge of any circuit court is authorized to dispense with the summoning, empanelling, and convening of the grand jury at any term of court by making, entering, and filing with the clerk of said court a written order directing that no grand jury be summoned at such term of court,

¹ *Constitution of the State of Florida.* R. A. Gray, Secretary of State, 1944.

which order of the circuit judge may be made in vacation or term time of said court. The legislature shall have power by general legislation to regulate the number of grand jurors to serve upon, or constitute, a grand jury and to fix the number of grand jurors required to vote for and return an indictment or presentment.

Sect. 11. In all criminal prosecutions, the accused shall have the right to a speedy and public trial, by an impartial jury, in the county where the crime was committed, and shall be heard by himself, or counsel, or both, to demand the nature and cause of the accusation against him, to meet the witnesses against him face to face, and have compulsory process for the attendance of witnesses in his favour, and shall be furnished with a copy of the indictment against him.

Sect. 12. No person shall be subject to be twice put in jeopardy for the same offence, nor compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken without just compensation. The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labour union, or labour organization; provided, that this clause shall not be construed to deny or abridge the right of employees by and through a labour organization or labour union to bargain collectively with their employer.

Sect. 13. Every person may fully speak and write his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions and civil actions for libel, the truth may be given in evidence to the jury, and if it shall appear that the matter charged as libellous is true, and was published for good motives, the party shall be acquitted or exonerated.

Sect. 14. No persons shall be compelled to pay costs except after conviction, on a final trial.

Sect. 15. The people shall have the right to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

Sect. 16. No person shall be imprisoned for debt, except in cases of fraud.

Sect. 17. No bill of attainder, *ex post facto* law,

nor any law impairing the obligation of contracts, shall ever be passed.

Sect. 18. Foreigners who are eligible to become citizens of the United States under the provisions of laws and treaties of the United States shall have the same rights as to the ownership, inheritance and disposition of property in the state as citizens of the state, but the legislature shall have power to limit, regulate and prohibit the ownership, inheritance, disposition, possession and enjoyment of real estate in the State of Florida by foreigners who are not eligible to become citizens of the United States under the provisions of the laws and treaties of the United States.

Sect. 19. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party has been duly convicted, shall ever be allowed in this state.

Sect. 20. The right of the people to bear arms in defence of themselves, and the lawful authority of the state, shall not be infringed, but the legislature may prescribe the manner in which they may be borne.

Sect. 21. The military shall in all cases, and at all times, be in strict subordination to the civil power.

Sect. 22. The right of the people to be secure in their persons, houses, papers and effects against unreasonable seizures and searches, shall not be violated and no warrants issued, but upon probable cause, supported by oath or affirmation, particularly describing the place or places to be searched and the person or persons, and thing or things to be seized.

Sect. 23. Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort, and no person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or confession in open court, and no conviction for treason shall work corruption of blood, or forfeiture of estate.

Sect. 24. This enunciation of rights shall not be construed to impair or deny others retained by the people.

ARTICLE XVI

MISCELLANEOUS PROVISIONS

Sect. 24. All marriage between a white person and a negro, or between a white person and a person of negro descent to the fourth generation, inclusive, are hereby for ever prohibited.

CONSTITUTION OF THE STATE OF GEORGIA¹

of 1945

ARTICLE I BILL OF RIGHTS Section I

Par. 1. All government, of right, originates with

¹ *Constitution of the State of Georgia, 1945.*

the people, is founded upon their will only, and is instituted solely for the good of the whole. Public officers are the trustees and servants of the people, and at all times, amenable to them.

Par. 2. Protection to person and property is the

paramount duty of government, and shall be impartial and complete.

Par. 3. No person shall be deprived of life, liberty or property, except by due process of law.

Par. 4. No person shall be deprived of the right to prosecute or defend his own cause in any of the courts of this state, in person, by attorney or both.

Par. 5. Every person charged with an offence against the laws of this state shall have the privilege and benefit of counsel; shall be furnished, on demand, with a copy of the accusation, and a list of the witnesses on whose testimony the charge against him is founded; shall have compulsory process to obtain the testimony of his own witnesses; shall be confronted with the witnesses testifying against him; and shall have a public and speedy trial by an impartial jury.

Par. 6. No person shall be compelled to give testimony tending in any manner to criminate himself.

Par. 7. Neither banishment beyond the limits of the state, nor whipping, as a punishment for crime, shall be allowed.

Par. 8. No person shall be put in jeopardy of life, or liberty, more than once for the same offence, save on his, or her own motion for a new trial after conviction, or in case of mistrial.

Par. 9. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted; nor shall any person be abused in being arrested, while under arrest, or in prison.

Par. 10. No person shall be compelled to pay costs except after conviction on final trial.

Par. 11. The writ of *habeas corpus* shall not be suspended.

Par. 12. All men have the natural and inalienable right to worship God, each according to the dictates of his own conscience, and no human authority should, in any case, control or interfere with such right of conscience.

Par. 13. No inhabitant of this state shall be molested in person or property, or prohibited from holding any public office, or trust, on account of his religious opinions; but the right of liberty of conscience shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of the state.

Par. 14. No money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect or denomination of religionists, or of any sectarian institution.

Par. 15. No law shall ever be passed to curtail, or restrain the liberty of speech, or of the press; any person may speak, write and publish his sentiments, on all subjects, being responsible for the abuse of that liberty.

Par. 16. The right of the people to be secure in

their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue except upon probable cause, supported by oath, or affirmation, particularly describing the place, or places, to be searched, and the persons or things to be seized.

Par. 17. There shall be within the State of Georgia neither slavery nor involuntary servitude, save as a punishment for crime after legal conviction thereof.

Par. 18. The social status of the citizen shall never be the subject of legislation.

Par. 19. The civil authority shall be superior to the military, and no soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, except by the civil magistrate, in such manner as may be provided by law.

Par. 20. The power of the courts to punish for contempt shall be limited by legislative acts.

Par. 21. There shall be no imprisonment for debt.

Par. 22. The right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne.

Par. 23. The legislative, judicial and executive powers shall for ever remain separate and distinct, and no person discharging the duties of one shall, at the same time, exercise the functions of either of the others, except as herein provided.

Par. 24. The people have the right to assemble peaceably for their common good and to apply to those vested with the powers of government for redress of grievances by petition or remonstrance.

Par. 25. All citizens of the United States, resident in this state, are hereby declared citizens of this state, and it shall be the duty of the General Assembly to enact such laws as will protect them in the full enjoyment of the rights, privileges and immunities due to such citizenship.

Section II

Par. 1. In all prosecutions or indictments for libel the truth may be given in evidence; and the jury in all criminal cases, shall be the judges of the law and the facts. The power of the judges to grant new trials, in case of conviction, is preserved.

Par. 2. Treason against the State of Georgia shall consist in levying war against her; adhering to her enemies; giving them aid and comfort. No person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or confession in open court.

Par. 3. No conviction shall work corruption of blood, or forfeiture of estate.

Par. 4. All lotteries, and the sale of lottery tickets, are hereby prohibited; and this prohibition shall be enforced by penal laws.

Par. 5. Lobbying is declared to be a crime, and the General Assembly shall enforce this provision by suitable penalties.

Par. 6. The General Assembly shall have the power to provide for the punishment of fraud; and, shall provide by law, for reaching property of the debtor concealed from the creditor.

Section III

Par. 1. In case of necessity, private ways may be granted upon just compensation being first paid by the applicant. Private property shall not be taken, or damaged, for public purposes, without just and adequate compensation being first paid.

Par. 2. No bill of attainder, *ex post facto* law, retroactive law, or law impairing the obligation of contracts, or making irrevocable grant of special privileges or immunities, shall be passed.

Par. 3. All exemptions from taxation heretofore granted in corporate charters are declared to be henceforth null and void.

Section IV

Par. 1. Laws of a general nature shall have uniform operation throughout the state, and no special law shall be enacted in any case for which provision has been made by an existing general

law. No general law affecting private rights, shall be varied in any particular case, by special legislation, except with the free consent, in writing, of all persons to be affected thereby; and no person under legal disability to contract, is capable of such consent.

Par. 2. Legislative acts in violation of this constitution, or the Constitution of the United States, are void, and the judiciary shall so declare them.

Section V

Par. 1. The people of this state have the inherent, sole and exclusive right of regulating their internal government, and the police thereof, and of altering and abolishing their constitution whenever it may be necessary to their safety and happiness.

Par. 2. The enumeration of rights herein contained as a part of this constitution shall not be construed to deny to the people any inherent rights which they may have hitherto enjoyed.

Section VI

Par. 1. The Act of the General Assembly approved 6 December 1902, which extends the title of ownership of lands abutting on tidal water to low water mark is hereby ratified and confirmed.

CONSTITUTION OF THE STATE OF IDAHO¹

of 1890

ARTICLE I

DECLARATION OF RIGHTS

Sect. 1. All men are by nature free and equal and have certain inalienable rights, among which are enjoying and defending life and liberty, acquiring, possessing and protecting property, pursuing happiness, and securing safety.

Sect. 2. All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform or abolish the same whenever they may deem it necessary, and no special privileges or immunities shall ever be granted that may not be altered, revoked, or repealed by the legislature.

Sect. 3. The state of Idaho is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land.

Sect. 4. The exercise and enjoyment of religious faith and worship shall for ever be guaranteed; and no person shall be denied any civil or political right, privilege, or capacity on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, or excuse acts of licen-

tiousness or justify polygamous or other pernicious practices, inconsistent with morality or the peace or safety of the state; nor to permit any person, organization, or association to directly or indirectly aid or abet, counsel or advise, any person to commit the crime of bigamy or polygamy, or any other crime. No person shall be required to attend or support any ministry or place of worship, religious sect or denomination, or pay tithes against his consent; nor shall any preference be given by law to any religious denomination or mode of worship. Bigamy and polygamy are for ever prohibited in this state, and the legislature shall provide by law for punishment of such crimes.

Sect. 5. The privilege of the writ of *habeas corpus* shall not be suspended unless, in case of rebellion or invasion, the public safety requires it, and then only in such manner as shall be prescribed by law.

Sect. 6. All persons shall be bailable by sufficient sureties, except for capital offences, where the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Sect. 7. The right of trial by jury shall remain inviolate, but in civil action three-fourths of the jury may render a verdict, and the legis-

¹ *Constitution of the State of Idaho*, revised 1941. By George H. Curtis, Secretary of State.

lature may provide that in all cases of misdemeanours five-sixths of the jury may render a verdict. A trial by jury may be waived in all criminal cases not amounting to felony by the consent of both parties, expressed in open court, and in civil actions by the consent of the parties signified in such manner as may be prescribed by law. In civil actions and cases of misdemeanour the jury may consist of twelve or of any number less than twelve upon which the parties may agree in open court.

Sect. 8. No person shall be held to answer for any felony or criminal offence of any grade, unless on presentment or indictment of a grand jury or on information of the public prosecutor, after a commitment by a magistrate, except in cases of impeachment, in cases cognizable by probate courts or by justices of the peace, and in cases arising in the militia, when in actual service in time of war or public danger: *provided*, that a grand jury may be summoned upon the order of the district court in the manner provided by law: and, *provided further*, that after a charge has been ignored by a grand jury, no person shall be held to answer or for trial therefor upon information of the public prosecutor.

Sect. 9. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that liberty.

Sect. 10. The people shall have the right to assemble in a peaceable manner to consult for their common good; to instruct their representatives, and to petition the legislature for the redress of grievances.

Sect. 11. The people have the right to bear arms for their security and defence; but the legislature shall regulate the exercise of this right by law.

Sect. 12. The military shall be subordinate to the civil power; and no soldier in time of peace shall be quartered in any house without the consent of its owner, nor in time of war except in the manner prescribed by law.

Sect. 13. In all criminal prosecutions, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf, and to appear and defend in person and with counsel.

No person shall be twice put in jeopardy for the same offence; nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law.

Sect. 14. The necessary use of lands for the construction of reservoirs or storage basins, for the purpose of irrigation, or for rights of way for the construction of canals, ditches, flumes or pipes to convey water to the place of use for any use-

ful, beneficial or necessary purpose, or for drainage; or for the drainage of mines, or the working thereof, by means of roads, railroads, tramways, cuts, tunnels, shafts, hoisting works, dumps, or other necessary means to their complete development, or any other use necessary to the complete development of the material resources of the state or the preservation of the health of its inhabitants, is hereby declared to be a public use, and subject to the regulation and control of the state.

Private property may be taken for public use, but not until a just compensation, to be ascertained in the manner prescribed by law, shall be paid therefor.

Sect. 15. There shall be no imprisonment for debt in this state except in cases of fraud.

Sect. 16. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

Sect. 17. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue without probable cause shown by affidavit, particularly describing the place to be searched and the person or thing to be seized.

Sect. 18. Courts of justice shall be open to every person, and a speedy remedy afforded for every injury of person, property or character, and right and justice shall be administered without sale, denial, delay, or prejudice.

Sect. 19. No power, civil or military, shall at any time interfere with or prevent the free and lawful exercise of the right of suffrage.

Sect. 20. No property qualification shall ever be required for any person to vote or hold office except in school elections or elections creating indebtedness.

Sect. 21. This enumeration of rights shall not be construed to impair or deny other rights retained by the people.

ARTICLE XIII

IMMIGRATION AND LABOUR

Sect. 2. Not more than eight hours' actual work shall constitute a lawful day's work on all state and municipal works, and the legislature shall pass laws to provide for the health and safety of employees, in factories, smelters, mines and ore-reduction works.

Sect. 4. The employment of children under the age of fourteen years in underground mines is prohibited.

Sect. 7. The legislature may establish boards of arbitration, whose duty it shall be to hear and determine all differences and controversies between labourers and their employers which may be submitted to them in writing by all the parties. Such boards of arbitration shall possess all the powers

and authority in respect to administering oaths, subpoenaing witnesses, and compelling their attendance, preserving order during the sittings of the board, punishing for contempt, and requiring the production of papers and writings, and all other powers and privileges, in their nature applicable, conferred by law on justices of the peace.

CONSTITUTION OF THE STATE OF ILLINOIS¹

of 1870

ARTICLE II

BILL OF RIGHTS

1. All men are by nature free and independent, and have certain inherent and inalienable rights—among these are life, liberty, and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, deriving their just powers from the consent of the governed.

2. No person shall be deprived of life, liberty, or property, without due process of law.

3. The free exercise and enjoyment of religious profession and worship, without discrimination, shall for ever be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of the state. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship.

4. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defence.

5. The right of trial by jury as heretofore enjoyed, shall remain inviolate; but the trial of civil cases before justices of the peace by a jury of less than twelve men, may be authorized by law.

6. The right of the people to be secure in their houses, persons, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue without probable cause, supported by affidavit, particularly describing the place to be searched, and the persons or things to be seized.

7. All persons shall be bailable by sufficient sureties, except for capital offences, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be

ARTICLE XXI

SCHEDULE AND ORDINANCE

Sect. 19. It is ordained by the state of Idaho that perfect toleration of religious sentiment shall be secured, and no inhabitant of said state shall ever be molested in person or property on account of his or her mode of religious worship.

suspended, unless when in cases of rebellion or invasion the public safety may require it.

8. No person shall be held to answer for a criminal offence, unless on indictment of a grand jury, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger; provided, that the grand jury may be abolished by law in all cases.

9. In all criminal prosecutions, the accused shall have the right to appear and defend in person and by counsel; to demand the nature and the cause of the accusation, and to have a copy thereof; to meet the witnesses face to face, and to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed.

10. No person shall be compelled in any criminal case to give evidence against himself, or be twice put in jeopardy for the same offence.

11. All penalties shall be proportioned to the nature of the offence; and no conviction shall work corruption of blood or forfeiture of estate; nor shall any person be transported out of the state for any offence committed within the same.

12. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases where there is strong presumption of fraud.

13. Private property shall not be taken or damaged for public use without just compensation. Such compensation, when not made by the state, shall be ascertained by a jury, as shall be prescribed by law. The fee of land taken for railroad tracks, without the consent of the owners thereof, shall remain in such owners, subject to the use for which it is taken.

14. No *ex post facto* law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities, shall be passed.

15. The military shall be in strict subordination to the civil power.

16. No soldier shall, in time of peace, be quar-

¹ *Constitution of the State of Illinois.* Compiled by Edward J. Barrett, Secretary of State. (No date.)

tered in any house without the consent of the owner; nor in time of war except in the manner prescribed by law.

17. The people have the right to assemble in a peaceable manner to consult for the common good, to make known their opinions to their representatives, and to apply for redress of grievances.

18. All elections shall be free and equal.

19. Every person ought to find a certain remedy in the laws for all injuries and wrongs which he may receive in his person, property or reputation; he ought to obtain by law, right and justice freely and without being obliged to purchase it, completely and without denial, promptly and without delay.

20. A frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

ARTICLE VIII

EDUCATION

1. The General Assembly shall provide a thorough and efficient system of free schools, whereby all children of this state may receive a good common school education.

2. All lands, moneys, or other property, donated, granted or received for school, college, semi-

nary, or university purposes, and the proceeds thereof, shall be faithfully applied to the objects for which such gifts or grants were made.

3. Neither the General Assembly nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money, or other personal property ever be made by the state, or any such public corporation, to any church, or for any sectarian purpose.

4. No teacher, state, county, township, or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus, or furniture, used or to be used, in any school in this state, with which such officer or teacher may be connected, under such penalties as may be provided by the General Assembly.

5. There may be a County Superintendent of Schools in each county, whose qualifications, powers, duties, compensation and time and manner of election, and term of office, shall be prescribed by law.

CONSTITUTION OF THE STATE OF INDIANA¹

of 1851

ARTICLE I

BILL OF RIGHTS

Sect. 1. We declare, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness; that all power is inherent in the people; and that all free governments are, and of right ought to be, founded on their authority, and instituted for their peace, safety, and well-being. For the advancement of these ends, the people have, at all times, an indefeasible right to alter and reform their government.

Sect. 2. All men shall be secured in the natural right to worship Almighty God, according to the dictates of their own consciences.

Sect. 3. No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

Sect. 4. No preference shall be given, by law, to any creed, religious society, or mode of worship; and no man shall be compelled to attend, erect, or support, any place of worship, or to maintain any ministry, against his consent.

Sect. 5. No religious test shall be required, as a qualification for any office of trust or profit.

Sect. 6. No money shall be drawn from the treasury, for the benefit of any religious or theological institution.

Sect. 7. No person shall be rendered incompetent as a witness, in consequence of his opinions on matters of religion.

Sect. 8. The mode of administering an oath or affirmation, shall be such as may be most consistent with, and binding upon, the conscience of the person, to whom such oath or affirmation may be administered.

Sect. 9. No law shall be passed, restraining the free interchange of thought and opinion, or restricting the right to speak, write, or print, freely, on any subject whatever; but for the abuse of that right, every person shall be responsible.

Sect. 10. In all prosecutions for libel, the truth of the matters alleged to be libellous may be given in justification.

Sect. 11. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search or seizure, shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

¹ *Constitution of the State of Indiana.* Issued by the Legislative Bureau, Indianapolis, Indiana, January 1944.

Sect. 12. All courts shall be open; and every man, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, without delay.

Sect. 13. In all criminal prosecutions, the accused shall have the right to a public trial, by an impartial jury, in the county in which the offence shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him and to have a copy thereof; to meet the witness face to face, and to have compulsory process for obtaining witnesses in his favour.

Sect. 14. No person shall be put in jeopardy twice for the same offence. No person, in any criminal prosecution, shall be compelled to testify against himself.

Sect. 15. No person arrested or confined in jail, shall be treated with unnecessary rigour.

Sect. 16. Excessive bail shall not be required. Excessive fines shall not be imposed. Cruel and unusual punishments shall not be inflicted. All penalties shall be proportioned to the nature of the offence.

Sect. 17. Offences, other than murder or treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable, when the proof is evident, or the presumption strong.

Sect. 18. The penal code shall be founded on the principles of reformation, and not of vindictive justice.

Sect. 19. In all criminal cases whatever, the jury shall have the right to determine the law and the facts.

Sect. 20. In all civil cases, the right of trial by jury shall remain inviolate.

Sect. 21. No man's particular services shall be demanded, without just compensation. No man's property shall be taken by law, without just compensation; nor, except in case of the state, without such compensation first assessed and tendered.

Sect. 22. The privilege of the debtor to enjoy the necessary comforts of life, shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale, for the payment of any debt or liability hereafter contracted; and there shall be no imprisonment for debt, except in the case of fraud.

Sect. 23. The General Assembly shall not

grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms, shall not equally belong to all citizens.

Sect. 24. No *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

Sect. 25. No law shall be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this constitution.

Sect. 26. The operation of the laws shall never be suspended, except by authority of the General Assembly.

Sect. 27. The privilege of the writ of *habeas corpus* shall not be suspended, except in case of rebellion or invasion; and then, only, if the public safety demand it.

Sect. 28. Treason against the state shall consist only in levying war against it, and in giving aid and comfort to its enemies.

Sect. 29. No person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or upon his confession in open court.

Sect. 30. No conviction shall work corruption of blood, or forfeiture of estate.

Sect. 31. No law shall restrain any of the inhabitants of the state from assembling together in a peaceable manner, to consult for their common good; nor from instructing their representatives; nor from applying to the General Assembly for redress of grievances.

Sect. 32. The people shall have a right to bear arms, for the defence of themselves and the state.

Sect. 33. The military shall be kept in strict subordination to the civil power.

Sect. 34. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

Sect. 35. The General Assembly shall not grant any title of nobility, nor confer hereditary distinctions.

Sect. 36. Emigration from the state shall not be prohibited.

Sect. 37. There shall be neither slavery, nor involuntary servitude, within the state, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted. No indenture of any negro, or mulatto, made and executed out of the bounds of the state, shall be valid within the state.

CONSTITUTION OF THE STATE OF IOWA¹ of 1857

ARTICLE I

BILL OF RIGHTS

Sect. 1. All men are, by nature, free and equal,

and have certain inalienable rights—among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

Sect. 2. All political power is inherent in the people. Government is instituted for the protec-

¹ *State of Iowa Official Register, 1945-1946.* Published by the State of Iowa, Des Moines, 1946.

tion, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it.

Sect. 3. The General Assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship or the maintenance of any minister, or ministry.

Sect. 4. No religious test shall be required as a qualification for any office, or public trust, and no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion; and any party to any judicial proceeding shall have the right to use as a witness, or take the testimony of, any other person not disqualified on account of interest, who may be cognizant of any fact material to the case; and parties to suits may be witnesses, as provided by law.

Sect. 5. Any citizen of this state who may hereafter be engaged, either directly or indirectly, in a duel, either as principal, or accessory before the fact, shall for ever be disqualified from holding any office under the Constitution and laws of this state.

Sect. 6. All laws of a general nature shall have a uniform operation; the General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which upon the same terms shall not equally belong to all citizens.

Sect. 7. Every person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it appears to the jury that the matter charged as libellous was true, and was published with good motives, and for justifiable ends, the party shall be acquitted.

Sect. 8. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

Sect. 9. The right of trial by jury shall remain inviolate; but the General Assembly may authorize trial by jury of less number than twelve men in inferior courts; but no person shall be deprived of life, liberty, or property without due process of law.

Sect. 10. In all criminal prosecutions, and in cases involving the life, or liberty of an individual the accused shall have a right to a speedy and public trial by an impartial jury; to be informed

of the accusation against him, to have a copy of the same when demanded; to be confronted with the witnesses against him; to have compulsory process for his witnesses; and to have the assistance of counsel.

Sect. 11. All offences less than felony and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a justice of the peace, or other officer authorized by law, on information under oath, without indictment, or the intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher criminal offence, unless on presentation or indictment by a grand jury, except in cases arising in the army, or navy, or in the militia, when in actual service, in time of war or public danger.

Sect. 12. No person shall after acquittal, be tried for the same offence. All persons shall, before conviction, be bailable, by sufficient sureties, except for capital offences where the proof is evident, or the presumption great.

Sect. 13. The writ of *habeas corpus* shall not be suspended, or refused when application is made as required by law, unless in the case of rebellion or invasion the public safety shall require it.

Sect. 14. The military shall be subordinate to the civil power. No standing army shall be kept up by the state in time of peace; and in time of war, no appropriation for a standing army shall be for a longer time than two years.

Sect. 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

Sect. 16. Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason, unless on the evidence of two witnesses to the same overt act, or confession in open court.

Sect. 17. Excessive bail shall not be required; excessive fines shall not be imposed, and cruel and unusual punishment shall not be inflicted.

Sect. 18. Private property shall not be taken for public use without just compensation first being made, or secured to be made to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

The General Assembly, however, may pass laws permitting the owners of lands to construct drains, ditches, and levees for agricultural, sanitary or mining purposes across the lands of others, and provide for the organization of drainage districts, vest the proper authorities with power to construct and maintain levees, drains, and ditches and to keep in repair all drains, ditches, and levees heretofore

constructed under the laws of the state, by special assessments upon the property benefited thereby. The General Assembly may provide by law for the condemnation of such real estate as shall be necessary for the construction and maintenance of such drains, ditches and levees, and prescribe the method of making such condemnation.

Sect. 19. No person shall be imprisoned for debt in any civil action, on mesne, or final process, unless in case of fraud; and no person shall be imprisoned for a militia fine in time of peace.

Sect. 20. The people have the right freely to assemble together to counsel for the common good; and to make known their opinions to their representatives and to petition for a redress of grievances.

Sect. 21. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

Sect. 22. Foreigners who are, or may hereafter become residents of this state, shall enjoy the same rights in respect to the possession, enjoyment and descent of property, as native born citizens.

Sect. 23. There shall be no slavery in this state; nor shall there be involuntary servitude, unless for the punishment of crime.

Sect. 24. No lease or grant of agricultural lands, reserving any rent, or service of any kind, shall be valid for a longer period than twenty years.

Sect. 25. This enumeration of rights shall not be construed to impair or deny others, retained by the people.

CONSTITUTION OF THE STATE OF KANSAS¹

of 1861

BILL OF RIGHTS

1. All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness.

2. All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the legislature, which may not be altered, revoked or repealed by the same body; and this power shall be exercised by no other tribunal or agency.

3. The people have the right to assemble, in a peaceable manner, to consult for their common good, to instruct their representatives, and to petition the government, or any department thereof, for the redress of grievances.

4. The people have the right to bear arms for their defence and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power.

5. The right of trial by jury shall be inviolate.

6. There shall be no slavery in this state; and no involuntary servitude, except for the punishment of crime, whereof the party shall have been duly convicted.

7. The right to worship God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend or support any form of worship; nor shall any control of or interference with the rights of conscience be permitted, nor any preference given by law to any religious establishment or mode of worship. No religious test or property qualification shall be required for any office of public trust, nor for any

vote at any election, nor shall any person be incompetent to testify on account of religious belief.

8. The right to the writ of *habeas corpus* shall not be suspended, unless the public safety requires it in case of invasion or rebellion.

9. All persons shall be bailable by sufficient sureties except for capital offences, where proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

10. In all prosecutions, the accused shall be allowed to appear and defend in person, or by counsel; to demand the nature and cause of the accusation against him; to meet the witness face to face; and to have compulsory process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed. No person shall be a witness against himself, or be twice put in jeopardy for the same offence.

11. The liberty of the press shall be inviolate; and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right; and in all civil or criminal actions for libel, the truth may be given in evidence to the jury, and if it shall appear that the alleged libellous matter was published for justifiable ends, the accused party shall be acquitted.

12. No person shall be transported from the state for any offence committed within same, and no conviction within the state shall work a corruption of blood or forfeiture of estate.

13. Treason shall consist only of levying war against the state, adhering to its enemies or giving them aid or comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the overt act, or confession in open court.

¹ *Constitution of the State of Kansas.* Issued by Frank J. Ryan, Secretary of State. Topeka, Kansas, 1945.

14. No soldier shall, in time of peace, be quartered in any house without the consent of the occupant, nor in time of war except as prescribed by law.

15. The right of the people to be secure in their persons and property against unreasonable searches and seizures, shall be inviolate; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons or property to be seized.

16. No person shall be imprisoned for debt, except in cases of fraud.

17. No distinction shall ever be made between the citizens of the State of Kansas and the citi-

zens of other states and territories of the United States in reference to the purchase, enjoyment or descent of property. The rights of aliens in reference to the purchase, enjoyment or descent of property may be regulated by law.

18. All persons, for injuries suffered in person, reputation or property, shall have remedy by due course of law, and justice administered without delay.

19. No hereditary emoluments, honours or privileges shall ever be granted or conferred by the state.

20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

CONSTITUTION OF THE COMMONWEALTH OF KENTUCKY¹

of 1891

BILL OF RIGHTS

That the great and essential principles of liberty and free government may be recognized and established. We declare that:

Sect. 1. All men are, by nature, free and equal, and have certain inherent and inalienable rights, among which may be reckoned:

First: The right of enjoying and defending their lives and liberties.

Second: The right of worshipping Almighty God according to the dictates of their consciences.

Third: The right of seeking and pursuing their safety and happiness.

Fourth: The right of freely communicating their thoughts and opinions.

Fifth: The right of acquiring and protecting property.

Sixth: The right of assembling together in a peaceable manner for their common good, and of applying to those invested with the power of government, for redress of grievances or other proper purposes, by petition, address, or remonstrance.

Seventh: The right to bear arms in defence of themselves and of the state, subject to the power of the General Assembly to enact laws to prevent persons from carrying concealed weapons.

Sect. 2. Absolute and arbitrary power over the lives, liberty and property of freemen exists nowhere in a republic, not even in the largest majority.

Sect. 3. All men, when they form a social compact, are equal; and no grant of exclusive, separate public emoluments or privileges shall be made to any man or set of men, except in consideration of public services; but no property shall be exempt from taxation except as provided in this con-

stitution, and every grant of a franchise, privilege or exemption shall remain subject to revocation, alteration or amendment.

Sect. 4. All power is inherent in the people; and all free governments are founded on their authority and instituted for their peace, safety, happiness, and the protection of property. For the advancement of these ends, they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may deem proper.

Sect. 5. No preference shall ever be given by laws to any religious sect, society or denomination; nor to any particular creed, mode of worship or system or ecclesiastical polity; nor shall any person be compelled to attend any place of worship, to contribute to the erection or maintenance of any such place, or to the salary or support of any minister or religion; nor shall any man be compelled to send his child to any school to which he may be conscientiously opposed; and the civil rights, privileges or capacities of no person shall be taken away, or in any wise diminished or enlarged, on account of his belief or disbelief of any religious tenet, dogma or teaching. No human authority shall, in any case whatsoever, control or interfere with the rights of conscience.

Sect. 6. All elections shall be free and equal.

Sect. 7. The ancient mode of trial by jury shall be held sacred, and the right thereof remain inviolate, subject to such modifications as may be authorized by this constitution.

Sect. 8. Printing presses shall be free to every person who undertakes to examine the proceedings of the General Assembly or any branch of government, and no law shall ever be made to restrain the right thereof. Every person may freely and fully speak, write and print on any subject, being responsible for the abuse of that liberty.

¹ *Kentucky Directory*, by Frank K. Kavanaugh. 1944. Pp. 11-76.

Sect. 9. In prosecutions for the publication of papers investigating the official conduct of officers or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libel the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Sect. 10. The people shall be secure in their persons, houses, papers and possessions, from unreasonable search and seizure; and no warrant shall issue to search any place, or seize any person or thing, without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.

Sect. 11. In all criminal prosecutions the accused has the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witness face to face and to have compulsory process for obtaining witnesses in his favour. He can not be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land; and in prosecutions by indictment or information, he shall have a speedy public trial by impartial jury of the vicinage; but the General Assembly may provide by a general law for a change of venue in such prosecutions for both the defendant and the Commonwealth, the change to be made to the most convenient county in which a fair trial can be obtained.

Sect. 12. No person, for an indictable offence, shall be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger, or by leave of court for oppression or misdemeanour in office.

Sect. 13. No person shall, for the same offence, be twice put in jeopardy of his life or limb, nor shall any man's property be taken or applied to public use without the consent of his representatives and without just compensation being previously made to him.

Sect. 14. All courts shall be open, and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

Sect. 15. No power to suspend laws shall be exercised, unless by the General Assembly or its authority.

Sect. 16. All prisoners shall be bailable by sufficient securities, unless for capital offences when the proof is evident or the presumption great; and

the privilege of the writ of *habeas corpus* shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it.

Sect. 17. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishment inflicted.

Sect. 18. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors in such manner as shall be prescribed by law.

Sect. 19. No *ex post facto* law, nor any law impairing the obligation of contracts, shall be enacted.

Sect. 20. No person shall be attainted of treason or felony by the General Assembly, and no attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the Commonwealth.

Sect. 21. The estate of such persons as shall destroy their own lives shall descend or vest as in cases of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

Sect. 22. No standing army shall, in time of peace, be maintained without the consent of the General Assembly; and the military shall, in all cases and at all times, be in strict subordination to the civil power; nor shall any soldier, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in a manner prescribed by law.

Sect. 23. The General Assembly shall not grant any title of nobility or hereditary distinction, nor create any office the appointment of which shall be for a longer time than a term of years.

Sect. 24. Emigration from the state shall not be prohibited.

Sect. 25. Slavery and involuntary servitude in this state are forbidden, except as a punishment for crime whereof the party shall have been duly convicted.

Sect. 26. To guard against transgression of the high powers which we have delegated, We declare that everything in this Bill of Rights is excepted out of the general powers of government, and shall for ever remain inviolate; and all laws contrary thereto, or contrary to this constitution, shall be void.

Sect. 243. The General Assembly shall, by law, fix the minimum wages at which children may be employed in places dangerous to life or health, or injurious to morals; and shall provide adequate penalties for violations of such law.

CONSTITUTION OF THE STATE OF LOUISIANA¹ of 1921

ARTICLE I BILL OF RIGHTS

Sect. 1. All government, of right, originates with the people, is founded on their will alone, and is instituted solely for the good of the whole. Its only legitimate end is to secure justice to all, preserve peace and promote the interest and happiness of the people.

Sect. 2. No person shall be deprived of life, liberty or property, except by due process of law. Except as otherwise provided in this constitution, private property shall not be taken or damaged except for public purposes and after just and adequate compensation is paid.

Sect. 3. No law shall ever be passed to curtail or restrain the liberty of speech or of the press; any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

Sect. 4. Every person has the natural right to worship God according to the dictates of his own conscience. No law shall be passed respecting an establishment of religion, nor prohibiting the free exercise thereof; nor shall any preference ever be given to, nor any discrimination made against, any church, sect or creed of religion, or any form of religious faith or worship.

Sect. 5. The people have the right peaceably to assemble and apply to those vested with the powers of government for a redress of grievances by petition or remonstrance.

Sect. 6. All courts shall be open, and every person, for injury done him in his rights, lands, goods, person or reputation, shall have adequate remedy by due process of law and justice administered without denial, partiality or unreasonable delay.

Sect. 7. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches or seizures shall not be made except upon warrant therefor issued upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

Sect. 8. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be abridged. This shall not prevent the passage of laws to punish those who carry weapons concealed.

Sect. 9. In all criminal prosecutions, the accused shall have the right to a speedy public trial by an impartial jury; provided, that cases in which the penalty is not necessarily imprisonment at hard labour, or death, shall not be tried by the court without a jury or by a jury of less than

twelve in number, as provided elsewhere in this constitution; provided further, that all trials shall take place in the parish in which the offence was committed, unless the venue be changed; provided further, that the legislature may provide for the venue and prosecution of offences committed within a hundred feet of the boundary line of a parish. The accused in every instance shall have the right to be confronted with the witnesses against him; he shall have the right to defend himself, to have the assistance of counsel, and to have compulsory process for obtaining witnesses in his favour. Prosecution shall be by indictment or information; but the legislature may provide for the prosecution of misdemeanours on affidavits; provided, that no person shall be held to answer for capital crime unless on a presentment or indictment by a grand jury, except in cases arising in the militia when in actual service in time of war or public danger; nor shall any person be twice put in jeopardy of life or liberty for the same offence, except on his own application for a new trial, or where there is a mis-trial, or a motion in arrest of judgment is sustained.

Sect. 10. In all criminal prosecutions, the accused shall be informed of the nature and cause of the accusation against him; and when tried by jury shall have the right to challenge jurors peremptorily, the number of challenges to be fixed by law.

Sect. 11. No person shall be compelled to give evidence against himself in a criminal case or in any proceeding that may subject him to criminal prosecution, except as otherwise provided in this constitution. No person under arrest shall be subjected to any treatment designed by effect on body or mind to compel confession of crime; nor shall any confession be used against any person accused of crime unless freely and voluntarily made.

Sect. 12. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. All persons shall be bailable by sufficient sureties, except the following: Persons charged with a capital offence, where the proof is evident or the presumption great. Persons convicted of felonies, provided that where a minimum sentence of less than five years at hard labour is actually imposed, bail shall be allowed pending appeal until final judgment.

Sect. 13. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion, or invasion, the public safety may require it.

Sect. 14. The military shall be in subordination to the civil power.

Sect. 15. This enumeration of rights shall not be construed to deny or impair other rights of the people not herein expressed.

¹ *Constitution of the State of Louisiana.* Printed by authority of the legislature, 1943.

CONSTITUTION OF THE STATE OF MAINE¹

of 1820 and 1876

ARTICLE I

DECLARATION OF RIGHTS

Sect. 1. All men are born equally free and independent, and have certain natural, inherent and inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property and of pursuing and obtaining safety and happiness.

Sect. 2. All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit; they have therefore an inalienable and indefeasible right to institute government, and to alter, reform or totally change the same, when their safety and happiness require it.

Sect. 3. All men have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no one shall be hurt, molested or restrained in his person, liberty, or estate for worshipping God in the manner and season most agreeable to the dictates of his own conscience, nor for his religious professions or sentiments, provided he does not disturb the public peace, nor obstruct others in their religious worship; and all persons demeaning themselves peaceably as good members of the State, shall be equally under the protection of the laws, and no subordination nor preference of any one sect or denomination to another shall ever be established by law, nor shall any religious test be required as a qualification for any office or trust, under this state; and all religious societies in this state, whether incorporate or unincorporate, shall at all times have the exclusive right of electing their public teachers and contracting with them for their support and maintenance.

Sect. 4. Every citizen may freely speak, write and publish his sentiments on any subject, being responsible for the abuse of this liberty; no laws shall be passed regulating or restraining the freedom of the press; and in prosecutions for any publication respecting the official conduct of men in public capacity, or the qualification of those who are candidates for the suffrages of the people, or where the matter published is proper for public information, the truth thereof may be given in evidence, and in all indictments for libels, the jury, after having received the direction of the court, shall have a right to determine, at their discretion, the law and the fact.

Sect. 5. The people shall be secure in their persons, houses, papers and possessions from all unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without a special designation of the

place to be searched, and the person or thing to be seized, nor without probable cause—supported by oath or affirmation.

Sect. 6. In all criminal prosecutions, the accused shall have a right to be heard by himself and his counsel, or either, at his election, to demand the nature and cause of the accusation, and have a copy thereof; to be confronted by the witnesses against him; to have a compulsory process for obtaining witnesses in his favour; to have a speedy, public and impartial trial, and, except in trials by martial law or impeachment, by a jury of the vicinity. He shall not be compelled to furnish or give evidence against himself, nor be deprived of his life, liberty, property, or privileges, but by judgment of his peers, or by the law of the land.

Sect. 7. No person shall be held to answer for a capital or infamous crime, unless on a presentment or indictment of a grand jury, except in cases of impeachment, or in such cases of offences as are usually cognizable by a justice of the peace, or in cases arising in the army or navy, or in the militia when in actual service in time of war or public danger. The legislature shall provide by law a suitable and impartial mode of selecting juries and their usual number and unanimity, in indictments and convictions, shall be held indispensable.

Sect. 8. No person, for the same offence, shall be twice put in jeopardy of life or limb.

Sect. 9. Sanguinary laws shall not be passed; all penalties and punishments shall be proportioned to the offence; excessive bail shall not be required, nor excessive fines imposed, nor cruel nor unusual punishments inflicted.

Sect. 10. No person before conviction shall be bailable for any of the crimes, which now are or have been denominated capital offences since the adoption of the Constitution, where the proof is evident or the presumption great, whatever the punishment of the crimes may be. And the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

Sect. 11. The legislature shall pass no bill of attainder, *ex post facto* law, nor law impairing the obligation of contracts, and no attainder shall work corruption of blood nor forfeiture of estate.

Sect. 12. Treason against this state shall consist only in levying war against it, adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same act, or confession in open court.

Sect. 13. The laws shall not be suspended but by the legislature or its authority.

Sect. 14. No person shall be subject to corporal

¹ *Constitution of the State of Maine, official text.* (No date.)

punishment under military law, except such as are employed in the army or navy, or in the militia when in actual service in time of war or public danger.

Sect. 15. The people have a right at all times in an orderly and peaceable manner to assemble to consult upon the common good, to give instructions to their representatives, and to request, of either department of the government by petition or remonstrance, redress of their wrongs and grievances.

Sect. 16. Every citizen has a right to keep and bear arms for the common defence; and this right shall never be questioned.

Sect. 17. No standing army shall be kept up in time of peace without the consent of the legislature, and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

Sect. 18. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner or occupant, nor in time of war, but in a manner prescribed by law.

Sect. 19. Every person, for an injury done him in his person, reputation, property or immunities,

shall have remedy by due course of law; and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay.

Sect. 20. In all civil suits, and in all controversies concerning property, the parties shall have a right to a trial by jury, except in cases where it has heretofore been otherwise practised; the party claiming the right may be heard by himself and his counsel, or either, at his election.

Sect. 21. Private property shall not be taken for public uses without just compensation; nor unless the public exigencies require it.

Sect. 22. No tax or duty shall be imposed without the consent of the people or of their representatives in the legislature.

Sect. 23. No title of nobility or hereditary distinction, privilege, honour or emolument, shall ever be granted or confirmed, nor shall any office be created, the appointment to which shall be for a longer time than during good behaviour.

Sect. 24. The enumeration of certain rights shall not impair nor deny others retained by the people.

CONSTITUTION OF THE STATE OF MARYLAND¹ of 1867

DECLARATION OF RIGHTS

We, the people of the state of Maryland . . . declare:

Art. 1. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole; and they have, at all times, the inalienable right to alter, reform or abolish their form of government in such manner as they may deem expedient.

Art. 2. The Constitution of the United States, and the laws made or which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, are and shall be the supreme law of the state; and the judges of this state, and all the people of this state, are, and shall be bound thereby, anything in the Constitution or law of this state to the contrary notwithstanding.

Art. 3. The powers not delegated to the United States by the Constitution thereof, nor prohibited by it to the states, are reserved to the states respectively, or to the people thereof.

Art. 4. That the people of this state have the sole and exclusive right of regulating the internal government and police thereof as a free, sovereign and independent state.

Art. 5. That the inhabitants of Maryland are entitled to the common law of England, and the

trial by jury, according to the course of that law, and to the benefit of such of the English statutes as existed on the fourth day of July, seventeen hundred and seventy-six; and which, by experience, have been found applicable to their local and other circumstances, and have been introduced, used and practised by the courts of law or equity; and also of all acts of Assembly in force on the first day of June, eighteen hundred and sixty-seven; except such as may have since expired, or may be inconsistent with the provisions of this Constitution; subject, nevertheless, to the revision of, and amendment or repeal by, the legislature of this state. And the inhabitants of Maryland are also entitled to all property derived to them from or under the charter granted by His Majesty, Charles the First, to Caecilius Calvert, Baron of Baltimore.

Art. 6. That all persons invested with the legislative or executive powers of government are trustees of the public, and as such, accountable for their conduct: Wherefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to reform the old, or establish a new government; the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish and destructive of the good and happiness of mankind.

Art. 7. That the right of the people to participate in the legislature is the very best security

¹ *Constitution of Maryland.* Published by Edward G. Chaney, Secretary of State, 1946.

of liberty and the foundation of all free government; for this purpose elections ought to be free and frequent, and every citizen having the qualifications prescribed by the Constitution ought to have the right of suffrage.

Art. 8. That the legislative, executive and judicial powers of government ought to be for ever separate and distinct from each other; and no person exercising the functions of one of said departments shall assume or discharge the duties of any other.

Art. 9. That no power of suspending laws or the execution of laws, unless by, or derived from the legislature, ought to be exercised, or allowed.

Art. 10. That freedom of speech and debate, or proceedings in the legislature, ought not to be impeached in any court of judicature.

Art. 11. That Annapolis be the place of meeting of the legislature; and the legislature ought not to be convened, or held at any other place but from evident necessity.

Art. 12. That for redress of grievances, and for amending, strengthening, and for preserving the laws, the legislature ought to be frequently convened.

Art. 13. That every man hath a right to petition the legislature for the redress of grievances in a peaceful and orderly manner.

Art. 14. That no aid, charge, tax, burthen or fees ought to be rated, or levied, under any pretence, without the consent of the legislature.

Art. 15. That the levying of taxes by the poll is grievous and oppressive and ought to be prohibited; that paupers ought not to be assessed for the support of the government; that the General Assembly shall, by uniform rules, provide for separate assessment of land and classification and sub-classification of improvements on land and personal property, as it may deem proper; and all taxes thereafter provided to be levied by the state for the support of the general state government, and by the counties and by the city of Baltimore for their respective purposes, shall be uniform as to land within the taxing district, and uniform within the class or sub-class of improvements on land and personal property which the respective taxing powers may have directed to be subjected to the tax levy; yet fines, duties or taxes may properly and justly be imposed, or laid with a political view for the good government and benefit of the community.

Art. 16. That sanguinary laws ought to be avoided as far as it is consistent with the safety of the state; and no law to inflict cruel and unusual pains and penalties ought to be made in any case, or at any time, hereafter.

Art. 17. That retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal are oppressive, unjust, and incompatible with liberty; wherefore,

no *ex post facto* law ought to be made; nor any retrospective oath or restriction be imposed or required.

Art. 18. That no law to attain particular persons of treason or felony, ought to be made in any case, or at any time, hereafter.

Art. 19. That every man, for any injury done to him in his person or property ought to have remedy by the course of the law of the land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

Art. 20. That the trial of facts, where they arise, is one of the greatest securities of the lives, liberties, and estate of the people.

Art. 21. That in all criminal prosecutions, every man hath a right to be informed of the accusation against him; to have a copy of the indictment, or charge in due time (if required) to prepare for his defence; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

Art. 22. That no man ought to be compelled to give evidence against himself in a criminal case.

Art. 23. That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the law of the land.

Art. 24. That slavery shall not be re-established in this state; but, having been abolished, under the policy and authority of the United States, compensation, in consideration thereof, is due from the United States.

Art. 25. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted by the courts of law.

Art. 26. That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

Art. 27. That no conviction shall work corruption of blood or forfeiture of estate.

Art. 28. That a well-regulated militia is the proper and natural defence of a free government.

Art. 29. That standing armies are dangerous to liberty, and ought not to be raised, or kept up, without the consent of the legislature.

Art. 30. That in all cases, and at all times, the military ought to be under strict subordination to, and control of, the civil power.

Art. 31. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, except in the manner prescribed by law.

Art. 32. That no person except regular soldiers, marines, and mariners, in the service of the state, or militia, when in actual service, ought, in any case, to be subject to, or punishable by martial law.

Art. 33. That the independency and uprightness of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people; wherefore, the judges shall not be removed, except in the manner, and for the causes, provided in this Constitution. No judge shall hold any other office, civil or military, or political trust, or employment of any kind whatsoever, under the Constitution or laws of this state, or of the United States, or any of them; or receive fees, or perquisites of any kind, for the discharge of his official duties.

Art. 34. That a long continuance in the executive departments of power or trust is dangerous to liberty; a rotation, therefore, in those departments is one of the best securities of permanent freedom.

Art. 35. That no person shall hold, at the same time more than one office of profit, created by the Constitution or laws of this state; nor shall any person in public trust receive any present from any foreign prince or States, or from the United States, or any of them, without the approbation of this state.

Art. 36. That as it is the duty of every man to worship God in such manner as he thinks most acceptable to Him, all persons are equally entitled to protection in their religious liberty; wherefore, no person ought, by any law to be molested in his person or estate, on account of his religious persuasion or profession, or for his religious practice, unless, under the colour of religion, he shall disturb the good order, peace or safety of the state, or shall infringe the laws of morality, or injure others in their natural, civil or religious rights; nor ought any person to be compelled to maintain any place of worship or any ministry; nor shall any person, otherwise competent, be deemed incompetent as a witness, or juror, on account of his religious belief; provided, he believes in the existence of God, and that under His dispensation such persons will be held morally accountable for their acts, and be rewarded or punished therefor in this world or the world to come.

Art. 37. That no religious test ought ever to be required as a qualification for any office of profit or trust in this state, other than a declaration of belief in the existence of God; nor shall

the legislature prescribe any other oath of office than the oath prescribed by this Constitution.

Art. 38. That every gift, sale or devise of land to any minister, public teacher or preacher of the gospel, as such, or to any religious sect, order or denomination, or to, or for the support, use or benefit of, or in trust, for any minister, public teacher or preacher of the gospel, as such, or any religious sect, order or denomination; and every gift or sale of goods, chattels, to go in succession, or to take place after the death of the seller or donor, to or for such support, use or benefit; and also every devise of goods or chattels to or for the support, use or benefit of any minister, public teacher or preacher of the gospel, as such, or any religious sect, order or denomination without the prior or subsequent sanction of the legislature, shall be void; except always, any sale, gift, lease or devise of any quantity of land, not exceeding five acres, for a church meetinghouse, or other house of worship, or parsonage, or for a burying-ground, which shall be improved, enjoyed or used only for such purpose; or such sale, gift, lease or devise shall be void.

Art. 39. That the manner of administering the oath or affirmation to any person ought to be such as those of the religious persuasion, profession, or denomination, of which he is a member, generally esteem the most effectual confirmation by the attestation of the Divine Being.

Art. 40. That the liberty of the press ought to be inviolably preserved; that every citizen of the state ought to be allowed to speak, write and publish his sentiments on all subjects, being responsible for the abuse of that privilege.

Art. 41. That monopolies are odious, contrary to the spirit of a free government and the principles of commerce, and ought not to be suffered.

Art. 42. That no title or hereditary honours ought to be granted in this state.

Art. 43. That the legislature ought to encourage the diffusion of knowledge and virtue, the extension of a judicious system of general education, the promotion of literature, the arts, sciences, agriculture, commerce and manufactures, and the general amelioration of the condition of the people.

Art. 44. That the provisions of the Constitution of the United States, and of this state, apply as well in time of war as in time of peace; and any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of good government and tends to anarchy and despotism.

Art. 45. This enumeration of rights shall not be construed to impair or deny others retained by the people.

CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS¹

of 1780

PART THE FIRST

A DECLARATION OF THE RIGHTS OF THE
INHABITANTS OF THE COMMONWEALTH
OF MASSACHUSETTS

Art. 1. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; in fine, that of seeking and obtaining their safety and happiness.

Art. 2. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the Supreme Being, the great Creator and Preserver of the Universe. And no subject shall be hurt, molested or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

Art. 3. As the public worship of God and instructions in piety, religion, and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefor, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society, a written notice, declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made, or entered into by such society; and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.

Art. 4. The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign and independent state; and do, and for ever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter be, by them expressly delegated to the United States of America, in Congress assembled.

Art. 5. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive or judicial, are their substitutes and agents, and are at all times accountable to them.

Art. 6. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

Art. 7. Government is instituted for the common good; for the protection, safety, prosperity and happiness of the people; and not for the profit, honour, or private interest of any one man, family, or class of men: Therefore, the people alone have an incontestable, unalienable, and infeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity and happiness require it.

Art. 8. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

Art. 9. All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.

Art. 10. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of his protection; to give his personal service, or an equivalent, when necessary; but no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

The legislature may be special acts for the purpose of laying out, widening or relocating highways or streets, authorize the taking in fee by the

¹ *Constitution of the Commonwealth of Massachusetts.* Published by the Secretary of the Commonwealth, 1936.

commonwealth, or by a county, city or town, of more land and property than are needed for the actual construction of such highway or street; *provided, however*, that the land and property authorized to be taken are specified in the act and are no more in extent than would be sufficient for suitable building lots on both sides of such highway or street, and after so much of the land or property has been appropriated for such highway or street as is needed therefor, may authorize the sale of the remainder for value with or without suitable restrictions.

Art. 11. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character. He ought to obtain right and justice freely, and without any denial; promptly, and without delay; conformably to the laws.

Art. 12. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favourable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

Art. 13. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

Art. 14. Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation, and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

Art. 15. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners'

wages, the legislature shall hereafter find it necessary to alter it.

Art. 16. The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth.

Art. 17. The people have a right to keep and bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

Art. 18. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the commonwealth.

Art. 19. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them and of the grievances they suffer.

Art. 20. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

Art. 21. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

Art. 22. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

Art. 23. No subsidy, charge, tax, impost, or duties ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature.

Art. 24. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

Art. 25. No subject, ought in any case, or in any time, to be declared guilty of treason or felony by the legislature.

Art. 26. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

Art. 27. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

Art. 28. No person can in any case be subject to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

Art. 29. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honourable salaries ascertained and established by standing laws.

Art. 30. In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.

PART THE SECOND THE FRAME OF GOVERNMENT *Chapter V*

SECTION II. THE ENCOURAGEMENT OF LITERATURE, ETC.

Wisdom, and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of the legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge; public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and

punctuality in their dealings; sincerity, good humour, and all social affections, and generous sentiments, among the people.

ARTICLES OF AMENDMENT

Article 18

Sect. 1. No law shall be passed prohibiting the free exercise of religion.

Sect. 2. All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the commonwealth for the support of common schools shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is expended; and no grant, appropriation or use of public money or property or loan of public credit shall be made or authorized by the commonwealth or any political division thereof for the purpose of founding, maintaining, or aiding any school or institution of learning, whether under public control or otherwise, wherein any denominational doctrine is inculcated, or any other school or any college, infirmary, hospital, institution, or educational, charitable or religious undertaking which is not publicly owned and under the exclusive control, order, and superintendence of public officers or public agents authorized by the commonwealth or federal authority or both, except that appropriations may be made for the maintenance and support of the Soldiers' Home in Massachusetts and for free public libraries in any city or town, and to carry out legal obligations, if any, already entered into; and no such grant, appropriation or use of public money or property or loan of public credit shall be made or authorized for the purpose of founding, maintaining or aiding any church, religious denomination or society.

Sect. 3. Nothing herein contained shall be construed to prevent the commonwealth, or any political division thereof, from paying to privately controlled hospitals, infirmaries, or institutions for the deaf, dumb or blind not more than the ordinary and reasonable compensation for care or support actually rendered or furnished by such hospitals, infirmaries, or institutions to such persons as may be in whole or in part unable to support or care for themselves.

Sect. 4. Nothing herein contained shall be construed to deprive any inmate of a publicly controlled reformatory, penal or charitable institution of the opportunity of religious exercises therein of his own faith; but no inmate of such institution shall be compelled to attend religious services or receive religious instruction against his will, or if a minor, without the consent of his parent or guardian. . . .

CONSTITUTION OF THE STATE OF MICHIGAN¹

of 1909

ARTICLE II

DECLARATION OF RIGHTS

Sect. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sect. 2. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the legislature for redress of grievances.

Sect. 3. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sect. 4. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of such right; and no law shall be passed to restrain or abridge the liberty of speech or of the press.

Sect. 5. Every person has a right to bear arms for the defence of himself and the state.

Sect. 6. The military shall in all cases and at all times be in strict subordination to the civil power.

Sect. 7. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sect. 8. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

Sect. 9. No bill of attainder, *ex post facto* law or law impairing the obligation of contracts shall be passed.

Sect. 10. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation: Provided, however, that the provisions of this section shall not be construed to bar from evidence in any court of criminal jurisdiction, or in any

criminal proceeding held before any magistrate or justice of the peace, any firearm, rifle, pistol, revolver, automatic pistol, machine-gun, bomb, bomb-shell, explosive, blackjack, slingshot, billy, metallic knuckles, gas-ejecting device, or any other dangerous weapon or thing, seized by any peace officer outside the curtilage of any dwelling house in this state.

Sect. 11. The privilege of the writ of *habeas corpus* shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sect. 12. Any suitor in any court of this state shall have the right to prosecute or defend his suit, either in his own proper person or by an attorney or agent of his choice.

Sect. 13. The right of trial by jury shall remain, but shall be deemed to be waived in all civil cases unless demanded by one of the parties in such manner as shall be prescribed by law.

Sect. 14. No person, after acquittal upon the merits, shall be tried for the same offence. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason, when the proof is evident or the presumption great.

Sect. 15. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sect. 16. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.

Sect. 17. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sect. 18. In all prosecutions for libels the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sect. 19. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than twelve men in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favour; to have the assistance of counsel for his defence; and in courts of record, when the trial court shall so order, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sect. 20. No person shall be imprisoned for debt arising out of, or founded on a contract, express

¹ *Constitution of the State of Michigan*, published under the supervision of Harry F. Kelly, Secretary of State, Lansing, Michigan, 1941.

or implied, except in cases of fraud or breach of trust, or of moneys collected by public officers or in any professional employment. No person shall be imprisoned for a military fine in time of peace.

Sect. 21. Treason against the state shall consist

only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act, or on confession in open court.

CONSTITUTION OF THE STATE OF MINNESOTA¹

of 1858

ARTICLE I BILL OF RIGHTS

Sect. 1. Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify or reform such government, whenever the public good may require it.

Sect. 2. No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the state otherwise than the punishment of crime, whereof the party shall have been duly convicted.

Sect. 3. The liberty of the press shall for ever remain inviolate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right.

Sect. 4. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but a jury trial may be waived by the parties in all cases in the manner prescribed by law; (and the legislature may provide that the agreement of five-sixths of any jury in any civil action or proceeding, after not less than six (6) hours' deliberation, shall be a sufficient verdict therein).

Sect. 5. Excessive bail shall not be required, nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted.

Sect. 6. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel in his defence.

Sect. 7. No person shall be held to answer for a criminal offence without due process of law, and no person for the same offence shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property

without due process of law. All persons shall, before conviction be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when in case of rebellion or invasion the public safety may require.

Sect. 8. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain justice freely and without purchase; completely and without denial; promptly and without delay, conformable to the laws.

Sect. 9. Treason against the state shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Sect. 10. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

Sect. 11. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts shall ever be passed, and no conviction shall work corruption of blood or forfeiture of estate.

Sect. 12. No person shall be imprisoned for debt in this state, but this shall not prevent the legislature from providing for imprisonment, or holding to bail, persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale for the payment of any debt or liability. The amount of such exemption shall be determined by law. (Provided, however, that all property so exempted shall be liable to seizure and sale for any debts incurred to any person for work done or materials furnished in the construction, repair or improvement of the same, and provided further, that such liability, to seizure and sale shall also extend to all real property for any debt incurred to any labourer or servant for labour or service performed.)

Sect. 13. Private property shall not be taken, destroyed or damaged for public use without just compensation therefor, first paid or secured.

¹ *Constitution of the State of Minnesota*, prepared by Mike Holm, Secretary of State. (No date.)

Sect. 14. The military shall be subordinate to the civil power, and no standing army shall be kept up in this state in times of peace.

Sect. 15. All lands within the state are declared to be allodial, and feudal tenures of every description, with all their incidents, are prohibited. Leases and grants of agricultural lands for a longer period than twenty-one years hereafter made, in which shall be reserved any rent or service of any kind, shall be void.

Sect. 16. The enumeration of rights in this constitution shall not be construed to deny or impair others retained by and inherent in the people. The right of every man to worship God, according to the dictates of his own conscience shall never be infringed, nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any religious or ecclesiastical ministry, against his consent; nor shall any control of or interference with the rights of conscience be per-

mitted, or any preference be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the state, nor shall any money be drawn from the treasury for the benefit of any religious societies, or religious or theological seminaries.

Sect. 17. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the state. No religious test or amount of property shall ever be required as qualification of any voter at any election in this state; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion.

Sect. 18. Any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a licence therefor.

CONSTITUTION OF THE STATE OF MISSISSIPPI¹

of 1890

ARTICLE 3

BILL OF RIGHTS

Sect. 5. All political power is vested in, and derived from, the people; all government of right originates with the people, as founded upon their will only, and is instituted solely for the good of the whole.

Sect. 6. The people of this state have the inherent, sole, and exclusive right to regulate the internal government and police thereof, and to alter and abolish their constitution and form of government, whenever they deem it necessary to their safety and happiness; Provided, such change be not repugnant to the Constitution of the United States.

Sect. 7. The right to withdraw from the Federal Union on account of any real or supposed grievance, shall never be assumed by this state, nor shall any law be passed in derogation of the paramount allegiance of the citizens of this state to the Government of the United States.

Sect. 8. All persons, resident in this state, citizens of the United States, are hereby declared citizens of the state of Mississippi.

Sect. 9. The military shall be in strict subordination to the civil power.

Sect. 10. Treason against the state shall consist only in levying war against the same or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Sect. 11. The right of the people peaceably to assemble and petition the government on any subject shall never be impaired.

Sect. 12. The right of every citizen to keep and bear arms in defence of his home, person or property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but the legislature may regulate or forbid carrying concealed weapons.

Sect. 13. The freedom of speech and of the press shall be held sacred; and in all prosecutions for libel the truth may be given in evidence, and the jury shall determine the law and the facts under the direction of the court; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted.

Sect. 14. No person shall be deprived of life, liberty, or property except by due process of law.

Sect. 15. There shall be neither slavery nor involuntary servitude in this state, otherwise than in the punishment of crime, whereof the party shall have been duly convicted.

Sect. 16. *Ex post facto* laws, or laws impairing the obligation of contracts, shall not be passed.

Sect. 17. Private property shall not be taken or damaged for public use, except on due compensation being first made to the owner or owners thereof, in a manner to be prescribed by law; and whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be public shall be a judicial question, and, as such, determined

¹The Constitution of the State of Mississippi. Compiled by Greek L. Rice, Attorney-General, 1942.

without regard to legislative assertion that the use is public.

Sect. 18. No religious test as a qualification for office shall be required; and no preference shall be given by law to any religious sect or mode of worship; but the free enjoyment of all religious sentiments and the different modes of worship shall be held sacred. The rights hereby secured shall not be construed to justify acts of licentiousness injurious to morals or dangerous to the peace and safety of the state, or to exclude the Holy Bible from use in any public school of this state.

Sect. 19. Human life shall not be imperilled by the practice of duelling, and any citizen of this state who shall hereafter fight a duel, or assist in the same as second, or send, accept, or knowingly carry a challenge therefor, whether such an act be done in the state, or out of it, or who shall go out of the state to fight a duel, or to assist in the same as second, or to send, accept, or carry a challenge, shall be disqualified from holding any office under this constitution, and shall be disfranchised.

Sect. 20. No person shall be elected or appointed to office in this state for life or during good behaviour, but the term of all offices shall be for some specified period.

Sect. 21. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion, the public safety may require it, nor even without the authority of the legislature.

Sect. 22. No person's life or liberty shall be twice placed in jeopardy for the same offence; but there must be an actual acquittal or conviction on the merits to bar another prosecution.

Sect. 23. The people shall be secure in their persons, houses, and possessions, from unreasonable seizure or search; and no warrant shall be issued, without probable cause, supported by oath or affirmation, specially designating the place to be searched and the person or thing to be seized.

Sect. 24. All courts shall be open; and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice shall be administered without sale, denial, or delay.

Sect. 25. No person shall be debarred from prosecuting or defending any civil cause for or against him or herself, before any tribunal in the state, by him or herself, or counsel, or both.

Sect. 26. In all criminal prosecutions the accused shall have a right to be heard by himself or counsel, or both, to demand the nature and cause of the accusation, to be confronted by the witnesses against him, to have compulsory process for obtaining witnesses in his favour, and, in all prosecutions by indictment or information, a speedy and public trial by an impartial jury of the county where the offence was committed; and he shall not be compelled to give evidence against himself; but

in prosecutions for rape, adultery, fornication, sodomy or the crime against nature the court may, in its discretion, exclude from the court-room all persons except such as are necessary in the conduct of the trial.

Sect. 27. No person shall, for any indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces or the military when in actual service, or by leave of the court for misdemeanour in office; but the legislature, in cases not punishable by death or by imprisonment in the penitentiary, may dispense with the inquest of the grand jury, and may authorize prosecutions before justices of the peace, or such other inferior court or courts as may be established, and the proceedings in such cases shall be regulated by law.

Sect. 28. Cruel or unusual punishment shall not be inflicted, nor excessive fines be imposed.

Sect. 29. Excessive bail shall not be required, and all persons shall, before conviction, be bailable by sufficient sureties, except for capital offences when the proof is evident or presumption great.

Sect. 30. There shall be no imprisonment for debt.

Sect. 31. The right of trial by jury shall remain inviolate, but the legislature may, by enactment, provide that in all civil suits tried in the circuit and chancery court, nine or more jurors may agree on the verdict and return it as the verdict of the jury.

Sect. 32. The enumeration of rights in this constitution shall not be construed to deny and impair others retained by, and inherent in, the people.

ARTICLE 8 EDUCATION

Sect. 201. It shall be the duty of the legislature to encourage by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement, by establishing a uniform system of free public schools by taxation or otherwise for all children between the ages of six and twenty-one years, and as soon as practicable, to establish schools of higher grade.

Sect. 202. There shall be a superintendent of public education elected at the same time and in the same manner as the governor, who shall have the qualifications required of the secretary of state, and hold his office for four years, and until his successor shall be elected and qualified, who shall have the general supervision of the common schools and of the educational interests of the state, and who shall perform such other duties and receive such compensation as shall be prescribed by law.

Sect. 203. There shall be a board of education, consisting of the secretary of state, the attorney-general, and the superintendent of public education, for the management and investment of the

school funds according to law, and for the performance of such other duties as may be prescribed. The superintendent and one other of said board shall constitute a quorum.

Sect. 204. There shall be a Superintendent of Public Education in each county, who shall be appointed by the Board of Education by and with the advice and consent of the senate, whose term of office shall be four years, and whose qualifications, compensation, and duties, shall be prescribed by law: Provided, that the legislature shall have power to make the office of County School Superintendent of the several counties elective, or may otherwise provide for the discharge of the duties of county superintendent, or abolish said office.

Sect. 205. A public school shall be maintained in each school district in the county at least four months during each scholastic year. A school district neglecting to maintain its school four months, shall be entitled to only such part of the free school fund as may be required to pay the teacher for the time actually taught.

Sect. 206. There shall be a county common-school fund, which shall consist of the poll-tax, to be retained in the counties where the same is collected, and a state common-school fund, to be taken from the general fund in the state treasury, which together shall be sufficient to maintain the common schools for the term of four months in each scholastic year. But any county or separate school district may levy in additional tax to maintain its schools for a longer time than the term of four months. The state common-school fund shall be distributed among the several counties and separate school districts in proportion to the number of educable children in each, to be determined by data collected through the office of the State Superintendent of Education in the manner to be prescribed by law.

Sect. 207. Separate schools shall be maintained for children of the white and coloured races.

Sect. 208. No religious or other sect or sects

shall ever control any part of the school or other educational funds of this state; nor shall any funds be appropriated towards the support of any sectarian school, or to any school that at the time of receiving such appropriation is not conducted as a free school.

Sect. 209. It shall be the duty of the legislature to provide by law for the support of institutions for the education of the deaf, dumb, and blind.

Sect. 210. No public officer of this state, or any district, county, city or town thereof, nor any teacher or trustee of any public school, shall be interested in the sale, proceeds or profits of any books, apparatus, or furniture to be used in any public school in this state. Penalties shall be provided by law for the violation of this section.

[Sections 211 and 212 contain very detailed provisions regarding the disposition of state lands, trust funds, interests, etc.]

Sect. 213. The state having received and appropriated the land donated to it for the support of agricultural and mechanical colleges by the United States, and having, in furtherance of the beneficent design of Congress in granting said land, established the Agricultural and Mechanical College of Mississippi and the Alcorn Agricultural and Mechanical College, it is the duty of the state to sacredly carry out the conditions of the act of Congress upon the subject, approved 2 July A.D. 1862, and the legislature shall preserve intact the endowments to and support said colleges.

ARTICLE 14

GENERAL PROVISIONS

Sect. 263. The marriage of a white person with a negro or mulatto, or person who shall have one-eighth or more of negro blood, shall be unlawful and void.

Sect. 265. No person who denies the existence of a Supreme Being shall hold office in this state.

CONSTITUTION OF THE STATE OF MISSOURI¹

of 1945

ARTICLE I

BILL OF RIGHTS

In order to assert our rights, acknowledge our duties, and proclaim the principles on which our government is founded, we declare:

Sect. 1. That all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

Sect. 2. That all constitutional government is

intended to promote the general welfare of the people; that all persons have a natural right to life, liberty, the pursuit of happiness and the enjoyment of the gains of their own industry; that all persons are created equal and are entitled to equal rights and opportunity under the law; that to give security to these things is the principal office of government, and that when government does not confer this security, it fails in its chief design.

Sect. 3. That the people of this state have the inherent, sole and exclusive right to regulate the internal government and police thereof, and to alter and abolish their constitution and form of

¹ *New Constitution of Missouri.* Submitted at special election of 27 February 1945.

government whenever they may deem it necessary to their safety and happiness, provided such change be not repugnant to the Constitution of the United States.

Sect. 4. That Missouri is a free and independent state, subject only to the Constitution of the United States; that all proposed amendments to the Constitution of the United States qualifying or affecting the individual liberties of the people or which in any wise may impair the right of local self-government belonging to the people of this state, should be submitted to conventions of the people.

Sect. 5. That all men have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences; that no human authority can control or interfere with the rights of conscience; that no person shall, on account of his religious persuasion or belief, be rendered ineligible to any public office of trust or profit in this state, be disqualified from testifying or serving as a juror, or be molested in his person or estate; but this section shall not be construed to excuse acts of licentiousness, nor to justify practices inconsistent with the good order, peace or safety of the state, or with the rights of others.

Sect. 6. That no person can be compelled to erect, support or attend any place or system of worship, or to maintain or support any priest, minister, preacher, or teacher of any sect, church, creed, or denomination of religion; but if any person shall voluntarily make a contract for any such object, he shall be held to the performance of the same.

Sect. 7. That no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect or denomination of religion, or in aid of any priest, preacher, minister or teacher thereof, as such; and that no preference shall be given to nor any discrimination made against any church, sect, or creed of religion, or any form of religious faith or worship.

Sect. 8. That no law shall be passed impairing the freedom of speech, no matter by what means communicated; that every person shall be free to say, write or publish, or otherwise communicate whatever he will on any subject, being responsible for all abuses of that liberty; and that in all suits and prosecutions for libel or slander the truth thereof may be given in evidence; and in suits and prosecutions for libel the jury, under the direction of the court, shall determine the law and the facts.

Sect. 9. That the people have the right peaceably to assemble for their common good, and to apply to those invested with the powers of government for redress of grievances by petition or remonstrance.

Sect. 10. That no person shall be deprived of

life, liberty or property without due process of law.

Sect. 11. That no person shall be imprisoned for debt, except for non-payment of fines and penalties, imposed by law.

Sect. 12. That the privilege of the writ of *habeas corpus* shall never be suspended.

Sect. 13. That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges or immunities, can be enacted.

Sect. 14. That the courts of justice shall be open to every person, and certain remedy afforded for every injury to person, property or character, and that right and justice shall be administered without sale, denial or delay.

Sect. 15. That the people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without describing the place to be searched, or the person or thing to be seized, as nearly as may be; nor without probable cause, supported by written oath or affirmation.

Sect. 16. That a grand jury shall consist of twelve citizens, any nine of whom concurring may find an indictment or a true bill; provided, that no grand jury shall be convened, except upon an order of a judge of a court having the power to try and determine felonies; but when so assembled such grand jury shall have power to investigate and return indictments for all character and grades of crime; and that the power of grand juries to inquire into the wilful misconduct in office of public officers, and to find indictments in connexion therewith, shall never be suspended.

Sect. 17. That no person shall be prosecuted criminally for felony or misdemeanour otherwise than by indictment or information, which shall be concurrent remedies, but this shall not be applied to cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger, nor to prevent arrests and preliminary examination in any criminal case.

Sect. 18. That in criminal prosecutions the accused shall have the right to appear and defend, in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy public trial by an impartial jury of the county.

Upon a hearing and finding by the circuit court in any case wherein the accused is charged with a felony, that it is necessary to take the deposition of any witness within the state, other than the defendant and spouse, in order to preserve the testimony, and on condition that the court make such orders as will fully protect the rights of per-

sonal confrontation and cross-examination of the witness by defendant, the state may take the deposition of such witness and either party may use the same at the trial, as in civil cases, provided there has been substantial compliance with such orders. The reasonable personal and travelling expenses of defendant and his counsel shall be paid by the state or county as provided by law.

Sect. 19. That no person shall be compelled to testify against himself in a criminal cause, nor shall any person be put again in jeopardy of life or liberty for the same offence, after being once acquitted by a jury; but if the jury fail to render a verdict the court may, in its discretion, discharge the jury and commit or bail the prisoner for trial at the same or next term of court; and if judgment be arrested after a verdict of guilty on a defective indictment or information, or if judgment on a verdict of guilty be reversed for error in law, the prisoner may be tried anew on a proper indictment or information, or according to the law.

Sect. 20. That all persons shall be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great.

Sect. 21. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Sect. 22. That the right of trial by jury as heretofore enjoyed shall remain inviolate; provided that a jury for the trial of criminal and civil cases in courts not of record may consist of less than twelve citizens as may be prescribed by law, and a two-thirds majority of such number concurring may render a verdict in all civil cases; that in all civil cases in courts of record, three-fourths of the members of the jury concurring may render a verdict; and that in every criminal case any defendant may, with the assent of the court, waive a jury trial and submit the trial of such case to the court, whose findings shall have the force and effect of a verdict of a jury.

No citizen shall be disqualified from jury service because of sex, but the court shall excuse any woman who requests exemption therefrom before being sworn as a juror.

Sect. 23. That the right of every citizen to keep and bear arms in defence of his home, person and property, or when lawfully summoned in aid of the civil power, shall not be questioned; but this shall not justify the wearing of concealed weapons.

Sect. 24. That the military shall always be in strict subordination to the civil power; that no soldier shall be quartered in any house without the consent of the owner in time of peace; nor in time of war, except as prescribed by law.

Sect. 25. That all elections shall be free and open; and no power, civil or military, shall at any

time interfere to prevent the free exercise of the right of suffrage.

Sect. 26. That private property shall not be taken or damaged for public use without just compensation. Such compensation shall be ascertained by a jury or board of commissioners of not less than three freeholders, in such manner as may be provided by law; and until the same shall be paid to the owner, or into court for the owner, the property shall not be disturbed or the proprietary rights of the owner therein divested. The fee of land taken for railroad purposes without consent of the owner thereof shall remain in such owner subject to the use for which it is taken.

Sect. 27. That in such manner and under such limitations as may be provided by law, the state, or any county or city may acquire by eminent domain such property, or rights in property, in excess of that actually to be occupied by the public improvement or used in connexion therewith, as may be reasonably necessary to effectuate the purposes intended, and may be vested with the fee simple title thereto, or the control of the use thereof, and may sell such excess property with such restrictions as shall be appropriate to preserve the improvements made.

Sect. 28. That private property shall not be taken for private use with or without compensation, unless by consent of the owner, except for private ways of necessity, and except for drains and ditches across the lands of others for agricultural and sanitary purposes, in the manner prescribed by law; and that when an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be public shall be judicially determined without regard to any legislative declaration that the use is public.

Sect. 29. That employees shall have the right to organize and to bargain collectively through representatives of their own choosing.

Sect. 30. That treason against the state can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; that no person can be convicted of treason unless on the testimony of two witnesses to the same overt act, or on his confession in open court; that no person can be attainted of treason or felony by the General Assembly; that no conviction can work corruption of blood or forfeiture of estate; that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death; and when any person shall be killed by casualty there shall be no forfeiture by reason thereof.

Sect. 31. That no laws shall delegate to any commission, bureau, board, or other administrative agency authority to make any rule fixing a fine or imprisonment as punishment for its violation.

CONSTITUTION OF THE STATE OF MONTANA¹

of 1889

ARTICLE III

A DECLARATION OF RIGHTS OF THE PEOPLE OF THE STATE OF MONTANA

Sect. 1. All political power is vested in and derived from the people; all government of right originates with the people; is founded upon their will only, and is instituted solely for the good of the whole.

Sect. 2. The people of the state have the sole and exclusive right of governing themselves, as a free, sovereign and independent state, and to alter and abolish their constitution and form of government, whenever they may deem it necessary to their safety and happiness, provided such change be not repugnant to the Constitution of the United States.

Sect. 3. All persons are born equally free, and have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties, of acquiring, possessing and protecting property, and of seeking and obtaining their safety and happiness in all lawful ways.

Sect. 4. The free exercise and enjoyment of religious profession and worship, without discrimination, shall for ever hereafter be guaranteed, and no person shall be denied any civil or political right or privilege on account of his opinions concerning religion, but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, by bigamous or polygamous marriage, or otherwise, or justify practices inconsistent with the good order, peace or safety of the state, or opposed to the civil authority thereof, or of the United States. No person shall be required to attend any place of worship or support any ministry, religious sect, or denomination, against his consent; nor shall any preference be given by law to any religious denomination or mode of worship.

Sect. 5. All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Sect. 6. Courts of justice shall be open to every person, and a speedy remedy afforded for every injury of person, property or character; and that right and justice shall be administered without sale, denial or delay.

Sect. 7. The people shall be secure in their persons, papers, homes, and effects, from unreasonable searches and seizures, and no warrant to search any place or seize any person or thing shall issue

without describing the place to be searched, or the person or thing to be seized, nor without probable cause, supported by oath or affirmation, reduced to writing.

Sect. 8. Criminal offences of which justices' courts and municipal and other courts, inferior to the district courts, have jurisdiction, shall, in all courts inferior to the district court, be prosecuted by complaint. All criminal actions in the district courts, except those on appeal, shall be prosecuted by information, after examination and commitment by a magistrate or after leave granted by the court, or shall be prosecuted by indictment without such examination or commitment, or without such leave of the court. A grand jury shall consist of seven persons, of whom five must concur to find an indictment.

A grand jury shall only be drawn and summoned when the district judge shall, in his discretion, consider it necessary, and shall so order.

Sect. 9. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on his confession in open court; no person shall be attainted of treason or felony by the legislative assembly; no conviction shall work corruption of blood or forfeiture of estate; the estates of persons who may destroy their own lives shall descend or vest as in cases of natural death.

Sect. 10. No law shall be passed impairing the freedom of speech; every person shall be free to speak, write, or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that in all suits and prosecutions for libel, the truth thereof may be given in evidence; and the jury under the direction of the court, shall determine the law and the facts.

Sect. 11. No *ex post facto* law nor law impairing the obligation of contracts, or making any irrevocable grant of special privilege, franchises, or immunities, shall be passed by the legislative assembly.

Sect. 12. No person shall be imprisoned for debt except in the manner prescribed by law, upon refusal to deliver up his estate for the benefit of his creditors, or in cases of tort, where there is strong presumption of fraud.

Sect. 13. The right of any person to keep or bear arms in defence of his own home, person, and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.

Sect. 14. Private property shall not be taken or damaged for public use without just compensation

¹ *Constitution of the State of Montana.* State Publishing Co., Helena, Montana. (No date.)

having first been made to or paid into court for the owner.

Sect. 15. The use of all water now appropriated, or that may hereafter be appropriated for sale, rental, distribution, or other beneficial use, and the right of way over the lands of others, for all ditches, drains, flumes, canals, and aqueducts, necessarily used in connexion therewith, as well as the sites for reservoirs necessary for collecting and storing the same, shall be held to be a public use. Private roads may be opened in the manner to be prescribed by law, but in every case the necessity of the road, and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefited.

Sect. 16. In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence was alleged to have been committed, subject to the right of the state to have a change of venue for any of the causes for which the defendant may obtain the same.

Sect. 17. No person shall be imprisoned for the purpose of securing his testimony in any criminal proceeding longer than may be necessary in order to take his deposition. If he can give security for his appearance at the time of trial, he shall be discharged upon giving the same; if he cannot give security, his deposition shall be taken in the manner prescribed by law, and in the presence of the accused and his counsel, or without their presence, if they shall fail to attend the examination after reasonable notice of the time and place thereof. Any deposition authorized by this section may be received as evidence on the trial, if the witness shall be dead or absent from the state.

Sect. 18. No person shall be compelled to testify against himself, in a criminal proceeding, nor shall any person be twice put in jeopardy for the same offence.

Sect. 19. All persons shall be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great.

Sect. 20. Excessive bail shall not be required, or excessive fines imposed, or cruel and unusual punishments inflicted.

Sect. 21. The privilege of the writ of *habeas corpus* shall never be suspended, unless, in case of rebellion, or invasion, the public safety require it.

Sect. 22. The military shall always be in strict subordination to the civil power; no soldier shall

in time of peace be quartered in any house without the consent of the owner nor in time of war, except in the manner prescribed by law.

Sect. 23. The right of trial by jury shall be secured to all, and remain inviolate, but in all civil cases and in all criminal cases not amounting to felony, upon default of appearance, or by consent of the parties, expressed in such manner as the law may prescribe, a trial by jury may be waived, or a trial had by any less number of jurors than the number provided by law. A jury in a justice's court, both in civil cases and in cases of criminal misdemeanour, shall consist of not more than six persons. In all civil actions and in all criminal cases not amounting to felony, two-thirds in number of the jury may render a verdict, and such verdict so rendered shall have the same force and effect as if all of such jury concurred therein.

Sect. 24. Laws for the punishment of crime shall be founded on the principles of reformation and prevention, but this shall not affect the power of the legislative assembly to provide for punishing offences by death.

Sect. 25. Aliens and denizens shall have the same right as citizens to acquire, purchase, possess, enjoy, convey, transmit and inherit mines and mining property, and milling, reduction, concentrating, and other works, and real property necessary for or connected with the business of mining and treating ores and minerals; Provided, that nothing herein contained shall be construed to infringe upon the authority of the United States to provide for the sale or disposition of its mineral and other public lands.

Sect. 26. The people shall have the right peaceably to assemble for the common good, and to apply to those invested with the powers of government for redress of grievances by petition or remonstrance.

Sect. 27. No person shall be deprived of life, liberty, or property without due process of law.

Sect. 28. There shall never be in this state either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

Sect. 29. The provisions of this constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

Sect. 30. The enumeration in this constitution of certain rights shall not be construed to deny, impair or disparage others retained by the people.

Sect. 31. No armed person or persons or armed body of men shall be brought into this state for the preservation of the peace, or the suppression of domestic violence, except upon the application of the legislative assembly, or of the governor when the legislative assembly cannot be convened.

ARTICLE XVIII

LABOUR

Sect. 3. It shall be unlawful to employ children under the age of sixteen (16) years of age in underground mines.

Sect. 4. A period of eight hours shall constitute a day's work in all industries, occupations, undertakings, and employments, except farming and stock-raising; provided, however, that the legislative assembly may by law reduce the number of hours constituting a day's work whenever in its

opinion a reduction will better promote the general welfare, but it shall have no authority to increase the number of hours constituting a day's work beyond that herein provided.

ORDINANCE NO. I

FEDERAL RELATIONS

That perfect toleration of religious sentiment shall be secured and that no inhabitant of the state of Montana shall ever be molested in person or property, on account of his or her mode of religious worship.

CONSTITUTION OF THE STATE OF NEBRASKA¹

of 1875

ARTICLE I

BILL OF RIGHTS

Sect. 1. All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty and the pursuit of happiness. To secure these rights, and the protection of property, governments are instituted among people, deriving their just powers from the consent of the governed.

Sect. 2. There shall be neither slavery nor involuntary servitude in this state, otherwise than for punishment of crime, whereof the party shall have been duly convicted.

Sect. 3. No person shall be deprived of life, liberty or property without due process of law.

Sect. 4. All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences. No person shall be compelled to attend, erect or support any place of worship against his consent, and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the legislature to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

Sect. 5. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth when published with good motives, and for justifiable ends, shall be a sufficient defence.

Sect. 6. The right of trial by jury shall remain inviolate, but the legislature may authorize trial by a jury of a less number than twelve in courts inferior to the district court, and may by general law authorize a verdict in civil cases in any court by not less than five-sixths of the jury.

Sect. 7. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

Sect. 8. The privilege of the writ of *habeas corpus* shall not be suspended, unless in case of rebellion or invasion, the public safety requires, and then only in such manner as shall be prescribed by law.

Sect. 9. All persons shall be bailable by sufficient sureties, except for treason and murder, where the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Sect. 10. No person shall be held to answer for a criminal offence, except in cases in which the punishment is by fine, or imprisonment, otherwise than in the penitentiary, in case of impeachment, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, unless on a presentment or indictment of a grand jury; Provided, that the legislature may, by law, provide for holding persons to answer for criminal offences on information of a public prosecutor; and may, by law, abolish, limit, change, amend or otherwise regulate the grand jury system.

Sect. 11. In all criminal prosecutions the accused shall have the right to appear and defend in person or by counsel, to demand the nature and cause of accusation, and to have a copy thereof; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy public trial by

¹ *Constitution of the State of Nebraska.* Distributed by Frank Marsh, Secretary of State, Lincoln, Nebraska. (No date.)

an impartial jury of the county or district in which the offence is alleged to have been committed.

Sect. 12. No person shall be compelled, in any criminal case, to give evidence against himself, or be twice put in jeopardy for the same offence.

Sect. 13. All courts shall be open and every person, for any injury done him in his lands, goods, person, or reputation, shall have a remedy by due course of law, and justice administered without denial or delay.

Sect. 14. Treason against the state shall consist only in levying war against the state, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Sect. 15. All penalties shall be proportioned to the nature of the offence, and no conviction shall work corruption of blood or forfeiture of estate; nor shall any person be transported out of the state for any offence committed within the state.

Sec. 16. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities shall be passed.

Sect. 17. The military shall be in strict subordination to the civil power.

Sect. 18. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war except in the manner prescribed by law.

Sect. 19. The right of the people peaceably to assemble to consult for the common good, and to petition the government, or any department thereof, shall never be abridged.

Sect. 20. No person shall be imprisoned for debt in any civil action or mesne or final process, unless in cases of fraud.

Sect. 21. The property of no person shall be taken or damaged for public use without just compensation therefor.

Sect. 22. All elections shall be free; and there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise.

Sect. 23. The writ of error shall be a writ of right in all cases of felony; and in capital cases shall operate as a *supersedeas* to stay the execution of the sentence of death, until the further order of the Supreme Court in the premises.

Sect. 24. The right to be heard in all civil cases in the court of last resort, by appeal, error, or otherwise, shall not be denied.

Sect. 25. There shall be no discrimination be-

tween citizens of the United States in respect to the acquisition, ownership, possession, enjoyment or descent of property.

The right of aliens in respect to the acquisition, enjoyment and descent of property may be regulated by law.

Sect. 26. This enumeration of rights shall not be construed to impair or deny others retained by the people, and all powers not herein delegated remain with the people.

Sect. 27. The English language is hereby declared to be the official language of this state, and all official proceedings, records, and publications shall be in such language, and the common school branches shall be taught in said language in public, private, denominational and parochial schools.

ARTICLE XV

MISCELLANEOUS PROVISIONS

Sect. 8. Laws may be enacted regulating the hours and conditions of employment of women and children, and securing to such employees a proper minimum wage.

Sect. 9. Laws may be enacted providing for the investigation, submission and determination of controversies between employers and employees in any business or vocation affected with a public interest, and for the prevention of unfair business practices and unconscionable gains in any business or vocation affecting the public welfare. An industrial commission may be created for the purpose of administering such laws, and appeals shall lie to the Supreme Court from the final orders and judgments of such commission.

Sect. 13. No person shall be denied employment because of membership in or affiliation with, or resignation or expulsion from a labour organization or because of refusal to join or affiliate with a labour organization; nor shall any individual or corporation or association of any kind enter into any contract, written or oral, to exclude persons from employment because of membership in or non-membership in a labour organization.

Sect. 14. The term "labour organization" means any organization of any kind, or any agency or employee representation committee or plan, which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labour disputes, wages, rates of pay, hours of employment, or conditions of work.

Sect. 15. This article is self-executing, and shall supersede all provisions in conflict therewith; legislation may be enacted to facilitate its operation, but no law shall limit or restrict the provisions hereof.

CONSTITUTION OF THE STATE OF NEVADA¹

of 1864

ARTICLE I

DECLARATION OF RIGHTS

Sect. 1. All men are, by nature, free and equal, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

Sect. 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people; and they have the right to alter or reform the same whenever the public good may require it. But the paramount allegiance of every citizen is due to the federal government, in the exercise of all its constitutional powers, as the same have been, or may be, defined by the Supreme Court of the United States, and no power exists in the people of this or any other state of the Federal Union to dissolve their connexion therewith, or perform any act tending to impair, subvert, or resist the supreme authority of the Government of the United States. The constitution of the United States confers full power on the federal government to maintain and perpetuate its existence, and whensoever any portion of the states, or people thereof, attempt to secede from the Federal Union, or forcibly resist the execution of its laws, the federal government may, by warrant of the Constitution, employ armed force in compelling obedience to its authority.

Sect. 3. The right of trial by jury shall be secured to all, and remain inviolate forever; but a jury trial may be waived by the parties in all civil cases, in the manner to be prescribed by law; and in civil cases, if three-fourths of the jurors agree upon a verdict, it shall stand and have the same force and effect as a verdict by the whole jury; *provided*, the legislature, by a law passed by a two-thirds vote of all the members elected to each branch thereof, may require a unanimous verdict, notwithstanding this provision.

Sect. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall for ever be allowed in this state; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of his religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

Sect. 5. The privilege of the writ of *habeas*

corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

Sect. 6. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishments be inflicted; nor shall witnesses be unreasonably detained.

Sect. 7. All persons shall be bailable by sufficient sureties, unless for capital offences when the proof is evident or the presumption great.

Sect. 8. No person shall be tried for a capital or other infamous crime (except in cases of impeachment, and in cases of the militia when in actual service, and the land and naval forces in time of war or which this state may keep, with the consent of Congress, in time of peace, and in cases of petit larceny, under the regulation of the legislature) except on presentment or indictment of the grand jury, or upon information duly filed by a district attorney, or attorney-general of the state, and in any trial, in any court whatever, the party accused shall be allowed to appear and defend in person, and with counsel, as in civil actions. No person shall be subject to be twice in jeopardy for the same offence; nor shall he be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation having first been made, or secured, except in cases of war, riot, fire, or great public peril, in which case compensation shall be afterward made.

Sect. 9. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for libels the truth may be given to the jury, and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted or exonerated.

Sect. 10. The people shall have the right freely to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

Sect. 11. The military shall be subordinate to the civil power. No standing army shall be maintained by this state in time of peace, and in time of war no appropriation for a standing army shall be for a longer time than two years.

Sect. 12. No soldier shall, in time of peace, be quartered in any house without the consent of the

¹ *Constitution of the State of Nevada.* State Printing Office, Carson City, Nevada, 1943.

owner, nor in time of war, except in the manner to be prescribed by law.

Sect. 13. Representation shall be apportioned according to population.

Sect. 14. The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for payment of any debts or liabilities hereafter contracted; and there shall be no imprisonment for debt, except in cases of fraud, libel or slander, and no person shall be imprisoned for a militia fine in time of peace.

Sect. 15. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

Sect. 16. [Repealed.]

Sect. 17. Neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this state.

Sect. 18. The right of the people to be secure in their persons, houses, papers, and effects

against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation particularly describing the place or places to be searched, and the person or persons, and thing or things to be seized.

Sect. 19. Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. And no person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Sect. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ARTICLE XVIII

RIGHT OF SUFFRAGE

Sect. 1. The rights of suffrage and office-holding shall not be withheld from any male citizen of the United States by reason of his colour or previous condition of servitude.

CONSTITUTION OF THE STATE OF NEW HAMPSHIRE¹

of 1784

PART I

BILL OF RIGHTS

Art. 1. All men are born equally free and independent: Therefore, all government, of right, originates from the people, is founded in consent, and instituted for the general good.

Art. 2. All men have certain natural, essential, and inherent rights—among which are, the enjoying and defending life and liberty; acquiring, possessing, and protecting, property; and, in a word, of seeking and obtaining happiness.

Art. 3. When men enter into a state of society, they surrender up some of their natural rights to that society, in order to ensure the protection of others; and, without such an equivalent, the surrender is void.

Art. 4. Among the natural rights, some are, in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the rights of conscience.

Art. 5. Every individual has a natural and inalienable right to worship God according to the dictates of his own conscience, and reason; and no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession, sentiments, or persuasion: provided he

doth not disturb the public peace or disturb others in their religious worship.

Art. 6. As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay, in the hearts of men, the strongest obligations to due subjection; and as the knowledge of these is most likely to be propagated through a society, by the institution of the public worship of the Deity, and of public instruction in morality and religion; therefore, to promote these important purposes, the people of this state have a right to empower, and do hereby fully empower, the legislature, to authorize from time to time, the several towns, parishes, bodies corporate, or religious societies, within this state, to make adequate provisions, at their own expense, for the support and maintenance of public Protestant teachers of piety, religion and morality:

Provided, notwithstanding, that the several towns, parishes, bodies corporate, or religious societies, shall, at all times, have the exclusive right of electing their own public teachers, and of contracting with them for their support and maintenance. And no person, of any one particular religious sect or denomination, shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect, or denomination.

And every denomination of Christians, demeaning themselves quietly, and as good subjects of the state, shall be equally under the protection of the

¹ *The Constitution of the State of New Hampshire.* Published by the Department of State, Concord, New Hampshire, 1943.

law. And no subordination of any one sect or denomination to another, shall ever be established by law.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry; but all such contracts shall remain, and be in the same state as if this constitution had not been made.

Art. 7. The people of this state have the sole and exclusive right of governing themselves as a free, sovereign, and independent state; and do, and for ever hereafter shall, exercise and enjoy every power, jurisdiction, and right, pertaining thereto, which is not or may not hereafter be, by them expressly delegated to the United States of America in Congress assembled.

Art. 8. All power residing originally in, and being derived from, the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them.

Art. 9. No office or place whatsoever, in government, shall be hereditary—the abilities and integrity requisite in all, not being transmissible to posterity or relations.

Art. 10. Government being instituted for the common benefit, protection, and security, of the whole community, and not for the private interest or emolument of any one man, family, or class of men; therefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought, to reform the old, or establish a new government. The doctrine of non-resistance against arbitrary power, and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.

Art. 11. All elections ought to be free, and every inhabitant of the state, having the proper qualifications, has equal right to elect, and be elected, into office; but no person shall have the right to vote or be eligible to office under the constitution of this state who shall not be able to read the constitution in the English language and to write; provided, however, that this provision shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age or upwards on the first day of January, A.D. 1904, and provided further that no person shall have the right to vote or be eligible to office under the constitution of this state who shall have been convicted of treason, bribery or any wilful violation of the election laws of this state, or of the United States; but the Supreme Court, may, on notice to the attorney-general restore the privileges of an elector to any person who may have forfeited them by conviction of such offences. The general court shall have power to provide by law for voting by qualified voters who at the time of biennial or

state elections or of city elections are absent from the city or town of which they are inhabitants, or who by reason of physical disability are unable to vote in person, in the choice of any officer or officers to be elected or upon any questions submitted at such election.

Art. 12. Every member of the community has a right to be protected by it, in the enjoyment of his life, liberty, and property; he is therefore bound to contribute his share in the expense of such protection, and to yield his personal service when necessary, or an equivalent. But no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. Nor are the inhabitants of this state controllable by any other laws than those to which they, or their representative body have given their consent.

Art. 13. No person, who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay an equivalent.

Art. 14. Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly and without delay; conformably to the laws.

Art. 15. No subject shall be held to answer for any crime, or offence until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favourable to himself; to meet the witnesses against him face to face, and to be fully heard in his defence, by himself, and counsel. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

Art. 16. No subject shall be liable to be tried, after an acquittal, for the same crime or offence. Nor shall the legislature make any law that shall subject any person to a capital punishment (excepting for the government of the army and navy, and the militia in actual service) without trial by jury.

Art. 17. In criminal prosecutions, the trial of facts, in the vicinity where they happened, is so essential to the security of the life, liberty and estate of the citizen, that no crime or offence ought to be tried in any other county than that in which it is committed;—except in cases of general insurrection in any particular county, when it shall appear to the judges of the superior court, that an impartial trial cannot be had, in the county where the offence may be committed, and upon their

report the legislature shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

Art. 18. All penalties ought to be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery and the like, which they do to those of murder and treason. Where the same undistinguishing severity is exerted against all offences, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offences. For the same reason a multitude of sanguinary laws is both impolitic and unjust. The true design of all punishments being to reform, not to exterminate mankind.

Art. 19. Every subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. Therefore, all warrants to search suspected places, or arrest a person for examination or trial in prosecutions for criminal matters, are contrary to this right, if the cause or foundation of them be not previously supported, by oath or affirmation; and if the order, in a warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest or seizure; and no warrant ought to be issued; but in cases, and with the formalities, prescribed by law.

Art. 20. In all controversies concerning property and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practised, and except in cases in which the value in controversy does not exceed one hundred dollars, and title of real estate is not concerned, the parties have a right to a trial by jury and this method shall be held sacred, unless, in cases arising on the high seas and such as relates to mariners' wages the legislature shall think it necessary hereafter to alter it.

Art. 21. In order to reap the fullest advantage of the inestimable privilege of the trial by jury, great care ought to be taken, that none but qualified persons should be appointed to serve; and such ought to be fully compensated for their travel, time, and attendance.

Art. 22. The liberty of the press is essential to the security of freedom in a state; it ought, therefore, to be inviolably preserved.

Art. 23. Retrospective laws are highly injurious, oppressive, and unjust. No such laws, therefore, should be made, either for the decision of civil causes, or the punishment of offences.

Art. 24. A well-regulated militia is the proper, natural, and sure defence of a state.

Art. 25. Standing armies are dangerous to liberty, and ought not to be raised, or kept up, without the consent of the legislature.

Art. 26. In all cases, and at all times, the military ought to be under strict subordination to, and governed by, the civil power.

Art. 27. No soldier in time of peace, shall be quartered in any house, without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

Art. 28. No subsidy, charge, tax, impost, or duty, shall be established, fixed, laid or levied under any pretext whatsoever, without the consent of the people, or their representatives in the legislature, or authority derived from that body.

Art. 29. The power of suspending the laws, or the execution of them, ought never to be exercised but by the legislature, or by authority derived therefrom, to be exercised in such particular cases only as the legislature shall expressly provide for.

Art. 30. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any action, complaint, or prosecution, in any other court or place whatsoever.

Art. 31. The legislature shall assemble for the redress of public grievances and for making such laws as the public good may require.

Art. 32. The people have a right, in an orderly and peaceable manner, to assemble and consult upon the common good, give instructions to their representatives, and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

Art. 33. No magistrate, or court of law, shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

Art. 34. No person can, in any case, be subjected to law martial, or to any pains or penalties by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

Art. 35. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, that the judges of the supreme judicial court should hold their offices so long as they behave well; subject, however, to such limitations, on account of age, as may be provided by the constitution of the state; and that they should have honourable salaries, ascertained, and established by standing laws.

Art. 36. Economy being a most essential virtue in all states, especially in a young one, no pension shall be granted, but in consideration of actual services; and such pensions ought to be granted with great caution, by the legislature; and never for more than one year at a time.

Art. 37. In the government of this state, the three essential powers thereof, to wit, the legislative, executive, and judicial, ought to be kept as separate from, and independent of, each other, as the nature of a free government, will admit or as is consistent with that chain of connexion that bind the whole fabric of the constitution in one indissoluble bond of union and amity.

Art. 38. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government; the people ought, therefore, to have a particular regard to all those principles in the choice of their officers and representatives, and they have a right to require of their law-givers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of government.

PART II

FORM OF GOVERNMENT

Encouragement of Literature, Trades, etc.

Art. 33. Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be

the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools or institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavour to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all wrongs herein declared against.

CONSTITUTION OF THE STATE OF NEW JERSEY¹

of 1844

ARTICLE I

RIGHTS AND PRIVILEGES

1. All men are by nature free and independent, and have certain natural and inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness.

2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right at all times to alter or reform the same, whenever the public good may require it.

3. No person shall be deprived of the inestimable privilege of worshipping Almighty God in a manner agreeable to the dictates of his own con-

science; nor under any pretence whatever be compelled to attend any place of worship contrary to his faith and judgment; nor shall any person be obliged to pay tithes, taxes, or other rates for building or repairing any church, or churches, place, or places of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right, or has deliberately and voluntarily engaged to perform.

4. There shall be no establishment of one religious sect in preference to another; no religious test shall be required as a qualification for any office or public trust; and no person shall be denied the enjoyment of any civil right merely on account of his religious principles.

5. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall

¹ *Constitution of the State of New Jersey.* 1946.

be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

6. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the papers and things to be seized.

7. The right of trial by jury shall remain inviolate; but the legislature may authorize the trial of civil suits, when the matter in dispute does not exceed fifty dollars, by a jury of six men.

8. In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel in his defence.

9. No person shall be held to answer for a criminal offence, unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or navy; or in the militia, when in actual service in time of war or public danger.

10. No person shall, after acquittal, be tried for the same offence. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or presumption great.

11. The privilege of the writ of *habeas corpus* shall not be suspended unless in case of rebellion or invasion the public safety may require it.

12. The military shall be in strict subordination to the civil power.

13. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war except in a manner prescribed by law.

14. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

15. Excessive bail shall not be required, excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.

16. Private property shall not be taken for public use without just compensation; but land may be taken for public highways as heretofore until the legislature shall direct compensation to be made.

17. No person shall be imprisoned for debt in any action, or on any judgment founded upon contract, unless in cases of fraud; nor shall any person be imprisoned for a militia fine in time of peace.

18. The people have the right freely to assemble together, to consult for the common good, to make known their opinions to their representatives, and to petition for redress of grievances.

19. No county, city, borough, town, township, or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become security for or be directly or indirectly the owner of any stock or bonds of any association or corporation.

20. No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever.

21. This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

CONSTITUTION OF THE STATE OF NEW MEXICO¹

of 1912

ARTICLE II

BILL OF RIGHTS

Sect. 1. The State of New Mexico is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.

Sect. 2. All political power is vested in and derived from the people; all government of right

originates with the people, is founded upon their will and is instituted solely for their good.

Sect. 3. The people of the state have the sole and exclusive right to govern themselves as a free, sovereign and independent state.

Sect. 4. All persons are born equally free, and have certain natural, inherent and inalienable rights, among which are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of seeking and obtaining safety and happiness.

Sect. 5. The rights, privileges and immunities,

¹ *The Constitution of the State of New Mexico.* Prepared under supervision of Cecilia Tafoya Cleveland, Secretary of State, 1945.

civil, political and religious, guaranteed to the people of New Mexico by the treaty of Guadalupe Hidalgo shall be preserved inviolate.

Sect. 6. The people have the right to bear arms for their security and defence, but nothing herein shall be held to permit the carrying of concealed weapons.

Sect. 7. The privilege of the writ of *habeas corpus* shall never be suspended, unless, in case of rebellion or invasion, the public safety requires it.

Sect. 8. All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Sect. 9. The military shall always be in strict subordination to the civil power; no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

Sect. 10. The people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures, and no warrant to search any place, or seize any person or thing shall issue without describing the place to be searched, or the persons or things to be seized, nor without a written showing of probable cause, supported by oath or affirmation.

Sect. 11. Every man shall be free to worship God according to the dictates of his own conscience, and no person shall ever be molested or denied any civil or political right or privilege on account of his religious opinion or mode of religious worship. No person shall be required to attend any place of worship or support any religious sect or denomination; nor shall any preference be given by law to any religious denomination or mode of worship.

Sect. 12. The right of trial by jury as it has heretofore existed shall be secured to all and remain inviolate. In all cases triable in courts inferior to the district court the jury may consist of six. The legislature may provide that verdicts in civil cases may be rendered by less than a unanimous vote of the jury.

Sect. 13. All persons shall be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Sect. 14. No person shall be held to answer for a capital, felonious or infamous crime unless on a presentment of indictment of a grand jury or information filed by a district attorney or attorney-general or their deputies, except in cases arising in the militia when in actual service in time of war or public danger. No person shall be so held on information without having had a preliminary examination before an examining magistrate, or having waived such preliminary examination.

A grand jury shall be composed of such number, not less than twelve, as may be prescribed by law.

Citizens only, residing in the county for which a grand jury may be convened and qualified as prescribed by law, may serve on a grand jury. Concurrence necessary for the finding of an indictment by a grand jury shall be prescribed by law; provided, such concurrence shall never be by less than a majority of those who compose a grand jury, and provided at least eight must concur in finding an indictment when a grand jury is composed of twelve in number. Until otherwise prescribed by law a grand jury shall be composed of twelve in number of which eight must concur in finding an indictment. A grand jury shall be convened upon order of a judge of a court empowered to try and determine cases of capital, felonious or infamous crimes at such times as to him shall be deemed necessary, or a grand jury shall be ordered to convene by such judge upon the filing of a petition therefor signed by not less than seventy-five resident taxpayers of the county, or a grand jury may be convened in any additional manner as may be prescribed by law.

In all criminal prosecutions, the accused shall have the right to appear and defend himself in person, and by counsel; to demand the nature and cause of the accusation; to be confronted with the witnesses against him; to have the charge and testimony interpreted to him in a language that he understands; to have compulsory process to compel the attendance of necessary witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed.

Sect. 15. No person shall be compelled to testify against himself in a criminal proceeding, nor shall any person be twice put in jeopardy for the same offence; and when the indictment, information or affidavit upon which any person is convicted charges different offences or different degrees of the same offence and a new trial is granted the accused, he may not again be tried for an offence or degree of the offence greater than the one of which he was convicted.

Sect. 16. Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Sect. 17. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true and was published with good motives and for justifiable ends, the party shall be acquitted.

Sect. 18. No persons shall be deprived of life, liberty or property without due process of law;

nor shall any person be denied the equal protection of the laws.

Sect. 19. No *ex post facto* law, bill of attainder, nor law impairing the obligation of contracts shall be enacted by the legislature.

Sect. 20. Private property shall not be taken or damaged for public use without just compensation.

Sect. 21. No person shall be imprisoned for debt in any civil action.

Sect. 22. Until otherwise provided by law no alien ineligible to citizenship under the laws of the United States, or corporation, co-partnership or

association, a majority of the stock or interest in which is owned or held by such aliens, shall acquire title, leasehold, or other interest in or to real estate in New Mexico.

Sect. 23. The enumeration in this constitution of certain rights shall not be construed to deny, impair or disparage others retained by the people.

ARTICLE XX

MISCELLANEOUS

Sect. 19. Eight hours shall constitute a day's work in all cases of employment by and on behalf of the state or any county or municipality thereof.

CONSTITUTION OF THE STATE OF NEW YORK¹

of 1938

ARTICLE I

BILL OF RIGHTS

Sect. 1. No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

Sect. 2. Trial by jury in all cases in which it has heretofore been guaranteed by constitutional provision shall remain inviolate forever; but a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law. The legislature may provide, however, by law, that a verdict may be rendered by not less than five-sixths of the jury in any civil case. A jury trial may be waived by the defendant in all criminal cases, except those in which the crime charged may be punishable by death, by a written instrument signed by the defendant in person in open court before and with the approval of a judge or justice of a court having jurisdiction to try the offence. The legislature may enact laws, not inconsistent herewith, governing the form, content, manner and time of presentation of the instrument effectuating such waiver.

Sect. 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

Sect. 4. The privilege of a writ or order of *habeas corpus* shall not be suspended, unless, in case of rebellion or invasion, the public safety requires it.

Sect. 5. Excessive bail shall not be required nor

excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

Sect. 6. No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service, and the land, air and naval forces in time of war, or which this state may keep with the consent of Congress in time of peace, and in cases of petit larceny, under the regulation of the legislature), unless on indictment of a grand jury, and in any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel as in civil actions and shall be informed of the nature and cause of the accusation and be confronted with the witnesses against him. No person shall be subject to be twice put in jeopardy for the same offence; nor shall he be compelled in any criminal case to be a witness against himself, providing, that any public officer who, upon being called before a grand jury to testify concerning the conduct of his office or the performance of his official duties, refuses to sign a waiver of immunity against subsequent criminal prosecution, or to answer any relevant question concerning such matters before such grand jury, shall be removed from office by the appropriate authority or shall forfeit his office at the suit of the attorney-general.

The power of grand juries to inquire into the wilful misconduct in office of public officers, and to find indictments or to direct the filing of informations in connexion with such inquiries, shall never be suspended or impaired by law.

No person shall be deprived of life, liberty or property without due process of law.

Sect. 7(a). Private property shall not be taken for public use without just compensation.

(b) When private property shall be taken for any public use, the compensation to be made therefor, when such compensation is not made by the state, shall be ascertained by a jury, or by the supreme court, without a jury, but not with a referee other than an official referee, or by not

¹ *The Constitution of the State of New York.* Issued by Thomas J. Curran, Secretary of State, Albany, New York, 1946.

less than three commissioners appointed by a court of record, as shall be prescribed by law.

(c) Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road and the amount of all damage to be sustained by the opening thereof shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceedings, shall be paid by the person to be benefited.

(d) The use of property for the drainage of swamp or agricultural lands is declared to be a public use, and general laws may be passed permitting the owners or occupants of swamp or agricultural lands to construct and maintain for the drainage thereof, necessary drains, ditches and dykes upon the lands of others, under proper restrictions, on making just compensation, and such compensation together with the cost of such drainage may be assessed, wholly or partly, against any property benefited thereby; but no special laws shall be enacted for such purposes.

(e) The legislature may authorize cities and counties to take more land and property than is needed for actual construction in the laying out, widening, extending or relocating parks, public places, highways or streets; provided, however, that the additional land and property so authorized to be taken shall be no more than sufficient to form suitable building sites abutting on such park, public place, highway, or street. After so much of the land and property has been appropriated for such park, public place, highway or street as is needed therefor, the remainder may be sold or leased.

Sect. 8. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Sect. 9. No law shall be passed abridging the rights of the people peaceably to assemble and to petition the government, or any department thereof; nor shall any divorce be granted otherwise than by due judicial proceedings; no lottery or the sale of lottery tickets, pool-selling, book-making, or any other kind of gambling, except pari-mutuel betting on horse races as may be prescribed by the legislature and from which the scribed by the legislature and from which the state shall derive a reasonable revenue for the support of government, shall hereafter be authorized or allowed within this state; and the legislature shall pass appropriate laws to prevent offences against any of the provisions of this section.

Sect. 10. The people of the state, in their right of sovereignty, possess the original and ultimate property in and to all lands within the jurisdiction of the state. All lands shall for ever remain allodial so that the entire and absolute property is vested in the owners, according to the nature of their respective estates. All lands the title of which shall fail, from a defect of heirs, shall revert, or escheat to the people.

Sect. 11. No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, colour, creed or religion, be subjected to any discrimination in his civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision of the state.

Sect. 12. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The right of the people to be secure against unreasonable interception of telephone and telegraph communications shall not be violated, and *ex parte* orders or warrants shall issue only upon oath or affirmation that there is reasonable ground to believe that evidence of crime may be thus obtained, and identifying the particular means of communications, and particularly describing the person or persons whose communications are to be intercepted and the purpose thereof.

Sect. 13. No purchase or contract for the sale of lands in this state, made since the fourteenth day of October, one thousand seven hundred seventy-five; or which may hereafter be made of, or with the Indians, shall be valid unless made under the authority, and with the consent, of the legislature.

Sect. 14. Such parts of the common law, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred seventy-five, and the resolutions of the congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred seventy-seven, which have not since expired, or been repealed or altered; and such acts of the legislature of this state as are now in force, shall be and continue the law of this state, subject to such alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this constitution, are hereby abrogated.

Sect. 15. All grants of land within this state, made by the king of Great Britain, or persons act-

ing under his authority, after the fourteenth day of October, one thousand seven hundred seventy-five, shall be null and void; but nothing contained in this constitution shall affect any grants of land within this state, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made before that day; or shall affect any such grants or charters since made by this state, or by persons acting under its authority; or shall impair the obligation of any debts, contracted by the state or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

Sect. 16. The right of action now existing to recover damages for injuries resulting in death, shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

Sect. 17. Labour of human beings is not a commodity nor an article of commerce and shall never be so considered or construed.

No labourer, workman or mechanic, in the employ of a contractor or sub-contractor engaged in the performance of any public work, shall be permitted to work more than eight hours in any day or more than five days in any week, except in cases of extraordinary emergency; nor shall he be paid less than the rate of wages prevailing in the same trade or occupation in the locality within the state where such public work is to be situated, erected or used.

Employees shall have the right to organize and to bargain collectively through representatives of their own choosing.

Sect. 18. Nothing contained in this constitution shall be construed to limit the power of the legislature to enact laws for the protection of the lives, health, or safety of employees; or for the payment, either by employers, or by employers and employees or otherwise, either directly or through a state or other system of insurance or otherwise, of compensation for injuries to employees or for death of employees resulting from such injuries without regard to fault as a cause thereof, except where the injury is occasioned by the wilful intention of the injured employee to bring about the injury or death of himself or of another, or where the injury results solely from the intoxication of the injured employee while on duty; or for the adjustment, determination and settlement, with or without trial by jury, of issues which may arise under such legislation; or to provide that the right of such compensation, and the remedy therefor shall be exclusive of all other rights and remedies for injuries to employees or for death resulting from such injuries; or to provide that the amount of such compensation for death shall not exceed a fixed or determinable sum; provided that all moneys paid by an employer to his employees or

their legal representatives, by reason of the enactment of any of the laws herein authorized, shall be held to be a proper charge in the cost of operating the business of the employer.

ARTICLE XI EDUCATION

Sect. 1. The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated.

Sect. 2. The corporation created in the year one thousand seven hundred eighty-four, under the name of the Regents of the University of the State of New York, is hereby continued under the name of the University of the State of New York. It shall be governed and its corporate powers, which may be increased, modified or diminished by the legislature, shall be exercised by not less than nine regents.

Sect. 3. The capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund shall be respectively preserved inviolate and the revenue of the said funds shall be applied to the support of common schools and libraries.

Sect. 4. Neither the state nor any subdivision thereof shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught, but the legislature may provide for the transportation of children to and from any school or institution of learning.

ARTICLE XVII SOCIAL WELFARE

Sect. 1. The aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine.

Sect. 3. The protection and promotion of the health of the inhabitants of the state are matters of public concern and provision therefor shall be made by the state and by such of its subdivisions and in such manner, and by such means as the legislature shall from time to time determine.

ARTICLE XVIII HOUSING

Sect. 1. Subject to the provisions of this article, the legislature may provide in such manner, by such means and upon such terms and conditions as it may prescribe for low rent housing for persons of low income as defined by law, or for the clearance, replanning, reconstruction and rehabilitation of substandard and insanitary areas, or for both such purposes, and for recreational and other facilities incidental or appurtenant thereto.

CONSTITUTION OF THE STATE OF NORTH CAROLINA¹

of 1876

ARTICLE I

DECLARATION OF RIGHTS

That the great, general and essential principles of liberty and free government may be recognized and established, and that the relations of this state to the Union and Government of the United States, and those of the people of this state to the rest of the American people, may be defined and affirmed, we do declare:

Sect. 1. That we hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labour, and the pursuit of happiness.

Sect. 2. That all political power is vested in, and derived from, the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

Sect. 3. That the people of this state have the inherent, sole and exclusive right of regulating the internal government and policies thereof, and of altering and abolishing their constitution and form of government whenever it may be necessary for their safety and happiness; but every such right should be exercised in pursuance of the law, and consistently with the Constitution of the United States.

Sect. 4. That this state shall ever remain a member of the American Union; that there is no right on the part of the state to secede, and that all attempts, from whatever source or upon whatever pretext, to dissolve said Union, or to sever said nation, ought to be resisted with the whole power of the state.

Sect. 5. That every citizen of this state owes paramount allegiance to the Constitution and Government of the United States, and that no law or ordinance of the state in contravention or subversion thereof can have binding force.

Sect. 6. The state shall never assume or pay, or authorize the collection of any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; nor shall the General Assembly assume or pay, or authorize the collection of any tax to pay, or either directly or indirectly, expressed or implied, any debt or bond incurred, or issued, by authority of the Convention of the year one thousand eight hundred and sixty-eight, nor any debt or bond incurred or issued by the legislature of the year one thousand eight hundred and sixty-eight, either at its special

session of the year one thousand eight hundred and sixty-eight, or at its regular sessions of the years one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine, and one thousand eight hundred and seventy, except the bonds issued to fund the interest on the old debt of the state, unless the proposing to pay the same shall have first been submitted to the people, and by them ratified by the vote of a majority of all the qualified voters of the state at a regular election held for that purpose.

Sect. 7. No person or set of persons are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

Sect. 8. The legislative, executive, and supreme judicial powers of the government ought to be forever separate and distinct from each other.

Sect. 9. All power of suspending laws, or the execution of laws, by any authority, without the consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

Sect. 10. All elections ought to be free.

Sect. 11. In all criminal prosecutions every person charged with crime has the right to be informed of the accusation, and to confront the accusers and witnesses with other testimony, and to have counsel for defence, and not be compelled to give self-incriminating evidence, or to pay costs, jail fees, or necessary witness fees of the defence, unless found guilty.

Sect. 12. No person shall be put to answer any criminal charge except as hereinafter allowed, but by indictment, presentment or impeachment.

Sect. 13. No person shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful persons in open court. The legislature may, however, provide other means of trial for petty misdemeanours, with the right of appeal.

Sect. 14. Excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Sect. 15. General warrants, whereby any officer or messenger may be commanded to search suspected places, without evidence of the act committed, or to seize any person or persons not named, whose offence is not particularly described and supported by evidence, are dangerous to liberty and ought not to be granted.

Sect. 16. There shall be no imprisonment for debt in this state except for cases of fraud.

Sect. 17. No person ought to be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner deprived of his life, liberty or property but by the law of the land.

¹ *The Constitution of the State of North Carolina.* Issued by the State Superintendent of Public Instruction, Raleigh, N.C. (No date.)

Sect. 18. Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove same, if unlawful; and such remedy ought not to be denied or delayed.

Sect. 19. In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolate. No person shall be excluded from jury service on account of sex.

Sect. 20. The freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained, but every individual shall be held responsible for the abuse of the same.

Sect. 21. The privileges of the writ of *habeas corpus* shall not be suspended.

Sect. 22. As political rights and privileges are not dependent upon, or modified by, property, therefore no property qualification ought to affect the right to vote or hold office.

Sect. 23. The people of the state ought not to be taxed, or made subject to the payment of any impost or duty without the consent of themselves, or their representatives in General Assembly, freely given.

Sect. 24. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they ought not to be kept up, and the military should be kept under strict subordination to, and governed by, the civil power. Nothing herein contained shall justify the practice of carrying concealed weapons, or prevent the legislature from enacting penal statutes against said practice.

Sect. 25. The people have a right to assemble together to consult for their common good; to instruct their representatives, and to apply to the legislature for redress of grievances. But secret political societies are dangerous to the liberty of a free people and should not be tolerated.

Sect. 26. All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority should, in any case whatever, control or interfere with the rights of conscience.

CONSTITUTION OF THE STATE OF NORTH DAKOTA¹ of 1889

ARTICLE I DECLARATION OF RIGHTS

Sect. 1. All men are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending

Sect. 27. The people have the right to the privilege of education and it is the duty of the state to guard and maintain that right.

Sect. 28. For redress of grievances, and for amending and strengthening the laws, elections should be often held.

Sect. 29. A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

Sect. 30. No hereditary emoluments, privileges, or honours ought to be granted or conferred in this state.

Sect. 31. Perpetuities and monopolies are contrary to the genius of a free state, and ought not to be allowed.

Sect. 32. Retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; wherefore no *ex post facto* law ought to be made. No law taxing retrospectively sales, purchases, or other acts previously done, ought to be passed.

Sect. 33. Slavery and involuntary servitude, otherwise than for crime, whereof the parties shall have been duly convicted, shall be, and are hereby, for ever prohibited within the state.

Sect. 34. The limits and boundaries of the state shall be and remain as they now are.

Sect. 35. All courts shall be open; and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.

Sect. 36. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in a manner prescribed by law.

Sect. 37. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

ARTICLE XIV MISCELLANEOUS

Sect. 8. All marriages between a white person and a negro, or between a white person and a person of negro descent to the third generation, inclusive, are hereby for ever prohibited.

life and liberty; acquiring, possessing and protecting property and reputation; and pursuing and obtaining safety and happiness.

Sect. 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter and reform the same whenever the public good may require.

Sect. 3. The state of North Dakota is an in-

¹ *The Constitution of the State of North Dakota.* By Robert Byrne, Secretary of State. *Amendments to the Constitution of the State of North Dakota.* Issued by Thomas Hall, Secretary of State, 1933 and 1943.

separable part of the American Union, and the Constitution of the United States is the supreme law of the land.

Sect. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall be for ever guaranteed in this state, and no person shall be rendered incompetent to be a witness or juror on account of his opinion on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts or licentiousness, or justify practices inconsistent with the peace or safety of this state.

Sect. 5. The privilege of the writ of *habeas corpus* shall not be suspended unless, when in case of rebellion or invasion, the public safety may require.

Sect. 6. All persons shall be bailable by sufficient sureties, unless for capital offences when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, nor be confined in any room where criminals are actually imprisoned.

Sect. 7. The right of trial by jury shall be secured to all, and remain inviolate; but a jury in civil cases, in courts not of record may consist of less than twelve men, as may be prescribed by law.

Sect. 8. Until otherwise provided by law, no person shall, for a felony, be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases, offences shall be prosecuted criminally by indictment or information. The legislative assembly may change, regulate or abolish the grand jury system.

Sect. 9. Every man may freely write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials for libel the truth may be given in evidence, and shall be a sufficient defence when the matter is published with good motives and for justifiable ends; and the jury shall have the same power of giving a general verdict as in other cases; and in all indictments or informations for libels the jury shall have the right to determine the law and the facts under the direction of the court as in other cases.

Sect. 10. The citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the powers of government, for the redress of grievances, or for other purposes, by petition, address or remonstrance.

Sect. 11. All laws of a general nature shall have a uniform operation.

Sect. 12. The military shall be subordinate to the civil power. No standing army shall be main-

tained by this state in time of peace, and no soldiers shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

Sect. 13. In criminal prosecutions in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf; and to appear and defend in person and with counsel. No person shall be twice put in jeopardy for the same offence, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law.

Sect. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court for the owner, and no right of way shall be appropriated to the use of any corporation, other than municipal, until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived.

Sect. 15. No person shall be imprisoned for debt unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases of tort; or where there is strong presumption of fraud.

Sect. 16. No bill of attainder, *ex post facto* law, or law impairing the obligations of contracts shall ever be passed.

Sect. 17. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

Sect. 18. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

Sect. 19. Treason against the state shall consist only in levying war against it, adhering to its enemies or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

Sect. 20. No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the legislative assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens.

Sect. 21. The provisions of this constitution are mandatory and prohibitory unless, by express words, they are declared to be otherwise.

Sect. 22. All courts shall be open, and every man for any injury done him in his lands, goods,

person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial or delay. Suits may be brought against the state in such manner, in such courts, and in such cases, as the legislative assembly may, by law, direct.

Sect. 23. Every citizen of this state shall be free to obtain employment wherever possible, and any person, corporation, or agent thereof, maliciously interfering or hindering in any way, any citizen from obtaining or enjoying employment already obtained, from other corporation or person, shall be deemed guilty of a misdemeanour.

Sect. 24. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall for ever remain inviolate.

ARTICLE XVII

MISCELLANEOUS

Sect. 209. The labour of children under twelve years of age shall be prohibited in mines, factories, and workshops in this state.

CONSTITUTION OF THE STATE OF OHIO¹ of 1851

ARTICLE I

BILL OF RIGHTS

Sect. 1. All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

Sect. 2. All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the General Assembly.

Sect. 3. The people have the right to assemble together, in a peaceable manner, to consult for their common good; to instruct their representatives; and to petition the General Assembly for the redress of grievances.

Sect. 4. The people have the right to bear arms for their defence and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power.

Sect. 5. The right of trial by jury shall be inviolate, except that, in civil cases, laws may be passed to authorize the rendering of a verdict by the concurrence of not less than three-fourths of the jury.

Sect. 6. There shall be no slavery in this state; nor involuntary servitude, unless for the punishment of crime.

Sect. 7. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be

given by law, to any religious society; nor shall any interference with the rights of conscience be permitted. No religious test shall be required, as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the General Assembly to pass suitable laws, to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

Sect. 8. The privilege of the writ of *habeas corpus* shall not be suspended, unless, in cases of rebellion or invasion, the public safety require it.

Sect. 9. All persons shall be bailable by sufficient sureties, except for capital offences where the proof is evident, or the presumption great. Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted.

Sect. 10. Except in cases of impeachment, cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and cases involving offences for which the penalty provided is less than imprisonment in the penitentiary, no person shall be held to answer for a capital, or otherwise infamous, crime, unless on presentment or indictment of a grand jury; and the number of persons necessary to constitute such grand jury and the number thereof necessary to concur in finding such indictment shall be determined by law. In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county in which the offence is alleged to have been

¹ *Constitution of the State of Ohio.* Issued by Edward J. Hummel, Secretary of State, 1945.

committed; but provision may be made by law for the taking of the deposition by the accused or by the state to be used for or against the accused, of any witness whose attendance can not be had at the trial, always securing to the accused means and the opportunity to be present in person and with counsel at the taking of such deposition, and to examine the witness face to face as fully and in the same manner as if in court. No person shall be compelled, in any criminal case, to be a witness against himself; but his failure to testify may be considered by the court and jury and may be the subject of comment by counsel. No person shall be twice put in jeopardy for the same offence.

Sect. 11. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter charged as libellous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted.

Sect. 12. No person shall be transported out of the state, for any offence committed within the same; and no conviction shall work corruption of blood, or forfeiture of estate.

Sect. 13. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, except in the manner prescribed by law.

Sect. 14. The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the person and things to be seized.

Sect. 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud.

Sect. 16. All courts shall be open, and every person, for any injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered

without denial or delay. Suits may be brought against the state, in such courts and in such manner, as may be provided by law.

Sect. 17. No hereditary emoluments, honours, or privileges, shall ever be granted or conferred by this State.

Sect. 18. No power of suspending laws shall ever be exercised, except by the General Assembly.

Sect. 19. Private property shall ever be held inviolate but subservient to the public welfare. When taken in time of war or other public exigency, imperatively requiring its immediate seizure or for the purpose of making or repairing roads, which shall be open to the public, without charge, a compensation shall be made to the owner, in money: and in all other cases, where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

The amount of damages recoverable by civil action in the courts for death caused by the wrongful act, neglect, or default of another, shall not be limited by law.

Sect. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers, not herein delegated, remain with the people.

ARTICLE II LEGISLATIVE

Sect. 34. Laws may be passed fixing and regulating the hours of labour, establishing a minimum wage, and providing for the comfort, health, safety and general welfare of all employees; and no other provision of the Constitution shall impair or limit this power.

Sect. 37. Except in cases of extraordinary emergency, not to exceed eight hours shall constitute a day's work, and not to exceed forty-eight hours a week's work, for workmen engaged on any public work carried on or aided by the state, or any political subdivision thereof, whether done by contract or otherwise.

CONSTITUTION OF THE STATE OF OKLAHOMA¹

of 1907

ARTICLE I FEDERAL RELATIONS

2. Perfect toleration of religious sentiment shall be secured, and no inhabitant of the state shall ever be molested in person or property on account of his or her mode of religious worship; and no religious test shall be required for the exercise of

civil or political rights. Polygamous or plural marriages are forever prohibited.

5. Provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the State and free from sectarian control; and said schools shall always be conducted in English: provided, that nothing herein shall preclude the teaching of other languages in said public schools: and provided, further, that this shall not be con-

¹*Oklahoma Statutes 1941.* St. Paul, Minnesota, 1942. Pp. 35-115.

strued to prevent the establishment and maintenance of separate schools for white and coloured children.

6. The state shall never enact any law restricting or abridging the right of suffrage on account of race, colour, or previous condition of servitude.

ARTICLE II

BILL OF RIGHTS

1. All political power is inherent in the people; and government is instituted for their protection, security, and benefit, and to promote their general welfare; and they have the right to alter or reform the same whenever the public good may require it: provided, such change be not repugnant to the Constitution of the United States.

2. All persons have the inherent right to life, liberty, the pursuit of happiness and the enjoyment of the gains of their own industry.

3. The people have the right peaceably to assemble for their own good, and to apply to those invested with the powers of government for redress of grievances by petition, address, or remonstrance.

4. No power, civil or military, shall ever interfere, to prevent the free exercise of the right of suffrage by those entitled to such right.

5. No public money or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit or support of any sect, church, denomination, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary, or sectarian institution as such.

6. The courts of justice of the state shall be open to every person, and speedy and certain remedy afforded for every wrong and for every injury to person, property, or reputation; and right and justice shall be administered without sale, denial, delay or prejudice.

7. No person shall be deprived of life, liberty, or property, without due process of law.

8. All persons shall be bailable by sufficient sureties except for capital offences when the proof of guilt is evident, or the presumption thereof is great.

9. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

10. The privilege of the writ of *habeas corpus* shall never be suspended by the authorities of this state.

11. Every person elected or appointed to any office or employment of trust or profit under the laws of the state, or under any ordinance of any municipality thereof, shall give personal attention to the duties of the office to which he is elected or appointed. Drunkenness and the excessive use of intoxicating liquors while in office shall constitute

sufficient cause for impeachment or removal therefrom.

12. No member of Congress from this state, or person holding any office of trust or profit under the laws of any other state, or of the United States, shall hold any office of trust or profit, under the laws of this state.

13. Imprisonment for debt is prohibited, except for the nonpayment of fines and penalties imposed for the violation of law.

14. The military shall be held in strict subordination to the civil authorities. No soldier shall be quartered in any house, in time of peace, without the consent of the owner, nor in time of war, except in a manner to be prescribed by law.

15. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be passed. No conviction shall work a corruption of blood or forfeiture of estate: provided, that this provision shall not prohibit the imposition of pecuniary penalties.

16. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

17. No person shall be prosecuted criminally in courts of record for felony or misdemeanour otherwise than by presentment or indictment or by information. No person shall be prosecuted for a felony by information without having had a preliminary examination before an examining magistrate, or having waived such preliminary examination. Prosecutions may be instituted in courts not of record upon a duly verified complaint.

18. A grand jury shall be composed of twelve men, any nine of whom concurring may find an indictment or true bill. A grand jury shall be convened upon the order of a judge of a court having the power to try and determine felonies, upon his own motion; or such grand jury shall be ordered by such judge upon the filing of a petition therefor signed by one hundred resident taxpayers of the county; when so assembled such grand jury shall have power to investigate and return indictments for all character and grades of crime, and such other powers as the legislature may prescribe: provided, that the legislature may make the calling of a grand jury compulsory.

19. The right of trial by jury shall be and remain inviolate, and a jury for the trial of civil and criminal cases in courts of record, other than county courts, shall consist of twelve men; but, in county courts and courts not of record, a jury shall consist of six men. This section shall not be so construed as to prevent limitations being fixed by law upon the right of appeal from judgments of courts not of record in civil cases concerning causes of action involving less than twenty dollars.

In civil cases, and in criminal cases less than felonies, three-fourths of the whole number of jurors concurring shall have power to render a verdict. In all other cases the entire number of jurors must concur to render a verdict. In case a verdict is rendered by less than the whole number of jurors, the verdict shall be in writing and signed by each juror concurring therein.

20. In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury of the county in which the crime shall have been committed: provided, that the venue may be changed to some other county of the state, on the application of the accused, in such manner as may be prescribed by law. He shall be informed of the nature and cause of the accusation against him and have a copy thereof, and be confronted with the witnesses against him, and have compulsory process for obtaining witnesses in his behalf. He shall have the right to be heard by himself and counsel; and in capital cases, at least two days before the case is called for trial, he shall be furnished with a list of the witnesses that will be called in chief, to prove the allegations of the indictment or information, together with their post office addresses.

21. No person shall be compelled to give evidence, which will tend to incriminate him, except as in this constitution specifically provided; nor shall any person, after having been once acquitted by a jury, be again put in jeopardy of life or liberty for that of which he has been acquitted. Nor shall any person be twice put in jeopardy of life or liberty for the same offence.

22. Every person may freely speak, write or publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libel, the truth of the matter alleged to be libellous may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libellous be true, and was written or published with good motives and for justifiable ends, the party shall be acquitted.

23. No private property shall be taken or damaged for private use, with or without compensation, unless by consent of the owner, except for private ways of necessity, or for drains and ditches across lands of others for agricultural, mining, or sanitary purposes, in such manner as may be prescribed by law.

24. Private property shall not be taken or damaged for public use without just compensation. Such compensation, irrespective of any benefit from any improvements proposed, shall be ascertained by a board of commissioners of not less than three freeholders, in such manner as may be prescribed by law. The commissioners shall not be appointed by any judge or court without reasonable notice having been served upon all parties

in interest. The commissioners shall be selected from the regular jury list of names prepared and made as the legislature shall provide. Any party aggrieved shall have the right of appeal, without bond, and trial by jury in a court of record. Until the compensation shall be paid to the owner, or into court for the owner, the property shall not be disturbed, or the proprietary rights of the owner divested. When possession is taken of property condemned for any public use, the owner shall be entitled to the immediate receipt of the compensation awarded, without prejudice to the right of either party to prosecute further proceedings for the judicial determination of the sufficiency or insufficiency of such compensation. The fee of land taken by common carriers for right of way, without the consent of the owner, shall remain in such owner subject only to the use for which it is taken. In all cases of condemnation of private property for public or private use, the determination of the character of the use shall be a judicial question.

25. The legislature shall pass laws defining contempt and regulating the proceedings and punishment in matters of contempt: provided, that any person accused of violating or disobeying, when not in the presence or hearing of the court, or judge sitting as such, any order of injunction or restraint, made or entered by any court or judge of the state shall, before penalty or punishment is imposed, be entitled to a trial by jury as to the guilt or innocence of the accused. In no case, shall a penalty or punishment be imposed for contempt, until an opportunity to be heard is given.

26. The right of a citizen to keep and bear arms in defence of his home, person, or property or in aid of the civil power, when thereunto legally summoned, shall never be prohibited; but nothing herein contained shall prevent the legislature from regulating the carrying of weapons.

27. Any person having knowledge or possession of facts that tend to establish the guilt of any other person or corporation charged with an offence against the laws of the state, shall not be excused from giving testimony or producing evidence, when legally called upon so to do, on the ground that it may tend to incriminate him under the laws of the state; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may so testify or produce evidence.

28. The records, books and files of all corporations shall be, at all times, liable and subject to the full visitatorial and inquisitorial powers of the state, notwithstanding the immunities and privileges in this bill of rights secured to the persons, inhabitants, and citizens thereof.

29. No person shall be transported out of the state, for any offence committed within the state, nor shall any person be transported out of the

state for any purpose, without his consent, except by due process of law; but nothing in this provision shall prevent the operation of extradition laws, or the transporting of persons sentenced for crime, to other states for the purpose of incarceration.

30. The right of the people to be secure in their person, houses, papers, and effects against unreasonable searches or seizures shall not be violated; and no warrant shall issue but upon probable cause supported by oath or affirmation describing as particularly as may be the place to be searched and the person or thing to be seized.

31. The right of the state to engage in any occupation or business for public purposes shall not be denied nor prohibited, except that the state shall not engage in agriculture for any other than educational and scientific purposes and for the support of its penal, charitable, and educational institutions.

32. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed, nor shall the law of primogeniture or entailments ever be in force in this state.

33. The enumeration in this constitution of certain rights shall not be construed to deny, impair or disparage others retained by the people.

ARTICLE XXIII

MISCELLANEOUS

1. Eight hours shall constitute a day's work in all cases of employment by and on behalf of the state or any county or municipality.

2. The contracting of convict labour is hereby prohibited.

3. The employment of children, under the age of fifteen years, in any occupation, injurious to health or morals or especially hazardous to life or limb, is hereby prohibited.

4. Boys under the age of sixteen years, and women and girls, shall not be employed, underground, in the operation of mines; and, except in

cases of emergency, eight hours shall constitute a day's work underground in all mines in the state.

5. The legislature shall pass laws to protect the health and safety of employees in factories, in mines, and on railroads.

11. Wherever in this constitution and laws of this state, the word or words, "coloured" or "coloured race", "negro" or "negro race" are used, the same shall be construed to mean or apply to all persons of African descent. The term "white race" shall include all other persons.

ARTICLE XXV

SOCIAL SECURITY

1. In order to promote the general welfare of the people of the State of Oklahoma and for their protection, security, and benefit, the legislature and the people by initiative petition are hereby authorized to provide by appropriate legislation for the relief and care of needy aged persons who are unable to provide for themselves, and other needy persons who, on account of immature age, physical infirmity, disability, or other cause, are unable to provide or care for themselves; provided, the legislature or the people by initiative petition, are further authorized in co-operation with and under any plan authorized by the federal government for state participation, to provide by appropriate legislation for the relief and care of aged or needy persons.

The levy of taxes, other than *ad valorem* taxes, necessary to carry into effect legislation enacted pursuant thereto, is hereby authorized.

[2-4. These paragraphs contain provisions of administrative organization, regarding the establishment of a Department of Public Welfare, and Oklahoma State Public Welfare Commission, and a Director of Public Welfare.]

5. Any legislation under the authority herein granted, adopted contemporaneously with the adoption of this amendment, shall have the same force and effect as if same had been initiated and adopted subsequent to the adoption of this amendment.

CONSTITUTION OF THE STATE OF OREGON¹

of 1859

ARTICLE I

BILL OF RIGHTS

1. We declare that all men, when they form a social compact, are equal in right; that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety and happiness; and they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper.

2. All men shall be secured in the natural right to worship Almighty God according to the dictates of their own consciences.

3. No law shall in any case whatever control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

4. No religious test shall be required as a qualification for any office of trust or profit.

5. No money shall be drawn from the treasury for the benefit of any religious or theological institution, nor shall any money be appropriated for the payment of any religious services in either house of the legislative assembly.

¹ *Constitution of Oregon.* Issued by Robert S. Farrell, Jr., Secretary of State, Salem, Oregon, 1946.

6. No person shall be rendered incompetent as a witness or juror in consequence of his opinions on matters of religion, nor be questioned in any court of justice, touching his religious belief, to affect the weight of his testimony.

7. The mode of administering an oath or affirmation shall be such as may be most consistent with, and binding upon, the conscience of the person to whom such oath or affirmation may be administered.

8. No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write or print freely on any subject whatever; but every person shall be responsible for the abuse of this right.

9. No law shall violate the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search or seizure; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

10. No court shall be secret, but justice shall be administered openly and without purchase, completely and without delay, and every man shall have remedy by due course of law for injury done him in his person, property or reputation.

11. In all criminal prosecutions, the accused shall have the right to public trial by an impartial jury in the county in which the offence shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favour; provided, however, that any accused person, in other than capital cases and with the consent of the trial judge, may elect to waive trial by jury and consent to be tried by the judge of the court alone, such election to be in writing; provided, however, that in the circuit court ten members of the jury may render a verdict of guilty or not guilty, save and except a verdict of guilty of first degree murder, which shall be found only by unanimous verdict and not otherwise; provided further, that the existing laws and constitutional provisions relative to criminal prosecutions shall be continued and remain in effect as to all prosecutions for crimes committed before the taking effect of this amendment.

12. No person shall be put in jeopardy twice for the same offence, nor be compelled in any criminal prosecution to testify against himself.

13. No person arrested or confined in jail shall be treated with unnecessary rigour.

14. Offences, except murder and treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable when the proof is evident or the presumption strong.

15. Laws for the punishment of crime shall be

founded on the principles of reformation and not of vindictive justice.

16. Excessive bail shall not be required, nor excessive fines imposed, cruel and unusual punishment shall not be inflicted, but all penalties shall be proportioned to the offence. In all criminal cases, whatever, the jury shall have the right to determine the law and the facts under the direction of the court, as to the law, and the right of a new trial, as in civil case.

17. In all civil cases, the right of trial by jury shall remain inviolate.

18. Private property shall not be taken for public use, nor the particular services of any man be demanded, without just compensation; nor, except in the case of the state, without such compensation first assessed and tendered; provided, that the use of all roads, ways and waterways necessary to promote the transportation of the raw products of mine or farm or forest or water for beneficial use or drainage is necessary to the development and welfare of the state and is declared a public use.

19. There shall be no imprisonment for debt except in case of fraud or absconding debtors.

20. No law shall be passed granting to any citizen or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

21. No *ex post facto* laws or laws impairing the obligations of contracts, shall ever be passed, nor shall any law be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this constitution; provided, that laws locating the capital of the state, locating county seats and submitting town and corporate acts, and other local and special laws, may take effect or not, upon a vote of the electors interested.

22. The operation of the laws shall never be suspended except by authority of the legislative assembly.

23. The privilege of the writ of *habeas corpus* shall not be suspended, unless, in case of rebellion or invasion, the public safety requires it.

24. Treason against the state shall consist only in levying war against it, or adhering to its enemies, giving them aid or comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or confession in open court.

25. No conviction shall work corruption of blood or forfeiture of estate.

26. No law shall be passed restraining any of the inhabitants of the state from assembling together in a peaceable manner to consult for their common good; nor from instructing their representatives; nor from applying to the legislature for redress of grievances.

27. The people shall have the right to bear arms for the defence of themselves and the state, but

the military shall be kept in strict subordination to the civil power.

28. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

29. No law shall be passed granting any title of nobility, or conferring hereditary distinctions.

30. No law shall be passed prohibiting emigration from the state.

31. White foreigners who are or may hereafter become residents of this state shall enjoy the same rights in respect to the possession, enjoyment, and descent of property as native-born citizens. And the legislative assembly shall have the power to restrain and regulate the immigration to this state of persons not qualified to become citizens of the United States.

32. No tax or duty shall be imposed without the consent of the people or their representatives in the legislative assembly; and all taxation shall be

uniform on the same class of subjects within the territorial limits of the authority levying the tax.

33. This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

34. There shall be neither slavery nor involuntary servitude in the state, otherwise than as a punishment for crime, whereof the party shall have been duly convicted.

35. [Repealed.]

36. [Repealed]

36. (a). [Repealed.]

37. The penalty for murder in the first degree shall be death, except when the trial jury shall in its verdict recommend life imprisonment, in which case the penalty shall be life imprisonment.

38. All provisions of the laws of Oregon abrogated and repealed as in conflict with section 36, which section is hereby repealed, are hereby revived as of full force and effect from and after the adoption of this constitutional amendment subject to amendment by the legislative assembly.

CONSTITUTION OF THE COMMONWEALTH OF PENNSYLVANIA¹

of 1874

ARTICLE I

DECLARATION OF RIGHTS

That the general, great and essential principles of liberty and free government may be recognized and unalterably established, we declare that:

Sect. 1. All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

Sect. 2. All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety and happiness. For the advancement of these ends, they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may think proper.

Sect. 3. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can of right be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent; no human authority can, in any case whatever, control or interfere with the rights of conscience and no preference shall ever be given by law to any religious establishments or modes of worship.

Sect. 4. No person who acknowledges the being of a God, and a future state of rewards and pun-

ishments shall, on account of his religious sentiments, be disqualified to hold any office or place of trust or profit under this Commonwealth.

Sect. 5. Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Sect. 6. Trial by jury shall be as heretofore, and the right thereof remain inviolate.

Sect. 7. The printing press shall be free to every person who may undertake to examine the proceedings of the legislature or any branch of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty. No conviction shall be had in any prosecution for the publication of papers relating to the official conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the jury; and in all indictments for libels the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Sect. 8. The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed to by the affiant.

¹ *Declaration of Independence, Constitution of the United States, Constitution of Pennsylvania, Legislative Reference Bureau, 1945.*

Sect. 9. In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favour, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; he cannot be compelled to give evidence against himself; nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land.

Sect. 10. No person shall, for any indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger, or by leave of the court for oppression or misdemeanour in office. No person shall, for the same offence, be twice put in jeopardy of life or limb; nor shall private property be taken or applied to public use, without authority of law and without just compensation being first made or secured.

Sect. 11. All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought against the commonwealth in such manner, in such courts and in such cases as the legislature may by law direct.

Sect. 12. No power of suspending laws shall be exercised unless by the legislature or by its authority.

Sect. 13. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

Sect. 14. All prisoners shall be bailable by sufficient sureties, unless for capital offences when the proof is evident or presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

Sect. 15. No commission of oyer and terminer or jail delivery shall be issued.

Sect. 16. The person of a debtor, where there is

not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors in such manner as shall be prescribed by law.

Sect. 17. No *ex post facto* law, nor any law impairing the obligation of contracts, or making irrevocable any grant of special privileges or immunities shall be passed.

Sect. 18. No person shall be attainted of treason or felony by the legislature.

Sect. 19. No attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the commonwealth. The estate of such persons as shall destroy their own lives shall descend or vest as in cases of natural death, and if any person shall be killed by casualty there shall be no forfeiture by reason thereof.

Sect. 20. The citizens have a right in a peaceable manner to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by petition, address or remonstrance.

Sect. 21. The right of the citizens to bear arms in defence of themselves and the state shall not be questioned.

Sect. 22. No standing army shall, in time of peace, be kept up without the consent of the legislature, and the military shall in all cases and at all times be in strict subordination to the civil power.

Sect. 23. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

Sect. 24. The legislature shall not grant any title of nobility or hereditary distinction, nor create any office the appointment to which shall be for a longer term than during good behaviour.

Sect. 25. Emigration from the state shall not be prohibited.

Sect. 26. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall for ever remain inviolate.

CONSTITUTION OF THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS¹ of 1843

ARTICLE I

DECLARATION OF CERTAIN CONSTITUTIONAL RIGHTS AND PRINCIPLES

In order effectually to secure the religious and political freedom established by our venerated

ancestors, and to preserve the same for our posterity, we do declare that the essential and unquestionable rights and principles hereinafter mentioned shall be established, maintained, and preserved, and shall be of paramount obligation in all legislative, judicial, and executive proceedings.

Sect. 1. In the words of the Father of his Country, we declare that "the basis of our political systems is the right of the people to make and

¹ *Constitution of the State of Rhode Island and Providence Plantations.* Prepared and distributed by the Secretary of State, Providence, Rhode Island, 1944.

alter their constitutions of government; but that the constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all".

Sect. 2. All free governments are instituted for the protection, safety and happiness of the people. All laws, therefore, should be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens.

Sect. 3. Whereas Almighty God hath created the mind free; and all attempts to influence it by temporal punishments or burdens, or by civil incapacitations, tend to beget habits of hypocrisy and meanness; and whereas a principal object of our venerable ancestors, in their migration to this country and their settlement of this state, was, as they expressed it, to hold forth a lively experiment, that a flourishing civil state may stand and be best maintained with full liberty in religious concerns: We, therefore, declare that no man shall be compelled to frequent or to support any religious worship, place, or ministry whatever, except in fulfillment of his own voluntary contract; nor enforced, restrained, molested, or burdened in his body or goods; nor disqualified from holding any office; nor otherwise suffer on account of his religious belief; and that every man shall be free to worship God according to the dictates of his his own conscience, and to profess and by argument to maintain his opinion in matters of religion; and that the same shall in no wise diminish, enlarge, or affect his civil capacity.

Sect. 4. Slavery shall not be permitted in this state.

Sect. 5. Every person within this state ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely and without purchase, completely and without denial; promptly and without delay; conformably to the laws.

Sect. 6. The right of the people to be secure in their persons, papers and possessions, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, but on complaint in writing, upon probable cause, supported by oath or affirmation, and describing as nearly as may be, the place to be searched, and the persons or things to be seized.

Sect. 7. No person shall be held to answer for a capital or other infamous crime, unless on presentment or indictment by a grand jury, except in cases of impeachment, or of such offences as are cognizable by a justice of the peace; or in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. No person shall, after an acquittal, be tried for the same offence.

Sect. 8. Excessive bail shall not be required,

nor excessive fines imposed, nor cruel punishments inflicted; and all punishments ought to be proportioned to the offence.

Sect. 9. All persons imprisoned ought to be bailed by sufficient surety, unless for offences punishable by death or by imprisonment for life, when the proof of guilt is evident or the presumption great. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety shall require it; nor ever without the authority of the general assembly.

Sect. 10. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury; to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining them in his favours, to have the assistance of counsel in his defence, and shall be at liberty to speak for himself; nor shall he be deprived of life, liberty, or property, unless by the judgment of his peers, or the law of the land.

Sect. 11. The person of a debtor, when there is not strong presumption of fraud, ought not to be continued in prison, after he shall have delivered up his property for the benefit of his creditors, in such manner as shall be prescribed by law.

Sect. 12. No *ex post facto* law, or law impairing the obligation of contracts, shall be passed.

Sect. 13. No man in a court of common law shall be compelled to give evidence incriminating himself.

Sect. 14. Every man being presumed innocent, until he is pronounced guilty by the law, no act of severity which is not necessary to secure an accused person shall be permitted.

Sect. 15. The right of trial by jury shall remain inviolate.

Sect. 16. Private property shall not be taken for public uses, without just compensation.

Sect. 17. The people shall continue to enjoy and freely exercise all the rights of fishery, and the privileges of the shore, to which they have been heretofore entitled under the charter and usages of this state. But no new right is intended to be granted, nor any existing right impaired, by this declaration.

Sect. 18. The military shall be held in strict subordination to the civil authority. And the law martial shall be used and exercised in such cases only as occasion shall necessarily require.

Sect. 19. No soldier shall be quartered in any house, in time of peace, without the consent of the owner; nor, in time of war, but in a manner to be prescribed by law.

Sect. 20. The liberty of the press being essential to the security of freedom in a state, any person may publish his sentiment on any subject,

being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth, unless published from malicious motives, shall be sufficient defence to the person charged.

Sect. 21. The citizens have a right in a peaceable manner to assemble for their common good, and to apply to those invested with the powers of

government, for redress of grievances, or for other purposes, by petition, address, or remonstrance.

Sect. 22. The right of the people to keep and bear arms shall not be infringed.

Sect. 23. The enumeration of the foregoing rights shall not be construed to impair or deny others retained by the people.

CONSTITUTION OF THE STATE OF SOUTH CAROLINA¹

of 1895

ARTICLE I

DECLARATION OF RIGHTS

Sect. 1. All political power is vested in and derived from the people only, therefore they have the right at all times to modify their form of government.

Sect. 2. Representation in the House of Representatives shall be apportioned according to population.

Sect. 3. The General Assembly ought frequently to assemble for the redress of grievances and for making new laws, as the common good may require.

Sect. 4. The General Assembly shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or the press; or the right of the people peaceably to assemble and to petition the government or any part thereof for redress of grievances.

Sect. 5. The privileges and immunities of citizens of this state and of the United States under this constitution shall not be abridged, nor shall any person be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.

Sect. 6. All property subject to taxation shall be taxed in proportion to its value.

Sect. 7. No tax, subsidy, charge, impost, tax or duties shall be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people or their representatives lawfully assembled.

Sect. 8. No bill of attainder, *ex post facto* law, law impairing the obligation of contracts, nor law granting any title of nobility or hereditary emoluments, shall be passed, and no conviction shall work corruption of blood or forfeiture of estate.

Sect. 9. The right of suffrage, as regulated in this constitution, shall be protected by law regulating elections and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult or improper conduct.

Sect. 10. All elections shall be free and open, and every inhabitant of this state possessing the qualifications provided for in this constitution shall

have equal right to elect officers and be elected to fill public offices.

Sect. 11. No property qualification, unless prescribed in this constitution, shall be necessary for an election to or the holding of any office. No person shall be elected or appointed to office in this state for life, or during good behaviour, but the terms of all officers shall be for some specified period, except notaries public and officers of the militia. After the adoption of this constitution any person who shall fight a duel or send or accept a challenge for that purpose, or be an aider or abettor in fighting a duel, shall be deprived of holding any office of honour or trust in this state, and shall be otherwise punished as the law shall prescribe.

Sect. 12. Temporary absence from the state shall not forfeit a residence once obtained.

Sect. 13. The power of suspending the laws or the execution of the laws shall only be exercised by the General Assembly or by its authority in particular cases expressly provided for by it.

Sect. 14. In the government of this state the legislative, executive and judicial powers of the government shall be for ever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other.

Sect. 15. All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained.

Sect. 16. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

Sect. 17. No person shall be held to answer for any crime where the punishment exceeds a fine of one hundred dollars or imprisonment for thirty days, with or without hard labour, unless on a presentment or indictment of a grand jury of the county where the crime shall have been committed, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or liberty, nor shall be compelled in any criminal case to be a witness against

¹ *Constitution of the State of South Carolina, Columbia, S.C., 1932.*

himself. Private property shall not be taken for private use without the consent of the owner, nor for public use without just compensation being first made therefor.

Sect. 18. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury; and to be fully informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favour, and to be fully heard in his defence by himself or by his counsel or by both.

Sect. 19. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted, nor shall witnesses be unreasonably detained. Corporal punishment shall not be inflicted. The power to punish for contempt shall not in any case extend to imprisonment in the state penitentiary.

Sect. 20. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great.

Sect. 21. In all indictments or prosecutions for libel, the truth of the alleged libel may be given in evidence, and the jury shall be the judges of the law and the facts.

Sect. 22. Treason against the state shall consist alone in levying war or in giving aid and comfort to enemies against the state. No person shall be held guilty of treason, except upon testimony of at least two witnesses to the same overt act, or upon confession in open court.

Sect. 23. The privilege of the writ of *habeas corpus* shall not be suspended unless when, in case of insurrection, rebellion or invasion, the public safety may require it.

Sect. 24. No person shall be imprisoned for debt except in cases of fraud.

Sect. 25. The right of trial by jury shall be preserved inviolate.

Sect. 26. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. As in times of peace armies are dangerous to liberty, they shall not be maintained without the consent of the General Assembly. The military power of the state shall always be held in subordination to the civil authority and be governed by it. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in the manner to be prescribed by law.

Sect. 27. No person shall in any case be subject to martial law or to any pains or penalties by virtue of that law, except those employed in the army and navy of the United States, and except the militia in actual service, but by the authority of the General Assembly.

Sect. 28. All navigable waters shall for ever remain public highways free to the citizens of the state and the United States without tax, impost or toll imposed; and no tax, poll, impost or wharfage shall be imposed, demanded or received from the owners of any merchandise or commodity for the use of the shores or any wharf erected on the shores or in or over the waters of any navigable stream unless the same be authorized by the General Assembly.

Sect. 29. The provisions of the Constitution shall be taken, deemed and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissive by its own terms.

ARTICLE XVII

MISCELLANEOUS MATTERS

Sect. 4. No person who denies the existence of a Supreme Being shall hold any office under this constitution.

CONSTITUTION OF THE STATE OF SOUTH DAKOTA¹ of 1889

ARTICLE VI BILL OF RIGHTS

Sect. 1. All men are born equally free and independent, and have certain inherent rights, among which are those of enjoying and defending life and liberty, of acquiring and protecting property and the pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

Sect. 2. No person shall be deprived of life, liberty or property without due process of law.

The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labour union, or labour organization.

Sect. 3. The right to worship God according to the dictates of conscience shall never be infringed. No person shall be denied any civil or political right, privilege, or position on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to excuse licentiousness, the invasion of the rights of others, or justify practices inconsistent with the peace or safety of the state.

No person shall be compelled to attend or support any ministry or place of worship against his consent nor shall any preference be given by law to any religious establishment or mode of worship. No money or property of the state shall be given or appropriated for the benefit of any sectarian or religious society or institution.

Sect. 4. The right of petition, and of the people peaceably to assemble to consult for the common

¹South Dakota Legislative Manual, 1943. State Publishing Company.

good and make known their opinions, shall never be abridged.

Sect. 5. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right. In all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defence. The jury shall have the right to determine the fact and the law under the direction of the court.

Sect. 6. The right of trial by jury shall remain inviolate and shall extend to all cases at law without regard to the amount in controversy, but the legislature may provide for a jury of less than twelve in any court not a court of record and for the decision of civil cases by three-fourths of the jury in any court.

Sect. 7. In all criminal prosecutions the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf; and to a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed.

Sect. 8. All persons shall be bailable by sufficient sureties, except for capital offences when proof is evident or presumption great. The privilege of the writ of *habeas corpus* shall not be suspended unless, when in case of rebellion or invasion, the public safety may require it.

Sect. 9. No person shall be compelled in any criminal case to give evidence against himself or be twice put in jeopardy for the same offence.

Sect. 10. No person shall be held for a criminal offence unless on the presentment or indictment of a grand jury, or information of the public prosecutor, except in cases of impeachment, in cases cognizable by county courts, by justices of the peace, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger; provided, that the grand jury may be modified or abolished by law.

Sect. 11. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause supported by affidavit, particularly describing the place to be searched and the person or thing to be seized.

Sect. 12. No *ex post facto* law, or law impairing the obligation of contracts or making any irrevocable grant of privilege, franchise or immunity, shall be passed.

Sect. 13. Private property shall not be taken for public use, or damaged, without just compensation as determined by a jury, which shall be paid as soon as it can be ascertained, and before

possession is taken. No benefit which may accrue to the owner as the result of an improvement made by any private corporation shall be considered in fixing the compensation for property taken or damaged. The fee of land taken for railroad tracks or other highways shall remain in such owners, subject to the use for which it is taken.

Sect. 14. No distinction shall ever be made by law between resident aliens and citizens, in reference to the possession, enjoyment or descent of property.

Sect. 15. No person shall be imprisoned for debt arising out of or founded upon a contract.

Sect. 16. The military shall be in strict subordination to the civil power. No soldier in time of peace shall be quartered in any house without consent of the owner, nor in time of war except in the manner prescribed by law.

Sect. 17. No tax or duty shall be imposed without the consent of the people or their representatives in the legislature, and all taxation shall be equal and uniform.

Sect. 18. No law shall be passed granting to any citizen, class of citizens or corporation, privileges or immunities which upon the same terms shall not equally belong to all citizens or corporations.

Sect. 19. Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers in time of war may vote at their post of duty in or out of the state, under regulations to be prescribed by the legislature.

Sect. 20. All courts shall be open, and every man for an injury done him in his property, person or reputation, shall have remedy by due course of law, and right and justice, administered without denial or delay.

Sect. 21. No power of suspending laws shall be exercised, unless by the legislature or its authority.

Sect. 22. No person shall be attainted of treason or felony by the legislature.

Sect. 23. Excessive bail shall not be required, excessive fines imposed, nor cruel punishments inflicted.

Sect. 24. The right of citizens to bear arms in defence of themselves and the state shall not be denied.

Sect. 25. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or confession in open court.

Sect. 26. All political power is inherent in the people, and all free government is founded on their authority and is instituted for their equal protection and benefit, and they have the right in lawful and constituted methods to alter or reform

their forms of government in such manner as they may think proper. And the state of South Dakota is an inseparable part of the American Union and the constitution of the United States is the supreme law of the land.

Sect. 27. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality, and virtue and by frequent recurrence to fundamental principles.

CONSTITUTION OF THE STATE OF TENNESSEE¹ of 1870

ARTICLE I

DECLARATION OF RIGHTS

Sect. 1. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; for the advancement of those ends they have at all times, an unalienable and indefeasible right to alter, reform, or abolish the government in such manner as they may think proper.

Sect. 2. That government being instituted for the common benefit, the doctrine of nonresistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

Sect. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any minister against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious establishment or mode of worship.

Sect. 4. That no political or religious test, other than an oath to support the Constitution of the United States and of this state, shall ever be required as a qualification to any office or public trust under this state.

Sect. 5. That elections shall be free and equal, and the right of suffrage, as hereinafter declared, shall never be denied to any person entitled thereto, except upon a conviction by a jury of some infamous crime, previously ascertained and declared by law, and judgment thereon by court of competent jurisdiction.

Sect. 6. That the right of trial by jury shall remain inviolate, and no religious or political test shall ever be required as a qualification for jurors.

Sect. 7. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly de-

scribed and supported by evidence, are dangerous to liberty, and ought not to be granted.

Sect. 8. That no man shall be taken or imprisoned, or dispossessed of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers or the law of the land.

Sect. 9. That in all criminal prosecutions, the accused hath the right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favour, and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the county in which the crime shall have been committed, and shall not be compelled to give evidence against himself.

Sect. 10. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

Sect. 11. That laws made for the punishment of acts committed previous to the existence of such laws, and by them only declared, criminal, are contrary to the principles of a free government; wherefore no *ex post facto* law shall be made.

Sect. 12. That no conviction shall work corruption of blood or forfeiture of estate. The estate of such persons as shall destroy their own lives shall descend or vest as in case of natural death. If any person be killed by casualty, there shall be no forfeiture in consequence thereof.

Sect. 13. That no person arrested and confined in jail shall be treated with unnecessary rigour.

Sect. 14. That no person shall be put to answer any criminal charge but by presentment, indictment or impeachment.

Sect. 15. That all prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, or the presumption great. And the privilege of the writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion, the general assembly shall declare the public safety requires it.

Sect. 16. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Sect. 17. That all courts shall be open; and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy in due course of law, and right and justice adminis-

¹ *Tennessee Blue Book, 1946-1946.* Joe C. Carr, Secretary of State, Nashville, Tennessee, 1946. Pp. 117-149.

tered without sale, denial or delay. Suits may be brought against the state in such manner and in such courts as the legislature may by law direct.

Sect. 18. The legislature shall pass no law authorizing imprisonment for debt in civil cases.

Sect. 19. That the printing presses shall be free to every person to examine the proceedings of the legislature; or of any branch or officer of the government, and no law shall ever be made to restrain the right thereof.

The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. But in prosecutions for the publication of papers investigating the official conduct of officers, or men in public capacity, the truth thereof may be given in evidence; and in all indictments for libel, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other criminal cases.

Sect. 20. That no retrospective law, or law impairing the obligations of contracts, shall be made.

Sect. 21. That no man's particular services shall be demanded, or property taken, or applied to public use, without the consent of his representatives, or without just compensation being made therefor.

Sect. 22. That perpetuities and monopolies are contrary to the genius of a free state, and shall not be allowed.

Sect. 23. That the citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address or remonstrance.

Sect. 24. That the sure and certain defence of a free people is a well-regulated militia; and, as standing armies in time of peace are dangerous to freedom, they ought to be avoided as far as the circumstances and safety of the community will admit; and that in all cases the military shall be kept in strict subordination to the civil authority.

Sect. 25. That no citizen of this state, except such as are employed in the army of the United States, or militia in actual service, shall be subjected to punishment under the martial or military law. That martial law, in the sense of the unrestricted power of military officers, or others, to dispose of the person, liberties or property of the citizen, is inconsistent with the principles of free government, and is not confided to any department of the government of this state.

Sect. 26. That the citizens of this state have a right to keep and to bear arms for their common defence; but the legislature shall have power, by law, to regulate the wearing of arms with a view to prevent crime.

Sect. 27. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by law.

Sect. 28. That no citizen of this state shall be compelled to bear arms, provided he will pay an equivalent, to be ascertained by law.

Sect. 29. That an equal participation in the free navigation of the Mississippi is one of the inherent rights of the citizens of this state; it cannot, therefore, be conceded to any prince, potentate, power, person or persons whatever.

Sect. 30. That no hereditary emoluments, privileges, or honours, shall ever be granted or conferred in this state.

Sect. 31. That the limits and boundaries of this state be ascertained, it is declared they are as hereafter mentioned, that is to say: Beginning on the extreme height of the Stone mountain, at the place where the line of Virginia intersects it, in latitude thirty-six degrees and thirty minutes north; running thence along the extreme height of the said mountain, to the place where Watauga river breaks through it; thence a direct course to the top of the Yellow mountain, where Bright's road crosses the same; thence along the ridge of said mountain, between the waters of the Doe river and the waters of Rock creek, to the place where the road crosses the Iron mountain; from thence along the extreme height of said mountain to the place where Nolichucky river runs through the same; thence to the top of the Bald mountain; thence along the extreme height of said mountain to the Painted Rock, on French Broad river; thence along the highest ridge of said mountain, to the place where it is called the Great Iron or Smoky mountain; thence along the extreme height of said mountain to a place where it is called Unicoi or Unaka mountain, between the Indian towns of Cowee and Old Chota; thence along the main ridge of said mountain to the southern boundary of the state, as described in the act of cession of North Carolina to the United States of America; and that all the territory, lands and waters lying west of said line, as before mentioned, and contained within the chartered limits of the State of North Carolina, are within the boundaries and limits of this state, over which the people have the right of exercising sovereignty, and the right of soil, so far as is consistent with the Constitution of the United States, and recognizing the articles of confederation, the bill of rights and constitution of North Carolina, the cession act of the said state, and the ordinance of Congress for the government of the territory north-west of the Ohio; provided nothing herein contained shall extend to affect the claim or claims of individuals to any part of the soil which is recognized to them by the aforesaid cession act; and provided also, that the limits and jurisdiction of this state shall extend to any other land and territory now acquired, or that may hereafter

be acquired, by compact or agreement with other states, or otherwise, although such land and territory are not included within the boundaries hereinbefore designated.

Sect. 32. That the erection of safe and comfortable prisons, the inspection of prisons, and the humane treatment of prisoners shall be provided for.

Sect. 33. That slavery and involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, are for ever prohibited in this state.

Sect. 34. The General Assembly shall make no law recognizing the right of property in man.

ARTICLE IX DISQUALIFICATIONS

Sect. 2. No person who denies the being of God, or a future state of rewards and punish-

ments, shall hold any office in the civil department of this state.

ARTICLE XI MISCELLANEOUS PROVISIONS

Sect. 14. The intermarriage of white persons with negroes, mulattoes, or persons of mixed blood, descended from a negro to the third generation inclusive of their living together as man and wife in this state is prohibited. The legislature shall enforce this section by appropriate legislation.

Sect. 16. The declaration of rights hereto prefixed is declared to be a part of the constitution of this state, and shall never be violated on any pretence whatever. And to guard against transgression of the high powers we have delegated, we declare that everything in the bill of rights contained, is excepted out of the general powers of the government, and shall for ever remain inviolate.

CONSTITUTION OF THE STATE OF TEXAS¹ of 1876

ARTICLE I BILL OF RIGHTS

That the general, great and essential principles of liberty and free government may be recognized and established, we declare:

Sect. 1. Texas is a free and independent state, subject only to the Constitution of the United States, and the maintenance of our free institutions and the perpetuity of the Union depend upon the preservation of the right of local self-government, unimpaired to all the states.

Sect. 2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform, or abolish their government in such manner as they may think expedient.

Sect. 3. All freemen, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services.

Sect. 4. No religious test shall ever be required as a qualification to any office, or public trust, in this state; nor shall anyone be excluded from holding office on account of his religious sentiments, provided he acknowledge the existence of a Supreme Being.

Sect. 5. No person shall be disqualified to give evidence in any of the courts of this state on account of his religious opinions, or for the want of any religious belief, but all oaths or affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury.

Sect. 6. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law, to any religious society or mode of worship. But it shall be the duty of the legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship.

Sect. 7. No money shall be appropriated, or drawn from the Treasury for the benefit of any sect, or religious society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purposes.

Sect. 8. Every person shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publication of papers, investigating the conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence.

¹The Constitution of the State of Texas. By Homer Leonard. 1945.

And in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Sect. 9. The people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation.

Sect. 10. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. He shall not be compelled to give evidence against himself and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favour, except that when the witness resides out of the state and the offence charged is a violation of any of the anti-trust laws of this state, the defendant and the state shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the legislature may hereafter provide; and no person shall be held to answer for a criminal offence, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia when in actual service in time of war or public danger.

Sect. 11. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident; but this provision shall not be so construed as to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law.

Sect. 12. The writ of *habeas corpus* is a writ of right, and shall never be suspended. The legislature shall enact laws to render the remedy speedy and effectual.

Sect. 13. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person for an injury done him, in his lands, goods, person, or reputation, shall have remedy by due course of law.

Sect. 14. No person for the same offence shall be twice put in jeopardy of life or liberty, nor shall a person be again put upon trial for the same offence, after a verdict of not guilty in a court of competent jurisdiction.

Sect. 15. The right of trial by jury shall remain inviolate. The legislature shall pass such laws as may be needed to regulate the same, and to maintain its purity and efficiency. Provided, that the legislature may provide for the temporary commitment, for observation and/or treatment, of

mentally ill persons not charged with a criminal offence, for a period of time not to exceed ninety (90) days, by order of the county court without the necessity of a trial by jury.

Sect. 16. No bill of attainder, or *ex post facto* law, retroactive law, or any law impairing the obligation of contracts, shall be made.

Sect. 17. No person's property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person; and, when taken, except for the use of the state, such compensation shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities, shall be made; but all privileges and franchises granted by the legislature, or created under its authority shall be subject to the control thereof.

Sect. 18. No person shall ever be imprisoned for debt.

Sect. 19. No citizen of this state shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

Sect. 20. No citizen shall be outlawed, nor shall any person be transported out of the state for any offence committed within the same.

Sect. 21. No conviction shall work corruption of blood, or forfeiture of estate, and the estates of those who destroy their own lives shall descend or vest as in case of natural death.

Sect. 22. Treason against the state shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on confession in open court.

Sect. 23. Every citizen shall have the right to keep and bear arms in the lawful defence of himself or the state; but the legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime.

Sect. 24. The military shall at all times be subordinate to the civil authority.

Sect. 25. No soldier shall in time of peace be quartered in the house of any citizen without the consent of the owner, nor in time of war but in a manner prescribed by law.

Sect. 26. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed, nor shall the law of primogeniture or entailments ever be in force in this state.

Sect. 27. The citizens shall have a right, in a peaceable manner, to assemble together for their common good; and apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address or remonstrance.

Sect. 28. No power of suspending laws in this everything in this "Bill of Rights" is excepted out state shall be exercised by the legislature. of the general powers of government, and shall for

Sect. 29. To guard against transgressions of the ever remain inviolate, and all laws contrary thereto, high powers herein delegated, we declare that or to the following provisions, shall be void.

CONSTITUTION OF THE STATE OF UTAH¹ of 1896

ARTICLE I

DECLARATION OF RIGHTS

Sect. 1. All men have the inherent and inalienable right to enjoy and defend their lives and liberties; to acquire, possess and protect property; to worship according to the dictates of their consciences; to assemble peaceably, protest against wrongs, and petition for redress of grievances; to communicate freely their thoughts and opinions, being responsible for the abuse of that right.

Sect. 2. All political power is inherent in the people; and all free governments are founded on their authority for their equal protection and benefit, and they have the right to alter or reform their government as the public welfare may require.

Sect. 3. The State of Utah is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.

Sect. 4. The rights of conscience shall never be infringed. The state shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; no religious test shall be required as a qualification for any office of public trust or for any vote at any election; nor shall any person be incompetent as a witness or juror on account of religious belief or the absence thereof. There shall be no union of church and state, nor shall any church dominate the state or interfere with its functions. No public money or property shall be appropriated for or applied to any religious worship, exercise of instruction, or for the support of any ecclesiastical establishment. No property qualification shall be required of any person to vote, or hold office, except as provided in this constitution.

Sect. 5. The privilege of the writ of *habeas corpus* shall not be suspended, unless, in case of rebellion or invasion, the public safety requires it.

Sect. 6. The people have the right to bear arms for their security and defence, but the legislature may regulate the exercise of this right by law.

Sect. 7. No person shall be deprived of life, liberty or property, without due process of law.

Sect. 8. All prisoners shall be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption strong.

Sect. 9. Excessive bail shall not be required; excessive fines shall not be imposed; nor shall cruel and unusual punishments be inflicted. Persons

arrested or imprisoned shall not be treated with unnecessary rigour.

Sect. 10. In capital cases the right of trial by jury shall remain inviolate. In courts of general jurisdiction, except in capital cases, a jury shall consist of eight jurors. In courts of inferior jurisdiction a jury shall consist of four jurors. In criminal cases the verdict shall be unanimous. In civil cases three-fourths of the jurors may find a verdict. A jury in civil cases shall be waived unless demanded.

Sect. 11. All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law, which shall be administered without denial or unnecessary delay; and no person shall be barred from prosecuting or defending before any tribunal in this state, by himself or counsel, any civil cause to which he is a party.

Sect. 12. In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to be confronted by the witnesses against him, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed, and the right to appeal in all cases. In no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed. The accused shall not be compelled to give evidence against himself; a wife shall not be compelled to testify against her husband, nor a husband against his wife, nor shall any person be twice put in jeopardy for the same offence.

Sect. 13. Offences heretofore required to be prosecuted by indictment, shall be prosecuted by information after examination and commitment by a magistrate, unless the examination be waived by the accused with the consent of the state, or by indictment, with or without such examination and commitment. The grand jury shall consist of seven persons, five of whom must concur to find an indictment; but no grand jury shall be drawn or summoned unless, in the opinion of the judge of the district, public interest demands it.

Sect. 14. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon

¹ *Constitution of the State of Utah.* Published by E. E. Monson, Secretary of State, May, 1946.

probable cause supported by oath or affirmation, particularly describing the place to be searched, and the person or thing to be seized.

Sect. 15. No law shall be passed to abridge or restrain the freedom of speech or of the press. In all criminal prosecutions for libel the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Sect. 16. There shall be no imprisonment for debt except in cases of absconding debtors.

Sect. 17. All elections shall be free, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers, in time of war, may vote at their post of duty, in or out of the state, under regulations to be prescribed by law.

Sect. 18. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts shall be passed.

Sect. 19. Treason against the state shall consist only in levying war against it, or in adhering to its enemies or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act.

Sect. 20. The military shall be in strict subordination to the civil power, and no soldier in time of peace, shall be quartered in any house without the consent of the owner; nor in time of war except in a manner to be prescribed by law.

Sect. 21. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within this state.

Sect. 22. Private property shall not be taken or damaged for public use without just compensation.

Sect. 23. No law shall be passed granting irrevocably any franchise, privilege or immunity.

Sect. 24. All laws of a general nature shall have uniform operation.

Sect. 25. This enumeration of rights shall not be construed to impair or deny others retained by the people.

Sect. 26. The provisions of this constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

Sect. 27. Frequent recurrence to fundamental principles is essential to the security of individual rights and the perpetuity of free government.

ARTICLE III ORDINANCE

The following ordinance shall be irrevocable without the consent of the United States and the people of this state: Perfect toleration of religious

sentiment is guaranteed. No inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship; but polygamous or plural marriages are for ever prohibited.

ARTICLE XII CORPORATIONS

Sect. 19. Every person in this state shall be free to obtain employment whenever possible, and any person, corporation, or agent, servant or employee thereof, maliciously interfering or hindering in any way, any person from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a crime. The legislature shall provide by law for the enforcement of this section.

ARTICLE XVI LABOUR

Sect. 1. The rights of labour shall have just protection through laws calculated to promote the industrial welfare of the state.

Sect. 2. The legislature shall provide by law, for a Board of Labour, Conciliation and Arbitration, which shall fairly represent the interests of both capital and labour. The board shall perform duties, and receive compensation as prescribed by law.

Sect. 3. The legislature shall prohibit:

1. The employment of women, or of children under the age of fourteen years, in underground mines.
2. The contracting of convict labour.
3. The labour of convicts outside prison grounds, except on public works under the direct control of the state.
4. The political and commercial control of employees.

Sect. 4. The exchange of black lists by railroad companies, or other corporations, associations, or persons is prohibited.

Sect. 6. Eight hours shall constitute a day's work on all works or undertakings carried on or aided by the state, county or municipal governments; and the legislature shall pass laws to provide for the health and safety of employees in factories, smelters and mines.

Sect. 7. The legislature, by appropriate legislation, shall provide for the enforcement of the provisions of this article.

Sect. 8. The legislature may, by appropriate legislation, provide for the establishment of a minimum wage for women and minors and may provide for the comfort, safety and general welfare of any and all employees. No provision of this constitution shall be construed as a limitation upon the authority of the legislature to confer upon any commission now or hereafter created such power and authority as the legislature may deem requisite to carry out the provisions of this section.

CONSTITUTION OF THE STATE OF VERMONT¹

of 1793

CHAPTER I

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE STATE OF VERMONT

Art. 1. That all men are born equally free and independent, and have certain natural, inherent and inalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety; therefore no person born in this country, or brought from over sea, ought to be holden by law, to serve any person as a servant, slave or apprentice, after he arrives to the age of twenty-one years, unless he is bound by his own consent, after he arrives to such age, or bound by law for the payment of debts, damages, fines, costs, or the like.

Art. 2. That private property ought to be subservient to public uses when necessity requires it; nevertheless, whenever any person's property is taken for the use of the public, the owner ought to receive an equivalent in money.

Art. 3. That all men have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences and understandings, as in their opinion shall be regulated by the word of God; and that no man ought to, or of right can be compelled to attend any religious worship, or erect or support any place of worship or maintain any minister, contrary to the dictates of his conscience, nor can any man be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments, or peculiar mode of religious worship; and that no authority can, or ought to be vested in, or assumed by, any power whatever, that shall in any case interfere with, or in any manner control the rights of conscience, in the free exercise of religious worship. Nevertheless, every sect or denomination of Christians ought to observe the Sabbath or Lord's day, and keep up some sort of religious worship, which to them shall seem most agreeable to the revealed will of God.

Art. 4. Every person within this state ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain right and justice, freely, and without being obliged to purchase it; completely and without delay; conformably to the laws.

Art. 5. That the people of this state by their legal representatives, have the sole, inherent, and exclusive right of governing and regulating the internal police of the same.

Art. 6. That all power being originally inherent in and consequently derived from the people, therefore, all officers of government, whether legislative or executive, are their trustees and servants; and at all times, in a legal way, accountable to them.

Art. 7. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single man, family, or set of men, who are a part only of that community; and that the community hath an indubitable, inalienable, and infeasible right, to reform or alter government, in such manner as shall be, by that community, judged most conducive to the public weal.

Art. 8. That all elections ought to be free and without corruption, and that all freemen, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution.

Art. 9. That every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore, is bound to contribute his proportion towards the expense of that protection, and yield his personal service, when necessary, or an equivalent thereto, but no part of any person's property can be justly taken from him, or applied to public uses, without his own consent, or that of the representative body of the freemen, nor can any man who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent; nor are the people bound by any law but such as they have in like manner assented to, for their common good; and previous to any law being made to raise a tax, the purpose for which it is to be raised ought to appear evident to the legislature to be of more service to community than the money would be if not collected.

Art. 10. That in all prosecutions for criminal offences, a person hath a right to be heard by himself, and his counsel; to demand the cause and nature of his accusation; to be confronted by the witnesses; to call for evidence in his favour, and a speedy public trial by an impartial jury of the county; without the unanimous consent of which jury, he cannot be found guilty; nor can he be compelled to give evidence against himself; nor can any person be justly deprived of his liberty, except by the laws of the land or the judgment of his peers; provided, nevertheless, in criminal prosecutions for offences not punishable by death or imprisonment, in the state prison, the accused, with the consent of the prosecuting officer entered of record, may in open court or by a writing signed

¹ *Vermont Legislative Directory*. Prepared by Rawson C. Myrick, Secretary of State, 1945. Pp. 23-58.

by him and filed with the court, waive his right to a jury trial and submit the issue of his guilt to the determination and judgment of the court without a jury.

Art. 11. That the people have a right to hold themselves, their houses, papers, and possessions, free from search or seizure; and therefore, warrants, without oath or affirmation first made, affording sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his, her or their property, not particularly described, are contrary to that right, and ought not to be granted.

Art. 12. That when any issue in fact, proper for the cognizance of a jury is joined in a court of law, the parties have a right to trial by jury, which ought to be held sacred.

Art. 13. That the people have a right to freedom of speech, and of writing and publishing their sentiments, concerning the transactions of government, and therefore the freedom of the press ought not to be restrained.

Art. 14. The freedom of deliberation, speech, and debate, in the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

Art. 15. The power of suspending laws, or the execution of laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases, as this constitution or the legislature shall provide for.

Art. 16. That the people have the right to bear

arms for the defence of themselves and the state, and as standing armies in time of peace are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to and governed by the civil power.

Art. 17. That no person in this state can in any case be subjected to law martial, or to any penalties or pains by virtue of that law, except those employed in the army, and the militia in actual service.

Art. 18. That frequent recurrences to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality are absolutely necessary to preserve the blessings of liberty, and keep government free; the people ought, therefore, to pay particular attention to these points, in the choice of officers and representatives, and have a right, in a legal way, to exact a due and constant regard to them, from their legislators and magistrates, in making and executing such laws as are necessary for the good government of the state.

Art. 19. That all people have a natural and inherent right to emigrate from one state to another that will receive them.

Art. 20. That the people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances, by address, petition or remonstrance.

Art. 21. That no person shall be liable to be transported out of this state for trial for any offence committed within the same.

CONSTITUTION OF THE COMMONWEALTH OF VIRGINIA¹

of 1902

ARTICLE I

BILL OF RIGHTS

A declaration of rights made by the good people of Virginia in the exercise of their sovereign powers, which rights do pertain to them and their posterity, as the basis and foundation of government.

Sect. 1. That all men are by nature equally free and independent and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity, namely the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Sect. 2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

Sect. 3. That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and whenever any government shall be found inadequate or contrary to these purposes a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter or abolish it, in such manner as shall be judged most conducive to the public weal.

Sect. 4. That no man or set of men, is entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which not being descendible, neither ought the offices of magistrate, legislator or judge to be hereditary.

Sect. 5. That the legislative, executive and judicial departments of the state should be sepa-

¹*Constitution of Virginia.* Commonwealth of Virginia, Richmond, 1945.

rate and distinct; and that the members thereof may be restrained from oppression, by feeling and participating the burdens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by regular elections in which all or any part of the former members shall be again eligible, or ineligible, as the laws may direct.

Sect. 6. That all elections ought to be free; and that all men having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed, or deprived of, or damaged in, their property for public uses, without their own consent, or that of their representatives duly elected, or bound by any law to which they have not, in like manner, assented for the public good.

Sect. 7. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights and ought not to be exercised.

Sect. 8. That in criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favour, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty. He shall not be deprived of life or liberty, except by the law of the land or the judgment of his peers; nor be compelled in any criminal proceeding to give evidence against himself, nor be put twice in jeopardy for the same offence.

Laws may be enacted providing for the trial of offences not felonious by a justice of the peace or other inferior tribunal without a jury, preserving the right of the accused to an appeal to and a trial by jury in some court of record having original criminal jurisdiction. Laws may also provide for juries consisting of less than twelve, but not less than five, for the trial of offences not felonious, and may classify such cases, and prescribe the number of jurors for each class.

In criminal cases, the accused may plead guilty; and, if the accused plead not guilty, with his consent and the concurrence of the commonwealth's attorney, and of the court entered of record, he may be tried by a smaller number of jurors, or waive a jury. In case of such waiver, or plea of guilty, the court shall try the case.

Sect. 9. That excessive bail ought not to be re-

quired, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Sect. 10. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described, and supported by evidence, are grievous and oppressive, and ought not to be granted.

Sect. 11. That no person shall be deprived of his property without due process of law; and in controversies respecting property, and in suits between man and man, trial by jury is preferable to any other, and ought to be held sacred. The General Assembly may limit the number of jurors for civil cases in courts of record, to not less than five in cases cognizable by justices of the peace, or to not less than seven in cases not so cognizable.

Sect. 12. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments; and any citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right.

Sect. 13. That a well-regulated militia, composed of the body of the people trained to arms, is the proper, natural and safe defense of a free state; that standing armies, in time of peace, should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.

Sect. 14. That the people have a right to uniform government; and, therefore, that no government separate from, or independent of, the government of Virginia, ought to be erected or established within the limits thereof.

Sect. 15. That no free government, or the blessings of liberty can be preserved to any people, but by firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

Sect. 16. That religion or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love and charity towards each other.

Sect. 17. The rights enumerated in this bill of rights shall not be construed to limit other rights of the people not herein expressed.

CONSTITUTION OF THE STATE OF WASHINGTON¹

of 1889

ARTICLE I

BILL OF RIGHTS

Sect. 1. All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.

Sect. 2. The Constitution of the United States is the supreme law of the land.

Sect. 3. No person shall be deprived of life, liberty, or property without due process of law.

Sect. 4. The right of petition and of the people peaceably to assemble for the common good shall never be abridged.

Sect. 5. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.

Sect. 6. The mode of administering an oath or affirmation shall be such as may be most consistent with and binding upon the conscience of the person to whom such oath or affirmation may be administered.

Sect. 7. No person shall be disturbed in his private affairs, or his home invaded, without authority of law.

Sect. 8. No law granting irrevocably any privilege, franchise, or immunity shall be passed by the legislature.

Sect. 9. No person shall be compelled in any criminal case to give evidence against himself, or be twice put in jeopardy for the same offence.

Sect. 10. Justice in all cases shall be administered openly and without unnecessary delay.

Sect. 11. Absolute freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to every individual, and no one shall be molested or be disturbed in person or property on account of religion; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace and safety of the state. No public money or property shall be appropriated for or applied to any religious worship, exercise, or instruction, or support of any religious establishment. Provided, however, that this article shall not be so construed as to forbid the employment by the state of a chaplain for the state penitentiary, and for such of the state reformatories as in the discretion of the legislature may seem justified. No religious qualification shall be required for any public office or employment, nor shall any person be incompetent as a witness or juror, in consequence of his opinion on matters

of religion, nor be questioned in any court of justice touching his religious belief to affect the weight of his testimony.

Sect. 12. No law shall be passed granting to any citizen, class of citizens, or corporation, other than municipal, privileges or immunities which, upon the same terms, shall not equally belong to all citizens or corporations.

Sect. 13. The privilege of the writ of *habeas corpus* shall not be suspended, unless in case of rebellion or invasion the public safety requires it.

Sect. 14. Excessive bail shall not be required, excessive fines imposed, nor cruel punishment inflicted.

Sect. 15. No conviction shall work corruption of blood nor forfeiture of estate.

Sect. 16. Private property shall not be taken for private use, except for private ways of necessity, and for drains, flumes, or ditches on or across the lands of others for agricultural, domestic, or sanitary purposes. No private property shall be taken or damaged for public or private use without just compensation having been first made, or paid into court for the owner, and no right of way shall be appropriated to the use of any corporation other than municipal until full compensation therefore be first made in money or ascertained and paid into court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in courts of record, in the manner prescribed by law. Whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined as such, without regard to any legislative assertion that the use is public: provided, that the taking of private property by the state for land reclamation and settlement purposes is hereby declared to be for public use.

Sect. 17. There shall be no imprisonment for debt except in cases of absconding debtors.

Sect. 18. The military shall be in strict subordination to the civil power.

Sect. 19. All elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Sect. 20. All persons charged with crime shall be bailable by sufficient sureties, except for capital offences, when the proof is evident, or the presumption great.

Sect. 21. The right of trial by jury shall remain inviolate, but the legislature may provide for a jury of any number less than twelve in courts

¹ *Constitution of the State of Washington.* Published by Belle Reeves, Secretary of State, Olympia, 1943.

not of record, and for a verdict by nine or more jurors in civil cases in any court of record, and for waiving of the jury in civil cases where the consent of the parties interested is given thereto.

Sect. 22. In criminal prosecutions the accused shall have the right to appear and defend in person, or by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses against him face to face, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county in which the offence is charged to have been committed and the right to appeal in all cases: provided, the route traversed by any railway coach, train or public conveyance, and the water traversed by any boat shall be criminal districts; and the jurisdiction of all public offences committed on any such railway car, coach, train, boat or other public conveyance, or at any station or depot upon such route, shall be in any county through which the said car, coach, train, boat or other public conveyance may pass during the trip or voyage, or in which the trip or voyage may begin or terminate. In no instance shall any accused person before final judgment be compelled to advance money or fees to secure the rights herein guaranteed.

Sect. 23. No bill of attainder, *ex post facto* law, or law impairing the obligations of contracts shall ever be passed.

Sect. 24. The right of the individual citizen to bear arms in defence of himself or the state shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain, or employ an armed body of men.

Sect. 25. Offences heretofore required to be prosecuted by indictment may be by information or by indictment, as shall be prescribed by law.

Sect. 26. No grand jury shall be drawn or summoned in any county, except the superior judge thereof shall so order.

Sect. 27. Treason against the state shall consist only in levying war against the state or adhering to its enemies, or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open court.

Sect. 28. No hereditary emoluments, privileges, or powers shall be granted or conferred in this state.

Sect. 29. The provisions of this constitution are mandatory, unless by express words they are declared to be otherwise.

Sect. 30. The enumeration in this constitution of certain rights shall not be construed to deny others retained by the people.

Sect. 31. No standing army shall be kept up by this state in time of peace, and no soldier shall in

time of peace be quartered in any house without the consent of its owner, nor in time of war except in the manner prescribed by law.

Sect. 32. A frequent recurrence to fundamental principles is essential to the security of individual rights, and the perpetuity of free government.

Sect. 33. Every elective public officer in the State of Washington except judges of courts of record is subject to recall and discharge by the legal voters of the state, or of the political subdivision of the state, from which he was elected whenever a petition demanding his recall, reciting that such officer has committed some act or acts of malfeasance or misfeasance while in office, or has violated his oath of office, stating the matters complained of, signed by the percentages of the qualified electors thereof, hereinafter provided, the percentage required to be computed from the total number of votes cast for all candidates for his said office to which he was elected at the preceding election, is filed with the officer with whom a petition for nomination, or certificate for nomination, to such office must be filed under the laws of this state, and the same officer shall call a special election as provided by the general election laws of this state, and the result determined as therein provided.

Sect. 34. The legislature shall pass the necessary laws to carry out the provisions of section thirty-three (33) of this article, and to facilitate its operation and effect without delay. Provided, that the authority hereby conferred upon the legislature shall not be construed to grant to the legislature any exclusive power of lawmaking nor in any way limit the initiative and referendum powers reserved by the people. The percentages required shall be state officers, other than judges, senators and representatives, city officers of cities of the first class, school district boards in cities of the first class; county officers of counties of the first, second and third classes, twenty-five per cent. Officers of all other political subdivisions, cities, towns, townships, precincts and school districts not herein mentioned, and state senators and representatives, thirty-five per cent.

ARTICLE IX EDUCATION

Sect. 1. It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, caste, or sex.

Sect. 2. The legislature shall provide for a general and uniform system of public schools. The public school system shall include common schools, and such high schools, normal schools, and technical schools as may hereafter be established. But the entire revenue derived from the common school fund, and the state tax for common schools,

shall be exclusively applied to the support of the common schools.

Sect. 3. The principal of the common school fund shall remain permanent and irreducible. The said fund shall be derived from the following named sources, to wit: Appropriations and donations by the state to this fund; donations and bequests by individuals to the state or public for common schools; the proceeds of lands and other property which revert to the state by escheat and forfeiture; the proceeds of all property granted to the state, when the purpose of the grant is not specified or is uncertain; funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law; the proceeds of the sale of timber, stone, minerals or other property from school and state lands, other than those granted for specific purposes; all monies received from persons appropriating timber, stone, minerals or other property from school or state lands other than those granted for specific purposes, and all moneys other than rental recovered from persons trespassing on said lands; five per centum of the proceeds of the sale of public lands lying within the state which shall be sold by the United States subsequent to the admission of the state into the Union, as approved by section thirteen of the act of Congress enabling the admis-

sion of the state into the Union; the principal of all funds arising from the sale of lands and other property which have been and hereafter may be granted to the state for the support of the common schools. The legislature may make further provisions for enlarging said fund. The interest accruing on said land, together with all rentals and other revenues derived therefrom, and from lands and other property devoted to the common school fund, shall be exclusively applied to the current use of the common schools.

Sect. 4. All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence.

Sect. 5. All losses to the permanent common school or any other state educational fund which shall be occasioned by defalcation, mismanagement, or fraud of the agents or officers controlling or managing the same shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favour of the particular fund sustaining such loss, upon which not less than six per cent annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized and limited elsewhere in this constitution.

CONSTITUTION OF THE STATE OF WEST VIRGINIA¹

of 1872

ARTICLE III

BILL OF RIGHTS

1. All men are, by nature, equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity, namely: the enjoyment of life and liberty, with the means of acquiring and possessing property, and of pursuing and obtaining happiness and safety.

2. All power is vested in, and consequently derived from, the people. Magistrates are their trustees and servants, and at all times amenable to them.

3. Government is instituted for the common benefit, protection and security of the people, nation or community. Of all its various forms that is the best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and when any government shall be found inadequate or contrary to these purposes, a majority of the community has an indubitable, inalienable, and indefeasible right to

reform, alter or abolish it in such manner as shall be judged most conducive to the public weal.

4. The privilege of the writ of *habeas corpus* shall not be suspended. No person shall be held to answer for treason, felony or other crime, not cognizable by a justice, unless on presentment or indictment of a grand jury. No bill of attainder, *ex post facto* law, or law impairing the obligation of a contract, shall be passed.

5. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. Penalties shall be proportioned to the character and degree of the offence. No person shall be transported out of, or forced to leave the state for any offence committed within the same; nor shall any person, in any criminal case, be compelled to be a witness against himself, or twice put in jeopardy of life or liberty for the same offence.

6. The right of the citizens to be secure in their houses, persons, papers and effects against unreasonable searches and seizures, shall not be violated. No warrant shall issue except upon probable cause, supported by oath or affirmation, particularly describing the place to be searched, or the person or thing to be seized.

7. No law abridging the freedom of speech, or of the press, shall be passed; but the legislature

¹ *Constitution of the State of West Virginia.* Charleston, West Virginia, Jarrett Printing Co., November 1939.

may, by suitable penalties, restrain the publication or sale of obscene books, papers or pictures, and provide for the punishment of libel, and defamation of character, and for the recovery, in civil actions, by the aggrieved party, of suitable damages for such libel, or defamation.

8. In prosecutions, and civil suits for libel, the truth may be given in evidence; and if it shall appear to the jury, that the matter charged as libellous, is true, and was published with good motives, and for justifiable ends, the verdict shall be for the defendant.

9. Private property shall not be taken or damaged for public use, without just compensation; nor shall the same be taken by any company, incorporated for the purposes of internal improvement, until just compensation shall have been paid, or secured to be paid, to the owner, and when private property shall be taken, or damaged, for public use, or for the use of such corporations, the compensation to the owner shall be ascertained in such manner, as may be prescribed by general law; provided, that when required by either of the parties, such compensation shall be ascertained by an impartial jury of twelve freeholders.

10. No person shall be deprived of life, liberty or property, without due process of law, and the judgment of his peers.

11. Political tests requiring persons, as a prerequisite to the enjoyment of their civil and political rights, to purge themselves by their own oaths, of past alleged offences, are repugnant to the principles of free government, and are cruel and oppressive. No religious or political test oath shall be required as a prerequisite or qualification to vote, serve as a juror, sue, plead, appeal, or pursue any profession or employment. Nor shall any person be deprived by law, of any right, or privilege, because of any act done prior to the passage of such law.

12. Standing armies, in time of peace, should be avoided, as dangerous to liberty. The military shall be subordinate to the civil power; and no citizen, unless engaged in the military service of the state, shall be tried or punished by any military court, for any offence that is cognizable by the civil courts of the state. No soldier shall in time of peace be quartered in any house, without the consent of the owner; nor, in time of war, except in the manner to be prescribed by law.

13. In suits at common law, where the value in controversy exceeds twenty dollars, exclusive of interest and costs, the right of trial by jury, if required by either party, shall be preserved; and in such suit before a justice a jury may consist of six persons. No fact tried by a jury shall be other-

wise re-examined in any case than according to the rules of the common law.

14. Trials of crimes, and of misdemeanours, unless herein otherwise provided, shall be by a jury of twelve men, public, without unreasonable delay, and in the county where the alleged offence was committed, unless upon petition of the accused, and for good cause shown, it is removed to some other county. In all such trials, the accused shall be fully and plainly informed of the character and cause of the accusation, and be confronted with the witnesses against him, and shall have the assistance of counsel, and a reasonable time to prepare for his defence; and there shall be awarded to him, compulsory process for obtaining witnesses in his favour.

15. No man shall be compelled to frequent or support any religious worship, place or ministry whatsoever; nor shall any man be enforced, restrained, molested or burthened, in his body or goods, or otherwise suffer, on account of his religious opinions or belief; but all men shall be free to profess, and, by argument, to maintain their opinions in matters of religion; and the same shall, in no wise, affect, diminish, or enlarge their civil capacities; and the legislature shall not prescribe any religious test, whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this state, to levy on themselves, or others, any tax for the erection or repair of any house for public worship, or for the support of any church or ministry, but it shall be left free, for every person to select his religious instructor, and to make for his support, such private contract as he shall please.

16. The right of the people to assemble in a peaceable manner, to consult for the common good, to instruct their representatives, or to apply for redress of grievances, shall be held inviolate.

17. The courts of this state shall be open, and every person, for an injury done to him, in his person, property, or reputation, shall have remedy by due course of law; and justice shall be administered without sale, denial or delay.

18. No conviction shall work corruption of blood or forfeiture of estate.

19. No hereditary emoluments, honours or privileges, shall ever be granted or conferred in this state.

20. Free government, and the blessings of liberty, can be preserved to any people, only by a firm adherence to justice, moderation, temperance, frugality and virtue, and by a frequent recurrence to fundamental principles.

CONSTITUTION OF THE STATE OF WISCONSIN¹ of 1848

ARTICLE I

DECLARATION OF RIGHTS

Sect. 1. All men are born equally free and independent and have certain inherent rights; among these are life, liberty and the pursuit of happiness; to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

Sect. 2. There shall be neither slavery, nor involuntary servitude in this state, otherwise than for the punishment of crime, whereof the party shall have been duly convicted.

Sect. 3. Every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the Press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence, and if it shall appear to the jury that the matter charged as libellous be true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Sect. 4. The right of the people peaceably to assemble, to consult for the common good, and to petition the government, or any department thereof, shall never be abridged.

Sect. 5. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy; but a jury trial may be waived by the parties in all cases in the manner prescribed by law. Provided, however, that the legislature may, from time to time, by statute provide that a valid verdict, in civil cases, may be based on the votes of a specified number of the jury, not less than five-sixths thereof.

Sect. 6. Excessive bail shall not be required, nor shall excessive fines be imposed, nor cruel and unusual punishments inflicted.

Sect. 7. In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his behalf; and in prosecutions by indictment, or information, to a speedy public trial by an impartial jury of the county or district wherein the offence shall have been committed; which county or district shall have been previously ascertained by law.

Sect. 8. No person shall be held to answer for

a criminal offence without due process of law, and no person for the same offence shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself. All persons shall, before conviction be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require it.

Sect. 9. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.

Sect. 10. Treason against the state shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Sect. 11. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

Sect. 12. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts shall ever be passed and no conviction shall work corruption of blood or forfeiture of estate.

Sect. 13. The property of no person shall be taken for public use without just compensation therefor.

Sect. 14. All lands within the state are declared to be allodial, and feudal tenures are prohibited. Leases and grants of agricultural land for a longer term than fifteen years in which rent or service of any kind shall be reserved, and all fines and like restraints upon alienation reserved in any grant of land, hereafter made, are declared to be void.

Sect. 15. No distinction shall ever be made by law between resident aliens and citizens, in reference to the possession, enjoyment or descent of property.

Sect. 16. No person shall be imprisoned for debt arising out of or founded on a contract, expressed or implied.

Sect. 17. The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount

¹The Wisconsin Blue Book, 1940. Compiled by the Wisconsin Legislative Reference Library. Pp. 203-224.

or property from seizure or sale for the payment of any debt or liability hereafter contracted.

Sect. 18. The right of every man to worship Almighty God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent; nor shall any control of, or interference with, the rights of conscience be permitted, or any preference be given by law to any religious establishments or modes of worship; nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries.

Sect. 19. No religious test shall ever be re-

quired as a qualification for any office of public trust under the state, and no person shall be rendered incompetent to give evidence in any court of law or equity in consequence of his opinions on the subject of religion.

Sect. 20. The military shall be in strict subordination to the civil power.

Sect. 21. Writs of error shall never be prohibited by law.

Sect. 22. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

CONSTITUTION OF THE STATE OF WYOMING' of 1890

ARTICLE I

DECLARATION OF RIGHTS

Sect. 1. All power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety and happiness; for the advancement of these ends they have at all times an inalienable and indefeasible right to alter, reform or abolish the government in such manner as they may think proper.

Sect. 2. In their inherent right of life, liberty and the pursuit of happiness, all members of the human race are equal.

Sect. 3. Since equality in the enjoyment of natural and civil rights is made sure only through political equality, the laws of this state affecting the political rights and privileges of its citizens shall be without distinction of race, colour, sex, or any circumstances or conditions whatsoever other than individual incompetency, or unworthiness duly ascertained by a court of competent jurisdiction.

Sect. 4. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by affidavit, particularly describing the place to be searched or the person or thing to be seized.

Sect. 5. No person shall be imprisoned for debt except in cases of fraud.

Sect. 6. No person shall be deprived of life, liberty or property without due process of law.

Sect. 7. Absolute, arbitrary power over the lives, liberty and property of freemen exists nowhere in a republic, not even in the largest majority.

Sect. 8. All courts shall be open and every person for an injury done to person, reputation or property shall have justice administered without sale, denial or delay. Suits may be brought against the state in such manner and in such courts as the legislature may by law direct.

Sect. 9. The right of trial by jury shall remain inviolate in criminal cases, but a jury in civil cases in all courts or in criminal cases in courts not of record, may consist of less than twelve men, as may be prescribed by law. Hereafter a grand jury may consist of twelve men, any nine of whom concurring may find an indictment, but the legislature may change, regulate or abolish the grand jury system.

Sect. 10. In all criminal prosecutions, the accused shall have the right to defend in person and by counsel, to demand the nature and cause of the accusation, to have a copy thereof, to be confronted with the witnesses against him, to have compulsory process served for obtaining witnesses, and to a speedy trial by an impartial jury of the county or district in which the offence is alleged to have been committed.

Sect. 11. No person shall be compelled to testify against himself in any criminal case, nor shall any person be twice put in jeopardy for the same offence. If the jury disagree, or if the judgment be arrested after a verdict, or if the judgment be reversed for error in law, the accused shall not be deemed to have been in jeopardy.

Sect. 12. No person shall be detained as witness in any criminal prosecution longer than may be necessary to take his testimony or deposition, nor be confined in any room where criminals are imprisoned.

Sect. 13. Until otherwise provided by law, no person shall, for a felony, be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval forces, or in

¹ *Constitution of the State of Wyoming.* Compiled and reprinted by Mart T. Christensen, Secretary of State. 1943.

the militia when in actual service in time of war or public danger.

Sect. 14. All persons shall be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishment be inflicted.

Sect. 15. The penal code shall be framed on the humane principles of reformation and prevention.

Sect. 16. No person arrested and confined in jail shall be treated with unnecessary rigour. The erection of safe and comfortable prisons, and inspection of prisons, and the humane treatment of prisoners shall be provided for.

Sect. 17. The privilege of the writ of *habeas corpus* shall not be suspended, unless, when in case of rebellion or invasion the public safety may require it.

Sect. 18. The free exercise and enjoyment of religious profession and worship without discrimination or preference shall be for ever guaranteed in this state, and no person shall be rendered incompetent to hold any office of trust or profit, or to serve as a witness or juror, because of his opinion on any matter of religious belief whatever; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the state.

Sect. 19. No money of the state shall ever be given or appropriated to any sectarian or religious society or institution.

Sect. 20. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right; and in all trials for libel, both civil and criminal, the truth, when published with good intent and for justifiable ends, shall be a sufficient defence, the jury having the right to determine the facts and the law, under direction of the court.

Sect. 21. The right of petition, and of the people peaceably to assemble to consult for the common good, and to make known their opinions, shall never be denied or abridged.

Sect. 22. The right of labour shall have just protection through laws calculated to secure to the labourer proper rewards for his service and to promote the industrial welfare of the state.

Sect. 23. The right of the citizens to opportunities for education should have practical recognition. The legislature shall suitably encourage means and agencies calculated to advance the sciences and liberal arts.

Sect. 24. The right of citizens to bear arms in

defence of themselves and of the state shall not be denied.

Sect. 25. The military shall ever be in strict subordination to the civil power. No soldier in time of peace shall be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

Sect. 26. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court; nor shall any person be attainted of treason by the legislature.

Sect. 27. Elections shall be open, free and equal, and no power, civil or military, shall at any time interfere to prevent an untrammelled exercise of the right of suffrage.

Sect. 28. No tax shall be imposed without the consent of the people or their authorized representatives. All taxation shall be equal and uniform.

Sect. 29. No distinction shall ever be made by law between resident aliens and citizens as to the possession, taxation, enjoyment and descent of property.

Sect. 30. Perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed. Corporations being creatures of the state, endowed for the public good with a portion of its sovereign powers, must be subject to its control.

Sect. 31. Water being essential to industrial prosperity, of limited amount, and easy of diversion from its natural channels, its control must be in the state, which in providing for its use, shall equally guard all the various interests involved.

Sect. 32. Private property shall not be taken for private use unless by consent of the owner, except for private ways of necessity, and for reservoirs, drains, flumes, or ditches on or across the lands of others for agricultural, mining, milling, domestic or sanitary purposes, nor in any case without due compensation.

Sect. 33. Private property shall not be taken or damaged for public or private use without just compensation.

Sect. 34. All laws of a general nature shall have a uniform operation.

Sect. 35. No *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be made.

Sect. 36. The enumeration in this constitution, of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

Sect. 37. The State of Wyoming is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.

ARTICLE IX

MINES AND MINING

Sect. 3. No boy under the age of fourteen years and no woman or girl of any age shall be employed or permitted to be in or about any coal, iron or other dangerous mines for the purpose of employment therein; provided, however, this provision shall not affect the employment of a boy or female of suitable age in an office or in the performance of clerical work at such mine or colliery.

ARTICLE XIX

MISCELLANEOUS

Sect. 2. Eight (8) hours' actual work shall constitute a lawful day's work in all mines, and on all state and municipal works.

ORDINANCES

Sect. 2. Perfect toleration of religious sentiment shall be secured, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

AN ACT TO PROVIDE A CIVIL GOVERNMENT FOR PUERTO RICO¹

of 2 March 1917

Art. 737. Bill of Rights and Restrictions.

No law shall be enacted in Puerto Rico which shall deprive any person of life, liberty, or property without due process of law, or deny to any person therein the equal protection of the laws.

In all criminal prosecutions the accused shall enjoy the right to have the assistance of counsel for his defence, to be informed of the nature and cause of the accusation, to have a copy thereof, to have a speedy and public trial, to be confronted with the witnesses against him, and to have compulsory process for obtaining witnesses in his favour.

No person shall be held to answer for a criminal offence without due process: and no person for the same offence shall be twice put in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself.

All persons shall before conviction be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great.

No law impairing the obligation of contracts shall be enacted.

No person shall be imprisoned for debt.

The privilege of the writ of *habeas corpus* shall not be suspended, unless when in case of rebellion, insurrection, or invasion the public safety may require it, in either of which events the same may be suspended by the President, or by the governor, whenever during such period the necessity for such suspension shall exist.

No *ex post facto* law or bill of attainder shall be enacted.

Private property shall not be taken or damaged for public use except upon payment of just compensation ascertained in the manner provided by law.

Nothing contained in this chapter shall be construed to limit the power of the legislature to

enact laws for the protection of the lives, health, or safety of employees.

No law granting a title of nobility shall be enacted, and no person holding any office of profit or trust under the government of Puerto Rico shall, without the consent of the Congress of the United States, accept any present, emolument, office or title of any kind whatever from any king, queen, prince, or foreign State, or any officer thereof.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The right to be secure against unreasonable searches and seizures shall not be violated.

No warrant for arrest or search shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Slavery shall not exist in Puerto Rico.

Involuntary servitude except as a punishment for crime, whereof the party shall have been duly convicted, shall not exist in Puerto Rico.

No law shall be passed abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.

No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof, and that the free exercise and enjoyment of religious profession and worship without discrimination or preference shall for ever be allowed, and that no political or religious test other than an oath to support the Constitution of the United States and the laws of Puerto Rico shall be required as a qualification to any office or public trust under the government of Puerto Rico.

No public money or property shall ever be appropriated, applied, donated, used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or association, or system of religion, or for the use, benefit, support of any priest, preacher, min-

¹ *United States Code*, 1940 edition, Washington 1941, vol. III, title 48, "Territories and Insular Possessions", pp. 4191-4192.

ister, or other religious teacher or dignitary as such. Contracting of polygamous or plural marriages is prohibited.

No money shall be paid out of the treasury except in pursuance of an appropriation by law, and on warrant drawn by the proper officer in pursuance thereof.

The rule of taxation in Puerto Rico shall be uniform.

All money derived from any tax levied or assessed for a special purpose shall be treated as a

special fund in the treasury, and paid but for such purposes only, except upon the approval of the President of the United States.

Eight hours shall constitute a day's work, in all cases of employment of labourers and mechanics by and on behalf of the government of the island, on public works except in cases of emergency.

The employment of children under the age of fourteen years in every occupation injurious to health, or morals, or hazardous to life, or limb, is hereby prohibited.

EDUCATIONAL PROVISIONS IN THE CONSTITUTIONS OF THE FORTY-EIGHT STATES OF THE UNITED STATES OF AMERICA¹

Since the control of education is one of the most important attributes of the state, every state constitution contains specific provisions for education. Most states devote an article of the constitution to this important jurisdiction.

More than half of the constitutions begin that article by declaring that good government depends on an educated electorate. All the constitutions have very specific provisions for the financial support of schools, including the state universities. Some of the states give very exact descriptions of the financial support of the schools, e. g. by the sale of public lands, taxes—including county taxes and the poll tax in five southern states—special bequests, etc. These funds are declared to be inviolable.

The traditional American separation of Church and State is rationalized in most of the constitutions by the provision that no public funds are to be used to support denominational or sectarian schools or institutions. However, the present New York State Constitution declares that the legislature may provide for the transportation of children to and from any institution of learning. But the constitutions of New Hampshire and Vermont, whose educational clauses have not been amended since first written during the post-revolutionary period, make a fine distinction on this subject: New Hampshire declares that the individual towns, parishes, religious sects have the exclusive right to elect public teachers but that no person of any particular sect or denomination may be compelled to pay toward the support of a teacher of another sect or denomination. Vermont, on the other hand,

declares that all religious societies or bodies of men which may be united or incorporated for the advancement of religion or learning or other pious and charitable purpose, shall be encouraged and protected in the enjoyment of these privileges.

The north-eastern states and the middle western states above the Mason and Dixon line state specifically in their constitutions that the public or common schools shall be open to all. The Constitution of Delaware declares that no public money shall be used for racial discrimination or separate schools. Washington, Wyoming, Idaho and Colorado have specific provisions against racial discrimination; New Mexico prohibits any discrimination against children of Spanish descent, and this section can only be amended by a popular vote with three-quarters of the electors voting and by a two-thirds majority. The following southern states provide for separate schools for white and colored children: Alabama, Georgia, Louisiana, South Carolina, Tennessee, Virginia and West Virginia. Florida, Kentucky, Mississippi, North Carolina, Oklahoma² and Texas also provide for separate schools for white and coloured children and declare, in addition, that equal provision must be established for both. Missouri, while providing for separate schools, refuses to finance school districts permitting differences in wages of teachers because of race or colour.

Some states specifically state that school attendance is compulsory.

On the basis of the above analysis, it may be said that the constitutions written after the Civil War have more specific educational provisions than the earlier constitutions. Thus, the constitutions of the western and southern states are evidence of this trend.

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¹ In the preceding reproductions of constitutional texts of the states of the United States of America, educational provisions which are often very comprehensive and go, in part, beyond the subject with which this Yearbook is concerned, are in general not reproduced. An exception has been made for a few states which may be considered as regionally representative: New York, the most populated state in the East, California, the most populated state in the West, Illinois, the most populated state of the middle West, Massachusetts (New England), and Mississippi in the South. This analysis gives a survey of the most relevant points of the educational provisions.

² The Constitution defines "coloured children" as meaning children of African descent whereas "white children" includes all other children.

URUGUAY

CONSTITUTION OF THE EASTERN REPUBLIC OF URUGUAY¹

of 18 May 1934

SECTION I

CONCERNING THE NATION AND ITS SOVEREIGNTY

Chapter III

Art. 5. All religious denominations are free in Uruguay. The State does not support any religion. It recognizes ownership by the Catholic Church of all churches that have been wholly or partially constructed with funds of the national treasury, except chapels intended for the service of asylums, hospitals, jails, or other public institutions. It declares, likewise, that churches consecrated to the worship of various religions are exempt from all kinds of taxation.

SECTION II

RIGHTS, DUTIES AND GUARANTEES

Chapter I

Art. 7. Inhabitants of the Republic have the right to be protected in the enjoyment of life, honour, liberty, security, work, and property. No person shall be deprived of these rights except in conformity with the laws that may be established for reasons of general interest.

Art. 8. All persons are equal before the law, no other difference being recognized among them than that of talent or virtue.

Art. 9. Establishment of entailed estates is prohibited.

No official of the Republic may grant any title of nobility or hereditary honours or distinctions.

Art. 10. Private actions of persons not interfering in any way with public order or injuring a third party are exempt from the authority of the magistrates.

No inhabitant of the Republic shall be obliged to do what the law does not command, nor be prevented from doing what it does not prohibit.

Art. 11. The home is an inviolable haven. No person may enter it at night without the consent of the owner, and by day only by express order in writing from an authorized judge and in the cases determined by law.

Art. 12. No person shall be punished or confined without a legal form of trial and sentence.

Art. 13. The ordinary law may establish trial by jury in criminal cases.

Art. 14. Punishment by confiscation of property shall not be inflicted for reasons of a political character.

Art. 15. No person shall be arrested unless taken *in flagrante delicto* or with partial proof on written order of an authorized judge.

Art. 16. In either of the cases of the previous article, the judge, under the strictest responsibility, shall take the declaration of the accused within twenty-four hours and shall return an indictment within not more than forty-eight hours. The declaration of the accused shall be taken in the presence of his defender. The latter shall also have the right to be present at all of the summary judicial proceedings.

Art. 17. In case of illegal arrest, the interested party or any other person may address an appeal of *habeas corpus* to the authorized judge in order that the apprehending authority may immediately explain and justify the legal cause of detention, submitting it to the decision of the aforementioned judge.

Art. 18. The law shall establish the order and proceedings of trials.

Art. 19. Trials by commission are prohibited.

Art. 20. Oaths of the accused in their declarations or confessions regarding their own acts are abolished; implication of their guilt in said statements is also prohibited.

Art. 21. Criminal trial by default is similarly forbidden. The law shall provide what is suitable in this regard.

Art. 22. All criminal suits shall begin by an accusation by a party or by the public prosecutor, secret proceedings being abolished.

Art. 23. All judges are responsible before the law for the slightest violation of the rights of individuals, as well as for deviating from the order of procedure established by it.

Art. 24. All officials who, in the exercise of the public function which may have been entrusted to them, and with neglect of the duties that the office imposes on them, cause injury to a third party, shall be civilly liable.

The State, municipalities, autonomous entities or decentralized services, or any public agency employing said official, shall answer in a subsid-

¹Spanish text in *Constitución de la República*, edición oficial. Montevideo (no date). English translation from the *Constitutions of the Americas* (cited above, p. 6).

iary manner for his neglect of duty, and said agencies shall constitute a necessary party in the suits instituted for this purpose, and shall have the right to take action against the official in the event he is found guilty.

Art. 25. The penalty of death shall not be inflicted on any person.

Penal institutions shall in no case be permitted to inflict humiliating punishments, but shall exist only for the security of the accused and condemned persons, pursuing their re-education, rehabilitation for work, and prevention of crime.

Art. 26. Judges may place the accused at liberty at any stage of a criminal trial from which punishment by imprisonment is not likely to result, provided he gives bond according to law.

Art. 27. The papers of private persons and their correspondence by letter, telegraph, or any other means, are inviolable, and their inspection, examination, or interception is prohibited except in conformity with laws that may be established for reasons of general interest.

Art. 28. The communication of thought by word, written privately, or published in the press, or by any other method, without necessity of previous censorship, is entirely free; authors and, as the case may be, printers or distributors, remaining liable, according to law, for abuses that may be committed.

Art. 29. Every inhabitant has the right of petition to each and every official of the Republic.

Art. 30. Individual security may not be suspended except with the compliance of the General Assembly or the permanent committee, in case the former has been dissolved or is in recess, and in the extraordinary case of treason or conspiracy against the fatherland; and then it shall be instituted only for apprehension of the offenders, without prejudice to the provision of clause 18 of art. 157.

Art. 31. Property is an inviolable right, but subject to the provisions of the laws that may be established for reasons of general interest.

No person shall be deprived of his right to own property except in cases of public necessity or utility established by law, and always first receiving just compensation from the national treasury.

When expropriation is declared because of public necessity or utility, property owners shall be indemnified for the injuries and damage they suffer by reason of the delay in effecting the expropriation or not doing so.

Art. 32. Intellectual work, the right of an author, an inventor, or an artist, shall be recognized and protected by law.

Art. 33. All artistic or historic wealth of the country, regardless of who may be its owner, constitutes the cultural treasure of the nation; it shall be under the guardianship of the State, and

the law shall determine what is considered necessary for its protection.

Art. 34. No person shall be obliged to render aid, of any kind whatever, to armies, or to offer his house for the quartering of soldiers, unless on the order of a civil magistrate according to law, and he shall receive an indemnification from the Republic for the losses suffered in such cases.

Art. 35. Every person has the right to devote himself to work, cultural pursuits, industry, commerce, a profession, or any other lawful activity, within the limitations of the general interest that the laws may establish.

Art. 36. Any person is free to enter the territory of the Republic, to remain in it, or to leave with his property, observing the laws, and without injury to third parties.

Immigration shall be regulated by law, but in no case shall an immigrant who suffers from physical, mental, or moral defects that may injure society, be admitted.

Art. 37. The right to assemble peacefully and without arms is guaranteed. The exercise of this right cannot be prohibited by any official of the Republic, except by virtue of a law, and only then for reasons of public health, security, and order.

Art. 38. All persons have the right to associate, whatever may be the object that they pursue, provided they do not form an assembly declared illegal by law.

Chapter II

Art. 39. The State shall safeguard the social development of the family.

Art. 40. The care and education of children until they reach full physical, intellectual, and social capacity, is the duty and right of parents. Those who may have numerous offspring in their charge have the right to compensating assistance provided they need it for them.

The law shall provide the necessary measures for the protection of infants and children against parents or guardians who neglect them physically, intellectually, or morally, as well as against their exploitation and abuse.

Art. 41. Parents shall have the same obligations toward children born out of wedlock as towards those born in marriage.

Concerning maternity, whatever may be the condition or class of a woman, she has the right to the protection of society and to assistance in case of need.

Art. 42. The law shall provide that juvenile delinquency be submitted to a special system in which women shall be given participation.

Art. 43. The State shall legislate on all questions relating to public health and hygiene, to obtain the physical, moral, and social improvement of all inhabitants of the country.

All inhabitants have the obligation of taking care of their health, as well as that of being given assistance in case of illness. The State shall freely provide means of prevention against illness, and medical aid, to those who are indigent or who lack sufficient means.

Art. 44. The law shall provide for hygienic and economic lodging for working men, sponsoring the construction of living quarters and districts that possess these conditions.

Art. 45. The State shall care for indigents or those lacking sufficient resources who, because of chronic physical or mental inferiority, are incapacitated for work.

Art. 46. The State shall, by means of law and international conventions, combat the social vices.

Art. 47. The right of succession shall be guaranteed within the limits established by law. The direct ascending and descending lines shall have preferential treatment in positive law.

Art. 48. Family welfare, its foundation, preservation, enjoyment, and transmission, shall be the purpose of special protective legislation.

Art. 49. Every commercial or industrial association organized as a trust shall be subject to the Comptroller of State.

Art. 50. The State, or the municipalities on their part, shall approve the confirmation of the establishment and maintenance of tariffs for public services in charge of concessionary concerns.

The concessions to which this article refers shall in no case be granted in perpetuity.

Art. 51. Usury is prohibited. The law that provides the maximum rate of interest on loans is of a public character. It shall determine the penalty to be applied to transgressors.

No person shall be deprived of liberty because of debts.

Art. 52. Labour is under the special protection of the law.

Every inhabitant of the Republic, without jeopardizing his liberty, has the obligation of applying his intellectual or physical energies in such form as to redound to the benefit of society, and the latter shall endeavour to offer, with preference to citizens, the possibility of earning a living by means of the development of economic activity.

Art. 53. The law shall recognize the independence of the moral and civic conscience of those who may be in a relation of labour or service as working men or employees and shall provide for their just remuneration, the limitation of their working hours, their weekly rest, and their physical and moral hygiene.

The work of women and of minors under eighteen years of age shall be especially regulated and limited.

Art. 54. The law shall provide an impartial and equitable distribution of work.

Art. 55. Every undertaking, the nature of which requires the residence of the personnel in the respective establishment, shall be obliged to provide adequate food and lodging under conditions established by law.

Art. 56. The law shall promote the organization of trade unions, granting them franchises and enacting standards for the recognition of their juridical personality.

It shall promote, furthermore, the creation of tribunals of conciliation and arbitration.

It is here declared that the strike is a right of trade unions. Its methods and practice shall be regulated on this basis.

Art. 57. Public officials are in the service of the nation and not of a political party. In the places and during the hours of work, political activity shall be illegal, and as such, shall be suppressed by law.

The law shall establish the statute for public officials on the fundamental principle that the official was chosen for his office and not that the office was created for the official.

This statute shall especially determine the conditions of entrance into the administration, rules governing promotion, guarantees of permanence, removal from office, suspension, or transfer, the duties of public officials, and recourse against decisions that may affect them.

No parliamentary or administrative investigation of irregularities, neglect, or offences shall be considered terminated while the accused person has not been able to present his answer and to cross-examine his defence.

This statute must be established within two years after the promulgation of this constitution.

Art. 58. General retirement funds and social security measures shall be organized in such form as to guarantee to all working men, employers, employees, and day labourers adequate retirement pensions and subsidies for case of accident, sickness, incapacity, enforced unemployment, etc.; and in case of death, a corresponding insurance payment to their families.

An old age pension is the right of one who has reached the limit of his productive age after long residence in the country, if he lacks resources to provide for his vital needs.

Art. 59. Freedom of instruction is guaranteed.

A law shall regulate intervention by the State for the sole purpose of maintaining hygiene, morality, security, and public order.

Every parent or guardian has the right to select the teachers or institutions he prefers for the instruction of his children or wards.

Art. 60. Private institutions of learning that provide classes gratuitously to a number of stu-

dents and in the form that the law shall determine, as well as cultural institutions, shall be exempted from national and municipal taxes as a subvention for their services.

Art. 61. Primary education is obligatory.

The State shall provide what is necessary for its enforcement.

Art. 62. Official free primary, intermediate, superior, industrial, and artistic instruction, and physical education are declared a social need; also the creation of scholarships for cultural, scientific and industrial improvement and specialization, as well as the establishment of popular libraries.

All institutions of learning shall provide especially for the formation of the moral and civic character of the students.

Chapter III

Art. 63. The enumeration of rights, duties, and guarantees made by the Constitution does not exclude others that are inherent in the human personality or that may be derived from the republican form of government.

SECTION IX

CONCERNING THE EXECUTIVE POWER

Chapter III

Art. 157. The following are the duties of the President of the Republic, acting with a Minister or with respective Ministers, or with the Council of Ministers, according to the provisions of art. 174 and those relating thereto:

18. To take immediate measures for security in the serious and unforeseen circumstances of foreign attack or internal disturbance, giving an account within twenty-four hours to the General Assembly, or, in its recess, to the permanent committee, of what he has done and his reasons therefore, proceeding as the latter bodies recommend.

With regard to persons, the prompt measures of security only authorize their arrest or transfer from one point to another within the territory, provided they do not choose to leave it. This measure, also, like the others, must be submitted, within twenty-four hours of its adoption, to the General Assembly or to the permanent committee, as the case may be, and its decision accepted.

VATICAN CITY

VATICAN LAW OF PUBLIC SECURITY¹

of 7 June 1929

Art. 1. The Governor shall make provision for the maintenance of public order, the security of the citizens, their safety, the safeguarding of property and the integrity of possessions, health, and public morality.

For this purpose, whether in execution of the laws and regulations or on the occasion of events not contemplated by ordinary rules, he shall take the measure which he considers to be called for . . .²

Art. 3. The constitution of any association without the authorization of the Governor is forbidden.

The prohibition does not extend to the religious orders, congregations and associations referred to in the *Codex juris canonici* and constituted in accordance with the same.

The associations constituted in contravention of the prohibition shall be dissolved, subject to the measures considered appropriate in regard to the premises and property.

Contraveners shall be punished by fine up to 9,000 lire and arrest up to six months.

Art. 4. Any meeting in a public place or one open to the public is forbidden without the previous authorizations of the Governor. A meeting is considered to be public even if it is announced by means of invitations in private form, when by reason of the place appointed, the number of per-

sons invited or the object of the meeting it is clear that its private character is simulated.

The provisions of the preceding article do not apply to receptions, religious processions and ceremonies and to funerals, subject to the arrangements made by the Governor.

Meetings which are not authorized shall be dissolved with the aid of public force. Those which are authorized may also be so dealt with if disorders occur or if there is danger of their taking place.

A person who takes part in an unauthorized meeting shall be punished by a fine up to 4,500 lire or by arrest up to three months.

Art. 8. The public exercise of the typographic, lithographic and photographic arts or any mechanical or chemical reproduction of characters, designs, or figures is forbidden without a licence from the Governor.

It is forbidden to affix or to offer to the public, even gratuitously, notices, writings, printed matter, books, engravings, lithographs, photographs or statues of any kind without a licence from the Governor.

Art. 11. The authorizations or licences contemplated in the preceding articles may be given by the Governor and also by the offices subordinate to him, with the exception of the authorization referred to in article 3, and they may be made subject to all the conditions and terms deemed to be appropriate. They shall at any time be revocable without compensation.

¹ *British and Foreign State Papers* (1929, part I), vol. 130, pp. 1033-1035.

² The remainder of Art. 1 regards provisions concerning penalties.

VENEZUELA

CONSTITUTION OF THE UNITED STATES OF VENEZUELA¹

of 20 July 1936

TITLE II

CONCERNING VENEZUELAN AND THEIR RIGHTS AND OBLIGATIONS

Art. 32. The nation guarantees to Venezuelans:

1. Inviolability of life, and neither law nor mandate of any authority may establish or apply the death penalty.

2. The right of property, which is inviolable and subject to the taxes and to the restrictions and obligations established by law for reasons of public or social interest. The law may also establish special prohibitions for the acquisition, transfer, use, and enjoyment of specified classes of property, either because of their nature, condition, or situation in the national territory.

Expropriation of property, or of any equity, may be decreed, in conformity with the law, only for reasons of public or social utility, by means of previous indemnification after an adverse judgment.

Confiscation of property shall not be decreed or carried out except against nationals of another country and only in case of international conflict with that country.

3. The inviolability of correspondence in all its forms, and that of other private papers, which may be seized only by order of a competent judicial authority and with the formalities that the law may establish, but always keeping secrecy with respect to domestic and private affairs that have no relation to the case under examination.

Books and documents of business men and manufacturers are subject, in conformity with the laws and regulations, to inspection or examination on the part of the proper officials.

4. The inviolability of the private home, which may not be invaded unless to prevent the perpetration or consummation of an offence, or to comply with the decisions given by the courts of justice, according to law, in suits they have tried. The home is also subject to sanitary inspection in conformity with the law.

5. Personal liberty, and for that reason:

¹ Owing to a political change, the Constitution of 1936 (as amended in 1945) is being replaced by a new Constitution, the draft of which has been under discussion since the end of 1946. Spanish text in *Constitución de los Estados Unidos de Venezuela*, edición oficial. Caracas, 1945. English translation from *The Constitutions of the Americas* (cited above, p. 6).

I. Forced recruitment for the armed service is abolished; such service shall be given in conformity with what is provided by the law.

II. Slavery is proscribed for ever, and slaves setting foot on the territory of the Republic shall be free.

III. Everyone has the right to do that which is not injurious to others, and no one may be compelled to do what is not legally ordered, nor prevented from executing what the law does not prohibit.

6. Freedom of thought expressed orally, by writing, or through the press, or by any other means of publication, but expressions constituting injury, calumny, defamation, abuse, or instigation to commit offence, shall be subject to penalty in conformity with what is determined by law. Anonymity is prohibited, and no war propaganda or that intended to subvert the social and political order is permitted.

7. The freedom to travel, change residence, leave the Republic, and return, observing the legal requirements; the freedom to take away from and bring into the country one's property, subject to the limitations imposed by public order and by the interests of the nation.

8. The freedom of work and of industries. In consequence, monopolies may not be granted for the exclusive benefit of any industry. Temporary privileges may be granted, in conformity with the law, regarding intellectual property, patents for inventions and trade-marks, and those privileges, also in conformity with the law and for a specified time, for the establishment and operation of railroads, airlines, canals, street cars, hydraulic power stations, telephone or telegraph lines, and wireless systems, when such works are undertaken or installed at the expense of the concessionaire, without the nation or the states guaranteeing returns or subventions.

The law shall make the necessary provisions for the greatest efficiency and stimulation of labour, adequately organizing it, and establishing the special protection to be given workers and labourers in order to improve their physical, moral, and intellectual condition and for the increase of the population.

The state shall promote assistance to production and shall establish working conditions in the city and country, keeping in view the social pro-

tection of workmen and wage earners and the economic interests of the country.

The Republic shall have a council of national economy, composed of representatives of the producing and consuming population, of capital and labour, and of the liberal professions. The Executive shall determine its functions and organization.

Labour legislation shall observe the following precepts in addition to others that may contribute to the betterment of the conditions of the worker or labourer:

I. Weekly rest, preferably on Sundays;

II. Annual vacations with pay.

No distinction shall be made, regarding the effects of these precepts, among manual, intellectual, or technical workers.

III. The nation shall promote the technical education of workers.

The nation shall encourage European immigration and shall promote, in co-operation with the governments of the states and municipalities, the organization of agricultural colonies. Agricultural labour shall be the object of special regulation by the Executive. The state shall attempt to establish the wage earner on the land, attend to his rural education, and give preference in the colonization and exploitation of national lands to the Venezuelan worker.

The nation shall favour a system of participation by employees and workers in the profits of the enterprises and shall encourage saving among the same.

9. Freedom of industry and of labour shall not have other limitations than those imposed by the public interest or good customs. Federal authorities are empowered to tax certain industries with the object of providing income for the treasury and to reserve the exploitation of specified industries in order to assure public services and the defence and credit of the nation, and to enact, under extraordinary circumstances, measures of an economic nature that may be necessary to organize the production, circulation, and consumption of wealth.

10. Professions requiring licences may not be practised without them and without fulfilling the requirements that the law prescribed.

11. Freedom of assembly without arms, publicly or privately, without endangering public order, and the authorities may not use any coercive action; and the freedom of association, subject to the restrictions and prohibitions that the law may establish. The law shall regulate the exercise of the right of assembly.

12. Freedom of petition before any public official or official corporation, with the right of obtaining an early answer.

13. The right to accuse, before the competent tribunals, the officials who commit a violation of their duties.

14. The right of suffrage in the terms expressed in the following:

I. Male Venezuelans, more than twenty-one years of age, who are able to read and write and are not subject to interdiction or penalty entailing political disability, may elect or be elected, with no further restrictions than those established by this constitution and those derived from the special conditions of competency or capacity that the law requires for the exercise of specified offices.

II. Venezuelan women, who possess the qualifications required for the exercise of the suffrage by males according to the preceding paragraph, enjoy the right of active and passive suffrage for the choice of municipal councils.

15. Freedom of education.

The moral and civic education of the child is obligatory and shall necessarily be inspired by national development and human solidarity. There shall be at least one school in each locality, the school population of which is not less than thirty pupils.

16. Religious freedom, under the ultimate supervision of all cults by the federal executive in accordance with the law, always without diminution to the right of ecclesiastical patronage held by the Republic.

17. Individual security, and therefore:

I. No citizen may be imprisoned or arrested for debts not resulting from crime.

II. No citizen may be judged by specially created tribunals or commissions, but by the usual judges and by virtue of pre-existing laws.

III. No citizen may be imprisoned or detained without instituting a summary inquiry as to whether an offence has been committed deserving corporal punishment and without a written order from the official decreeing the detention, in which order shall be expressed the reason for the arrest, unless the accused may have been taken in *flagrante delicto*. The inquiry in no case may be prolonged for more than thirty days after arrest.

IV. No citizen may be held *incommunicado*.

V. No citizen may be compelled to take an oath, or undergo questioning in a criminal cause against himself, his ancestors, or relatives within the fourth degree of consanguinity or second of affinity, or against his mate.

VI. No citizen may remain under arrest if, through judicial executive decision, the grounds for such arrest have been found insufficient, or after having posted sufficient bond in the cases where the law allows freedom on bail while awaiting trial.

VII. No citizen may be condemned to suffer punishment in a criminal matter without having been notified personally of the charges and having been heard in the manner that the law prescribes.

VIII. No citizen may be condemned to corporal punishment of more than twenty years or to infamous punishments. Neither shall there be perpetual penalties—other than corporal.

IX. No citizen may be tried again for the same offences that have caused previous trials.

X. No citizen may remain deprived of liberty for political reasons, after order has been restored, unless it relates to the fulfilment of a penalty previously imposed.

18. Equality, by virtue of which:

I. All shall be judged by the same laws, enjoy equally the protection of these throughout the territory of the nation, and be subject to the same obligations, services, and taxes, there being no exemptions granted in the latter except in the cases which the law permits them.

II. There shall not be granted any titles of nobility or hereditary distinctions, or positions or offices the salaries or emoluments of which shall continue for a longer time than the service.

III. There shall be no other form of official address but that of "citizen" and "you," except for diplomatic formulas.

Art. 33. All Venezuelans, without distinction of sex, are eligible for the exercise of appointive public offices, provided that they are not subject to interdiction or a penal sentence that involves political disqualification, and within the conditions required by law.

Art. 34. The enumeration of rights expressed in the two preceding articles is not to be understood as a negation of any other rights that may belong to Venezuelans and are not included among these.

Art. 35. No federal law, nor the constitution or laws of the states, nor municipal ordinances, nor any regulation may impair or injure the guaranteed rights of citizens. Those that do so shall be null, and the Federal and Cassation Court shall so declare.

Art. 36. Those who may issue, sign, execute, or order the execution of decrees, ordinances, or resolutions that violate any of the guaranteed rights of the citizens are guilty and shall be punished according to law, except where it concerns measures taken for the defence of the Republic or for the conservation or re-establishment of peace, issued by competent public officials, in their official character, in the cases defined in the following article.

Art. 37. Should the Republic be engaged in an international war, or should a civil war break out, or should there be danger of one or the other occurring, danger of epidemics, or of any other public calamity, or when through any other circumstance it is necessary for the defence, peace, or security of the nation or of its institutions or form of government, the President of the Republic in Council of Ministers may restrict or suspend by decree, in all or in part of the national territory, the exercise of civil guarantees, except, in all cases, those relating to inviolability of life, proscription of slavery, and condemnation of infamous penalties.

The decree shall set forth: first, the motives justifying it; second, the specification of the guarantee or guarantees that are restricted or suspended; and third, the territory that shall be affected by the suspension or restriction.

This decree shall be abolished on disappearance of the cause that occasioned it.

The restriction of guarantees shall not affect in any way the operation of the public organs of the nation, the members of which shall always enjoy the prerogatives accorded to them by law.

Nationals or aliens opposing the re-establishment or preservation of peace may be arrested, imprisoned, or expelled from the territory of the Republic; but such measures shall cease at the termination of the circumstances provoking them, except for the expulsion of aliens, which may not be revoked, should the federal authorities so decide.

YUGOSLAVIA

CONSTITUTION OF THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA¹

of 31 January 1946

PART ONE

FUNDAMENTAL PRINCIPLES

Chapter III

FUNDAMENTAL RIGHTS OF THE PEOPLES AND THE PEOPLE'S REPUBLICS

Art. 9. The sovereignty of the people's republics composing the Federal People's Republic of Yugoslavia is limited only by the rights which by this constitution are given to the Federal People's Republic of Yugoslavia.

The Federal People's Republic of Yugoslavia protects and defends the sovereign rights of the people's republics.

The Federal People's Republic of Yugoslavia protects the security and the social and political order of the people's republics.

Art. 10. Any act directed against the sovereignty, equality and national freedom of the peoples of the Federal People's Republic of Yugoslavia and their people's republics is contrary to the Constitution.

Art. 11. Each people's republic has its own constitution.

The people's republic makes its constitution independently.

The Constitution of the people's republic reflects the special characteristics of the republic and must be in conformity with the Constitution of the Federal People's Republic of Yugoslavia.

Art. 12. The People's Assembly of the Federal People's Republic of Yugoslavia determines the boundaries between the people's republics.

The boundaries of a people's republic cannot be altered without its consent.

Art. 13. National minorities in the Federal People's Republic of Yugoslavia enjoy the right to and protection of their own cultural development and the free use of their own language.

Chapter IV

SOCIAL-ECONOMIC ORGANIZATION

Art. 14. Means of production in the Federal People's Republic of Yugoslavia are either the property of the entire people, i.e. property in the hands of the State, or the property of the people's co-operative organizations, or else the property of private persons or legal entities.

All mineral and other wealth under ground, the waters, including mineral and medicinal waters, the sources of natural power, the means of rail and air transport, the posts, telegraphs, telephones and broadcasting are national property.

The means of production in the hands of the State are exploited by the State itself or given to others for exploitation.

Foreign trade is under control of the State.

Art. 15. In order to protect the vital interests of the people to further the people's prosperity and the right use of all economic potentialities and forces, the State directs the economic life and development of the country in accordance with a general economic plan, relying on the State and co-operative economic sectors, while achieving a general control over the private economic sector.

In carrying out the general economic plan and economic control, the State relies on the co-operation of syndicalist organizations of workmen and employees and other organizations of the working people.

Art. 16. The property of the entire people is the mainstay of the State in the development of the national economy.

The property of the entire people is under the special protection of the State.

The administration and disposal of the property of the entire people are determined by law.

Art. 17. The State devotes special attention to the people's co-operative organizations and offers them assistance and facilities.

Art. 18. Private property and private initiative in economy are guaranteed.

The inheritance of private property is guaranteed. The right of inheritance is regulated by law.

No person is permitted to use the right of private property to the detriment of the people's community.

The existence of private monopolist organizations such as cartels, syndicates, trusts and similar organizations created for the purpose of dictating prices, monopolizing the market and damaging the interests of the national economy, is forbidden.

Private property may be limited or expropriated if the common interest requires it, but only in accordance with the law. It will be determined by law in which cases and to what extent the owner shall be compensated.

Under the same conditions individual branches of national economy or single enterprises may be

¹ *Constitution of the Federal People's Republic of Yugoslavia.* Information Officer, Embassy of the Federal People's Republic of Yugoslavia, Washington, D. C., 1946.

nationalized by law if the common interest requires it.

Art. 19. The land belongs to those who cultivate it.

The law determines whether and how much land may be owned by an institution or a person who is not a cultivator.

There can be no large landholdings in private hands on any basis whatsoever.

The maximum size of private landholdings will be determined by law.

The State particularly protects and assists poor peasants and peasants with medium-sized holdings by its general economic policy, its low rates of credit and its tax system.

Art. 20. By economic and other measures the State assists the working people to associate and organize themselves for their protection against economic exploitation.

The State protects persons who are engaged as workers or employees especially by assuring them the right of association, by limiting the working day, by ensuring the right to paid annual holidays, by controlling working conditions, by devoting attention to housing conditions and social insurance.

Minors in employment enjoy the special protection of the State.

Chapter V

THE RIGHTS AND DUTIES OF CITIZENS

Art. 21. All citizens of the Federal People's Republic of Yugoslavia are equal before the law and enjoy equal rights regardless of nationality, race and creed.

No privileges on account of birth, position, property status or degree of education are recognized.

Any act granting privileges to citizens or limiting their rights on grounds of difference of nationality, race and creed, and any propagation of national, racial and religious hatred and discord are contrary to the Constitution and punishable.

Art. 22. The citizens of the Federal People's Republic of Yugoslavia are bound to comply with the Constitution and laws.

Art. 23. All citizens, regardless of sex, nationality, race, creed, degree of education or place of residence, who are over eighteen years of age have the right to elect and be elected to all organs of state authority.

Citizens in the ranks of the Yugoslav Army have the same right to elect and be elected as other citizens.

The suffrage is universal, equal and direct and is carried out by secret ballot.

The suffrage is not enjoyed by persons under guardianship, persons deprived of electoral rights

by sentence of a court of law for the duration of the sentence, and persons who have lost their electoral rights in accordance with federal law.

Art. 24. Women have equal rights with men in all fields of state, economic and social-political life.

Women have the right to the same pay as that received by men for the same work and as workers or employees they enjoy special protection.

The State especially protects the interests of mothers and children by the establishment of maternity hospitals, children's homes and day-nurseries and by the right of mothers to a leave with pay before and after child-birth.

Art. 25. Freedom of conscience and freedom of religion are guaranteed to citizens.

The Church is separate from the State.

Religious communities, whose teaching is not contrary to the Constitution, are free in their religious affairs and in the performance of religious ceremonies. Religious schools for the education of priests are free and are under the general supervision of the State.

The abuse of the Church and of religion for political purposes and the existence of political organizations on a religious basis are forbidden.

The State may extend material assistance to religious communities.

Art. 26. Matrimony and the family are under the protection of the State. The State regulates by law the legal relations of marriage and the family.

Marriage is valid only if concluded before the competent State organs. After the marriage, citizens may go through a religious wedding ceremony.

All matrimonial disputes come within the competence of the people's courts.

The registration of births, marriages and deaths is conducted by the State.

Parents have the same obligations and duties to children born out of wedlock, as to those born in wedlock. The position of children born out of wedlock is regulated by law.

Minors are under the special protection of the State.

Art. 27. Citizens are guaranteed the freedom of the press, freedom of speech, freedom of association, freedom of assembly, and freedom to hold public meetings and demonstrations.

Art. 28. Citizens are guaranteed inviolability of person.

No person may be detained under arrest for longer than three days without the written and motivated decision of a court of law or of a public prosecutor. The longest period of arrest is determined by law.

No person may be punished for a criminal act except by sentence of a competent court on the basis of the law establishing the competence of the court and defining the offence.

Punishments may be determined and pronounced only on the basis of the law.

No person, if within the reach of the State authorities, may be tried without being given a lawful hearing and duly invited to defend himself.

Punishments for infringements of legal prescriptions may be pronounced by the organs of the State administration only within the limits set by law.

No citizen of the Federal People's Republic of Yugoslavia may be banished from the country.

Only in cases defined by law may a citizen be expelled from his place of residence.

Federal law determines in which cases and in what manner citizens of the Federal People's Republic of Yugoslavia may be deprived of their citizenship.

Citizens of the Federal People's Republic of Yugoslavia in foreign countries enjoy the protection of the Federal People's Republic of Yugoslavia.

Art. 29. The dwelling is inviolable.

Nobody may enter another person's dwelling or premises, or search them against the occupant's will without a legal search warrant.

A search may only be made in the presence of two witnesses. The occupant of the premises has the right to be present during the search of his dwelling or premises.

Art. 30. The privacy of letters and other means of communication is inviolable except in cases of criminal enquiry, mobilization or war.

Art. 31. Foreign citizens persecuted on account of their struggle for the principles of democracy, for national liberation, the rights of the working people or the freedom of scientific and cultural work, enjoy the right of asylum in the Federal People's Republic of Yugoslavia.

Art. 32. It is the duty of every citizen to work according to his abilities; he who does not contribute to the community cannot receive from it.

Art. 33. All public offices are equally accessible to all citizens in accordance with the conditions of the law.

It is the duty of citizens to perform conscientiously the public duties to which they have been elected or which are entrusted to them.

Art. 34. The defence of the fatherland is the supreme duty and honour of every citizen.

High treason is the greatest crime towards the people.

Military service is universal for all citizens.

Art. 35. The State ensures disabled ex-service men a decent living and free occupational training.

The children of fallen soldiers and of war victims are under the special care of the State.

Art. 36. The State promotes the improvement of public health by organizing and controlling health services, hospitals, pharmacies, sanatoria, nursing and convalescent homes and other health institutions.

The State extends its care to the physical education of the people, especially of young people, in order to increase the health and the working capacity of the people and the power of defence of the State.

Art. 37. The freedom of scientific and artistic work is assured.

The State assists science and art with a view to developing the people's culture and prosperity.

Copyright is protected by law.

Art. 38. In order to raise the general cultural standard of the people, the State ensures the accessibility of schools and other educational and cultural institutions to all classes of the people.

The State pays special attention to the young and protects their education.

Schools are State owned. The founding of private schools may be permitted only by law and their work is controlled by the State.

Elementary education is compulsory and free.

The school is separate from the Church.

Art. 39. Citizens have the right to address requests and petitions to the organs of the State authorities.

Citizens have the right of appeal against the decisions of the organs of the State administration and the irregular proceedings of official persons. The procedure for lodging an appeal will be prescribed by law.

Art. 40. Every citizen has the right to file a suit against official persons before a competent tribunal on account of criminal acts committed by them in their official work.

Art. 41. Subject to conditions prescribed by law, citizens have the right to seek indemnity from the State and from official persons for damage resulting from the illegal or irregular discharge of official functions.

Art. 42. All citizens shall pay taxes in proportion to their economic capacity.

Public taxes and duties and exemptions from them are established only by law.

Art. 43. With a view to safeguarding the civic liberties and democratic organization of the Federal People's Republic of Yugoslavia, established by this constitution, it is declared illegal and punishable to make use of civic rights in order to change or undermine the constitutional order for anti-democratic purposes.

LAW PROHIBITING THE INCITEMENT OF NATIONAL AND RELIGIOUS HATREDS AND DISCORD¹

of 24 May 1945

Art. 1. Every limitation of individual civic rights and of the privileges of citizens on account of nationality, race or religion is punishable as a criminal offence tending to jeopardize the equality, fraternity and unity which are the principal achievements of the national liberation struggle.

Art. 2. Accordingly, all encroachments on equal national rights and all agitation and propaganda tending to provoke national hatreds will be punishable. The writing, reproduction and dissemination of matter calculated to provoke national hatreds is punishable.

Art. 3. Offences under arts. 1 and 2 will be punished by imprisonment of from three months to five years, with a possible loss of civic rights up to five years being incurred after the term of imprisonment has been served.

Art. 4. Where offences specified in arts. 1 and 2 are of a large-scale character, if they are intended to lead to graver consequences, if there are other aggravating circumstances, or if they are calculated to affect the basic achievements of the national liberation struggle, such offences will be punished with rigorous imprisonment of from two

to fifteen years, together with partial or full confiscation of property and the loss of civic rights and, in the case of incitement to murder, with death. Where the offence is repeated, or committed by a civil servant in the course of his duties, the punishment will be more severe.

Art. 5. Provocation and incitement of religious hatred will be punished in the same way as incitement to national or racial hatred. An act of provocation or incitement to religious intolerance consists of an attack by a person of one religious denomination on any other religious denomination, or of provoking a hostile attitude in persons of one religious denomination toward persons of another religious denomination.

Scientific criticism of religions as a whole and criticism of offences by representatives of religious denominations and church ministers cannot be considered as an incitement of religious hatred. In flagrant circumstances such offences will, on the contrary, be considered as a provocation and incitement to religious intolerance on the part of the representatives of the church.

Art. 6. Infringements of this law will be tried, in the first instance, by the District People's Court. They will be dealt with by the Country People's Court where the latter's competence is entailed.

¹*Sluzebne Noviny*, No. 36, 29 August 1945. Translated by Dr. Jacob Robinson, New York.

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EXPLANATORY NOTE. The Index refers to constitutional provisions and, for states that have no written constitution or where the constitution does not contain provisions concerning human rights, to the statements on the law and usage of those states, printed in this Yearbook.

References to member states of a federal state give the name of the member state, followed by that of the federal state in brackets.

The figure which follows the name of a state refers to the corresponding article of its constitution, or, if the provision referred to does not form part of the body of the constitution itself, to the corresponding article of such text (in the latter case the figure is preceded or followed by the appropriate abbreviation, as mentioned below). When an article is subdivided into sections, the first figure (roman) refers to the article, and the second figure (Arabic) to the section (e.g.: Ohio (United States) II 34 means: Constitution of Ohio, member state of the United States of America, Article II, section 34).

References to statements (see above) are printed in italics, and the figure, with the preceding abbreviation "p." refers to the page of the Yearbook (e.g.: *United Kingdom p. 319* means: United Kingdom of Great Britain and Northern Ireland, page 319 of the Yearbook).

ABBREVIATIONS. The following abbreviations are used in the Index: amend—Amendment to the Constitution; Appenzell A. Rh.—Appenzell Ausser-Rhoden; Appenzell I. Rh.—Appenzell Inner-Rhoden; Basle R.—Basle Rural; Basle T.—Basle Town; decl—Declaration of Rights; ord—Ordinance; suppl—Supplementary laws; p.—page (of the Yearbook); United States—United States of America; United Kingdom—United Kingdom of Great Britain and Northern Ireland; Unterwalden N.—Unterwalden Nidwalden; Unterwalden O.—Unterwalden Obwalden; USSR—Union of Soviet Socialist Republics.

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22-25, 30; Arkansas (United States) II, 8-11, 17, 18; Basle R (Switzerland) 6; Bavaria (Germany) 86; Belgium 7, 8, 9; Berne (Switzerland) 73-75; Bolivia 7-10, 13; Brazil 141; Buenos Aires (Argentina) 18-17; Byelorussia 86, 87, 102; California (United States) I, 5-8, 13; Catamarca (Argentina) 25-38; Chile 11-20; Colorado (United States) II, 6-9, 16-18; Colombia 23-28; Connecticut (United States) I, 7-15; Córdoba (Argentina) 7-18; Corrientes (Argentina) 8-11, 31; Costa Rica 38-45; Cuba 21-29; Delaware (United States) I, 7-15; Denmark 78; Dominican Republic 6; Ecuador 187; Egypt 5, 6; Fire 40; Entre Rios (Argentina) 24, 25, 28; Ethiopia 23, 24; Finland 13; Florida (United States) decl, 7-14; Fribourg (Switzerland) 3, 5, 7, 8; Geneva (Switzerland) 3, 5; Georgia (United States) I, 5, 6, 8, 10; Glaris (Switzerland) 5; Greece 5-8; Grisons (Switzerland) 9; Guatemala 40-52; Haiti 12-16; Hesse (Germany) 19-24; Honduras 32-45; Iceland 65; Idaho (United States) I, 5-8, 13; Illinois (United States) II, 5-12; Indiana (United States) I, 12-19, 27-30; Iowa (United States) I, 9-16; Iran, suppl 10-12; Iraq 7, 9; Japan 31-40; Jujuy (Argentina) 24, 26, 29; Kansas (United States) decl, 8-10; Kentucky (United States) 10-16; La Rioja (Argentina) 24-27; Lebanon 8; Liberia I, 6-9; Liechtenstein 33; Louisiana (United States) I, 9-13; Lucerne (Switzerland) 5; Luxembourg 12-14; Maine (United States) I, 5-12; Maryland (United States) decl, 16-27; Massachusetts (United States) I, 12-14; Mendoza (Argentina) 17-27; Mexico 16-23; Michigan (United States) II, 13-19; Minnesota (United States) I, 6-12; Mississippi (United States) II, 22, 26, 27; Missouri (United States) I, 10, 12, 16-22; Monaco 6, 7; Montana (United States) III, 8-10, 16-21; Nebraska (United States) I, 6-16; Netherlands 163, 164; Neuchâtel (Switzerland) 7, 12; Nevada (United States) I, 5-8; New Hampshire (United States) I, 15-17; New Jersey (United States) I, 7-11; New Mexico (United States) II, 7, 12-16; New York (United States) I, 4-6; Nicaragua 43-49; North Carolina (United States) I, 11-17; North Dakota (United States) I, 5-8, 13; Norway 96, 97, 99; Ohio (United States) I, 5, 8-10; Oklahoma (United States) II, 6-10, 17-21; Oregon (United States) I, 10-12; Panama 22-25, 30-34; Paraguay 25-27; Pennsylvania (United States) I, 9-19; Peru 56, 57; Philippines III, 1, 14-21; Poland 97, 98; Portugal 8; Puerto Rico (United States) 737; Rhode Island (United States) I, 7-10, 13-15; Roumania 11-16; St. Gall (Switzerland) 29, 30; Salta (Argentina) 26-33; El Salvador 22, 24-28; San Juan (Argentina) 8-17; San Luis (Argentina) 28-30; Santa Fé (Argentina) 9-17; Santiago del Estero (Argentina) 19-27; Schaffhausen (Switzerland) 8; Schwyz (Switzerland) 5; Solothurn (Switzerland) 12, 13; South Carolina (United States) I, 15-25; South Dakota (United States) VI, 7-10; Sweden 16; Switzerland 58; Syria 7-10; Tennessee (United States) I, 8-10, 14, 15; Texas (United States) I, 10-16, 19-22; Thurgau (Switzerland) 9; Ticino (Switzerland) 4; Transjordan 6, 7; Tucumán (Argentina) 31-33; Turkey 72, 83; Ukraine 109, 110, 126; USSR 110, 111, 127; *United Kingdom*, p. 319; United States III, 2; V amend, VI amend; Unterwalden N (Switzerland) 8; Uri (Switzerland) 30-32; Uruguay 12-26; Utah (United States) I, 7, 12, 13; Valais (Switzerland) 5; Vaud (Switzerland) 4, 69; Venezuela 32; Vermont (United States) I, 10; Virginia (United States) I, 8; Washington (United States) I, 9, 10, 13-15, 20-

22; West Virginia (United States) III, 14, 17, 18; Wisconsin (United States) I, 5-8, 10-12; Wuerttemberg-Baden (Germany) 4, 5; Wyoming (United States) I, 9-15; Yugoslavia 28; Zug (Switzerland) 6, 8; Zurich (Switzerland) 5, 6, 8, 9.

D

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Alabama (United States) I, 20; Arizona (United States) II, 18; Arkansas (United States) II, 16; Brazil 141; Buenos Aires (Argentina) 29; California (United States) I, 15; Catamarca (Argentina) 34; Colombia 23; Colorado (United States) II, 12; Corrientes (Argentina) 18; Costa Rica 44; Dominican Republic 6; Ecuador 187; Florida (United States) decl, 16; Georgia (United States) I, 21; Guatemala 43; Honduras 38; Idaho (United States) I, 15; Illinois (United States) II, 12; Indiana (United States) I, 22; Iowa (United States) I, 19; Jujuy (Argentina) 30; Kansas (United States) decl, 16; Kentucky (United States) 18; La Rioja (Argentina) 25; Mendoza (Argentina) 27; Mexico 17; Michigan (United States) II, 20; Minnesota (United States) I, 12; Mississippi (United States) III, 30; Missouri (United States) I, 11; Montana (United States) III, 12; Nebraska (United States) I, 20; Nevada (United States) I, 14; New Jersey (United States) I, 17; New Mexico (United States) II, 21; Nicaragua 117; North Carolina (United States) I, 16; North Dakota (United States) I, 15; Ohio (United States) I, 15; Oklahoma (United States) II, 13; Oregon (United States) I, 19; Panama 22; Pennsylvania (United States) I, 16; Peru 58; Philippines III, 12; Portugal 8; Puerto Rico (United States) 737; Rhode Island (United States) I, 11; San Juan (Argentina) 12; South Carolina (United States) I, 24; South Dakota (United States) VI, 15; Switzerland 59; Tennessee (United States) I, 18; Texas (United States) I, 18; Uruguay 51; Utah (United States) I, 16; Venezuela 32; Washington (United States) I, 17; Wisconsin (United States) I, 16; Wyoming (United States) I, 5.

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Byelorussia 98; Canada, *p. 66*; China, *p. 66*; Cuba 20; Czechoslovakia 128; Ecuador 168; Egypt 3; France, preamble; Guatemala 21; Hesse (Germany) 1; India 298; Iraq 6; Japan 14; Nevada (United States) XXVIII, 1; New York (United States) I, 11; Nicaragua 107; Oklahoma (United States) I, 6; Panama 21, 80; Poland 95; Syria 6; Transjordan 5; Turkey 88; Ukraine 122; USSR 123; United States XV amend; Wuerttemberg-Baden (Germany) 10; Wyoming (United States) I, 3; Yugoslavia 21, 23;

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Women, against (see WOMEN).

DOMICILE: Inviolability of (see also SEARCH AND SEIZURE):

Aargau (Switzerland) 20; Afghanistan 16; Alabama (United States) I, 5; Albania 20; Appenzell A.Rh. (Switzerland) 11; Appenzell I.Rh. (Switzerland) 2; Arizona (United States) II, 8; Argentina 18; Arkansas (United States) II, 15; Basle R (Switzerland) 7; Bavaria (Germany) 106; Belgium 10; Berne (Switzerland) 76; Bolivia 16; Brazil 141; Buenos Aires (Argentina) 21; Byelorussia 103; California (United States) I, 19; Catamarca (Argentina) 21, 22; Chile 10; Colombia 23; Colorado (United States) II, 7; Connecticut (United States) I, 8; Córdoba (Argentina) 19; Corrientes (Argentina) 12; Costa Rica 30; Cuba 34; Delaware (United States) I, 6; Denmark 79; Dominican Republic 6; Ecuador 187; Egypt 8; Eire

40; Ethiopia 25; Finland 11; Florida (United States) decl, 22; Fribourg (Switzerland) 4; Geneva (Switzerland) 4; Georgia (United States) I, 16; Greece 12; Grisons (Switzerland) 9; Guatemala 37; Haiti 14; Hesse (Germany) 8; Honduras 48, 50; Iceland 66; Idaho (United States) I, 17; Illinois (United States) II, 6; Indiana (United States) I, 11; Iowa (United States) I, 8; Iran, suppl 13; Iraq 8; Japan 35; Jujuy (Argentina) 31; Kansas (United States) decl, 15; Kentucky (United States) 10; La Rioja (Argentina) 32; Lebanon 14; Liechtenstein 32; Louisiana (United States) I, 7; Lucerne (Switzerland) 5; Luxembourg 15; Mendoza (Argentina) 14; Mexico 16; Michigan (United States) II, 10; Mississippi (United States) III, 23; Monaco 8; Missouri (United States) I, 15; Montana (United States) III, 7; Nebraska (United States) I, 7; Netherlands 165; Neuchâtel (Switzerland) 7; Nevada (United States) I, 18; New Jersey (United States) I, 6; New Mexico (United States) II, 10; New York (United States) I, 12; Nicaragua 123; North Dakota (United States) I, 18; Norway 102; Ohio (United States) I, 14; Oklahoma (United States) II, 30; Oregon (United States) I, 9; Panama 26; Paraguay 27; Pennsylvania (United States) I, 8; Peru 61; Philippines III, 3; Poland 100; Portugal 8; Rhode Island (United States) I, 6; Roumania 13; St. Gall (Switzerland) 30; Salta (Argentina) 24; El Salvador 21; San Juan (Argentina) 32; San Luis (Argentina) 24; Santa Fé (Argentina) 18; Santiago del Estero (Argentina) 13; Schaffhausen (Switzerland) 20; Schwyz (Switzerland) 5; Solothurn (Switzerland) 14; South Carolina (United States) I, 16; South Dakota (United States) VI, 11; Sweden 16; Syria 12; Tennessee (United States) I, 7; Texas (United States) I, 9; Thurgau (Switzerland) 10; Transjordan 6; Tucumán (Argentina) 30; Turkey 76; Ukraine 127; USSR 128; *United Kingdom*, p. 318; United States, IV amend; Unterwalden N (Switzerland) 5; Unterwalden O (Switzerland) 6; Uri (Switzerland) 29; Uruguay 11; Utah (United States) I, 14; Valais (Switzerland) 4; Vaud (Switzerland) 5; Venezuela 32; Vermont (United States) I, 11; Virginia (United States) I, 10; Washington (United States) I, 7; West Virginia (United States) III, 6; Wisconsin (United States) I, 11; Wuerttemberg-Baden (Germany) 6; Wyoming (United States) I, 4; Yugoslavia 29; Zug (Switzerland) 9; Zurich (Switzerland) 8.

E

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¹ For the provisions referring to education which are included in the constitutions of the 48 States of the United States of America, see the study on page 416.

Poland 117; Portugal 8; Roumania 5; Salta (Argentina) 20; San Luis (Argentina) 24; Santiago del Estero (Argentina) 9; Siam 14; Turkey 80; Uruguay 59; Valais (Switzerland) 13; Vaud (Switzerland) 16; Venezuela 32; Zurich (Switzerland) 63.

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Brazil 166; Byelorussia 96; France, preamble; Paraguay 19; Ukraine 120; USSR 121; Wuerttemberg-Baden (Germany) 35.

Compulsory:

Aargau (Switzerland) 63; Afghanistan 20; Albania 28; Appenzell A.Rh. (Switzerland) 27; Appenzell I.Rh. (Switzerland) 12; Basle T. (Switzerland) 12; Bavaria (Germany) 129; Bolivia 154; Brazil 168; Buenos Aires (Argentina) 190; Byelorussia 96; *Canada*, p. 57; Catamarca (Argentina) 227; Chile 10; Córdoba (Argentina) 83; Corrientes (Argentina) 171; Costa Rica 67; Dominican Republic 6; Ecuador 171; Egypt 19; Entre Rios (Argentina) 203; Finland 80; Glaris (Switzerland) 18; Greece 16; Guatemala 81; Hesse (Germany) 56; Honduras 60; Iran, suppl 19; Japan 26; Jujuy (Argentina) 137; La Rioja (Argentina) 127; Liechtenstein 16; Luxembourg 23; Mendoza (Argentina) 212; Mexico 3; Neuchâtel (Switzerland) 77; Nicaragua 88; Panama 78; Paraguay 10; Peru 72; Poland 118; Portugal 42; Roumania 24; St. Gall (Switzerland) 5; Salta (Argentina) 189; San Juan (Argentina) 154; San Luis (Argentina) 175; Santa Fé (Argentina) 134; Santiago del Estero (Argentina) 145; Schaffhausen (Switzerland) 47; Schwyz (Switzerland) 9; Switzerland 27; Syria 21; Tucumán (Argentina) 141; Turkey 87; Ukraine 120; USSR 121; Uruguay 61; Valais (Switzerland) 13; Vaud (Switzerland) 18; Venezuela 32; Wuerttemberg-Baden (Germany) 37; Yugoslavia 38; Zurich (Switzerland) 62.

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Physical:

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Aargau (Switzerland) 63; Afghanistan 20; Albania 28; Appenzell A.Rh. (Switzerland) 27; Appenzell I. Rh. (Switzerland) 12; Basle T. (Switzerland) 12; Bavaria (Germany) 129; Berne (Switzerland) 87; Bolivia 154, 158; Brazil 168; Byelorussia 96; Chile 10; Colombia 41; Córdoba (Argentina) 83; Costa Rica 67; Cuba 48; Dominican Republic 6; Ecuador 171; Egypt 19; Eire 42; Entre Rios (Argentina) 201, 202; Finland 79, 80; Fribourg (Switzerland) 19; Geneva (Switzerland) 135, 136; Glaris (Switzerland) 8; Greece 16; Grisons (Switzerland) 41; Honduras 60; Iraq decl, 8; La Rioja (Argentina) 127; Liechtenstein 16; Luxembourg 23; Mexico 3; Netherlands 200;

Neuchâtel (Switzerland) 76, 78; Nicaragua 88; Panama 78; Paraguay 10; Peru 72; Philippines XIV, 5; Poland 94, 118; Portugal 43; Roumania 24; Salta (Argentina) 189; San Juan (Argentina) 154; St. Gall (Switzerland) 5, 6; Santiago del Estero (Argentina) 144; Saudi Arabia 25; Schaffhausen (Switzerland) 47; Schwyz (Switzerland) 9; Solothurn (Switzerland) 47; Switzerland 27; Syria 21; Thurgau (Switzerland) 24; Turkey 87; Ukraine 120; USSR 121; Unterwalden N. (Switzerland) 31; Unterwalden O. (Switzerland) 8; Uri (Switzerland) 5; Uruguay 61; Valais (Switzerland) 13; Vaud (Switzerland) 18; Wuerttemberg-Baden (Germany) 37; Yugoslavia 38; Zug (Switzerland) 4.

Private:

Aargau (Switzerland) 63; Albania 28; Basle T. (Switzerland) 15; Bavaria (Germany) 134; Bolivia 156; Brazil 168; Colombia 41; Czechoslovakia 120; Entre Rios (Argentina) 204; Finland 82; Greece 16; Guatemala 81; Jujuy (Argentina) 137; Liechtenstein 16; Mexico 3; Netherlands 200; Panama 79, 80, 81; Poland 117; Portugal 43, 44; St. Gall (Switzerland) 5; Salta (Argentina) 189; Ticino (Switzerland) 7; Unterwalden N. (Switzerland) 31; Unterwalden O. (Switzerland) 8; Uri (Switzerland) 6; Uruguay 60; Valais (Switzerland) 13; Yugoslavia 38; Zug (Switzerland) 4.

Public free:

Aargau (Switzerland) 63; Afghanistan 22; Albania 28; Appenzell A.Rh. (Switzerland) 27; Appenzell I. Rh. (Switzerland) 12; *Australia*, p. 33; Basle R. (Switzerland) 35; Basle T. (Switzerland) 12; Bavaria (Germany) 129; Belgium 17; Berne (Switzerland) 87; Bolivia 154; Brazil 167, 168; Buenos Aires (Argentina) 190; Byelorussia 96; Catamarca (Argentina) 226; Chile 10; Colombia 41; Corrientes (Argentina) 171; Costa Rica 67; Cuba 48, 49, 51, 52; Denmark 83; Dominican Republic 6; Ecuador 171; Egypt 18, 19; Eire 42; Entre Rios (Argentina) 201-205; Finland 79; France, preamble; Fribourg (Switzerland) 17; Geneva (Switzerland) 135, 136; Glaris (Switzerland) 18; Greece 16; Grisons (Switzerland) 41; Guatemala 81; Haiti 23; Hesse (Germany) 59; Honduras 60; Iceland 71; Iran, suppl 19; Iraq 16; Jujuy (Argentina) 137; La Rioja (Argentina) 127; Lebanon 10; Liechtenstein 15, 16; Lucerne (Switzerland) 3; Luxembourg 23; Mendoza (Argentina) 211; Mexico 3; Netherlands 200; Neuchâtel (Switzerland) 74, 78; Nicaragua 86, 88; Panama 61, 78; Paraguay 10; Peru 72, 75; Philippines XIV, 5; Poland 117, 119; Portugal 43; Roumania 24; St. Gall (Switzerland) 2, 5; Salta (Argentina) 188; San Juan (Argentina) 154; San Luis (Argentina) 175; Santa Fé (Argentina) 134; Santiago del Estero (Argentina) 145, 152; Saudi Arabia 25; Schaffhausen (Switzerland) 47; Schwyz (Switzerland) 9; Solothurn (Switzerland) 47; Switzerland 27; Syria 19, 21, 22; Transjordan 14; Tucumán (Argentina) 141; Turkey 87; Ukraine 120; USSR 121; Unterwalden N. (Switzerland) 31; Unterwalden O. (Switzerland) 8; Uri (Switzerland) 5; Uruguay 62; Valais (Switzerland) 13; Vaud (Switzerland) 18; Wuerttemberg-Baden (Germany) 35; Yugoslavia 38; Zug (Switzerland) 4; Zurich (Switzerland) 62.

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Hesse (Germany) 57, 58; Liechtenstein 16; Neuchâtel (Switzerland) 79; Philippines XIV, 5; Poland 120; Portugal 43; Switzerland 49; Syria 28; Unter-75; Portugal 43; St. Gall (Switzerland) 8; Schwyz land) 8; Vaud (Switzerland) 18; Wuerttemberg-Baden (Germany) 39.

Secondary:

Aargau (Switzerland) 64; Appenzell A.Rh. (Switzerland) 27; Appenzell I.Rh. (Switzerland) 27; Basle R. (Switzerland) 35; Basle T. (Switzerland) 12; Berne (Switzerland) 87; Bolivia 154, 158; Buenos Aires (Argentina) 191; Byelorussia 96; Entre Rios (Argentina) 201; Finland 79; Geneva (Switzerland) 135; Grisons (Switzerland) 41; Liechtenstein 17; Mendoza (Argentina) 211; Mexico 3; Neuchâtel (Switzerland) 76; Nicaragua 89; Panama 78; Paraguay 10; Peru 75; Portugal 43; St. Gall (Switzerland) 8; Schwyz (Switzerland) 9; Thurgau (Switzerland) 24; Ukraine 120; USSR 121; Uri (Switzerland) 7; Uruguay 62.

Vocational; technical:

Aargau (Switzerland) 88; Appenzell A. Rh. (Switzerland) 27; Basle R. (Switzerland) 35; Basle T. (Switzerland) 12; Bavaria (Germany) 129, 164; Brazil 168; Byelorussia 96; Costa Rica 61; Cuba 49, 50, 51; Dominican Republic 6; Ecuador 173; Finland 78, 81; France, preamble; Geneva (Switzerland) 135; Liechtenstein 17; Mendoza (Argentina) 211; Nicaragua 90, 91; Panama 89; Paraguay 10; Peru 76, 77; Philippines XIV, 5; Portugal 43; St. Gall (Switzerland) 15; Santiago del Estero (Argentina) 145; Solothurn (Switzerland) 50; Ukraine 120; USSR 121; Unterwalden N. (Switzerland) 33; Uri (Switzerland) 7; Uruguay 62; Valais (Switzerland) 15; Vaud (Switzerland) 17; Venezuela 32; Wuerttemberg-Baden (Germany) 37.

ELECTORAL RIGHTS:

Alabama (United States) I, 33; Albania 14; Arizona (United States) II, 21; *Australia*, p. 33; Bavaria (Germany) 15; Byelorussia 109-118; *Canada*, p. 56; Colorado (United States) II, 5; Corrientes (Argentina) 25; Delaware (United States) I, 3; Ecuador 188; Guatemala 33; Idaho (United States) I, 19; Illinois (United States) II, 18; Japan 15; Kentucky (United States) 6; Liberia I, 11; Maryland (United States) decl, 7; Massachusetts (United States) I, 9; Minnesota (United States) I, 17; Missouri (United States) I, 25; Montana (United States) III, 5; Nebraska (United States) I, 22; New Hampshire (United States) I, 11; New Mexico (United States) II, 8; *New Zealand*, p. 211; North Carolina (United States) I, 10, 22; Oklahoma (United States) II, 4; Pennsylvania (United States) I, 5; South Carolina (United States) I, 9, 10; South Dakota (United States) VI, 19; Tennessee (United States) I, 5; Ukraine 133-142; USSR 134-142; United States XV amend; XIX amend; Utah (United States) I, 17; Vermont (United States) I, 8; Virginia (United States) I, 6; Venezuela 32; Washington (United States) I, 19; West Virginia (United States) III, 11; Wyoming (United States) I, 27; Yugoslavia 23; Zurich (Switzerland) 16.

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