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SELECT CONSTITUTIONS

OF THE

WORLD

EDITED BY

B. SHIVA RAO, M.A.

MADRAS

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PREFACE.

Almost since the introduction of the Montagu-Chelmsford Reforms in 1921, various attempts have been made by political organisations in India to produce a Constitution acceptable to the people. There was, first, the Commonwealth of India Bill for which the late Dr. Annie Besant was mainly responsible; this was followed by the scheme of the All Parties' Conference, better known as the Nehru Report. A great deal of valuable assistance was derived in the preparation of both these documents from a work, unfortunately then out of print, known as the "Select Constitutions of the World," prepared by order of the Irish Provisional Government in 1922.

During my visit to London in the summer of 1933, I sought the permission of the Irish Free State Government to reprint many of the Constitutions from the above-mentioned book. I am glad to say that this permission was readily granted by the Controller of the Stationery Office, Dublin, to whom I take this opportunity of conveying my deep obligations. I am also similarly indebted to the High Commissioners of Australia, Canada and South Africa and to the American Ambassador in London for permission to reproduce the Constitutions of their respective countries.

I have included the Statute of Westminster which was passed by the British Parliament in 1931 in view of the interest aroused by, and the importance attached to, the term "Dominion Status" in political circles in Britain and in India. The correspondence which recently passed between Mr. De Valera and the Secretary of State for Dominion Affairs (the Rt. Hon. J. H. Thomas) has also been included in the volume, as being of considerable interest.

I am conscious of the fact that the value of the book would have been greatly enhanced by the addition of the Constitutions of some countries where important political developments have taken place in recent years notably, Turkey, Italy, Spain, Persia and Afghanistan. I consulted some of these Constitutions in the Library of the Foreign Office in London; but it was not possible, with the limited amount of time at my disposal, to obtain copies and the permission for reproducing them. I am publishing this volume, nevertheless, in the hope that even in its present form it may be of some use to those who are actively interested in the constitutional changes which are taking place in India and many other parts of the world.

MADRAS,
1st May, 1934.

B. SHIVA RAO.

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I. THE IRISH FREE STATE*

Constitution of the Irish Free State (Saorstát Eireann) Act, 1922.

[No. 1 of 1922.]

As Amended by Subsequent Enactments.

CONSTITUTION ACT.

An Act to enact a Constitution for the Irish Free State (Saorstát Eireann) and for implementing the Treaty between Great Britain and Ireland signed at London on the 6th day of December, 1921.

Dáil Eireann sitting as a Constituent Assembly in this Provisional Parliament, acknowledging that all lawful authority comes from God to the people and in the confidence that the National life and unity of Ireland shall thus be restored, hereby proclaims the establishment of the Irish Free State (otherwise called Saorstát Eireann) and in the exercise of undoubted right, decrees and enacts as follows:—

1. The Constitution set forth in the First Schedule hereto annexed shall be the Constitution of the Irish Free State (Saorstát Eireann).

†2. The said Constitution shall be construed with reference to the Articles of Agreement for a Treaty between Great Britain and Ireland set forth in the Second Schedule hereto annexed

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*Note.—The Constitution of the Irish Free State was enacted by Dáil Eireann on the 25th October, 1922. It has been amended to date by various Constitution Amendment Acts.

In the Constitution here printed these amendments have been carried in, and the method of treatment adopted is as follows: the original Constitution is printed in ordinary type; those portions which have been deleted are printed within square brackets; and those which have been added are printed in italics.

References to the appropriate amending Acts are given in numbered foot-notes, and references to Acts which implement the Constitution are given in foot-notes distinguished by asterisks, obelisks, *etc.*

†Section 2 of the Treaty (Confirmation of Amending Agreement) Act, 1925 (No. 40 of 1925) provides that "All references in section 2 of the Constitution of the Irish Free State (Saorstát Eireann) Act, 1922 (No. 1 of 1922) to the Treaty of 1921 (in that section referred to as the Scheduled Treaty) shall be construed and have effect as references to the said Treaty of 1921 as amended by the Agreement set forth in the Schedule to this Act and accordingly all references in the Constitution to the Scheduled

(hereinafter referred to as "the Scheduled Treaty") which are hereby given the force of law, and if any provision of the said Constitution or of any amendment thereof or of any law made thereunder is in any respect repugnant to any of the provisions of the Scheduled Treaty, it shall, to the extent only of such repugnancy, be absolutely void and inoperative and the Parliament and the Executive Council of the Irish Free State (Saorstát Eireann) shall respectively pass such further legislation and do all such other things as may be necessary to implement the Scheduled Treaty.

3. This Act may be cited for all purposes as the Constitution of the Irish Free State (Saorstát Eireann) Act, 1922.

FIRST SCHEDULE.

*CONSTITUTION OF THE IRISH FREE STATE.

(*Saorstát Eireann.*)

Article 1.—The Irish Free State (otherwise hereinafter called or sometimes called Saorstát Eireann) is a co-equal member of the Community of Nations forming the British Commonwealth of Nations.

Article 2.—All powers of government and all authority legislative, executive, and judicial in Ireland, are derived from the people of Ireland and the same shall be exercised in the Irish Free State (Saorstát Eireann) through the organisations established by or under, and in accord with, this Constitution.

Article 3.—Every person, without distinction of sex, domiciled in the area of the jurisdiction of the Irish Free State (Saorstát Eireann) at the time of the coming into operation of this Constitution, who was born in Ireland or either of whose parents was born in Ireland or who has been ordinarily resident in the area of the jurisdiction of the Irish Free State (Saorstát Eireann) for not less than seven years, is a citizen of the Irish Free State (Saorstát Eireann) and shall within the limits of the jurisdiction of the Irish Free State (Saorstát Eireann) enjoy the privileges and be subject to the obligations of such citizenship: Provided that any such person

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Treaty shall be construed as references to the said Treaty of 1921 as amended by the said Agreement".

*Section 3 of the Public Safety Act, 1927 (No. 31 of 1927) provides that every provision of that Act which is in contravention of any provision of the Constitution shall to the extent of such contravention operate and have effect as an amendment for so long only as that Act continues in force of such provision of the Constitution. Section 1 (2) of the Public Safety Act, 1927, provides that that Act shall continue in force for five years from the passing thereof and shall then expire. The Act was passed on the 11th August, 1927 and its duration was terminated by the Public Safety Act, 1928 (No. 38 of 1928).

being a citizen of another State may elect not to accept the citizenship hereby conferred; and the conditions governing the future acquisition and termination of citizenship in the Irish Free State (Saorstát Eireann) shall be determined by law.

Article 4.—The National language of the Irish Free State (Saorstát Eireann) is the Irish language, but the English language shall be equally recognised as an official language. Nothing in this Article shall prevent special provisions being made by the Parliament of the Irish Free State (otherwise called and herein generally referred to as the "Oireachtas") for districts or areas in which only one language is in general use.

Article 5.—No title of honour in respect of any services rendered in or in relation to the Irish Free State (Saorstát Eireann) may be conferred on any citizen of the Irish Free State (Saorstát Eireann) except with the approval or upon the advice of the Executive Council of the State.

Article 6.—The liberty of the person is inviolable, and no person shall be deprived of his liberty except in accordance with law. Upon complaint 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 enquire 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:

Provided, however, that nothing in this Article contained shall be invoked to prohibit control or interfere with any act of the military forces of the Irish Free State (Saorstát Eireann) during the existence of a state of war or armed rebellion.

Article 7.—The dwelling of each citizen is inviolable and shall not be forcibly entered except in accordance with law.

Article 8.—Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed to every citizen, and no law may be made either directly or indirectly to endow any religion, or prohibit or restrict the free exercise thereof or give any preference, or impose any disability on account of religious belief or religious status, or affect prejudicially the right of any child to attend a school receiving public money without attending the religious instruction at the school, or make any discrimination as respects State aid between schools under the management of different religious denominations, or divert from any religious denomination or any educational institution any of its property except for the purpose of roads, railways, lighting, water or drainage works or other works of public utility, and on payment of compensation.

Article 9.—The right of free expression of opinion as well as the right to assemble peaceably and without arms, and to form associations or unions is guaranteed for purposes not opposed to public morality. Laws regulating the manner in which the right of forming associations and the right of free assembly may be exercised shall contain no political, religious or class distinction.

Article 10.—All citizens of the Irish Free State (Saorstát Eireann) have the right to free elementary education.

***Article 11.**—All the lands and waters, mines and minerals, within the territory of the Irish Free State (Saorstát Eireann) hitherto vested in the State, or any department thereof, or held for the public use or benefit, and also all the natural resources of the same territory (including the air and all forms of potential energy), and also all royalties and franchises within that territory shall, from and after the date of the coming into operation of this Constitution, belong to the Irish Free State (Saorstát Eireann), subject to any trusts, grants, leases or concessions then existing in respect thereof, or any valid private interest therein, and shall be controlled and administered by the Oireachtas, in accordance with such regulations and provisions as shall be from time to time approved by legislation, but the same shall not, nor shall any part thereof, be alienated, but may in the public interest be from time to time granted by way of lease or licence to be worked or enjoyed under the authority and subject to the control of the Oireachtas: Provided that no such lease or licence may be made for a term exceeding ninety-nine years, beginning from the date thereof, and no such lease or licence may be renewable by the terms thereof.

Article 12.—A Legislature is hereby created to be known as the Oireachtas. It shall consist of the King and two Houses, the Chamber of Deputies (otherwise called and herein generally referred to as "Dáil Eireann") and the Senate (otherwise called and herein generally referred to as "Seanad Eireann"). The sole and exclusive power of making laws for the peace, order and good government of the Irish Free State (Saorstát Eireann) is vested in the Oireachtas.

Article 13.—The Oireachtas shall sit in or near the city of Dublin or in such other place as from time to time it may determine.

†**Article 14.**—All citizens of the Irish Free State (Saorstát Eireann) without distinction of sex, who have

*See State Lands Act, 1924 (No. 45 of 1924) and State Lands (Workhouses) Act, 1930 (No. 9 of 1930).

†See Electoral Act, 1923 (No. 12 of 1923), the Prevention of Electoral Abuses Act, 1923 (No. 38 of 1923) and Electoral (Amendment) Act, 1927 (No. 21 of 1927).

reached the age of twenty-one years and who comply with the provisions of the prevailing electoral laws, have the right to vote for members of Dáil Eireann, and to take part in the Referendum [and Initiative[1]] [All citizens of the Irish Free State (Saorstát Eireann) without distinction of sex who have reached the age of thirty years and who comply with the provisions of the prevailing electoral laws, shall have the right to vote for members of Seanad Eireann.[2]] No voter may exercise more than one vote at an election to [either House[2]] *Dáil Eireann*[2] and the voting shall be by secret ballot. The mode and place of exercising this right shall be determined by law.

***Article 15.**—Every citizen who has reached the age of twenty-one years and who is not placed under disability or incapacity by the Constitution or by law shall be eligible to become a member of Dáil Eireann.

Article 16.—No person may be at the same time a member both of Dáil Eireann and of Seanad Eireann, and if any person who is already a member of either House is elected to be a member of the other House, he shall forthwith be deemed to have vacated his first seat.

†[**Article 17.**—The oath to be taken by members of the Oireachtas shall be in the following form:—

I..... do solemnly swear true faith and allegiance to the Constitution of the Irish Free State as by law established, and that I will be faithful to H. M. King George VI, his heirs and successors by law in virtue of the common citizenship of Ireland with Great Britain and her adherence to and membership of the group of nations forming the British Commonwealth of Nations.

Such oath shall be taken and subscribed by every member of the Oireachtas before taking his seat therein before the Representative of the Crown or some person authorised by him.]

Article 18.—Every member of the Oireachtas shall, except in cases of treason, felony, or breach of the peace, be privileged from arrest in going to and returning from, and while within the precincts of either House, and shall not, in respect of any utterance in either House, be amenable to any action or proceeding in any Court other than the House itself.

Article 19.—All official reports and publications of the Oireachtas or of either House thereof shall be privileged and

1. Amendment No. 10 Act. 2. Amendment No. 6 Act.

**See* Articles 63 and 69 of the Constitution, section 51 of Electoral Act, 1923 (No. 12 of 1923) and Electoral (Amendment) (No. 2) Act, 1927 (No. 33 of 1927).

†This Article was abolished by legislative enactment in 1932.

utterances made in either House wherever published shall be privileged.

Article 20.—Each House shall make its own Rules and Standing Orders, with power to attach penalties for their infringement and shall have power to ensure freedom of debate, to protect its official documents and the private papers of its members, and to protect itself and its members against any person or persons interfering with, molesting or attempting to corrupt its members in the exercise of their duties.

***Article 21.**—Each House shall elect its own Chairman and Deputy Chairman and shall prescribe their powers, duties, remuneration, and terms of office.

The member of Dáil Eireann who is the Chairman of Dáil Eireann immediately before a dissolution of the Oireachtas shall, unless before such dissolution he announces to Dáil Eireann that he does not desire to continue to be a member thereof, be deemed without any actual election to be elected in accordance with this Constitution at the ensuing general election as a member of Dáil Eireann for the constituency for which he was a member immediately before such dissolution or, in the event of a revision of constituencies having taken place, for the revised constituency declared on such revision to correspond to such first-mentioned constituency. Whenever a former Chairman of Dáil Eireann is so deemed to have been elected at a general election as a member for a constituency the number of members actually to be elected for such constituency at such general election shall be one less than would otherwise be required to be elected therefor.[1]

Article 22.—All matters in each House shall, save as otherwise provided by this Constitution, be determined by a majority of the votes of the members present other than the Chairman or presiding member, who shall have and exercise a casting vote in the case of an equality of votes. The number of members necessary to constitute a meeting of either House for the exercise of its powers shall be determined by its Standing Orders.

†**Article 23.**—The Oireachtas shall make provision for the payment of its members and may in addition provide them with free travelling facilities in any part of Ireland.

Article 24.—The Oireachtas shall hold at least one session each year. The Oireachtas shall be summoned and dissolved by the Representative of the Crown in the name of the King and

1. Amendment No. 2 Act.

*See section 2 of Electoral (Amendment) Act, 1927 (No. 21 of 1927).

†*See* Oireachtas (Payment of Members) Act, 1923 (No. 18 of 1923), Oireachtas (Payment of Members) (Amendment) Act, 1925 (No. 29 of 1925) and Oireachtas (Payment of Members) Act, 1928 (No. 17 of 1928).

subject as aforesaid Dáil Eireann shall fix the date of re-assembly of the Oireachtas and the date of the conclusion of the session of each House: Provided that the sessions of Seanad Eireann shall not be concluded without its own consent.

Article 25.—Sittings of each House of the Oireachtas shall be public. In cases of special emergency either House may hold a private sitting with the assent of two-thirds of the members present.

***Article 26.**—Dáil Eireann shall be composed of members who represent constituencies determined by law. The number of members shall be fixed from time to time by the Oireachtas, but the total number of members of Dáil Eireann (exclusive of members for the Universities) shall not be fixed at less than one member for each thirty thousand of the population, or at more than one member for each twenty thousand of the population: Provided that the proportion between the number of members to be elected at any time for each constituency and the population of each constituency, as ascertained at the last preceding census, shall, so far as possible, be identical throughout the country. The members shall be elected upon principles of Proportional Representation. The Oireachtas shall revise the constituencies at least once in every ten years, with due regard to changes in distribution of the population, but any alterations in the constituencies shall not take effect during the life of Dáil Eireann sitting when such revision is made.

†**Article 27.**—Each University in the Irish Free State (Saorstát Eireann), which was in existence at the date of the coming into operation of this Constitution, shall be entitled to elect three representatives to Dáil Eireann upon a franchise and in a manner to be prescribed by law.

‡**Article 28.**—At a General Election for Dáil Eireann the polls (exclusive of those for members for the Universities) shall be held on the same day throughout the country, and that day shall be a day not later than thirty days after the date of the dissolution [and shall be proclaimed a public holiday[1]]. Dáil Eireann shall meet within one month of such day, and shall unless earlier dissolved continue for [four years[2]] *six years or such shorter period as may be fixed by legislation*[2] from the date of its first meeting, and

1. Amendment No. 3 Act. 2. Amendment No. 4 Act.

**See* Electoral Act, 1923 (No. 12 of 1923) (Eighth Schedule).

†*See* Electoral Act, 1923 (No. 12 of 1923) and section 4 of Electoral (Amendment) Act, 1927 (No. 21 of 1927).

‡*See* sections 3 (2) and 7 of Electoral (Amendment) Act, 1927 (No. 21 of 1927).

not longer. Dáil Eireann may not at any time be dissolved except on the advice of the Executive Council.

*Article 29.—In case of death, resignation or disqualification of a member of Dáil Eireann, the vacancy shall be filled by election in a manner to be determined by law.

Article 30.—Seanad Eireann shall be composed of citizens who shall be proposed on the grounds that they have done honour to the Nation by reason of useful public service or that, because of special qualifications or attainments, they represent important aspects of the Nation's life.

Article 31.—The number of members of Seanad Eireann shall be sixty. A citizen to be eligible for membership of Seanad Eireann must be a person eligible to become a member of Dáil Eireann, and must have reached the age of [thirty-five[1]] *thirty* years. Subject to any provision for the constitution of the first Seanad Eireann the term of office [of a member of Seanad Eireann shall be twelve years] *of members of Seanad Eireann shall, in the case of the members elected (otherwise than under Article* 32 *of this Constitution) at the election held in pursuance of Article* 32 *of this Constitution in the year* 1925, *be twelve years, and shall, in the case of the members elected at the election held pursuant to the said Article* 32 *to fill the places of members of Seanad Eireann who are due to retire in the year* 1928, *be as provided in Article* 32*B of this Constitution and shall, in every other case but subject to the provisions of the said Article* 34, *be nine years.*[2]

Article 31A.—*The duration of the term of office of a member of the first Seanad Eireann shall be reckoned from the beginning of the day on which this Constitution comes into operation, and the duration of the term of office of a member of Seanad Eireann elected under Article* 32 *of this Constitution shall be reckoned from the beginning of the appropriate triennial anniversary of that day.*[3]

Article 32.—[One-fourth] *Save as is hereinafter otherwise provided, one-third*[2] of the members of Seanad Eireann shall be elected every three years from a panel constituted as hereinafter mentioned at an election [at which the area of the jurisdiction of the Irish Free State (Saorstát Eireann) shall form one electoral area, and the election shall be held on principles of Proportional Representation] *at which the electors shall be the members of Dáil Eireann and the members of Seanad Eireann voting together on principles of Proportional Representation.*

1. Amendment No. 8 Act. 2. Amendment No. 7 Act.
3. Amendment No. 1 Act.

*See section 53 of Electoral Act, 1923 (No. 12 of 1923).

The voting at such elections shall be by secret ballot and no elector may exercise more than one vote thereof. The place and conduct of such elections shall be regulated by law.[1]

At the election held in pursuance of this Article to fill the places of members of Seanad Eireann who are due to retire in the year 1928, *one-fourth only of the members of Seanad Eireann shall be elected under this Article.*[2]

Article 32A.—*An election of members of Seanad Eireann under Article* 32 *of this Constitution may be held at any time not more than three months before nor more than three months after the conclusion of the period of three years mentioned in that Article.*

A person who, after the day appointed by law for the completion of the formation of the panel of candidates and before the conclusion of the three years period running on that day, is chosen under Article 34 *of this Constitution to fill a vacancy caused by the death, resignation, or disqualification of a member of Seanad Eireann (other than a member about to retire at the conclusion of the said period) shall hold office until the conclusion of the next three years period and shall then retire.*[3]

Article 32B.—*The respective terms of office of the several members of Seanad Eireann elected at the election held pursuant to Article* 32 *of this Constitution to fill the places of members of Seanad Eireann who are due to retire in the year* 1928 *shall be as follows, that is to say:—*

(*a*) *the first five members so elected shall hold office for nine years,*

(*b*) *so many of the members so elected after such first five members as are necessary to fill under Article* 34 *of this Constitution additional vacancies (if any) originally created by the death, resignation, or disqualification of members of Seanad Eireann who are due to retire in the year* 1937 *shall hold office for nine years,*

(*c*) *the next five members so elected shall hold office for six years,*

(*d*) *so many of the members so elected after the last-mentioned five members as are necessary to fill under Article* 34 *of this Constitution additional vacancies (if any) originally created by the death, resignation, or disqualification of members of Seanad Eireann who are due to retire in the year* 1934 *shall hold office for six years,*

1. Amendment No. 6 Act. 2. Amendment No. 7 Act.
3. Amendment No. 1 Act.

(*e*) *all other members so elected shall hold office for three years.*

The proviso to the said Article 34 *shall not apply to the said election.*[1]

*[**Article 33.**—Before each election of members of Seanad Eireann a panel shall be formed consisting of:—

(*a*) Three times as many qualified persons as there are members to be elected, of whom two-thirds shall be nominated by Dáil Eireann voting according to principles of Proportional Representation and one-third shall be nominated by Seanad Eireann voting according to principles of Proportional Representation; and

(*b*) Such persons who have at any time been members of Seanad Eireann (including members about to retire) as signify by notice in writing addressed to the President of the Executive Council then desire to be included in the panel.

The method of proposal and selection for nomination shall be decided by Dáil Eireann and Seanad Eireann respectively, with special reference to the necessity for arranging for the representation of important interests and institutions in the country: Provided that each proposal shall be in writing and shall state the qualifications of the person proposed and that no person shall be proposed without his own consent. As soon as the panel has been formed a list of the names of the members of the panel arranged in alphabetical order with their qualifications shall be published.][2]

†**Article 33.**—*Before each election of members of Seanad Eireann a panel of candidates for such election shall be formed in such manner in all respects as shall be prescribed by law.*[2]

‡**Article 34.**—In case of the death, resignation or disqualification of a member of Seanad Eireann his place shall be filled [by a vote of Seanad Eireann[3]] *by an election at which the candidates shall be nominated in such manner in all respects as shall be prescribed by law and at which the electors shall be the members of Dáil Eireann and the members of Seanad Eireann voting together. The voting at such elections shall be by secret ballot and no elector may exercise more than one vote thereat. The place and conduct of*

1. Amendment No. 7 Act. 2. Amendment No. 9 Act.
3. Amendment No. 11 Act.

See Electoral (Seanad Elections) Act, 1925 (No. 34 of 1925).

†*See* Electoral (Amendment) (No. 2) Act, 1927 (No. 33 of 1927) and Seanad Electoral Act, 1928 (No. 29 of 1928).

‡*See* Seanad By-Elections Act, 1930 (No. 1 of 1930).

such elections shall be regulated by law.[1] Any member of Seanad Eireann so chosen shall retire from office at the conclusion of the three years period then running and the vacancy thus created shall be additional to the places to be filled under Article 32 of this Constitution. The term of office of the members chosen at the election after the first [fifteen[2]] *twenty*[2] elected shall conclude at the end of the period or periods at which the member or members of Seanad Eireann, by whose death or withdrawal the vacancy or vacancies was or were originally created, would be due to retire: [Provided that the sixteenth member shall be deemed to have filled the vacancy first created in order of time and so on.[3]] *Provided that the* [*sixteenth*[2]] *twenty-first*[2] *member shall be deemed to have filled the vacancy created by the death or withdrawal of the Senator, or one of the Senators, the unexpired period of whose term of office was greatest at the time of the election and so on.*[3]

Article 35.—Dáil Eireann shall in relation to the subject-matter of Money Bills as hereinafter defined have legislative authority exclusive of Seanad Eireann.

A Money Bill means a Bill which contains only provisions dealing with all or any of the following subjects, namely, the imposition, repeal, remission, alteration or regulation of taxation; the imposition for the payment of debt or other financial purposes of charges on public moneys or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof; subordinate matters incidental to those subjects or any of them. In this definition the expressions "taxation," "public money" and "loan" respectively do not include any taxation, money or loan raised by local authorities or bodies for local purposes.

[The Chairman of Dáil Eireann shall certify any Bill which in his opinion is a Money Bill to be a Money Bill, but, if within three days after a Bill has been passed by Dáil Eireann two-fifths of the members of either House by notice in writing addressed to the Chairman of the House of which they are members so require, the question whether the Bill is or is not a Money Bill shall be referred to a Committee of Privileges consisting of three members elected by each House with a Chairman who shall be the senior Judge of the Supreme Court able and willing to act, and who, in the case of an equality of votes, but not otherwise, shall be entitled to vote. The decision of the Committee on the question shall be final and conclusive.]

The Chairman of Dáil Eireann shall certify any Bill which in his opinion is a Money Bill to be a Money Bill and such certifi-

1. Amendment No. 11 Act.
2. Amendment No. 7 Act.
3. Amendment No. 1 Act.

cate shall be final and conclusive unless the question whether the Bill is or is not a Money Bill is referred to a Committee of Privileges under the subsequent provisions of this Article.

If before whichever of the following events shall first occur, that is to say, the expiration of seven days from the day on which a Bill certified by the Chairman of Dáil Eireann to be a Money Bill is sent by Dáil Eireann to Seanad Eireann for its recommendations under Article 38 *of this Constitution or the return of such Bill by Seanad Eireann to Dáil Eireann under the said Article* 38:—

(*a*) *two-fifths of the members of either House by notice in writing addressed to the Chairman of the House of which they are members so require, or*

(*b*) *a majority of the members of Seanad Eireann present and voting at a sitting of Seanad Eireann at which not less than thirty members are present so resolve,*

the question whether the Bill is or is not a Money Bill shall forthwith be referred to a Committee of Privileges consisting of such number (not exceeding three) of members (if any) as shall be elected by Dáil Eireann within seven days after such reference, such number (not exceeding three) of members (if any) as shall be elected by Seanad Eireann within such seven days, and a Chairman who shall be the senior Judge of the Supreme Court able and willing to act and who in the case of an equality of votes, but not otherwise, shall be entitled to vote.

Every such Committee of Privileges shall decide the question so referred to it and report its decision thereon to Dáil Eireann and Seanad Eireann within twenty-one days after the day on which the Bill the subject of such question was sent to Seanad Eireann and, upon such Committee so deciding and reporting, the decision of such Committee shall be final and conclusive, but, if such Committee fails so to decide and report within such twenty-one days, the certificate of the Chairman of Dáil Eireann that such Bill is a Money Bill shall at the expiration of the said twenty-one days become and be final and conclusive.

A Committee of Privileges constituted under this Article may act notwithstanding one or more vacancies amongst its members other than the Chairman. In the event of the Chairman of any such Committee dying or becoming incapable of acting as such Chairman, the senior of the other Judges of the Supreme Court able and willing to act shall forthwith become and be the Chairman of such Committee in the place of the Chairman so dying or becoming incapable. The Chairman and one-half of the other members of any such Committee shall constitute a quorum.[1]

1. Amendment No. 12 Act.

Article 36.—Dáil Eireann shall as soon as possible after the commencement of each financial year consider the Estimates of receipts and expenditure of the Irish Free State (Saorstát Eireann) for that year, and, save in so far as may be provided by specific enactment in each case, the legislation required to give effect to the Financial Resolutions of each year shall be enacted within that year.

Article 37.—Money shall not be appropriated by vote, resolution or law, unless the purpose of the appropriation has in the same session been recommended by a message from [the Representative of the Crown acting on the advice of the Executive Council[1]] *the executive Council signed by the President of the Executive Council.*[1]

Article 38.—Every Bill initiated in and passed by Dáil Eireann shall be sent to Seanad Eireann and may, unless it be a Money Bill, be amended in Seanad Eireann and Dáil Eireann shall consider any such amendment; [but a Bill passed by Dáil Eireann and considered by Seanad Eireann shall, not later than two hundred and seventy days after it shall have been first sent to Seanad Eireann, or such longer period as may be agreed upon by the two Houses, be deemed to be passed by both Houses in the form in which it was last passed by Dáil Eireann:[2] Provided that[1]] every Money Bill shall be sent to Seanad Eireann for its recommendations and at a period not longer than twenty-one days after it shall have been sent to Seanad Eireann, it shall be returned to Dáil Eireann which may pass it, accepting or rejecting all or any of the recommendations of Seanad Eireann, and as so passed or if not returned within such period of twenty-one days shall be deemed to have been passed by both Houses. [When a Bill other than a Money Bill has been sent to Seanad Eireann a Joint Sitting of the Members of both Houses may on a resolution passed by Seanad Eireann be convened for the purpose of debating, but not of voting upon, the proposals of the Bill or any amendment of the same.[2]]

Article 38A.—*Whenever a Bill (not being a Money Bill) initiated in and passed by Dáil Eireann and sent to Seanad Eireann is within the stated period hereinafter defined either rejected by Seanad Eireann or passed by Seanad Eireann with amendments to which Dáil Eireann does not agree or is neither passed (with or without amendment) nor rejected by Seanad Eireann within the said stated period, Dáil Eireann may within one year after the said stated period by resolution expressly passed under this Article again send such Bill to Seanad Eireann in the form (save only*

1. Amendment No. 20 Act. 2. Amendment No. 13 Act.

*for such modifications as are hereinafter authorised) in which it was first so sent, and if Seanad Eireann does not, within sixty days thereafter or such longer period as may be agreed to by both Houses, pass such Bill either without amendment or with such amendments only as are agreed to by Dáil Eireann, such Bill shall, if Dáil Eireann so resolves after the expiration of such sixty days or longer period aforesaid, be deemed to have been passed by both Houses of the Oireachtas at the expiration of the said sixty days or longer period aforesaid in the form in which it was so last sent to Seanad Eireann with such (if any) amendments as may have been made therein by Seanad Eireann and agreed to by Dáil Eireann.**

The said stated period is the period commencing on the day on which the said Bill is first sent by Dáil Eireann to Seanad Eireann and ending at whichever of the following times is the earlier, that is to say, the expiration of eighteen months from the commencement of the said period or the date of the reassembly of the Oireachtas after a dissolution occurring after the commencement of such period.

When a Bill initiated in and passed by Seanad Eireann is amended by Dáil Eireann, such Bill shall be deemed to have been initiated in Dáil Eireann and this Article shall apply to such Bill accordingly and for the purpose of such application the said stated period shall in relation to such Bill commence on the day on which such Bill is first sent to Seanad Eireann after being so amended by Dáil Eireann.

Whenever a Bill has been sent by Dáil Eireann to Seanad Eireann nothing in this Article shall operate to restrict the right of Dáil Eireann to send such Bill on any subsequent occasion to Seanad Eireann otherwise than under this Article, and when such Bill is so sent to Seanad Eireann this Article shall apply as if such subsequent occasion were the first occasion on which such Bill was sent by Dáil Eireann to Seanad Eireann.

A Bill sent a second time by Dáil Eireann to Seanad Eireann and required for the purposes of this Article to be in the form in which it was first so sent may contain such (if any) modifications as shall be certified by the Chairman of Dáil Eireann to represent amendments made therein by Seanad Eireann and agreed to by Dáil Eireann or to be necessary owing to the lapse of time since such Bill was first sent by Dáil Eireann to Seanad Eireann.[1]

Article 39.—A Bill may be initiated in Seanad Eireann and if passed by Seanad Eireann shall be introduced into Dáil Eireann. If amended by Dáil Eireann the Bill shall be considered as a Bill initiated in Dáil Eireann. [If rejected by

1. Amendment No. 13 Act.

**See* Amendment No. 19 Bill.

Dáil Eireann it shall not be introduced again in the same session, but Dáil Eireann may reconsider it on its own motion.[1]]

Article 40.—A Bill passed by either House and accepted by the other House shall be deemed to be passed by both Houses.

Article 41.—So soon as any Bill shall have been passed or deemed to have been passed by both Houses, the Executive Council shall present the same to the Representative of the Crown for the signification by him, in the King's name, of the King's assent, [and such Representative may withhold the King's assent or reserve the Bill for the signification of the King's pleasure: Provided that the Representative of the Crown shall, in the withholding of such assent to or the reservation of any Bill, act in accordance with the law, practice, and constitutional usage governing the like withholding of assent or reservation in the Dominion of Canada.[2]]

A Bill reserved for the signification of the King's pleasure shall not have any force unless and until within one year from the day on which it was presented to the Representative of the Crown for the King's assent, the Representative of the Crown signifies by speech or message to each of the Houses of the Oireachtas, or by proclamation, that it has received the assent of the King in Council.

An entry of every such speech, message or proclamation shall be made in the Journal of each House and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the Records of the Irish Free State (Saorstát Eireann).

Article 42.—As soon as may be after any law has received the King's assent, the clerk, or such officer as Dáil Eireann may appoint for the purpose, shall cause two fair copies of such law to be made, one being in the Irish language and the other in the English language (one of which copies shall be signed by the Representative of the Crown to be enrolled for record in the office of such officer of the Supreme Court as Dáil Eireann may determine), and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies so deposited, that signed by the Representative of the Crown shall prevail.

Article 43.—The Oireachtas shall have no power to declare acts to be infringements of the law which were not so at the date of their commission.

Article 44.—The Oireachtas may create subordinate legislatures with such powers as may be decided by law.

Article 45.—The Oireachtas may provide for the establishment of Functional or Vocational Councils representing branches

1. Amendment No. 14 Act. 2. Amendment No. 21 Act.

of the social and economic life of the Nation. A law establishing any such Council shall determine its powers, rights and duties, and its relation to the government of the Irish Free State (Saorstát Eireann).

Article 46.—The Oireachtas has the exclusive right to regulate the raising and maintaining of such armed forces as are mentioned in the Scheduled Treaty in the territory of the Irish Free State (Saorstát Eireann) and every such force shall be subject to the control of the Oireachtas.

[**Article 47.**—Any Bill passed or deemed to have been passed by both Houses may be suspended for a period of ninety days on the written demand of two-fifths of the members of Dáil Eireann or of a majority of the members of Seanad Eireann presented to the President of the Executive Council not later than seven days from the day on which such Bill shall have been so passed or deemed to have been so passed. Such a Bill shall in accordance with regulations to be made by the Oireachtas be submitted by Referendum to the decision of the people if demanded before the expiration of the ninety days either by a resolution of Seanad Eireann assented to by three-fifths of the members of Seanad Eireann, or by a petition signed by not less than one-twentieth of the voters then on the register of voters, and the decision of the people by a majority of the votes recorded on such Referendum shall be conclusive. These provisions shall not apply to Money Bills or to such Bills as shall be declared by both Houses to be necessary for the immediate preservation of the public peace, health or safety.[1]]

[**Article 48.**—The Oireachtas may provide for the Initiation by the people of proposals for laws or constitutional amendments. Should the Oireachtas fail to make such provision within two years, it shall on the petition of not less than seventy-five thousand voters on the register, of whom not more than fifteen thousand shall be voters in any one constituency, either make such provisions or submit the question to the people for decision in accordance with the ordinary regulations governing the Referendum. Any legislation passed by the Oireachtas providing for such Initiation by the people shall provide (1) that such proposals may be initiated on a petition of fifty thousand voters on the register; (2) that if the Oireachtas rejects a proposal so initiated it shall be submitted to the people for decision in accordance with the ordinary regulations governing the Referendum; and (3) that if the Oireachtas enacts a proposal so initiated, such enactment shall be subject to the provisions respecting ordinary legislation or amendments of the Constitution as the case may be.[1]]

1. Amendment No. 10 Act.

Article 49.—Save in the case of actual invasion, the Irish Free State (Saorstát Eireann) shall not be committed to active participation in any war without the assent of the Oireachtas.

Article 50.—Amendments of this Constitution within the terms of the Scheduled Treaty may be made by the Oireachtas, but no such amendment, passed by both Houses of the Oireachtas, after the expiration of a period of [eight years][1] *sixteen years*[1] from the date of the coming into operation of this Constitution, shall become law, unless the same shall, after it has been passed or deemed to have been passed by the said two Houses of the Oireachtas, have been submitted to a Referendum of the people, and unless a majority of the voters on the register shall have recorded their votes on such Referendum, and either the votes of a majority of the voters on the register, or two-thirds of the votes recorded, shall have been cast in favour of such amendment. Any such amendment may be made within the said period of [eight years[1]] *sixteen years*[2] by way of ordinary legislation [and as such shall be subject to the provisions of Article 47 hereof[2]].

***Article 51.**—The Executive Authority of the Irish Free State (Saorstát Eireann) is hereby declared to be vested in the King, and shall be exercisable, in accordance with the law, practice and constitutional usage governing the exercise of the Executive Authority in the case of the Dominion of Canada, by the Representative of the Crown. There shall be a Council to aid and advise in the government of the Irish Free State (Saorstát Eireann) to be styled the Executive Council. The Executive Council shall be responsible to Dáil Eireann, and shall consist of [not more than seven[3]] *not more than twelve*[3] nor less than five Ministers appointed by the Representative of the Crown on the nomination of the President of the Executive Council.

[**Article 52.**—Those Ministers who form the Executive Council shall all be members of Dáil Eireann and shall include the President of the Council, the Vice-President of the Council and the Minister in charge of the Department of Finance.[4]]

Article 52.—*The Ministers who form the Executive Council shall include the President of the Council, the Vice-President of the Council, and the Minister in charge of the Department of Finance. The President of the Council, the Vice-President of the Council, the Minister in charge of the Department of Finance, and the other members of the Executive Council shall be members of Dáil Eireann, save that one of such other members may be a member of Seanad Eireann.*[4]

1. Amendment No. 16 Act. 2. Amendment No. 10 Act.
3. Amendment No. 5 Act. 4. Amendment No. 15 Act.

*See Ministers and Secretaries Act, 1924 (No. 16 of 1924) and Ministers and Secretaries (Amendment) Act, 1928 (No. 6 of 1928).

Article 53.—The President of the Council shall be appointed on the nomination of Dáil Eireann. He shall nominate a Vice-President of the Council, who shall act for all purposes in the place of the President, if the President shall die, resign, or be permanently incapacitated, until a new President of the Council shall have been elected. The Vice-President shall also act in the place of the President during his temporary absence. The other Ministers who are to hold office as members of the Executive Council shall be appointed on the nomination of the President, with the assent of Dáil Eireann, and he and the Ministers nominated by him shall retire from office should he cease to retain the support of a majority in Dáil Eireann, but the President and such Ministers shall continue to carry on their duties until their successors shall have been appointed: Provided, however, that the Oireachtas shall not be dissolved on the advice of an Executive Council which has ceased to retain the support of a majority in Dáil Eireann.

*__Article 54.__—The Executive Council shall be collectively responsible for all matters concerning the Departments of State administered by Members of the Executive Council. The Executive Council shall prepare estimates of the receipts and expenditure of the Irish Free State (Saorstát Eireann) for each financial year, and shall present them to Dáil Eireann before the close of the previous financial year. The Executive Council shall meet and act as a collective authority.

Article 55.—Ministers who shall not be members of the Executive Council may be appointed by the Representative of the Crown and shall comply with the provisions of Article 17 of this Constitution. Every such Minister shall be nominated by Dáil Eireann on the recommendation of a Committee of Dáil Eireann chosen by a method to be determined by Dáil Eireann, so as to be impartially representative of Dáil Eireann. Should a recommendation not be acceptable to Dáil Eireann, the Committee may continue to recommend names until one is found acceptable. The total number of Ministers, including the Ministers of the Executive Council, shall not exceed twelve.

†**Article 56.**—Every Minister who is not a member of the Executive Council shall be the responsible head of the Department or Departments under his charge, and shall be individually responsible to Dáil Eireann alone for the administration of the Department or Departments of which he is the head: Provided that should arrangements for Functional or Vocational Councils be made by the Oireachtas these Ministers or any of them may, should the Oireachtas so decide, be members of, and be recommended to Dáil Eireann by, such Councils. The term of office of any Minister,

*_See_ Ministers and Secretaries Act, 1924 (No. 16 of 1924) (section 5) and Ministers and Secretaries (Amendment) Act, 1928 (No. 6 of 1928).

†_See_ Ministers and Secretaries Act, 1924 (No. 16 of 1924).

not a member of the Executive Council, shall be the term of Dáil Eireann existing at the time of his appointment, but he shall continue in office until his successor shall have been appointed, and no such Minister shall be removed from office during his term otherwise than by Dáil Eireann itself, and then for stated reasons, and after the proposal to remove him has been submitted to a Committee, chosen by a method to be determined by Dáil Eireann, so as to be impartially representative of Dáil Eireann, and the Committee has reported thereon.

Article 57.—Every Minister shall have the right to attend and be heard in Seanad Eireann *and in Dáil Eireann.*[1]

Article 58.—The appointment of a member of Dáil Eireann to be a Minister shall not entail upon him any obligation to resign his seat or to submit himself for re-election.

***Article 59.**—Ministers shall receive such remuneration as may from time to time be prescribed by law, but the remuneration of any Minister shall not be diminished during his term of office.

†**Article 60.**—The Representative of the Crown, who shall be styled the Governor-General of the Irish Free State (Saorstát Eireann), shall be appointed in like manner as the Governor-General of Canada and in accordance with the practice observed in the making of such appointments. His salary shall be of the like amount as that now payable to the Governor-General of the Commonwealth of Australia and shall be charged on the public funds of the Irish Free State (Saorstát Eireann) and suitable provision shall be made out of those funds for the maintenance of his official residence and establishment.

‡**Article 61.**—All revenues of the Irish Free State (Saorstát Eireann) from whatever source arising, shall, subject to such exception as may be provided by law, form one fund, and shall be appropriated for the purposes of the Irish Free State (Saorstát Eireann) in the manner and subject to the charges and liabilities imposed by law.

§**Article 62.**—Dáil Eireann shall appoint a Comptroller and Auditor-General to act on behalf of the Irish Free State (Saorstát

1. Amendment No. 15 Act.

**See* Ministers and Secretaries Act, 1924 (No. 16 of 1924).

†*See* Governor-General's Salary and Establishment Act, 1923 (No. 14 of 1923).

‡Section 1 (1) of the Adaptation of Enactments Act, 1922 (No. 2 of 1922) provides that "The Fund mentioned in Article 61 of the Constitution of Saorstát Eireann as the one fund to be formed subject as therein of all the revenues of Saorstát Eireann shall be called and known as 'The Central Fund of Saorstát Eireann,' and may for brevity be referred to in any Act of the Oireachtas, Statutory Rule or Order or other State or official document as 'The Central Fund.'"

§*See* Comptroller and Auditor-General Act, 1923 (No. 1 of 1923); and for Resolution of Dáil Eireann appointing a Comptroller and Auditor-

Eireann). He shall control all disbursements and shall audit all accounts of moneys administered by or under the authority of the Oireachtas and shall report to Dáil Eireann at stated periods to be determined by law.

*Article 63.—The Comptroller and Auditor-General shall not be removed except for stated misbehaviour or incapacity on resolutions passed by Dáil Eireann and Seanad Eireann. Subject to this provision the terms and conditions of his tenure of office shall be fixed by law. He shall not be a member of the Oireachtas nor shall he hold any other office or position of emolument.

†Article 64.—The judicial power of the Irish Free State (Saorstát Eireann) shall be exercised and justice administered in the public Courts established by the Oireachtas by Judges appointed in manner hereinafter provided. These Courts shall comprise Courts of First Instance and a Court of Final Appeal to be called the Supreme Court. The Courts of First Instance shall include a High Court, invested with full original jurisdiction in and power to determine all matters and questions whether of law or fact, civil or criminal, and also Courts of local and limited jurisdiction with a right of appeal as determined by law.

Article 65.—The judicial power of the High Court shall extend to the question of the validity of any law having regard to the provisions of the Constitution. In all cases in which such matters shall come into question, the High Court alone shall exercise original jurisdiction.

Article 66.—The Supreme Court of the Irish Free State (Saorstát Eireann) shall, with such exceptions (not including cases which involve questions as to the validity of any law) and subject to such regulations as may be prescribed by law, have appellate jurisdiction from all decisions of the High Court. The decision of the Supreme Court shall in all cases be final and conclusive, and shall not be reviewed or capable of being reviewed by any other Court, Tribunal or Authority whatsoever. [Provided that nothing in this Constitution shall impair the right of any person to petition His Majesty for special leave to appeal from the Supreme Court to His Majesty in Council or the right of His Majesty to grant such leave.[1]]

Article 67.—The number of Judges, the constitution and organisation of, and distribution of business and jurisdiction

1. Amendment No. 22 Act.

General, *see* Proceedings of Dail Eireann in the session beginning 6th December, 1922 (volume 2, page 65).

**See* note under Article 62, *supra*.

†*See* Courts of Justice Act, 1924 (No. 10 of 1924); Courts of Justice Act, 1926 (No. 1 of 1926); Courts of Justice Act, 1927 (No. 29 of 1927); Courts of Justice Act, 1928 (No. 15 of 1928); Courts of Justice (No. 2) Act, 1928 (No. 35 of 1928); and Courts of Justice Act, 1929 (No. 37 of 1929).

among, the said Court and Judges, and all matters of procedure shall be as prescribed by the laws for the time being in force and the regulations made thereunder.

*Article 68.—The Judges of the Supreme Court and the High Court and of all other Courts established in pursuance of this Constitution shall be appointed by the Representative of the Crown on the advice of the Executive Council. The Judges of the Supreme Court and of the High Court shall not be removed except for stated misbehaviour or incapacity, and then only by resolutions passed by both Dáil Eireann and Seanad Eireann. The age of retirement, the remuneration and the pension of such Judges on retirement and the declarations to be taken by them on appointment shall be prescribed by law. Such remuneration may not be diminished during their continuance in office. The terms of appointment of the Judges of such other Courts as may be created shall be prescribed by law.

Article 69.—All Judges shall be independent in the exercise of their functions, and subject only to the Constitution and the law. A Judge shall not be eligible to sit in the Oireachtas, and shall not hold any other office or position of emolument.

†**Article 70.**—No one shall be tried save in due course of law and extraordinary Courts shall not be established, save only such Military Tribunals as may be authorised by law for dealing with military offenders against military law. The jurisdiction of Military Tribunals shall not be extended to or exercised over the civil population save in time of war, or armed rebellion, and for acts committed in time of war or armed rebellion, and in accordance with the regulations to be prescribed by law. Such jurisdiction shall not be exercised in any area in which all Civil Courts are open or capable of being held, and no person shall be removed from one area to another for the purpose of creating such jurisdiction.

†**Article 71.**—A member of the armed forces of the Irish Free State (Saorstát Eireann) not on active service shall not be tried by any Court Martial or other Military Tribunal for an offence cognizable by the Civil Courts, unless such offence shall have been brought expressly within the jurisdiction of Courts Martial or other Military Tribunal by any code of laws or regulations for the enforcement of military discipline which may be hereafter approved by the Oireachtas.

Article 72.—No person shall be tried on any criminal charge without a jury save in the case of charges in respect of minor offences triable by law before a Court of Summary Jurisdiction and in the case of charges for offences against military law triable by Court Martial or other Military Tribunal.

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*See Courts of Justice Act, 1924 (No. 10 of 1924).

†See foot-note to Article 46.

TRANSITORY PROVISIONS.

*Article 73.—Subject to this Constitution and to the extent to which they are not inconsistent therewith, the laws in force in the Irish Free State (Saorstát Eireann) at the date of the coming into operation of this Constitution shall continue to be of full force and effect until the same or any of them shall have been repealed or amended by enactment of the Oireachtas.

Article 74.—Nothing in this Constitution shall effect any liability to pay any tax or duty payable in respect of the financial year current at the date of the coming into operation of this Constitution or any preceding financial year, or in respect of any period ending on or before the last day of the said current financial year, or payable on any occasion happening within that or any preceding year, or the amount of such liability; and during the said current financial year all taxes and duties and arrears thereof shall continue to be assessed, levied and collected in like manner in all respects as immediately before this Constitution came into operation, subject to the like adjustments of the proceeds collected as were theretofore applicable; and for that purpose the Executive Council shall have the like powers and be subject to the like liabilities as the Provisional Government.

Goods transported during the said current financial year from or to the Irish Free State (Saorstát Eireann) to or from any part of Great Britain or the Isle of Man shall not, except so far as the Executive Council may otherwise direct, in respect of the forms to be used and the information to be furnished, be treated as goods exported or imported as the case may be.

For the purpose of this Article, the expression "financial year" means, as respects income-tax (including super-tax) the year of assessment, and as respects other taxes and duties, the year ending on the thirty-first day of March.

Article 75.—Until Courts have been established for the Irish Free State (Saorstát Eireann) in accordance with this Constitution, the Supreme Court of Judicature, County Courts, Courts of Quarter Sessions and Courts of Summary Jurisdiction, as at present existing, shall for the time being continue to exercise the same jurisdiction as heretofore, and any Judge or Justice, being a member of any such Court, holding office at the time when this Constitution comes into operation, shall for the time being continue to be a member thereof and hold office by the like tenure and upon the like terms as heretofore, unless, in the case of a Judge of the said Supreme Court or of a County Court, he signifies to the Representative of the Crown his desire to resign. Any vacancies in any of the said Courts so continued may be filled by appointment made in like manner as appointments to judgeships in the Courts established under this Constitution: Provided that the

*See Adaptation of Enactments Act, 1922 (No. 2 of 1922).

provisions of Article 66 of this Constitution as to the decisions of the Supreme Court established under this Constitution shall apply to decisions of the Court of Appeal continued by this Article.

Article 76.—If any Judge of the said Supreme Court of Judicature or of any of the said County Courts, on the establishment of Courts under this Constitution, is not with his consent appointed to be a Judge of any such Court, he shall, for the purpose of Article 10 of the Scheduled Treaty, be treated as if he had retired in consequence of the change of Government effected in pursuance of the said Treaty, but the rights so conferred shall be without prejudice to any rights or claims that he may have against the British Government.

Article 77.—Every existing officer of the Provisional Government at the date of the coming into operation of this Constitution (not being an officer whose services have been lent by the British Government to the Provisional Government) shall on that date be transferred to and become an officer of the Irish Free State (Saorstát Eireann), and shall hold office by a tenure corresponding to his previous tenure.

Article 78.—Every such existing officer who was transferred from the British Government by virtue of any transfer of services to the Provisional Government shall be entitled to the benefit of Article 10 of the Scheduled Treaty.

Article 79.—The transfer of the administration of any public service, the administration of which was not before the date of the coming into operation of this Constitution transferred to the Provisional Government, shall be deferred until the 31st day of March, 1923, or such earlier date as may, after one month's previous notice in the Official Gazette, be fixed by the Executive Council; and such of the officers engaged in the administration of those services at the date of transfer as may be determined in the manner hereinafter appearing shall be transferred to and become officers of the Irish Free State (Saorstát Eireann); and Article 77 of this Constitution shall apply as if such officers were existing officers of the Provisional Government who had been transferred to that Government from the British Government. The officers to be so transferred in respect of any services shall be determined in like manner as if the administration of the services had before the coming into operation of the Constitution been transferred to the Provisional Government.

Article 80.—As respects departmental property, assets, rights and liabilities, the Government of the Irish Free State (Saorstát Eireann) shall be regarded as the successors of the Provisional Government, and, to the extent to which functions of any department of the British Government become functions of the Govern-

ment of the Irish Free State (Saorstát Eireann), as the successors of such department of the British Government.

Article 81.—After the date on which this Constitution comes into operation the House of the Parliament elected in pursuance of the Irish Free State (Agreement) Act, 1922 (being the Constituent Assembly for the settlement of this Constitution), may, for a period not exceeding one year from that date, but subject to compliance by the members thereof with the provisions of Article 17 of this Constitution, exercise all the powers and authorities conferred on Dáil Eireann by this Constitution, and the first election for Dáil Eireann under Articles 26, 27 and 28 hereof shall take place as soon as possible after the expiration of such period.

Article 82.—Notwithstanding anything contained in Articles 14 and 33 hereof, the first Seanad Eireann shall be constituted immediately after the coming into operation of this Constitution in the manner following, that is to say:—

(*a*) The first Seanad Eireann shall consist of sixty members, of whom thirty shall be elected and thirty shall be nominated.

(*b*) The thirty nominated members of Seanad Eireann shall be nominated by the President of the Executive Council who shall, in making such nominations, have special regard to the providing of representation for groups or parties not then adequately represented in Dáil Eireann.

(*c*) The thirty elected members of Seanad Eireann shall be elected by Dáil Eireann voting on principles of Proportional Representation.

(*d*) Of the thirty nominated members, fifteen to be selected by lot, shall hold office for the full period of twelve years, the remaining fifteen shall hold office for the period of six years.

(*e*) Of the thirty elected members the first fifteen elected shall hold office for the period of nine years, the remaining fifteen shall hold office for the period of three years.

(*f*) At the termination of the period of office of any such members, members shall be elected in their place in manner provided by Article 32 of this Constitution.

(*g*) Casual vacancies shall be filled in manner provided by Article 34 of this Constitution.

Article 83.—The passing and adoption of this Constitution by the Constituent Assembly and the British Parliament shall be announced as soon as may be, and not later than the sixth day of December, Nineteen hundred and twenty-two, by Proclamation

of His Majesty, and this Constitution shall come into operation on the issue of such Proclamation.

SECOND SCHEDULE.

**Articles of Agreement for a Treaty between Great Britain and Ireland.*

1. Ireland shall have the same constitutional status in the Community of Nations known as the British Empire as the Dominon of Canada, the Commonwealth of Australia, the Dominion of New Zealand, and the Union of South Africa, with a Parliament having powers to make laws for the peace, order and good government of Ireland and an Executive responsible to that Parliament, and shall be styled and known as the Irish Free State.

2. Subject to the provisions hereinafter set out the position of the Irish Free State in relation to the Imperial Parliament and Government and otherwise shall be that of the Dominion of Canada, and the law, practice and constitutional usage governing the relationship of the Crown or the Representative of the Crown and of the Imperial Parliament to the Dominion of Canada shall govern their relationship to the Irish Free State.

3. The Representative of the Crown in Ireland shall be appointed in like manner as the Governor-General of Canada and in accordance with the practice observed in the making of such appointments.

4. The oath to be taken by Members of the Parliament of the Irish Free State shall be in the following form:—

> I,.....do solemnly swear true faith and allegiance to the Constitution of the Irish Free State as by law established and that I will be faithful to H.M. King George V., his heirs and successors by law, in virtue of the common citizenship of Ireland with Great Britain and her adherence to and membership of the group of nations forming the British Commonwealth of Nations.

†5. The Irish Free State shall assume liability for the service of the Public Debt of the United Kingdom as existing at the date

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*An Agreement amending and supplementing this Treaty was confirmed by the Treaty (Confirmation of Amending Agreement) Act, 1925 (No. 40 of 1925).

†Article 2 of the Schedule to the Treaty (Confirmation of Amending Agreement) Act, 1925 (No. 40 of 1925) provides that: "The Irish Free State is hereby released from the obligation under Article 5 of the said Articles of Agreement to assume the liability therein mentioned." *See* White Paper, entitled, "Heads of the Ultimate Financial Settlement between the British Government and the Government of the Irish Free State," presented to Dáil Eireann on the 16th November, 1926, and to Seanad Eireann on the 19th November, 1926.

hereof and towards the payment of war pensions as existing at that date in such proportion as may be fair and equitable, having regard to any just claims on the part of Ireland by way of set-off or counter-claim, the amount of such sums being determined in default of agreement by the arbitration of one or more independent persons being citizens of the British Empire.

6. Until an arrangement has been made between the British and Irish Governments whereby the Irish Free State undertakes her own coastal defence, the defence by sea of Great Britain and Ireland shall be undertaken by His Majesty's Imperial Forces. But this shall not prevent the construction or maintenance by the Government of the Irish Free State of such vessels as are necessary for the protection of the Revenue or the Fisheries.

The foregoing provisions of this Article shall be reviewed at a Conference of Representatives of the British and Irish Governments to be held at the expiration of five years from the date hereof with a view to the undertaking by Ireland of a share in her own coastal defence.

7. The Government of the Irish Free State shall afford to His Majesty's Imperial Forces:—

(*a*) In time of peace such harbour and other facilities as are indicated in the Annex hereto, or such other facilities as may from time to time be agreed between the British Government and the Government of the Irish Free State; and

(*b*) In time of war or of strained relations with a Foreign Power such harbour and other facilities as the British Government may require for the purposes of such defence as aforesaid.

8. With a view to securing the observance of the principle of international limitation of armaments, if the Government of the Irish Free State establishes and maintains a military defence force, the establishments thereof shall not exceed in size such proportion of the military establishments maintained in Great Britain as that which the population of Ireland bears to the population of Great Britain.

9. The ports of Great Britain and the Irish Free State shall be freely open to the ships of the other country on payment of the customary port and other dues.

10. The Government of the Irish Free State agrees to pay fair compensation on terms not less favourable than those accorded by the Act of 1920 to Judges, officials, members of Police Forces and other Public Servants who are discharged by it or who retire in consequence of the change of government effected in pursuance hereof:

Provided that this agreement shall not apply to members of the Auxiliary Police Force or to persons recruited in Great Britain

for the Royal Irish Constabulary during the two years next preceding the date hereof. The British Government will assume responsibility for such compensation or pensions as may be payable to any of these excepted persons.

11. Until the expiration of one month from the passing of the Act of Parliament for the ratification of this instrument, the powers of the Parliament and the Government of the Irish Free State shall not be exercisable as respects Northern Ireland and the provisions of the Government of Ireland Act, 1920, shall, so far as they relate to Northern Ireland, remain of full force and effect, and no election shall be held for the return of members to serve in the Parliament of the Irish Free State for constituencies in Northern Ireland, unless a resolution is passed by both Houses of the Parliament of Northern Ireland in favour of the holding of such elections before the end of the said month.

*12. If before the expiration of the said month, an address is presented to His Majesty by both Houses of the Parliament of Northern Ireland to that effect, the powers of the Parliament and Government of the Irish Free State shall no longer extend to Northern Ireland, and the provisions of the Government of Ireland Act, 1920 (including those relating to the Council of Ireland) shall so far as they relate to Northern Ireland, continue to be of full force and effect, and this instrument shall have effect subject to the necessary modifications:

†Provided that if such an address is so presented a Commission consisting of three persons, one to be appointed by the Government of the Irish Free State, one to be appointed by the Government of Northern Ireland and one who shall be Chairman to be appointed by the British Government, shall determine in accordance with the wishes of the inhabitants, so far as may be compatible with economic and geographic conditions the boundaries between Northern Ireland and the rest of Ireland, and for the purposes of the Government of Ireland Act, 1920, and of this instrument, the boundary of Northern Ireland shall be such as may be determined by such Commission.

13. For the purpose of the last foregoing article, the powers of the Parliament of Southern Ireland under the Government of

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*An address to the effect mentioned in this Article was presented to His Majesty by both Houses of the Parliament of Northern Ireland on the 7th December, 1922. An Agreement supplementing this Article was confirmed by the Treaty (Confirmation of Supplemental Agreement) Act, 1924 (No. 51 of 1924).

†Article 1 of the Schedule to the Treaty (Confirmation of Amending Agreement) Act, 1925 (No. 40 of 1923) provides that: "The powers conferred by the proviso to Article 12 of the said Articles of Agreement on the Commission therein mentioned are hereby revoked, and the extent of Northern Ireland for the purposes of the Government of Ireland Act, 1920, and of the said Articles of Agreement shall be such as was fixed by subsection (2) of section 1 of that Act."

Ireland Act, 1920, to elect members of the Council of Ireland shall after the Parliament of the Irish Free State is constituted be exercised by that Parliament.

*14. After the expiration of the said month, if no such address as is mentioned in Article 12 hereof is presented, the Parliament and Government of Northern Ireland shall continue to exercise as respects Northern Ireland the powers conferred on them by the Government of Ireland Act, 1920, but the Parliament and Government of the Irish Free State shall in Northern Ireland have in relation to matters in respect of which the Parliament of Northern Ireland has not power to make laws under that Act (including matters which under the said Act are within the jurisdiction of the Council of Ireland) the same powers as in the rest of Ireland, subject to such other provisions as may be agreed in manner hereinafter appearing.

15. At any time after the date hereof the Government of Northern Ireland and the provisional Government of Southern Ireland hereinafter constituted may meet for the purpose of discussing the provisions subject to which the last foregoing article is to operate in the event of no such address as is therein mentioned being presented and those provisions may include:—

(*a*) Safeguards with regard to patronage in Northern Ireland:

(*b*) Safeguards with regard to the collection of revenue in Northern Ireland:

(*c*) Safeguards with regard to import and export duties affecting the trade or industry of Northern Ireland:

(*d*) Safeguards for minorities in Northern Ireland:

(*e*) The settlement of the financial relations between Northern Ireland and the Irish Free State:

(*f*) The establishment and powers of a local militia in Northern Ireland and the relation of the Defence Forces of the Irish Free State and of Northern Ireland respectively:

and if at any such meeting provisions are agreed to, the same shall have effect as if they were included amongst the provisions subject to which the powers of the Parliament and Government of the Irish Free State are to be exercisable in Northern Ireland under Article 14 hereof.

16. Neither the Parliament of the Irish Free State nor the Parliament of Northern Ireland shall make any law so as either directly or indirectly to endow any religion or prohibit or restrict the free exercise thereof or give any preference or impose any disability on account of religious belief or religious status or affect prejudicially the right of any child to attend a school receiving public money without attending the religious instruction at

*See Article 5 of the Schedule to the Treaty (Confirmation of Amending Agreement) Act, 1925 (No. 40 of 1925).

the school or make any discrimination as respects State aid between schools under the management of different religious denominations or divert from any religious denomination or any educational institution any of its property except for public utility purposes and on payment of compensation.

17. By way of provisional arrangement for the administration of Southern Ireland during the interval which must elapse between the date hereof and the constitution of a Parliament and Government of the Irish Free State in accordance therewith, steps shall be taken forthwith for summoning a meeting of members of Parliament elected for constituencies in Southern Ireland since the passing of the Government of Ireland Act, 1920, and for constituting a Provisional Government, and the British Government shall take the steps necessary to transfer to such Provisional Government the powers and machinery requisite for the discharge of its duties, provided that every member of such Provisional Government shall have signified in writing his or her acceptance of this instrument. But this arrangement shall not continue in force beyond the expiration of twelve months from the date hereof.

18. This instrument shall be submitted forthwith by His Majesty's Government for the approval of Parliament and by the Irish signatories to a meeting summoned for the purpose of the members elected to sit in the House of Commons of Southern Ireland, and if approved shall be ratified by the necessary legislation.

On behalf of the British Delegation.	On behalf of the Irish Delegation.
(*Signed.*)	(*Signed.*)
D. Lloyd George.	Art O Griobhtha.
Austen Chamberlain.	(Arthur Griffith.)
Birkenhead.	Micheal O Coileain.
Winston S. Churchill.	Riobard Bartun.
L. Worthington-Evans.	Eudhmonn S. O Dugain.
Hamar Greenwood.	Seorsa Ghabhain
Gordon Hewart.	Uf Dhubhthaigh.

December 6, 1921.

ANNEX.

1. The following are the specific facilities required:

Dockyard Port at Berehaven.

(*a*) Admiralty property and rights to be retained as at the date hereof. Harbour defences to remain in charge of British care and maintenance parties.

Queenstown.

(*b*) Harbour defences to remain in charge of British care and maintenance parties. Certain mooring buoys to be retained for use of His Majesty's ships.

BELFAST LOUGH.

(*c*) Harbour defences to remain in charge of British care and maintenance parties.

LOUGH SWILLY.

(*d*) Harbour defences to remain in charge of British care and maintenance parties.

AVIATION.

(*e*) Facilities in the neighbourhood of the above ports for coastal defence by air.

OIL FUEL STORAGE.

(*f*) Haulbowline, Rathmullen — To be offered for sale to commercial companies under guarantee that purchasers shall maintain a certain minimum stock for Admiralty purposes.

2. A Convention shall be made between the British Government and the Government of the Irish Free State to give effect to the following conditions:—

(*a*) That submarine cables shall not be landed or wireless stations for communication with places outside Ireland be established except by agreement with the British Government; that the existing cable landing rights and wireless concessions shall not be withdrawn except by agreement with the British Government; and that the British Government shall be entitled to land additional submarine cables or establish additional wireless stations for communication with places outside Ireland.

(*b*) That lighthouses, buoys, beacons, and any navigational marks or navigational aids shall be maintained by the Government of the Irish Free State as at the date hereof, and shall not be removed or added to except by agreement with the British Government.

(*c*) That war signal stations shall be closed down and left in charge of care and maintenance parties, the Government of the Irish Free State being offered the option of taking them over and working them for commercial purposes subject to Admiralty inspection, and guaranteeing the upkeep of existing telegraphic communication therewith.

3. A Convention shall be made between the same Governments for the regulation of civil communication by air.

TREATY (CONFIRMATION OF AGREEMENTS) ACTS.

1. TREATY (CONFIRMATION OF SUPPLEMENTAL AGREEMENT) ACT, 1924.
2. TREATY (CONFIRMATION OF AMENDING AGREEMENT) ACT, 1925.

SAORSTÁT EIREANN.

Number 51 *of* 1924.

TREATY (CONFIRMATION OF SUPPLEMENTAL AGREEMENT) ACT, 1924.

An Act to confirm a certain agreement supplementing Article 12 *of the Treaty of* 1921.

[25*th October,* 1924.]

Be it enacted by the Oireachtas of Saorstát Eireann as follows:—

Confirmation of Agreement.

1.—The Agreement set forth in the Schedule to this Act, being an agreement supplementing Article 12 of the Treaty of 1921, is hereby confirmed, and the said Treaty of 1921 shall have effect accordingly.

Short title and commencement.

2.—(1) This Act may be cited as the Treaty (Confirmation of Supplemental Agreement) Act, 1924.

(2) This Act shall come into operation immediately on the passing thereof.

SCHEDULE.

Agreement supplementing Article Twelve of the Articles of Agreement for a Treaty between Great Britain and Ireland to which the force of law was given by the Irish Free State (Agreement) Act, 1922, and by the Constitution of the Irish Free State (Saorstát Eireann) Act, 1922.

TREATY (CONFIRMATION OF SUPPLEMENTAL AGREEMENT) ACT, 1924.

WHEREAS the Commissioners to be appointed under the said Article Twelve by the Government of the Irish Free State and by the British Government respectively have been duly appointed by those respective Governments, but the Government of Northern Ireland has declined to appoint the Commissioner to be so appointed by that Government, and no provision is made by the said Articles for such a contingency:

NOW it is hereby agreed, subject to the confirmation of this Agreement by the British Parliament and the Oireachtas of the Irish Free State, that, if the Government of Northern Ireland does not before the date of the passing of the Act of the British

Parliament or of the Act of the Oireachtas of the Irish Free State confirming this Agreement, whichever is the later date, appoint the Commissioner to be so appointed by that Government, the power of the Government of Northern Ireland to appoint such Commissioner shall thereupon be transferred to and exercised by the British Government, and that for the purposes of the said Article any Commissioner so appointed by the British Government shall be deemed to be a Commissioner appointed by the Government of Northern Ireland and that the said Articles of Agreement for a Treaty shall have effect accordingly.

Signed on behalf of the British Government:

J. RAMSAY MACDONALD.

Signed on behalf of the Irish Free State Government:

LIAM T. MAC COSGAIR.

August 4, 1924.

SAORSTÁT EIREANN.

Number 40 *of* 1925.

TREATY (CONFIRMATION OF AMENDING AGREEMENT) ACT, 1925.

An Act to confirm a certain agreement amending and supplementing the Treaty of 1921 *and to amend accordingly the references to the Treaty of* 1921 *contained in the Constitution of the Irish Free State (Saorstát Eireann) Act,* 1922, *and the Constitution.*

[17*th December,* 1925.]

Be it enacted by the Oireachtas of Saorstát Eireann as follows:—

Confirmation of Agreement.

1.—The Agreement set forth in the Schedule to this Act, being an agreement amending and supplementing the Treaty of 1921, is hereby confirmed and the said Treaty of 1921 shall have effect accordingly.

Consequential amendment of No. 1 of 1922 and the Constitution.

2.—All references in section 2 of the Constitution of the Irish Free State (Saorstát Eireann) Act, 1922 (No. 1 of 1922) to the Treaty of 1921 (in that section referred to as the Scheduled Treaty) shall be construed and have effect as references to the said Treaty of 1921 as amended by the Agreement set forth in the Schedule to this Act and accordingly all references in the Constitution to the Scheduled Treaty shall be construed as references to the said Treaty of 1921 as amended by the said Agreement.

Short title.

3.—This Act may be cited as the Treaty (Confirmation of Amending Agreement) Act, 1925.

SCHEDULE.

Agreement amending and supplementing the Articles of Agreement for a Treaty between Great Britain and Ireland to which the force of law was given by the Irish Free State (Agreement) Act, 1922, and by the Constitution of the Irish Free State (Saorstát Eireann) Act, 1922.

WHEREAS on the 6th day of December, Nineteen hundred and twenty-one, Articles of Agreement for a Treaty between Great Britain and Ireland were entered into:

AND WHEREAS the said Articles of Agreement were duly ratified and given the force of law by the Irish Free State (Agreement) Act, 1922, and by the Constitution of the Irish Free State (Saorstát Eireann) Act, 1922:

AND WHEREAS the progress of events and the improved relations now subsisting between the British Government, the Government of the Irish Free State, and the Government of Northern Ireland and their respective peoples make it desirable to amend and supplement the said Articles of Agreement, so as to avoid any causes of friction which might mar or retard the further growth of friendly relations between the said Governments and peoples:

AND WHEREAS the British Government and the Government of the Irish Free State being united in amity in this undertaking with the Government of Northern Ireland, and being resolved mutually to aid one another in a spirit of neighbourly comradeship, hereby agree as follows:—

1. The powers conferred by the proviso to Article 12 of the said Articles of Agreement on the Commission therein mentioned are hereby revoked, and the extent of Northern Ireland for the purposes of the Government of Ireland Act, 1930, and of the said Articles of Agreement shall be such as was fixed by sub-section (2) of section one of that Act.

2. The Irish Free State is hereby released from the obligation under Article 5 of the said Articles of Agreement to assume the liability therein mentioned.

3. The Irish Free State hereby assumes all liability undertaken by the British Government in respect of malicious damage done since the Twenty-first day of January, Nineteen hundred and nineteen to property in the area now under the jurisdiction of the Parliament and Government of the Irish Free State, and the Government of the Irish Free State shall repay to the British Government at such time or times and in such manner as may be agreed upon moneys already paid by the British Government in respect of such damage or liable to be so paid under obligations already incurred.

*4. The Government of the Irish Free State hereby agrees to promote legislation increasing by Ten per cent. the measure of compensation under the Damage to Property (Compensation) Act, 1923, in respect of malicious damage to property done in the area now under the jurisdiction of the Parliament and Government of the Irish Free State between the Eleventh day of July, Nineteen hundred and twenty-one and the Twelfth day of May, Nineteen hundred and twenty-three, and providing for the payment of such additional compensation by the issue of Five per cent. Compensation Stock or Bonds.

5. The powers in relation to Northern Ireland which by the Government of Ireland Act, 1920, are made powers of the Council of Ireland shall be and are hereby transferred to and shall become powers of the Parliament and the Government of Northern Ireland; and the Governments of the Irish Free State and of Northern Ireland shall meet together as and when necessary for the purpose of considering matters of common interest arising out of or connected with the exercise and administration of the said powers.

6. This Agreement is subject to confirmation by the British Parliament and by the Oireachtas of the Irish Free State, and the Act of the British Parliament confirming this Agreement shall fix the date as from which the transfer of the powers of the Council of Ireland under this Agreement is to take effect.

Dated this 3rd day of December, 1925.

Signed on behalf of the British Government:

STANLEY BALDWIN, WINSTON S. CHURCHILL, W. JOYNSON-HICKS, BIRKENHEAD, L. S. AMERY.

Signed on behalf of the Government of the Irish Free State:

LIAM T. MAC COSGAIR, KEVIN O' HIGGINS, EARNAN DE BLAGD.

Signed on behalf of the Government of Northern Ireland:

JAMES CRAIG, CHARLES H. BLACKMORE.

NOTE—At the general election of 1932, Mr. De Valera was returned at the head of a party of 72 members in a House of 151, against Mr. Cosgrave's 65. 7 were Labour members. Immediately he came to power, a Bill was introduced for the abolition of the Oath of Allegiance; the Senate, however, refused to pass the Bill, and the Oath, therefore, remained in force for 18 months beyond which its veto was not operative.

Three more Bills† were introduced in 1933, and passed without opposition to remove practically all vestiges of external authority.

**See* Damage to Property (Compensation) (Amendment) Act, 1926 (No. 19 of 1926).

†"The Constitution Amendments (Nos. 20, 21 and 22 Acts: Function of the Crown's Representative in recommending money bills; right of the Crown's Representative to withhold or reserve consent to Bills; right of appeal to His Majesty the King in Council).

On the first Bill, the Government said its purpose was simply to enable the Executive Council to move directly in sending any decision of the Executive Council to the Dail without the intervention of the Governor-General. In regard to the second, the Government's contention was that the continued existence of the Governor-General's legal powers in regard to Bills was anomalous and out of harmony with the existing constitutional position. It was explained quite frankly on behalf of the Government that its intention was, while working within the constitutional and Treaty position, to take steps to reduce the office of the Governor-General to a negligible factor. In regard to the third measure, the Government insisted that no appeal shall lie from a decision of the Supreme Court or of any other Court in the Irish Free State to His Majesty-in-Council and it shall not be lawful for any person to petition His Majesty for leave to bring in such appeal.

Regarding the three measures that were passed, the Secretary of State for Dominion Affairs (the Rt. Hon. J. H. Thomas) observed in the House of Commons on 14th November, 1933:

"We are advised that the legislation conflicts in important respects with the Treaty of 1921 and its passage, therefore, involves a further repudiation of the obligations entered into by the Irish Free State under that Treaty. We have already made perfectly clear the view which we take on an action of this kind. Quite apart from any question of legality, we look upon it as a repudiation of an honourable settlement. No modification of the Treaty can properly be made except by agreement between the two countries. But that is not the only aspect of the matter.

"The real significance of the Bills is that they clearly indicate an intention gradually to eliminate the Crown from the Constitution of the Irish Free State. Mr. De Valera has told us that his ultimate aim is the recognition of a United Ireland as a Republic with some form of association with the British Commonwealth of Nations in some circumstances and for some reasons and the recognition of the King as the head of the Association. Any such proposals would be totally unacceptable to His Majesty's Government in the United Kingdom.

"Our view can be clearly stated. The declaration of the Imperial Conference of 1926 as to the relationship of Great Britain and the Dominions under the Crown must be accepted as the basis of the constitutional position of the Irish Free State within the Empire. That declaration is clearly inconsistent with the state of things under which the Irish Free State would be a member of the British Commonwealth of Nations for some purposes and not for all, and would cease to be united with Great Britain and the Dominions by a common allegiance to the Crown.

"Our conception of membership of the British Commonwealth is something entirely different. The Irish Free State as a member of this Commonwealth is, as Mr. De Valera himself must now have learnt, completely free to order her own affairs. Membership of the Commonwealth confers great advantages which by her own action the Irish Free State is tending to lose: the privileges of common citizenship, the economic advantages in trading with the rest of the Empire, and the opportunity of a powerful influence in international affairs, in concert with the other members of the Commonwealth, in the cause of the world peace.

"Those privileges carry with them responsibilities, respect for the Crown, loyal observance of engagements, the spirit of friendship and co-operation with the other members of the British Commonwealth. It is our desire to see the Irish Free State taking her full part as a member of the Commonwealth not grudgingly but of her own free will, accepting the responsibilities and enjoying the privileges. If she renounce the one, she cannot hope to enjoy the other.

"The dispute between the Irish Free State and ourselves is a dispute which affects the two countries only. We have never dragged and do not intend to drag any of the Dominions into an internal dispute between ourselves and the Irish Free State. The other issues involved in my answer are matters which are separate and apart from them."

EXCHANGE OF DESPATCHES BETWEEN THE IRISH FREE STATE AND THE BRITISH GOVERNMENT.

From Mr. De Valera to the Secretary of State for Dominion Affairs, dated 29th November, 1933.

"I have the honour to refer to the statement made by you in the House of Commons on the 14th instant in reply to a question relating to the dispute between the British Government and the Government of the Irish Free State.

"On that occasion, having said that the British Government were advised that the Bills to amend the Constitution of the Irish Free State, then before the Oireachtas, conflicted in important respects with the Treaty of 1921, you declared that the Irish Free State, as a member of the Commonwealth, was completely free to order her own affairs. You also said that it was the desire of the British Government to see the Irish Free State taking her full share as a member of the Commonwealth, not grudgingly, but of her own free will, accepting the responsibilities and enjoying the privileges. You added that if the Irish Free State renounce the responsibilities, she could not hope to enjoy the privileges of membership.

"Following this statement, the Government of the Irish Free State feel obliged to make clear beyond any possibility of doubt the attitude of the Irish people towards the British Commonwealth. Their association with Great Britain and the Commonwealth has never on their side been a voluntary association. In every declaration they have striven on such means as were at their disposal to maintain their right to exist as a distinct and independent nation, and whenever they have yielded to British rule in any form, they did so only under the pressure of overwhelming material force.

The Treaty of 1921 involved no fundamental change in their attitude. They submitted to the Treaty because they were presented with the alternative of immediate war. They did not accept it as a final settlement of her relations with Great Britain. Still less did they regard the Treaty in the sense in which the British Government seek to interpret it—as giving Great Britain a permanent right to interfere in their constitutional development.

"The experience of the last twelve years has made it abundantly evident that lasting friendship cannot be attained on the basis of the present relationship. The Government of the Irish Free State infer from your statement of the 14th instant that the British Government also now realise the evils of a forced association and have decided not to treat as a cause of war or other aggressive action the decision of the Irish people to sever their connection with the Commonwealth. This attitude of the British Government appears to the Government of the Irish Free State to be of such fundamental importance that it should be formulated in a direct and unequivocal statement. The Government of the Irish Free State would sincerely welcome such a statement. They believe that it would be the first step towards that free and fundamental co-operation in matters of agreed common concern between Great Britain and Ireland which ought to exist between them."

THE BRITISH GOVERNMENT'S REPLY.

From the Right Hon. J. H. Thomas, Secretary for Dominion Affairs:—

"I have the honour to state that your despatch No. 142 of November 29, has received our careful consideration.

"His Majesty's Government in the United Kingdom cannot accept the description of the relations between the two countries set out in paragraphs three and four of your despatch. They have stated their views as to the 1921 settlement in my despatch of April 9, 1932, in the following words:

"His Majesty's Government in the United Kingdom entered into the 1921 settlement with the single desire that it should end the long period of bitterness between the two countries and it is their belief that the settlement had brought a measure of peace and contentment which could not have been reached by any other means. Further, as the direct result of that settlement, the Irish Free State has participated in and contributed to the notable constitutional development of the last few years whereby the position of the Dominions, as equal members with the United Kingdom of the British Commonwealth of Nations under the Crown, has been defined and made clear to the world.

"His Majesty's Government in the United Kingdom would point out that the Treaty Settlement was duly accepted by the elected representatives of the people of the Irish Free State and that its acceptance was subsequently confirmed at succeeding general elections in the Irish Free State.

"The period which elapsed between 1921 and 1932 was marked by the progressive development of friendly relations and co-operation between the two countries.

"Since His Majesty's Government in the United Kingdom are thus unable to accept the assumption in paragraph five of your despatch, namely, that lasting friendship cannot be attained on the basis of the present relationship—they do not see any grounds for answering the question which is founded on that assumption. They cannot believe that the Irish Free State Government contemplate the final repudiation of their Treaty obligations in the manner suggested, and consequently they do not feel called upon to say the attitude they would adopt in circumstances which they regard as purely hypothetical.

"In conclusion, I would state that His Majesty's Government in the United Kingdom feel that the free intercourse on equal terms with the other members of the British Commonwealth which the Irish Free State have enjoyed under the Treaty Settlement culminating in the Statute of Westminster is the surest proof of their freedom to work out their destiny within the Commonwealth. We believe that the natural associations between the two countries are such that a close and friendly relationship between them is essential to their full prosperity, and I would once again emphasise what I have previously stated on many occasions, namely, that His Majesty's Government in the United Kingdom are and always have been most sincerely anxious to work in friendly co-operation with the Irish Free State as a member of the British Commonwealth."

II. THE KINGDOM OF THE SERBS, CROATS, AND SLOVENES.

Area: 96,134 *sq. miles.* *Population*: 13,930,918.

The Constitution of the Kingdom of the Serbs, Croats and Slovenes was adopted on June 28, 1921. By the adoption of this Constitution the Southern Slav populations were gathered together under one State in accordance with their aspirations. During several centuries these different populations had lain scattered asunder, the sport of several contending Empires, with the result that they had developed, in many important matters, different characteristics; and the effect of these separate tendencies may be traced in the present Constitution.

From the eighth to the twelfth centuries the Serb people were under foreign domination, chiefly by the Bulgars and Greeks, while the Serbo-Croats of the Adriatic regions were subject to Venice and Hungary. In the twelfth century the Byzantine Emperors ruled over the whole race, until the rise of Stephen Nemanya. The dynasty of Stephen ruled over a united Serbia for nearly 200 years, but with the disastrous defeat at Kossovo in 1389 began a subjection to the Turks which lasted for 500 years. From 1389 to 1459, Serbia was tributary to the Turks, but was governed by its own rulers. From 1459 onwards for over 350 years, the country was reduced to a mere pashalik directly subject to the central Turkish Government. The Serbs continually revolted, but these revolts were unsuccessful until early in the 19th century, when, in 1805, a revolution occurred in Serbia which was successful for a time in breaking the Turkish domination. A National Assembly was then called together, which elected a Council of State, over which Kara-georges, the principal revolutionary leader, presided. His government lasted until the Treaty of Bukarest in 1812, under which Treaty Serbian internal autonomy was recognised. But this recognition lasted for only one year. For, the following year Russia's attention was distracted by Napoleon, with the result that the Serbs were defeated by Turkey. The government of the Council of State was overthrown and Kara-georges took refuge in flight.

During the years that followed other revolts took place, attended sometimes by temporary gains, but it was not until 1830 that the movement began which continued until the passing of the present Constitution. In that year the Convention of Ackerman was held, at which, with Russia as intermediary, the

partial autonomy of Serbia was recognised. In virtue of that recognition the Sultan conferred on Milosh the title of Hereditary Prince of Serbia. Yet, though such partial autonomy was won, it was not achieved in any constitutional form. The powers conferred on Prince Milosh enabled him to exercise despotic authority. The attention of the Serbian people was, therefore, turned from Turkey to their own Prince, and in 1835 they broke out in revolt.

To appease popular feeling, Milosh was compelled to call together a National Assembly (the first Skupshtina) and lay before it a draft Constitution. This Constitution, as finally passed, is known as the Constitution of Sretegne, and it originated a representative constitutional system of government in Serbia. Under it a National Legislature was created. There had been earlier Assemblies in Serbia, but none of these had been elected on any fixed system or for any fixed period of time. The present Legislature was ordained to consist of 100 members elected by the people, to meet every year on the 23rd April, with rights and duties defined by the Constitution. These rights and duties were not, it is true, very extensive; but they, at least, laid the foundation of constitutional development.

The real power in Serbia continued to be exercised by the Prince and the Council of State. All Ministers were chosen from this Council of State. It was an extraordinary body provided for by the Turkish ordinance of 1830 and consisted of the leading men of Serbia, members for life. However, there were difficulties before this constitutional development. The Turkish ordinance of 1830 had been obtained through the mediatorship of Russia, and the Czar was little pleased to see Serbia creating for itself constitutional freedom. He had, therefore, objected strongly to the promulgation of any such Constitution. On its promulgation his opposition took a stronger form. The result was immediate. Hardly had the Constitution been in operation when, on the 17th March, 1835, Milosh ordered its suspension, and immediately deprived his Ministers of the offices held under it.

The Constitution was then replaced by an administrative regulation which provided for the conduct of government by Prince Milosh and the Council of State. This was the beginning of a constitutional war. With the consent and approval of Russia and Austria, Turkey imposed a new ordinance on Serbia on 10th December, 1838. This ordinance was to serve as a Fundamental Law. It confirmed Milosh as Hereditary Prince, and fixed the number of the Members of the Council of State at seventeen. Thus, he whose appointment as Prince had been the sign of national freedom, was now imposed upon the Serbian people against their desires. The old supporters of the Constitu-

tion agitated against him. The agitation spread to the Council of State. The consequence was that in 1839 Milosh abdicated. He appointed his younger brother Michael, who was still a minor, to succeed to the Throne, with a Regency during his years of minority. But in 1842 another rising occurred and Prince Michael had to leave the country. The leader of this revolution was a certain Vutchitch, who, on Michael's flight, took the government into his own hands and called a National Assembly, which met the same year. This National Assembly, however, was but short-lived. It did not continue as a legislative or constitutional body. It elected Alexander Karageorgevitch Prince.

Thereon there supervened a succession of revolts, directed for the most part, not against the Turkish suzerain, but against the dynasty ruling for the time being. As a result of one of these the Constitution of 1838 was formally abolished, and absolute rule established in its place. In 1869, however, a new Constitution was formulated. The framers of this Constitution were high in their profession of democracy, but the provisions of the Constitution nevertheless made it an autocratic instrument. It was provided, for example, that the Prince should have power to rule without an Assembly whenever he thought fit. Similarly, in the Constitution the rights of individuals were protected, but it was provided that this protection could be suspended by a declaration that the time was one of imminent public danger. Moreover, the power of the purse was also taken away in effect from the Assembly by a provision that if it did not vote a new Budget, the Budget of the preceding year could be made applicable.

In 1878, as a result of the conflict between Turkey and Russia, the complete independence of Serbia was recognized by the Treaty of Berlin.

The constitutional war, however, continued until, in January, 1889 (December, 1888, O.S.), a new Constitution was adopted This Constitution had been drafted by a Commission specially appointed for that purpose by King Milan, the Monarch at the time. This came before the National Parliament and was adopted by it in that year. It provided for the parliamentary responsibility of Ministers. Having promulgated the Constitution, King Milan abdicated in favour of his son Alexander, who was a minor at the time.

After his accession to the throne, Alexander varied from one extreme to the other in internal and external policy. The Constitution of 1889 was set aside, and that of 1869 re-established, and eventually, in 1901, a new Constitution was proclaimed, which gave Serbia, for the first time in its history, a Parliament with two Chambers. Two years afterwards, however, he, his Queen, and a number of leading citizens were assassinated. The National Assembly thereupon elected Peter Karageorgevitch to the Throne, and strengthened the Constitution of 1888.

During all this period, with strife within and Turkish rule without, Serbia had been concerned in her own affairs, and the other Southern Slav peoples had not shared in her struggle for constitutional freedom. After the revolution in Turkey and the definite annexation of Bosnia and Herzegovina by Austria in 1908, a united Slav movement began to develop and was regarded with deep suspicion and hostility by surrounding States.

During the European War the Allied and Associated Powers had proclaimed the emancipation and unity of all Southern Slavs in one State as one of their war aims. The proposal was seated in the desire to break up the Austrian Empire, and it was itself in no small part the cause of a general awakening in this direction among the Southern Slav peoples. These Southern Slav peoples, outside Serbia, were, as has been said, settled in separate territories and had experienced their own separate fortunes. The Montenegrins had been the first to throw over the Turkish yoke, and had long ruled as an independent Kingdom. Croatia-Slavonia was part of the Austro-Hungarian Empire, and was ruled by a Hungarian Governor, but had a Provincial Diet with strictly limited powers. Bosnia and Herzegovina had been occupied by Austria since 1878.

In 1840 an attempt by Hungary to introduce Magyar as an official language resulted in a movement for the union of all the Illyrian Slavs, the Serbs, Croats and Slovenes under Austro-Hungarian rule. In 1848 there was a revolt of the Southern Slavs, and a generation later the occupation of Bosnia and Herzegovina revived the demand for a "Greater Croatia". In 1903 there were agrarian disturbances among the Southern Slavs directed against the Magyar landlords, and in 1905 a conference of Croatian and Dalmatian deputies met at Spalato in a movement to further Serbo-Croat unity. But all these movements were restricted to the political union of all the Serb, Croat and Slovene peoples in the Austro-Hungarian territories and were complicated and thwarted by the intricate cross-currents in the politics of the Empire. Not until after the break-up of the Empire as a result of the European War did the project of a Union of all the Southern Slavs, both within and without the old Empire, become realizable.

On the 5th October, 1918, a general Jugo-Slav Council was formed at Agram. To this Council were sent representatives from Croatia, Slovenia, Albania, Istria, Bosnia, Herzegovina and Southern. Hungary. On the 15th October this Assembly proclaimed the independence of all Jugo-Slav territories. At this time Serbia and Montenegro formed part of a separate movement in the south; and it was the intention of the Northern Assembly that Croatia should form the centre of the new State. In November, however, another Council was held at Neustad, at which the Southern States also were represented. On the 25th of that

month a further proclamation was made declaring the union of the northern Jugo-Slav States with Serbia and Montenegro. Owing to the unsettled conditions of the time it was not possible to hold any general elections for the creation of a Constituent Assembly. A union was therefore assumed to be in existence, and the newly unified State proceeded for the time as if it were a federation. The bonds of union were of the slenderest. The Government was centred in Serbia, which acted as the headship of the new State, the several portions of which, hitherto isolated, operated as Provincial Governments.

This state of affairs continued for over a year, but the conditions were very unsatisfactory; and early in the year 1920 political affairs in the new united Jugo-Slav State, lacking the structure of a settled Constitution, had become very unstable. The fissiparous tendencies of the State had developed. There had been sharp conflict between the two chief political parties in Serbia. The relation between Roman Catholic Croatia and Serbia acknowledging the Greek Church, had revealed difficulties to be encountered. On the other hand, the action of certain Italian forces in Fiume and the Italian claim to Fiume and Southern Dalmatia had aroused resentment among all Jugo-Slavs; and this common danger held the State together. While the conflict with Italian forces continued during the year 1920, therefore, arrangements were made for the election of a Constituent Assembly representative of all parts of the new united State.

On the 22nd November, 1920, the Treaty of Rapallo, fixing the Italian frontier, was ratified in Serbia; and later that month a General Election was held throughout all the territories for the Constituent Assembly. The problem of the election of such an Assembly may be realised by the fact that in Serbia itself there had been no general election since 1912—before, that is to say, the extension of territory resulting from the Balkan War. The Belgrade Parliament had, therefore, represented only a part of Serbia, besides being wholly out of touch with changed conditions. In many other parts of the country elections of this sort were unknown. Nevertheless, 420 Deputies were elected. About one-half of these were divided between the two main parties, the Radicals and the Democrats. The other Deputies were distributed among smaller parties. Among the larger of these small parties were the Croatian Peasants' Party and the Croatian Nationalist Party.

The Assembly was one of full constituent powers, that is to say, with authority to adopt and prescribe a Constitution for the new State and to adopt such other legislation as might be required by the needs of the country while this task was uncompleted. Considerable difference of opinion naturally existed in the country on the form the new Constitution should take. These differences

naturally divided themselves into the two alternative solutions, of a centralised State and of a federalised State. For each of these there were strong adherents, but the recent danger from Italy respecting outlets to the sea had aroused a common apprehension among all the different populations. Consequently, the conception of a centralised State was in the ascendant, and early in 1921 M. M. Pashitch, one of the chief advocates of such a scheme, was empowered to form a Cabinet.

A special Committee was set up and entrusted with the responsibility of all matters respecting the Constitution itself. This Committee was placed in charge of Dr. Lazar Markovitch. It was entrusted with the drafting of the Government's Constitution Bill, with all amendments to that Bill, and with the conduct of the passage of the Bill through the National Assembly. The result of this special procedure therefore was that the preparation and passage of the Constitution occupied only six months. It was finally adopted on the 28th June, 1921.

The Constitution has several remarkable features. The chief of these is that it is one of the few Constitutions in Europe that provide for only one Chamber in the Legislature. Having regard to the fact that the new State is combined of several preceding States, that differed widely in matters of religion, custom and habits of life, this provision is all the more remarkable. It became necessary, therefore, to unify the different laws and methods of administrations that prevailed formerly under various governments, and elaborate provisions were therefore made in the Constitution to this effect. The Constitution Committee was converted into a Legislative Committee for this purpose, and a very summary procedure was provided for the consideration of its recommendations by the National Assembly. The existing provincial administration was continued temporarily by the Constitution, but power was conferred to revise all the old administrative boundaries, and to create new administrative "Regions," paying due regard to natural, social, and economic conditions and subject to a maximum limit of population. In order that these reforms should be accompanied by the necessary change of thought it was provided, therefore, in the Constitution that care should be taken to foster a sense of national unity, and this provision was entered in the Articles dealing with the Educational System.

All these tasks were undertaken by the original Constituent Assembly. On the adoption and prescription of the Constitution the Constituent Assembly continued to sit and legislate as the first Assembly under the Constitution which it itself adopted. There was, therefore, no break in the continuity of its work.

THE CONSTITUTION

OF THE

KINGDOM OF THE SERBS, CROATS AND SLOVENES,

Adopted on June 28th, 1921.

PART I.

GENERAL PROVISIONS.

Article 1.—The State of the Serbs, Croats and Slovenes shall be a constitutional, parliamentary and hereditary monarchy.

The official title of the State shall be: The Kingdom of the Serbs, Croats and Slovenes.

Article 2.—The arms of the Kingdom shall be a white, double-headed eagle with wings extended, upon a red shield, the Crown of the Kingdom appearing on the two heads of the white eagle.

A shield shall be borne upon the breast of the eagle, showing—

The arms of Serbia: a red shield bearing a white cross with a flint in each corner;

The arms of Croatia: a shield chequered in twenty-five squares alternately red and white;

The arms of Slovenia: a blue shield with three golden, six-rayed stars: below, a white crescent.

The flag of the State shall be blue, white and red, horizontally on a vertical staff.

Article 3.—The official language of the State shall be the Serb-Croat-Slovene language.

PART II.

FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENSHIP.

Article 4.—There shall be but one nationality in the Kingdom. All citizens shall be equal before the law. Nobility, titles or other privileges of birth shall not be recognised.

Article 5.—The liberty of the individual shall be guaranteed. No person may be subjected to any judicial interrogation, or

placed under arrest, or be in any other way deprived of his liberty, save as provided by law.

No person may be placed under arrest for any crime or offence whatever, save by order of a competent authority given in writing and stating the charge. This order must be communicated to the person arrested at the time of arrest or the latest within twenty-four hours of the arrest. An appeal against the order for arrest may be lodged in the competent Court within three days. If no appeal has been lodged within this period, the police authorities must as a matter of course communicate the order to the competent Court within the twenty-four hours following. The Court shall be bound to confirm or annul the arrest within two days from the communication of the order, and its decision shall be given effect forthwith.

Public officials who infringe these provisions shall be punished for illegal deprivation of liberty.

Article 6.—No person may be tried save by a competent Court.

Article 7.—No person may be tried without having been previously interrogated by the competent authority or having been afforded an opportunity by legal means to defend himself.

Article 8.—Penalties shall be determined by law. A penalty may be inflicted only for acts previously designated by law as entailing that particular penalty.

Article 9.—Capital punishment may not be inflicted for purely political crimes.

This provision shall not apply to criminal offences or attempted offences against the person of the Sovereign or the royal family, for which capital punishment is provided in the Code.

This provision shall not apply also to cases in which in addition to the purely political crime there is another offence punishable under the Code by capital punishment, nor the cases in which capital punishment is provided for by the Military Code.

Article 10.—No citizen may be banished from the State. No citizen may be expelled from one part of the country to another nor obliged to reside in a specified place, save in such cases as may be expressly determined by law. No person may in any circumstances be expelled from his domicile without sentence by a Court.

Article 11.—Every dwelling shall be inviolable.

The authorities may not make any search or investigation of the domicile of any citizen save in such cases as may be permitted by law, and in the manner prescribed by law.

Before any such action is taken, the authorities must present to the person whose domicile is to be searched the written warrant from the police authority in virtue of which the search is to be made. An appeal against this warrant may be made to a Court of First Instance, but this appeal shall not suspend the carrying out of the search. Every search shall be made in the presence of two citizens.

Immediately after the search, the authorities must deliver to the person, whose domicile has been searched, a certificate stating the result of the operation, and a signed list of any articles seized for the purpose of police proceedings.

Officers of the police forces may not enter any private dwelling at night, save in cases of extreme urgency, or when a call for help is made from the dwelling. A representative of the municipality and two citizens summoned for the purpose shall be present at any such entry, save in the case of a call for help.

Officers of the police forces who are guilty of any infringement of these provisions shall be punished for violation of a dwelling.

Article 12.—Liberty of religion and of conscience shall be guaranteed. All recognised religions shall be equal before the law, and may be practised in public.

The enjoyment of civil and political rights shall be independent of the practice of any religion. No person may refuse the performance of civil or military obligations and duties on the ground of the requirements of his religion.

All religious bodies shall be deemed to be recognised which have already obtained legal recognition in any part of the kingdom. Other religions may receive recognition only by law. Recognised religions shall, within the limits of the law, be self-governing as regards the regulation of their internal affairs and the administration of their funds and endowments.

No person may be compelled to practise his religion in public. No person may be compelled to take part in any religious acts, ceremonies, practices or rites, with the exception of State festivals and ceremonies, and with the exception, in such cases as are provided for by law, of persons under the authority of a parent or guardian, or under military authority.

Recognised religious bodies may maintain relations with their supreme religious heads even outside the frontiers of the State so far as may be necessary in accordance with the spiritual requirements of their religion. Such relations shall be regulated by law.

So far as the State Budget may provide funds for religious purposes, these funds shall be divided amongst the various recog-

nised religious bodies in proportion to the numbers of their adherents and according to their actual proved necessities.

Ministers of religion may not use their spiritual authority in the interest of parties, whether in the churches, through writings of a religious character, or otherwise in the execution of their official functions.

Article 13.—The Press shall be free.

No preventive measures may be taken to hinder the publication, sale and distribution of any writings or newspapers. Censorship may be instituted only in time of war or mobilization and solely in cases previously provided for by law. The distribution and sale of journals and printed matter may be prohibited if they contain any defamation of the Sovereign or members of the royal family, of heads of foreign States, or of the National Assembly, or direct appeals to citizens to change the Constitution or the laws of the country by force, or serious violations of public morality. In any such case, the authorities must within twenty-four hours of the seizure of the journals or printed matter lodge the goods seized in Court and the Court must, also within twenty-four hours, confirm or annul the seizure.

Failing confirmation by the Court, the seizure shall be deemed to be cancelled. Questions of damages shall be considered by the ordinary Courts, independently of the decision of the Court with regard to the annulment of the seizure.

Author, editor, printer, publisher, proprietor and distributor shall be held responsible for Press offences. A special Press law shall determine the nature and extent of the responsibility of these persons for offences committed. All Press offences shall be tried by the ordinary Courts.

Article 14.—Citizens shall have the right to form associations, to assemble in meetings, and to take collective action. Detailed provisions as to these matters shall be prescribed by law. Citizens may not attend meetings armed. Meetings in the open air must be notified to the competent authority at least twenty-four hours in advance.

Citizens shall have the right of forming associations for purposes not contrary to law.

Article 15.—All citizens shall have the right to present petitions. Petitions may be signed by one or more individuals, and by legal persons. They may be addressed to all authorities without distinction.

Article 16.—The arts and sciences shall be unrestricted and shall enjoy the protection and support of the State.

University education shall be unrestricted.

The State shall have authority over education.

Education shall be on a uniform basis throughout the country, with such adaptations as may be required by local conditions.

All schools shall provide instruction in morals and shall develop civic conscientiousness in a spirit of national unity and religious tolerance.

The State shall be responsible for primary education, which shall be universal and compulsory.

Religious instruction shall be given in conformity with the wishes of parents or guardians, according to the various religions and in harmony with their principles.

Technical instruction shall be given in accordance with the requirements of industry.

No entrance fee, school fee, or other charge shall be imposed in public educational establishments.

The conditions upon which various kinds of private schools may be established shall be determined by law.

All educational establishments shall be under the control of the State.

The State shall encourage the fostering of nationality.

Minorities in race and language shall be given primary instruction in their mother tongue under conditions to be prescribed by law.

Article 17.—The secrecy of letters and telegraphic and telephonic communications shall be inviolable save in connection with criminal proceedings, mobilisation or war. Persons who violate the secrecy of letters or telegraphic or telephonic communications shall be punished according to law.

Article 18.—Every citizen against whom an offence has been committed by any official of the State or of a local governing body in the exercise of his functions shall have the right to make complaint to the Court directly and without authorisation from any other person.

Special provision shall be made in respect of Ministers, Judges and soldiers serving with the colours.

The State or the local governing body shall be answerable in the ordinary Courts for damage inflicted upon citizens by irregular exercise of their powers by their agents. The agents shall be held responsible to the State or the local governing body.

Claims for damage shall lapse if not lodged within nine months.

Article 19.—All officers in every branch of official administration shall be equally accessible, upon the conditions prescribed by law, to all citizens by birth or naturalization who are of Serb-Croat-Slovene nationality.

Other naturalized citizens may not enter the service of the State unless they have resided in the Kingdom for ten years, provided that earlier entry may be allowed by special sanction of the Council of State upon the application, for stated reasons, of the appropriate Minister.

Article 20.—Every citizen shall enjoy the protection of his State in foreign countries. He shall be free to renounce his nationality after having fulfilled all his obligations to the State.

Extradition of citizens shall be prohibited.

Article 21.—Every citizen shall be bound to obey the laws, serve the interests of the national community, defend his country and pay taxes in accordance with his economic capacity and the requirements of the law.

PART III.

SOCIAL AND ECONOMIC PROVISIONS.

Article 22.—It shall be the duty of the State to ensure that all citizens shall have an equal opportunity of preparing themselves for such economic work as they have a preference for. To this end, the State shall organize technical instruction and continued assistance for the education of poor, gifted children.

Article 23.—Labour shall be under the protection of the State.

Special protection shall be extended to women and young persons engaged in occupations injurious to health.

The law shall prescribe special measures for the security and protection of the workers, and shall regulate the length of the working day in all undertakings.

Article 24.—The products of intellectual industry shall be the property of the producer, for which he shall enjoy the protection of the State.

Article 25.—Freedom of contract in economic affairs shall be recognised in so far as it is not opposed to the public interest.

Article 26.—It shall be the right and duty of the State, acting in the interests of the community and upon the basis of the law, to intervene in economic relations between citizens in a spirit of justice and with a view to averting social conflict.

Article 27.—It shall be the concern of the State—

(1) to ameliorate the general hygienic and social conditions affecting the health of the nation;

(2) to give special protection to mothers and young children;

(3) to take measures for the preservation of the health of all citizens;

(4) to combat contagious, acute and chronic diseases and the abuse of alcohol;

(5) to arrange for furnishing to poor citizens free medical assistance and medical remedies, and other means of preserving the health of the nation.

Article 28.—Marriage shall be under the protection of the State.

Article 29.—The State shall give material assistance to national co-operative organisations and other national economic associations not working for profit. Other things being equal, a preference shall be given in matters with which they deal to co-operative and other similar economic associations, or federations thereof, as against private enterprises.

Co-operative societies shall be the subject of legislation to be passed and made applicable throughout the country.

Article 30.—Agricultural insurance shall be regulated by special legislation.

Article 31.—Workmen's insurance against accident, sickness, unemployment, disablement from work, old age and death shall be regulated by special legislation.

Article 32.—Persons disabled in war, and war widows and orphans, together with relatives of soldiers who died or were killed during the war if they are poor and incapable of work, shall be accorded special protection and help by the State as evidence of its gratitude.

The special industrial training of disabled men and the education of war orphans in preparation for life and work shall be regulated by legislation.

Article 33.—The right of workers to organise for the improvement of the conditions of labour shall be guaranteed.

Article 34.—Special attention shall be given to sea fisheries and maritime affairs.

Insurance of persons in maritime occupations against sickness, disablement, old age, and death shall be dealt with by special legislation.

Article 35.—It shall be the business of the State to establish and maintain means of communication of all kinds wherever required in the public interest.

Article 36.—Usury in every form is prohibited.

Article 37.—Private property shall be guaranteed. The obligations imposed by the private ownership of property shall be recognised. The use of property must not be injurious to the interests of the community. The scope, extent and limits of private ownership shall be regulated by law.

Expropriation for reasons of public utility shall be permissible upon conditions determined by law and in return for fair compensation.

Article 38.—Testamentary trusts are abolished.

Endowments for purposes of general utility shall be recognised.

Legislation shall determine in what cases the destination and purpose of an endowment may be altered on account of changed circumstances.

Article 39.—Legislation upon succession duties shall ensure participation by the State in the inheritance of property, account being taken of the degree of relationship between the heir and the person from whom he inherits and of the value of the property passing.

Article 40.—Means of transport and other articles may be requisitioned to supply the needs of the army only on payment of fair compensation.

Article 41.—Large forested estates in private ownership shall be expropriated by law and become the property of the State or of local governing bodies. The extent to which large forested estates may become the property of other public bodies now existing or to be established shall be determined by law.

Areas which would normally be forested, and the re-afforestation of which is required for reasons of climate or cultivation, shall likewise become the property of the State or local governing bodies, in accordance with the law upon expropriation, so far as re-afforestation cannot be otherwise effected.

Large forested estates which had been granted to certain persons by foreign authorities shall become, in accordance with the law, the property of the State or of the commune without payment of compensation. Forestry legislation shall prescribe the conditions upon which cultivators and workers for whom agriculture is a supplementary occupation may cut timber for buildings and fuel and pasture their live-stock in forests owned by the State or local governing bodies.

Article 42.—Feudal rights shall be deemed to have been abolished in the eyes of the law as from the date of the freeing of the country from foreign domination. If, before that date, injustices have been committed in the process of suppressing feudal rights or transforming them into rights under the civil law, such injustices shall be remedied by law.

The Kmètes (Tchivtchis)* and cultivators who work their lands upon the same conditions as the Kmètes shall be confirmed

*Kmètes are tenants paying "tithes" to a landlord, who can deprive them of their lands. (Note by Professor P. Popwich, of the University of Belgrade.)

in their possession as free owners of the lands they occupy; they shall pay no indemnity in respect of such ownership and shall be entered on the register of landed property.

Article 43.—The expropriation of large landed estates and the division of them among those working the land shall be regulated by law. The nature of the compensation to be paid in respect of expropriated estates shall also be determined by law. No compensation shall be paid in respect of large estates which were owned by members of former foreign dynasties or which were granted to individuals by foreign usurping authority.

In the colonizing of such estates preference shall be given to freely organized co-operative colonizing societies; measures shall be taken to ensure that the colonies are provided with the necessary means for successful production.

In the colonization and division of expropriated lands, preference shall be given to soldiers in need who fought for the liberation of the Serbs, Croats, and Slovenes, and to their families.

The maximum extent of landed property and the cases in which a minimum holding of land may not be alienated shall be determined by law.

Article 44.—An Economic Council shall be established for the purpose of elaborating social and economic legislation. Detailed provisions as to the composition and powers of the Council shall be prescribed by law.

PART IV.

POWERS OF THE STATE.

Article 45.—All State powers shall be exercised in accordance with the provisions of the Constitution.

Article 46.—Legislative power shall be exercised jointly by the King and the National Assembly.

Article 47.—Executive power is vested in the King who shall exercise it through his responsible Ministers in accordance with the provisions of the Constitution.

Article 48.—Judicial power is exercised by the Courts. Their judgments and sentences shall be delivered in the name of the King, and in virtue of the law.

PART V.

THE KING.

Article 49.—The King shall confirm and promulgate the laws. He shall appoint State officials and confer military rank in accordance with the provisions of the law.

The King shall be the commander-in-chief of all military forces. He shall confer orders and other distinctions.

Article 50.—The King shall have the right to grant amnesties for political and military offences. The grant of amnesty shall annul the legal consequences of a crime, but may not prejudice the right of any individual to compensation. Amnesty may be granted before or during the course of criminal proceedings or after final judgment has been delivered. Amnesties may be general or individual.

Ministers may benefit by grant of amnesty only with the prior assent of the National Assembly, but amnesty may not be granted until after judgment has been delivered.

The King shall have the right to grant pardon. He may wholly remit, reduce or mitigate the penalty inflicted. The right of pardon for offences which are punishable only on the complaint of private persons shall be regulated by the law on criminal procedure.

Article 51.—The King shall represent the State in all its relations with foreign States. He shall declare war and conclude peace. If the country has not been attacked or if war has not been declared against the country by another State, the prior consent of the National Assembly is necessary for war to be declared.

If war is declared on the country, or if the country is attacked, the National Assembly must be immediately summoned.

Article 52.—The King shall summon the National Assembly for ordinary or extraordinary sessions.

He shall open and close its sessions, personally by a speech from the throne or through the medium of the Council of Ministers by means of a message or decree.

The speech from the throne, message or decree shall be countersigned by all the Ministers.

The decree terminating a session shall invariably make provision as to the date of the succeeding session.

The King may at any time summon the National Assembly, when adjourned, if the needs of the State so require.

The King shall have the right to dissolve the National Assembly, but the decree of dissolution must make provision for the holding of new elections within a period of not more than three months together with an order for the summoning of the National Assembly within a maximum period of four months from the date of the dissolution of the Assembly. The decree dissolving the National Assembly shall be countersigned by all the Ministers.

Article 53.—The King may not be at the same time head of any other State without the assent of the National Assembly.

Should the King, in contravention of this provision, assume the crown of another State, he shall be deemed to have abdicated the throne of the Kingdom of Serbs, Croats and Slovenes.

Article 54.—No act in exercise of the royal power shall be valid or capable of enforcement unless countersigned by the competent Minister. The competent Minister shall be responsible for all acts of the King, oral or written, whether countersigned or not, and for all his actions which are of a political character.

The Minister for War and the Minister of Marine shall be responsible for all acts of the King in his capacity of commander-in-chief of the armed forces.

Article 55.—The King and the Heir to the Throne shall be of age on completing their eighteenth year.

The person of the King shall be inviolable. He may not be made answerable at law nor subjected to any proceedings. This provision shall not extend to the private property of the King.

Article 56.—Peter Karageorgevitch I. shall reign over the Kingdom of Serbs, Croats and Slovenes. He shall be succeeded by the Heir to the Throne, Alexander, and then by his male descendants by lawful marriage, in order of primogeniture.

If the King should have no male successor he shall designate his heir in the collateral line. A decision in this respect shall require the assent of one more than half of the total number of members of the National Assembly.

Article 57.—The Royal House shall be composed of the King's wife, the Queen, his living relatives, by ascent and descent in direct line, with their wives, brothers german of the King, and their descendants and their wives, and the sisters of the reigning King. The rights and precedence of members of the Royal House shall be regulated by a decree confirmed by law. No member of the Royal House may be a Minister or member of the National Assembly.

Article 58.—The King shall take the following Oath before the National Assembly:—

> "I (Name) in ascending the throne of the Kingdom of Serbs, Croats, and Slovenes, and receiving the royal power, swear before Almighty God to maintain the unity of the nation, the independence of the State, and the integrity of its territory, to preserve the Constitution inviolate, to reign in accordance with the Constitution and the laws, and to have always on mind and be always inspired by the welfare of the people. So help me God! Amen."

Article 59.—The King shall reside permanently in the country. If it should be necessary for him to be absent from the country for a short period, the Heir to the Throne shall fill his place as of right. If the Heir to the Throne is not of full age, or is

incapacitated, the King's place shall be taken by the Council of Ministers. This substitution shall be effected in accordance with the instructions given by the King within the limits of the Constitution. The same provisions shall apply in the case of the illness of the King unless such illness involves permanent incapacity.

During the absence of the King or the Heir to the Throne, the Council of Ministers shall not have the right to dissolve the National Assembly. Substitution by the Council of Ministers may not last for a longer period than six months; after that period the provisions of the Constitution in respect of the Regency shall come into operation.

PART VI.

THE REGENCY.

Article 60.—The Royal power shall be exercised through a Regency (1) when the King is a minor; (2) when by reason of mental or bodily sickness the King is permanently incapable of exercising the Royal power.

The National Assembly shall decide by secret vote upon the institution and termination of the Regency.

When the Council of Ministers deems that a case of incapacity on the part of the King has arisen, it shall communicate the fact to the National Assembly, together with the opinion of three doctors chosen from the faculties of Medicine in the country. The same procedure shall be followed in respect of the Heir to the Throne.

Article 61.—The exercise of the Regency shall be vested of right in the Heir to the Throne, if he is of age. If, for any of the causes enumerated in Article 60, the Heir to the Throne be unable to exercise the powers of the Regency, the National Assembly shall by secret vote elect three Regents of the Kingdom. The Regents of the Kingdom shall be elected for four years. After that period, if the Regency requires to be prolonged for at least a year, a new election shall take place. If the Regency requires to be continued longer still, a further election shall take place for a period of four years.

The Regents must be Serbs, Croats, or Slovenes by birth, citizens of the Kingdom of Serbs, Croats, and Slovenes, at least 45 years of age, and of superior education. Before taking up the responsibilities of the Royal power the Regents shall take an Oath to the National Assembly which elects them that they will be faithful to the King and will reign according to the Constitution and laws of the country.

Article 62.—If any one of the three Regents is temporarily absent or incapacitated, the other two Regents may carry on the business of the State

Article 63.—The Regents shall have charge of the education of a King who is not of age.

The guardians designated in the will of the King shall manage the property of a King under age. If the deceased King has not designated guardians the Regents shall nominate them by agreement with the Council of State.

Article 64.—Pending the election of Regents the Council of Ministers shall exercise the Royal power temporarily, and upon its own responsibility.

Article 65.—In the case of the death or abdication of the King the Heir to the Throne, if he is of age, shall immediately assume power and announce the fact by a proclamation to the people. Within a period of ten days he shall take the prescribed Oath before the National Assembly. If the National Assembly has been previously dissolved and the new Assembly has not yet been elected, the outgoing National Assembly shall be summoned.

Article 66.—If the King should die without leaving male issue and the Queen be with child at the time of the King's death, the National Assembly shall provisionally elect Regents to exercise the Royal power until the confinement of the Queen. Before the election of Regents the Government must submit to the National Assembly the opinion of three doctors, chosen from the Medical Faculties in the country, as to the pregnancy of the Queen. The same procedure shall be followed should the Heir to the Throne die leaving his wife with child.

Article 67.—If, under the terms of this Constitution, there should be no Heir to the Throne, the Council of Ministers shall take over the Royal power, and shall forthwith summon a special session of the National Assembly to decide the succession to the Throne.

Article 68.—The Civil List of the King shall be determined by law. Once determined, the Civil List may not be augmented without the consent of the National Assembly, nor diminished without the consent of the King.

Regents, during their term of office, shall receive from the State Treasury the sum assigned to them by the National Assembly at the time of their election.

PART VII.

THE NATIONAL ASSEMBLY.

Article 69.—The National Assembly shall be composed of Deputies freely elected by the people by universal, equal, direct, and secret suffrage, minorities being represented.

One Deputy shall be elected for each forty-thousand inhabitants. If the excess population of an electoral area is more than twenty-five thousand, an additional deputy shall be elected for that area.

The National Assembly shall be elected for four years. Detailed provisions as to the elections shall be prescribed by law.

Article 70.—Every male citizen by birth or naturalization who has completed his twenty-first year shall have the right to vote.

Officers of the Army, whether serving or liable to be recalled for service, and non-commissioned officers and soldiers with the colours may neither vote nor be eligible for election.

Women's suffrage shall be the subject of legislation.

Article 71.—The following persons shall lose their electoral rights temporarily:—

(1) persons who have been sentenced to imprisonment, so long as they have not been reinstated in their rights;

(2) persons who have been sentenced to deprivation of civic status for the duration of such deprivation;

(3) persons who have been declared bankrupt;

(4) persons under guardianship.

Article 72.—Only persons who, whether on the electoral registers or not, are in enjoyment of their electoral rights, may be elected to the National Assembly. Every Deputy must satisfy the following conditions:—

(1) He must be a citizen by birth or naturalization of the Serb-Croat-Slovene Kingdom. A naturalized citizen, if not of Serb-Croat-Slovene race, must have been resident in the Kingdom at least ten years from the date of his naturalization.

(2) He must have completed his thirtieth year.

(3) He must speak and write the national language.

Deputies may not at the same time be contractors or purveyors to the State.

Article 73.—Officials of the police, finance, forestry, and agrarian reform services may not stand as candidates unless they had resigned from their positions one year prior to the decree announcing the elections.

Other officials exercising public authority may not stand as candidates in the electoral area in which they carry on their official duties.

Officials elected as representatives of the nation shall be given leave of absence for the duration of their term in the Assembly.

Ministers in office or on leave of absence and University Professors may stand as candidates and retain their positions if elected.

Article 74.—Every Deputy shall act as a representative of the whole nation and not merely of those who elected him.

Electors may not give, nor may Deputies accept, any imperative instructions.

Every Deputy shall take oath faithfully to maintain the Constitution.

Article 75.—The National Assembly shall meet in the capital, Beograd (Belgrade), in regular session on October 20th in each year, unless earlier summoned in extraordinary session by decree of the King.

If, in time of war, the capital should be located elsewhere, the National Assembly shall meet in the temporary capital.

The regular session may not terminate until the State Budget has been voted.

In time of war, the National Assembly shall sit continuously save as it may itself otherwise decide.

Article 76.—The validity of the election of members of the National Assembly shall be inquired into and decided by the Assembly itself.

The National Assembly shall regulate its own internal procedure.

Article 77.—The National Assembly shall elect a Bureau for each session from amongst its members.

Article 78.—Draft laws shall be introduced after receiving the royal authorisation by the Council of Ministers, or by individual ministers.

Every member of the National Assembly shall have the right to introduce proposals for legislation.

Article 79.—Treaties with foreign States shall be concluded by the King, but the previous approval of the National Assembly is necessary to the ratification of such treaties. The previous approval of the National Assembly is not necessary for the ratification of purely political conventions which are not in conflict with the Constitution or the laws of the State.

No convention authorising a foreign army to occupy or pass through the territory of the Kingdom shall be valid without the previous consent of the National Assembly.

The National Assembly may if the interests of the State so require authorize the Council of Ministers in advance to decree measures for the immediate application of a proposed convention.

The territory of the State may not be alienated or exchanged without the approval of the National Assembly.

Article 80.—The King shall promulgate the laws by a decree reproducing in identical terms the laws passed by the National Assembly. This decree shall be counter-signed by all the Ministers. The Minister of Justice shall affix the Seal of the State, and provide for the publication of the law in the Official Journal.

The law shall have obligatory force fifteen days after its publication in the Official Journal, unless otherwise provided in the law itself. The day of the publication of the Official Journal shall be reckoned in this period.

Article 81.—The National Assembly shall have the right to conduct inquiries and investigations into electoral matters and into purely administrative questions.

Article 82.—Every member of the National Assembly shall have the right to address questions and interpellations to the Ministers. Ministers shall be bound to reply thereto during the course of the session, and within a period fixed by the rules of procedure.

Article 83.—All communications from the National Assembly shall be addressed to Ministers.

Article 84.—No person shall have the right to speak in the National Assembly save members thereof, members of the Government, and persons delegated by the Government.

Article 85.—The National Assembly may not conduct any business unless one-third of the members are present at the sitting. A majority of the votes of the Deputies present is necessary for a valid decision on any matter. In case of an equality of votes the proposal voted upon shall be deemed to have been rejected.

Article 86.—No proposal for legislation may come up for discussion in the National Assembly until it has been considered by the appropriate Committee.

Voting in the National Assembly shall be public; only elections shall be held by secret vote. Votes must be cast by Deputies in person.

Every proposal for legislation must be voted upon twice in the same session of the National Assembly before being finally adopted.

Article 87.—No Deputy may be held responsible personally for any vote given as a member of the National Assembly.

Deputies shall be answerable only to the National Assembly, and in accordance with the rules thereof, for their declarations and actions in the exercise of their functions whether in the sittings of the National Assembly or of its committees, or on missions or other duties with which they have been entrusted by the Assembly.

Article 88.—Without prior authorisation by the National Assembly its members may not in any case be summoned to answer for any offence whatever by any authority whatsoever, nor deprived of their liberty during their term of office, save when apprehended *flagrante delicto* in criminal or police matters. In such a case the National Assembly, if sitting, must be immediately informed and may give or withhold authority for continuing the prosecution during the period of session.

The immunity of a Deputy shall take effect from the day of his election.

Should a citizen become a Deputy before final judgment upon him has been delivered for an offence, the authority conducting the investigation and prosecution shall notify the National Assembly, which may give or withhold authority to carry on the prosecution. A member of the National Assembly may be made answerable only for the act in respect of which his immunity has been removed.

Article 89.—The National Assembly shall have the exclusive right to maintain order among its own body through its President. No armed forces may be posted in the precincts or in the buildings of the National Assembly without the authority of its President. Similarly no State authority may carry out any executive act within the National Assembly.

No person may attend the National Assembly armed, save such persons as ordinarily carry arms, and are present in the Assembly in the ordinary course of their duties.

PART VIII.

EXECUTIVE POWER.

Article 90.—All the Ministers collectively shall form the Council of Ministers which shall be subject directly to the King. The King shall appoint the President and the members of the Council of Ministers. Ministers shall act as heads of the different Departments of the administration of the State.

Ministers without portfolio may also be appointed.

Under-Secretaries of State may also be appointed as occasion requires to act under Ministers in respect of a definite section of their duties. Under-Secretaries of State chosen from the National Assembly shall not thereby lose their seats.

Subordinate officers of the State shall be appointed by the Ministers in accordance with the provisions of the law.

Before taking up office the Ministers shall take an oath of faithfulness to the Constitution and to the King.

Article 91.—Ministers shall be responsible to the King and to the National Assembly.

The King and the National Assembly may impeach Ministers for any violation of the Constitution or the laws of the country committed during their term of office. The State shall be responsible for damages caused by illegal acts committed by Ministers in the exercise of their functions.

Article 92.—A Minister may be impeached both during his term of office and during the five years following.

A proposal to impeach a Minister must be made in writing, and must set forth the heads of the charges against him.

When the impeachment of a Minister originates with the National Assembly the decision to bring him before the Tribunal must be taken by a majority of two-thirds of the members present.

Article 93.—Ministers shall be tried by the Tribunal of State. The Tribunal shall be composed of six Councillors of State and six judges of the Court of Cassation chosen by the Council of State and the Court of Cassation by lot, each from among its own members in full session. The President of the Court of Cassation shall preside over the Tribunal of State.

For offences not provided for by the Penal Code penalties shall be fixed by a law dealing with the responsibilities of Ministers.

More detailed provisions as to ministerial responsibility shall be made by special law.

Article 94.—The Executive power may decree regulations necessary for carrying out the laws.

Regulations having the force of law governing the relations between the people and the authorities may not be made save on the basis of a legal authorization given distinctly in each case.

Regulations may not be made which conflict with the Constitution or with the law for the application of which they are decreed, nor may they be made in contradiction of the legal authorisation on the basis of which they are prescribed.

The National Assembly may by resolution render inoperative wholly or in part regulations decreed in virtue of an authorization.

Regulations must be published and must reproduce on each occasion the law upon the basis of which they have been decreed.

Article 95.—The administration of the Kingdom shall be carried on through Regions, Districts and Communes.

The division of the country into Regions shall be determined by law, regard being had to natural, social, and economic conditions. No Region may have a population exceeding 800,000 inhabitants.

Two or more smaller Regions may be united in a single, larger Region. The decision in regard to such a union shall be taken by the Regional Assemblies of the Regions concerned. No new Region so formed may have a population exceeding 800,000.

A Governor ("Grand Joupan") shall be appointed by the King as head of each Region, and shall administer the business of the State in the Region through the machinery of the State Departments.

Article 96.—Local affairs (Communal, District, and Regional) shall be controlled by local self-governing bodies (Communal, District, and Regional) organized upon an elective basis.

The administration and self-government of towns shall be dealt with by special legislation.

Matters proper to local self-governing bodies shall be dealt with, subject to the requirements of the law, through their own administrative machinery.

The powers of Regional self-governing bodies shall extend to:—

(1) Regional finance: (*a*) the framing of the Regional Budget, (*b*) the appropriation of Regional revenues allocated to the Regions by law for the purpose of meeting Regional expenditure;

(2) Regional public works and regulations as to building and constructional work;

(3) Development of Regional economic interests, in agriculture, stock-raising, vine-growing, fruit-growing, forestry, freshwater fisheries, hunting, and improvements in agricultural technique;

(4) Administration of the Regional estates;

(5) Public health and the supervision of all institutions for the improvement of the sanitary conditions in the Region;

(6) Discharge of social obligations in the Region;

(7) Charitable institutions of the Region;

(8) Regional transport undertakings;

(9) Co-operation in the development of education in the Region;

(10) Co-operation in the development of technical education in the Region;

(11) Establishment and carrying on of savings banks, friendly societies, and insurance organizations;

(12) Advising at the request of the Government on proposals for legislation affecting the Region, and upon all other matters upon which the Government may consult the Regional local administration.

Other functions may be by law devolved upon the Regional administrations.

If any of the foregoing duties cannot be discharged by a Region out of its own resources, the State, upon the request of the Regional Assembly and after decision by the National Assembly, shall either furnish the necessary means, or itself take over the discharge of the duties.

Article 97.—Local self-governing bodies shall frame annual budgets.

The financial administration of local bodies shall be controlled by the Minister of Finance and the Chief Control (Court of Accounts) and shall be regulated by special law.

Article 98.—Regional administration shall be carried on by Regional Assemblies and Regional Committees.

The Regional Assembly and the District Assembly shall elect their own chairmen to preside over their sittings, and shall elect the Regional Committee and the District Committee.

Legislation may provide for the establishment of joint offices for the administration in the Region of services common to the State and the local authorities.

The Governor shall be the supreme head of the general administration of the State in the Region, except in so far as special offices may be created for the administration of matters proper to the State and affecting one or more Regions.

Legislation shall determine what State affairs shall be administered by the Governor in consultation with the Regional Committee.

Details as to the organisation and powers of local self-governing bodies (Communal, District and Regional) shall be determined by special legislation.

Article 99.—The Regional Assembly shall have the right to make regulations for the Region on all matters within the scope of its powers. Regional regulations shall be promulgated by the Governor.

The Governor may decline to promulgate a regulation which he deems to be in conflict with the Constitution or the law. In any such case, the Governor shall transmit the regulation, with his opinion thereon, to the Council of State for decision, and shall so inform the appropriate Minister. If the Council of State finds that the regulation is not in accordance with the Constitution or the law, the regulation shall not be promulgated or published. The Council of State must give its decision within a period of two months. Failing a decision within that period, the regulation shall come into operation.

Article 100.—The Regional Committee shall make the necessary arrangements and give the necessary instructions for the carrying into effect of Regional regulations.

Article 101.—Control over the affairs of local self-governing bodies shall be exercised by the State administration through the Governor and through special technical authorities.

The Governor shall have the right to suspend the operation of any decision of a local authority which he deems to be in conflict with the Constitution, the law or Regional regulations. An appeal against the action of the Governor may be lodged with the Council of State within the period prescribed by law. If the Council of State does not give its verdict within one month from the date of receipt of the appeal, the decision shall take effect.

Article 102.—Administrative Courts shall be established to try cases arising out of administrative matters. The powers, organisation, and place of sitting of such Courts shall be determined by law.

Article 103.—The Council of State shall be the supreme administrative Court. The members of the Council of State shall be appointed by the King on the proposition of the President of the Council of Ministers in the following manner:—One half of the Council shall be nominated by the King from a double list of candidates proposed by the National Assembly; the other half shall be elected by the National Assembly from a double list of candidates proposed by the King. Vacancies shall be filled in a manner to be determined by special law which may depart from the principle of the foregoing arrangement.

Members of the Council of State may be appointed only from high officials of the State and persons who have received a University education and have spent ten years in the service of the State, or have otherwise been available for the service of the community for the same period.

At least two-thirds of the members of the Council of State must hold diplomas certifying that they have completed their studies in a Faculty of Law.

The members of the Council of State may not be removed from office, transferred to another post in the State service, or retired on pension save in virtue of a judgment by a Court. They may, however, be retired on pension on completing their seventieth year, or being rendered unable by sickness to carry out their duties.

The Council of State shall have the following powers:—

1. As Supreme Administrative Court the Council shall try actions arising out of administrative matters. Appeals against decrees and Ministerial decisions shall be heard by the Council of State as a Court of First Instance, and its decisions shall not be subject to further appeal.

2. As Supreme State Administrative organ, it shall consider administrative acts which require its approval in accordance with the special laws relating thereto.

3. It shall exercise control over local self-governing bodies in the manner prescribed by law.

4. It shall decide questions as to conflict of jurisdiction between administrative authorities of the State and between State authorities and local authorities.

5. It shall likewise consider all other matters placed within its jurisdiction by law.

More detailed provisions as to the Constitution, powers and procedure of the Council of State shall be prescribed by special legislation.

Article 104.—The State services shall be established as determined by law.

Article 105.—The conditions governing the appointment of State officials shall be determined by law.

Article 106.—Positions in the State services, and the rights and duties, remuneration and pension of State officials in all branches shall be regulated by the law relating to State officials.

Article 107.—All employees of the State shall act as the agents of the State as a whole and shall be bound to serve the public interest. State officials who make use of their authority or office in the interests of parties, and higher officials who make use of their influence over State servants for similar ends, shall be punished in accordance with the law.

Article 108.—A State official whose security of tenure is assured by law may not be dismissed against his will save by the verdict of an ordinary criminal court or a disciplinary court.

PART IX.

JUDICIAL POWER.

Article 109.—The Courts shall be independent. In administering justice they shall not be subject to any authority, but shall give judgment according to the law.

Courts may be established and judicial powers conferred only by law. In no case may extraordinary courts or commissions of inquiry be instituted.

Mussalman family and succession cases shall be tried by special State Judges.

Article 110.—There shall be a single Court of Cassation sitting at Zagreb (Agram) for the whole kingdom.

The Court of Cassation shall be competent to determine conflicts of jurisdiction between civil or military administrative authorities and the judicial authority. It shall likewise have jurisdiction as to conflicts between Administrative Courts and Civil Courts.

Article 111.—Judges of the Court of Cassation and of the Court of Appeal, together with the Presidents of the Courts of First Instance, shall be appointed by royal decree on the proposition of the Minister of Justice from among candidates selected by an electoral body, the composition of which shall be determined by law.

Article 112.—The Judges of all Courts shall be irremovable. A Judge may not be dismissed, transferred or removed from office against his will for any reason except after a decision by Civil Court or a disciplinary decree of the Court of Cassation. No Judge may be proceeded against for any action performed in the exercise of his judicial functions without the sanction of the competent Court of Appeal. In the case of members of higher Courts this sanction shall be given by the Court of Cassation. A Judge may not even provisionally be called upon to fulfil any other public function, whether paid or not, without his own consent and the sanction of the Court of Cassation. A Judge may not be transferred save with his own consent. A Judge may remain in office until he has reached the age of sixty-five years, or in the case of the Presidents of the Court of Cassation and of the Courts of Appeal, seventy years. Before reaching that age he may not be placed on pension save on his own written request, or save when he is suffering from such physical

or mental infirmity as not to be able to carry out his duties. In the latter case, the decision as to his retirement on pension shall be taken by the Court of Cassation.

PART X.

STATE FINANCES AND PROPERTY.

Article 113.—The National Assembly shall each year approve the State Budget which shall be valid only for a single year. The Budget must be submitted to the National Assembly not later than one month after its meeting. The final accounts relating to the Budget of the previous financial year shall be submitted, at the same time as the Budget, for verification and ratification by the National Assembly. The National Assembly may not increase the appropriations proposed, but may reduce or reject them.

The Budget shall be approved chapter by chapter. The manner of framing and giving effect to it shall be determined by law.

Balances not expended under one chapter of the Budget or in one financial year may not be used to make up deficits under another chapter or in another financial year without the approval of the National Assembly.

Article 114.—The National Assembly before approving the Budget submitted to it may vote provisional credits (''twelfths'') for one or more months. If the National Assembly has been dissolved before deciding on the Budget, the Budget for the preceding financial year shall be extended by decree for not more than four months.

Article 115.—State taxes and general contributions may be levied only by law.

The National Assembly shall consider all State loans. The Government shall be bound to submit to the National Assembly complete and exact accounts approved by the Chief Control, showing that loans have been arranged and executed in accordance with the law.

Article 116.—The obligation of paying taxes shall be general; all State contributions shall be the same for the entire country.

Taxes shall be payable in accordance with the capacity of the taxpayer and shall be progressive.

The King and the Heir to the Throne shall be subject to State taxation on their private property.

No permanent or temporary assistance and no gift or reward may be paid out of State funds except as provided by law.

Article 117.—The Minister of Finance shall administer State property, save as may be otherwise provided by law.

A special law shall regulate the conditions of alienating State property.

The right of monopoly shall be vested in the State.

Mines, waters, mineral springs and natural forces shall be the property of the State.

Mining, industrial, and other concessions shall be regulated by special legislation.

Article 118.—The Chief Control shall act as the Supreme Court of Accounts for the audit of the accounts of the State and the control of the execution of the Budgets of the State and the Regions.

The National Assembly shall elect the President and members of the Chief Control from a list of candidates drawn up by the Council of State and comprising twice as many candidates as there are vacancies to be filled.

The President and one-half of the members of the Chief Control must be qualified jurists. The other members must have been Ministers of Finance or have acted for ten years as responsible officials in the Ministry of Finance.

The President and members of the Chief Control shall hold office upon the same conditions as to irremovability as the members of the Council of State.

Detailed provisions as to the constitution, powers and procedure of the Chief Control shall be prescribed by special legislation.

The cases in which an appeal against a decision of the Chief Control may be brought in the Court of Cassation shall be determined by law.

The Chief Control shall verify, adjust and audit the accounts of the general administration and of all persons responsible for public moneys. It shall ensure that no expenditure is incurred in excess of the Budget provision, and that no transfer shall be made from one Budget chapter to another. It shall close the accounts of all State administrative departments and shall attach all vouchers and information relating thereto.

The final accounts of the State shall be submitted for approval to the National Assembly, with the observations of the Chief Control thereon, within a period not exceeding one year from the date of the closing of each financial year.

PART XI.

THE ARMY.

Article 119.—Military service shall be general upon the conditions prescribed by law.

The organisation and strength of the army and navy shall be determined by law. The formation of units within the cadre prescribed by law shall be fixed by decree of the King upon the proposition of the Minister for War and for the Navy. The Budget shall prescribe each year the numbers to serve with the colours.

Article 120.—Military courts shall be independent. In administering justice they shall not be subject to any other authority, but shall give judgment in accordance with the law.

Judges of the Military Court of Appeal shall be irremovable but the tenure of Judges of Military Courts of First Instance shall be determined by law.

A Judge of a Military Court of First Instance may not be proceeded against for acts done in the exercise of his functions save with the sanction of the Military Court of Appeal; a Judge of the Military Court of Appeal may not be proceeded against save with the sanction of the Court of Cassation. A Judge of the Military Court of Appeal may not be transferred save by his own free consent and on promotion to a higher rank: a Judge of a Military Court of First Instance may be transferred in accordance with the provisions of the law.

The Court of Cassation shall hear final appeals from judgments of the Military Courts.

Article 121.—Offences committed by civilians in company with members of military forces shall be tried by the Civil Courts and, in time of war, by the Military Courts.

Article 122.—No person over the age of twenty years may be appointed to or retain any office in the employment of the State if he has not done military service or been released therefrom in accordance with law.

Article 123.—The army may not be used for the preservation of internal order save upon requisition by the competent civil authority.

Article 124.—A foreign army may not be taken into the service of our State, nor may the army of our State be placed at the service of a foreign State without the prior sanction of the National Assembly.

PART XII.

AMENDMENT OF THE CONSTITUTION.

Article 125.—The National Assembly shall decide in concert with the King upon amendments of the Constitution.

Article 126.—A proposal to introduce amendments of, or additions to, the Constitution may be made only by the King or the National Assembly.

Any such proposal must expressly designate all the provisions in the Constitution which are to be amended or supplemented.

If the proposal is initiated by the King, he shall communicate it to the National Assembly; the National Assembly shall thereupon be dissolved forthwith, and a new Assembly convened within a period not exceeding four months.

If the proposal is initiated by the National Assembly, it shall be considered in the manner prescribed for resolutions upon Bills, and shall require a majority of three-fifths of the total number of members of the Assembly for its adoption.

After the proposal has been adopted, the National Assembly shall be dissolved; a new Assembly shall be convened within a period not exceeding four months from the date of the adoption of the proposal.

In either case, the National Assembly may consider only the amendments of or additions to the Constitution contained in the proposal upon the basis of which it was convened.

The decision of the National Assembly shall be determined by a majority of one more than half of the total number of its members.

Article 127.—The National Assembly may by a special law temporarily suspend, in case of war or mobilisation in respect of the whole territory of the State, and in case of armed insurrection in respect of a part of the territory, the following rights of citizens:—the right of association, the right of meeting, the right of collective action, freedom of movement and residence, and the inviolability of the dwelling, of correspondence and telegraphic communications. Limitations may likewise be imposed on the liberty of the Press, in case of armed insurrection, in the part of the State affected by the insurrection.

PART XIII.

TRANSITORY PROVISIONS.

Article 128.—At the first meeting of the National Assembly after the promulgation of the Constitution, the Heir to the

throne, Alexander, acting as representative of King Peter I in accordance with the provisions of Article 58 of the Constitution, shall take oath as follows:—"In the name of His Majesty King Peter I., I swear before Almighty God to preserve the Constitution inviolate, to reign in accordance with the Constitution and the laws, to maintain the national unity and independence of the State and the integrity of its territory, and always to be guided in all my aspirations and actions by the welfare of the people. So help me God! Amen."

Article 129.—Thereupon the Deputies shall in session take the following oath before the President of the Assembly:—"I (name) swear before Almighty God and by all that I hold most inviolable and dearest to me in this world, to act in the exercise of my duties in conformity with the Constitution, and to keep always before me, in my soul and conscience, the welfare of the King and the people and the unity of the State."

Article 130.—The provisional laws, regulations, ordinances and decisions of the Council of Ministers and other Acts and decisions for which there is a definite period fixed for their operation and which have the validity of law, decreed between the 1st December, 1918, and the promulgation of this Constitution, shall continue to have the force of law until repealed or modified. Within a period not exceeding one month from the date of the promulgation of this Constitution, the Government shall transmit to the Legislative Committee for examination, all provisional laws, and all regulations, ordinances and decisions of the Council of Ministers, and other Acts and decisions for which there is a definite period fixed for their operation and which have the validity of law. The Committee, organised in sections corresponding to the different branches of the administration of the State, after having examined them, shall within a period not exceeding five months decide in full session those which should remain in operation without modification, those which should be modified and those which should be repealed. The provisional laws, regulations, ordinances, and provisions of the Council of Ministers as well as other Acts and decisions for which there is a definite period fixed for their operation and which have the validity of law, which have not been so submitted, shall become null and void. The decisions of the Committee shall be promulgated as laws. Provisions as to which the Committee has not taken any decision within the prescribed period shall continue in full force so long as they are not replaced by the ordinary legislative procedure. The following may be modified only by legislative procedure:—All provisional laws, regulations, ordinances and decisions of the Council of Ministers having the validity of law and relating to agrarian conditions in

the country, to the National Bank of the Serbs, Croats and Slovenes, to the liquidation of the moratorium, to the liquidation of the juridical situation created by the War, and to compensation for war damages, and to the regulations as to loans and the acceleration of procedure in the Courts.

Article 131.—Pending legislation on the organisation of Ministries, the Council of State, the Chief Control, the procedure of the Council of State and the responsibility of Ministers, the corresponding legislation of the Kingdom of Serbia shall be provisionally extended over the whole State, subject to the modifications and additions effected in accordance with Article 133.

Article 132.—Pending the issue of a new decree in virtue of Article 57 of this Constitution, the decree issued by the King on 30th August, 1909, and published in the Official Journal on 26th February, 1911, shall remain in force.

Article 133.—A summary procedure shall be established for the purpose of unifying the legislation and administration of the country.

All laws proposed for the purpose of unifying legislation and administration, whether introduced by the Government or by Deputies, shall be referred by the Chairman of the Assembly to the Legislative Committee.

The report of the Legislative Committee, together with the proposition adopted by the Committee, shall be submitted to the National Assembly for decision. The National Assembly shall come to a decision as to the proposed law by a single vote, taken by roll-call, for acceptance or rejection of the law as a whole. Before the vote is taken, one representative of each parliamentary group may make a short declaration.

This summary procedure for the unification of legislation and administration in the country may be applied for a period of five years from the date when the Constitution comes into operation; but this period may be prolonged by law.

So long as the Constituent Assembly shall act as a Legislative Assembly, the Constitution Committee shall exercise the functions of the Legislative Committee.

Article 134.—After the coming into operation of this Constitution, the existing provincial administrations shall be provisionally maintained, a Governor being appointed at the head of each by the King on the proposition of the Minister of the Interior. The Provincial Governors shall administer their Provinces through heads of sections, under the direct control of the Minister of the Interior, and shall act as the agents of the competent Ministries on the basis of the laws and decrees (ordinances) for the time being in force.

Laws promulgated after the coming into operation of this Constitution may not confer any new powers upon the Provincial administrations.

The gradual transfer of the business of Provincial administrations to the various Ministries and to the various Regions in accordance with the provisions of Article 135, shall be regulated by the Council of Ministers after hearing the views of the Provincial Governor concerned.

During the continuance of the Provincial administrations, the sections of the various Ministries in the Provinces shall be bound to seek the opinion of the Provincial Governor before taking any ministerial decision in all matters of a general character or relating to official personnel. Parties in administrative law-suits shall have the right of appeal to the Council of State on matters on which the provisional Provincial administration decides in the first and second instance; the Council of State shall make the necessary arrangements to this end. An administrative law-suit shall be one arising between an individual or a legal person of the one part and the administrative authority of the other part, and shall exist only in cases where an order or decision of the administrative authority has prejudiced the rights of an individual or a legal person contrary to the provisions of the law. Consequently no law-suit shall exist in any case where the law has left the administrative authority discretion as to the conduct or decision of the matter.

Article 135.—The Government shall submit for decision by the National Assembly, within a period not exceeding four months, a bill for the division of the territory into Regions and for the organisation of the Regions (Articles 95 and 96) and for the transfer of the powers of the existing Provincial administration to the Ministries and Regional Administrations (Article 134). If the National Assembly should not come to a decision upon these laws within a period not exceeding three months they shall be voted upon in accordance with the provisions of Article 133 as to the unification of legislation and administration; if by this summary procedure the laws should not be voted within the two months following, a Royal decree shall order that the division of the territory and the delimitation of Provincial administration shall be effected in the sense of Articles 95 and 96 of the Constitution. This decree may not be amended save by legislation. If the division of territories should not take place according to either the first or second provisions of this Article, but according to the third, then four Regions shall be established in Croatia and Slovenia.

Similarly, if the division is made by the decree provided for in this Article, the Montenegro of 1913, with the "Kotar" of the Bouches de Cattaro, less the departments of Plevlié and Bielo

Polié, shall be regarded as a Region and shall have the powers of a Region according to the present Constitution.

Under the law as to the delimitation of Regions, Bosnia and Herzegovina shall be divided into Regions within their existing boundaries. The departments in Bosnia and Herzegovina shall be deemed to be Regions until otherwise provided by law. A decision of the Regional Assemblies of the Regions affected, taken by a majority of two-thirds of the votes, may effect a fusion of the Regions within the limits fixed by the third paragraph of Article 95 of the Constitution. Different Communes or different Districts may be detached from the Region and incorporated in another within the present boundaries of Bosnia and Herzegovina or outside those boundaries, if the representative self-governing body thereof agrees by a decision taken by a majority of two-thirds of the votes, and if this decision is confirmed by the National Assembly.

The departments (Joupanies, Okroujies) shall remain units of the State Administration so long as they are not abolished by law. Their powers shall be determined by law. The powers of self-government of departments shall be liquidated by transfer to the Regions and Districts as soon as the Regions are organised.

Article 136.—Pending the coming into operation of the new legislation as to Civil Servants provided for by Article 106 of the Constitution, the present laws upon the rights and duties of State officials shall remain in force. The new law shall contain transitory provisions with a view to the revision and redistribution of administrative personnel, and shall be brought into operation within a period not exceeding two years from the date of the coming into force of this Constitution, within which period the revision of the State service must have been completed.

Article 137.—Presidents of Courts and all Judges whose irremovability is guaranteed by the Constitution or by law shall be maintained in their positions and responsibilities in the Courts. In territories other than that of the former Kingdom of Serbia the irremovability of the various Judges may be suspended for a period of one year from the date of the Constitution. Within this period the Minister of Justice shall organise commissions composed of Judges of the superior Courts for these territories, and he shall designate by name, in agreement with these commissions, the Judges in respect of whom irremovability shall cease to be of effect.

Vacancies in the Presidencies and Judgeships in the Courts shall be dealt with in accordance with existing laws.

Judges who have been or may be appointed in accordance with the law prescribing the manner of filling provisionally vacancies in the State service during the War, or in accordance with any other law or regulation on a provisional basis, shall

be bound to pass the examination for Judges within a period of one year and a half after the coming into operation of this Constitution. Those who do not pass the examination within the prescribed period shall be relieved of their functions as Judges. The Court of Cassation at Beograd (Belgrade), the Board of Seven at Zagreb, the Supreme Court at Sarajevo, the High Court at Podgoritsa and the division of the Court of Cassation at Novi Sad shall function as at present, and shall be considered as divisions of the Court of Cassation pending the organisation of a Court of Cassation for the whole country.

Article 138.—The publication or distribution of newspapers and printed matter inciting hatred against the State as an entity, provoking racial or religious discord or indirectly appealing to citizens to change the Constitution and the laws of the country by force, may be prohibited, provided that it is clearly evident from the text that they are intended to produce provocation of this kind.

The terms of Article 13, paragraph 3, as to the carrying out of seizures shall be equally applicable to such cases. When these provisions are no longer required by special necessity, they may be repealed by law.

Article 139.—Pending the coming into operation of the legislation as to concessions provided for by Article 117 of the Constitution, all concessions granted up to the date of the promulgation of the Constitution shall be reviewed in the manner provided by Article 133 of the Constitution. In concessions relating to the cutting of timber in the State forests, the fees fixed on revision shall have retroactive effect as from 1st December, 1918.

Article 140.—Upon the coming into operation of the Constitution, the Constituent Assembly elected on 28th November, 1920, shall transform itself into an ordinary Legislative Assembly for the duration of the period fixed by the electoral law for the Constituent Assembly.

Article 141.—Pending the making of new laws upon the basis of this Constitution as to the election of Deputies, the law in virtue of which the elections of 28th November, 1920, were held shall continue in force, with the modifications necessary to bring it into accord with this Constitution. These modifications shall be made in the manner provided by Article 133 of this Constitution and shall come into operation when they receive the Royal assent.

The Committee may make the necessary modifications as to the periods of delay prescribed by the aforesaid law; it shall likewise have authority to determine the method of distributing

seats between the various lists of candidates proportionately to the number of votes.

PART XIV.

FINAL PROVISIONS.

Article 142.—The present Constitution with its transitory provisions shall come into operation when it has been signed by the King and shall have obligatory force when it has been published in the Official Journal. Thenceforward all legal provisions in conflict with it shall cease to be valid.

The President of the Council of Ministers and all the Ministers shall be responsible for the carrying out of this Constitution.

We enjoin upon our Minister responsible for the preparations for the Constitutent Assembly and the unification of laws to publish this Constitution, and on all Ministers to see to its execution; we order all public authorities to conform to it and each and every one to submit to it.

(*Here follow the signatures.*)

III. THE POLISH REPUBLIC.

Area: 149,960 *sq. miles. Population*: 32,132,936.

By the Constitution of 3rd May, 1791, Poland became a hereditary instead of an elective Monarchy, with a Diet elected every two years, Ministers being responsible to the Diet. This Constitution was abortive almost from the outset, for it was succeeded by the second partition of Poland between Russia and Prussia. Since then Poland, divided by conquerors, remained for over a century a subject people, and, therefore, a people without a Constitution. But when, in August, 1914, the great European War broke out among the nations, Poland became at once the centre of international attention. The War being fought ostensibly for the liberation of subject nations, the cause of all such nations, whose territory offered advantages to any of the contending armies, was at once eagerly avowed by the chancelleries behind those armies.

Poland was one of the first of these nations to receive attention; and the three Empires which possessed her dismembered territory at once stood forward as the champions of her liberties. After the German occupation of Poland in August, 1915, the contest as to conceptions of freedom ranged naturally around the Constitution. In November, 1915, Germany declared a separate kingdom of Poland, with the establishment of an independent State. Following upon this proclamation an attempt was made to raise a Polish Army, but the people would not join the army until a Constitution was first produced. The Germans consequently introduced the following Constitution:—

(1) A Diet to consist of 70 members belonging to the German sphere of occupation and to be appointed by the Town Councils of Warsaw and Lodz.

(2) The Diet to appoint 8 members of the Council of State, 4 to be appointed by the Governor-General of Warsaw, who was also to appoint the Chairman.

(3) Language to be Polish.

(4) The Council of State was to discuss matters submitted to it by the Governor-General, and to possess powers of initiating legislation.

(5) The Diet was to discuss matters submitted to it by the Governor-General, and have powers of taxation.

This led to a protest by the Poles, who independently formed the Polish National Council and ignored the Diet set up by the Germans. This Provisional National Council demanded that:—

(1) The Council of State should be formed on an understanding with the National Council.

(2) The Council of State should have legislative power and a voice in military affairs.

(3) A Regent from a friendly Roman Catholic dynasty should be appointed.

(4) The Council of State to consist of 20 members, 12 from the German territory of occupation and 8 from the Austrian; of these only one should be appointed by the Governor-General.

Subsequently a Provisional State Council was established by the Central Powers, and in this body the Poles participated for a time. The Council, on the 17th January, 1917, at its second plenary meeting appointed a Committee of 31 members, who were charged with the framing of a Constitution and Electoral Laws. The product of this Committee's labour—a draft Constitution in Monarchical form—was approved six months later on the 18th July. In the meantime there had been students' strikes and other demonstrations of national feeling. The Socialist Party members withdrew from the State Council in May, and were followed in July by Pilsudski and the other members of the "Democratic Left". An attempt to impose upon the Polish troops an oath of allegiance devised by the remaining members of the Council failed utterly. Pilsudski, the leader of the Polish troops, was interned in Magdeburg by the Germans at the end of July, and in the following month the remaining members of the Council ceased to act.

To meet this situation Germany, in the middle of September, 1917, proclaimed a new Constitution with the following provisions:—

(1) A Regency consisting of three members to be nominated by the two Emperors of the Central Powers.

(2) An administrative Cabinet under the presidency of the Prime Minister, who was to be appointed by the Regency Council.

(3) A representative Parliament.

This Regency Council was endowed with supreme authority in the Kingdom of Poland. It announced the creation of a legislative body, known as the State Council ("Rada Stanu"). But this body, under the conditions which prevailed, exercised very little real power beyond giving a national character to the schools.

This State Council sat for the first time on 22nd June, 1918, and some days later the Government set up by the Council presented, not a bill for the Constitution, but a bill dealing with the method of summoning and opening the first Polish Diet and the order of its deliberations, as well as a bill concerning elections. These bills, however, were not voted, as the State Council was dissolved by special decree of the Regency Council. This decree, dated 7th October, 1918, announced the constitution of a government composed of popular bodies and of all the political parties, having as its first aim the summoning of a Diet, into the hands of which the Regency Council would transfer its authority.

This Diet, however, was never summoned. Following the general Armistice and the fall of the German power, the Regency Council abdicated on the 14th November, 1918, in favour of General Pilsudski, who assumed power as Chief of the Polish State Poland was now freed from external dictation. General Pilsudski, therefore, as Chief of State, published two decrees: one calling a Constituent Assembly (a "Constituent Diet") into being, and the other fixing the 26th January, 1919, as the date of the elections.*

The Constituent Diet sat for the first time on the 9th February; and on the 20th February it framed the basis of Polish public law for the period of transition, pending the prescription of the Constitution. On the same day the Chief of State resigned his powers to the Assembly, and the Assembly reappointed him as Chief of State subject to the following principles:—

(1) The Legislative Diet is the sovereign and legislative authority of the Polish State. The Chairman of the Diet promulgates the laws, which shall be countersigned by the President of the Council and the competent Minister.

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*In the decree relating to the elections for this Constituent Assembly the right to vote was declared to belong to all citizens of both sexes of the age of 21 or more. It was, however, withheld from all members of the Army. Only those entitled to vote were eligible for election. State officials were held eligible for election, but not in the districts in which they served as officials. Constituencies were formed so as to elect from 3 to 6 members upon the *scrutin de liste* system. All the elections were held on the same day, Sunday, 26th January, 1919. The 13 districts in Eastern Galicia, returning 94 members, and the 11 districts in Prussian Poland, returning 112 members, were, however, unable to hold elections by reason of political circumstances inasmuch as these places were held by Austria and Germany. This difficulty was met by the admission to the Constituent Assembly of the former deputies for these Constituencies in the Reichsrat at Vienna and the Reichstag at Berlin. Regular elections were held in Posen, in Prussian Poland, on 1st June, 1919, and in Pomerania on 2nd May, 1920. The deputies returned from these places displaced the earlier deputies, but the work of the Constituent Assembly continued in the meantime.

(2) The Chief of State represents the State; he is the supreme executive officer of decisions of the Diet in civil and military matters.

(3) The Chief of State appoints the Government in its entirety after agreement with the Diet.

(4) Both the Chief of State and the Government are responsible to the Diet for the exercise of their functions.

(5) The acts passed by the Chief of State in the name of the State require to be countersigned by the appropriate competent Minister.

These arrangements were intended to be of a provisional character, and a Constitution Committee was appointed to draft a bill to lay before the Assembly. It was not expected that the Assembly would be of long duration. Yet it was not until the 3rd May, 1919, that the Minister of the Interior brought a bill before the Diet for a Constitutional Declaration, to form the basis of the labours of the Constitution Committee. The Bill was discussed three times, and on May 13 referred to the Committee. During the same month of May a number of other proposals regarding the Constitution were introduced by political groups parties and individuals dealing with simple provisions to complete and elaborate the Constitution. All these were brought before the Diet. They were all referred by the Diet to the Committee.

While the Committee was completing its labours the Constituent Diet was occupied with the establishment of order after the disintegration, ruin and upheaval of the recent War.

On the 3rd November, 1919, about 8 months after the Committee had first commenced its labour, the Government introduced in the Diet a Bill entitled "A Bill for the Constitution of the Polish Republic". This Bill, however, was not exactly the same as the Committee had drafted. The Government had introduced into it certain changes of a fundamental character. For example, the Committee had provided for a bi-cameral system, whereas the Government adopted a system of one Chamber supplemented by a Council of Laws. Also, the Committee's draft had provided that the Chief of State should be elected by the two Chambers voting as one, whereas it was provided in the Government's Bill that the Diet should select two candidates, the people to choose the Chief of State from between these two by a direct election on universal suffrage.

The Bill was never discussed, for in December the Government resigned. In January, 1920, the new Government brought forward two new Constitution Bills, the later of which was sent by the Diet on 21st January, 1920, for the consideration of the Constitution Committee. This Committee now decided not to present a simple declaration containing the constitutional

principles of the Polish Republic, but to elaborate a complete fundamental law. With this object in view, the work had to be commenced anew and the Committee entrusted the first draft of the different chapters of the Constitution to specialists.

This involved further delay; and it was not until the 8th July, 1920, that the Bill drafted by the Committee was laid before the Diet. This Bill contained the proposals of the majority of the Committee, the proposals of the minority being set out in the margin in order that the Constituent Diet might have before it the views of all the members of the Committee. The Diet then entered upon a discussion of this Bill, which lasted for 8 months, and did not conclude until the 8th March, 1921. These discussions were interrupted in the early stages by the Russian invasion. In spite of this interruption, however, the debates aroused widespread interest and discussion, in many cases of an extremely embittered character. The debates, in fact, were not confined to the Constituent Diet, but were continued in popular assemblies throughout the country. The two matters of chief contention, naturally, were the institution of the Second Chamber and the formation and character of the executive power, but the mode of elections was also the subject of keen discussion.

These discussions are of some interest, inasmuch as they reveal the method of procedure adopted by this Constituent Diet. For example, Articles 35 and 36, dealing with the Senate, were referred back by the Diet to the Constitution Committee, which in light of the debates revised Article 36. When the revision came before the Diet it was again referred to the Committee, and again underwent further modifications. These final modifications were accepted by the Diet, which then decided in favour of the bicameral system proposed. The proposals for the powers of the Executive were similarly discussed. And during the entire debates of the Diet the Constitution Committee remained in session as the final Court of reference in the draft of the Bill.

When the entire Bill had been debated, it was then returned as a whole for the last time to the Constitution Committee. The Committee then continued to work at the final draft for a further month, when they produced a series of new amendments. In the Bill which resulted, the majority proposals were again printed in the body of the text, and the minority proposals in the margin.

This final Bill was then introduced in the Diet for the third reading on the 15th March, 1921. The debate lasted for three days. The Constituent Diet now decided by a majority of 20 to terminate the discussion and put the matter to a vote. Each new amendment was, therefore, taken in turn, and voted upon. And on the 17th March the Diet passed the Constitution as a whole by a considerable majority.

In the Constitution thus adopted the sovereign power is reposed by the people in a National Assembly composed of two Houses, the Diet and the Senate. The President of the Republic is elected by the National Assembly and may not dissolve the Diet except with the consent of the Senate. The supreme command of the Army is reposed, not in the President, but in the Legislature. With regard to the Senate, in the original draft this body had been composed of a certain number of ex-officio members, whereas in the final Act it is elected upon the principle of universal suffrage, with some conditions as to restrictions of age both as to electors and as to candidates in order that each constituency may be different from that creating the Diet. The Constitution provides for subsequent amendment, or revision, by an ordinary majority of the Diet and Senate in joint session; but no such revisions or amendments are possible within a period of 10 years from the passing of the Act except by permission of the Diet, obtained by a majority of two-thirds.

The Constituent Diet continued to act as a legislative body after the adoption of the Constitution, undertaking a mass of legislation of considerable importance, including economic reforms that by their nature must materially affect the future of the country. These decisions were unavoidable, inasmuch as they involved pressing matters of the moment.

LAW OF 17TH MARCH, 1921

THE CONSTITUTION

OF THE

POLISH REPUBLIC.

In the Name of Almighty God:

WE, THE POLISH NATION, thanking Providence for having delivered us from a slavery that lasted for a century and a half, recalling gratefully the heroic and persistent sacrifices incurred in the struggles in which every generation spent itself in the cause of independence, following the glorious tradition of the Constitution of May 3rd (1791), seeking the welfare of a united and independent Motherland—determined to establish it in strength and security and to maintain social order on the basis of the eternal principles of Justice and Liberty, and resolved to ensure the development of all its moral and material resources for the benefit of mankind in the new world now being born, and to guarantee to all citizens of the Republic equality, respect for the dignity of labour, and recognition of their rights, together with individual protection by the State—vote and confirm this Constitution in the Constituent Assembly of the Polish Republic.

CHAPTER I.

THE REPUBLIC.

Article 1.—The Polish State is a Republic.

Article 2.—The sovereign power in the Polish Republic belongs to the Nation. The Nation exercises its power as regards legislation through the Diet and the Senate, as regards executive power through the President of the Republic acting jointly with the responsible Ministers, and as regards the administration of justice through independent courts.

CHAPTER II.

LEGISLATIVE POWER.

Article 3.—The State exercises legislative power and thereby determines all public and private laws and regulates the manner of executing the laws.

Every law must be authorised by the Diet in the manner prescribed by law.

Laws passed by the Diet come into force on dates determined by the Diet.

The Polish Republic, being founded on the principle of a large measure of territorial autonomy, will delegate to the representative bodies of such autonomous territories, legislative powers, particularly in administrative, cultural and economic matters; details will be determined by State enactments.

Decrees by any authority conferring or imposing rights and obligations upon citizens have binding force only when they are based upon and in accordance with law.

Article 4.—Each year the State Budget for the following year will be determined by law.

Article 5.—The strength of the Army is determined only by law. Annual recruitment can be effected only in accordance with law.

Article 6.—No State loan can be issued, nor can the landed property of the State be alienated, exchanged or made subject to charges, nor can public contributions or taxes be imposed, except by law. The same applies to customs duties and monopolies, the monetary system and financial guarantees undertaken by the State.

Article 7.—The Government will submit each year for parliamentary approval the audited accounts of the State.

Article 8.—The method of exercising parliamentary control over State debts will be determined by law.

Article 9.—The Supreme Court of Control is established on the principles of collegiate authority and judicial independence. Its members can be dismissed only by a decision of the Diet supported by a three-fifths majority of the votes. It is charged with the duty of controlling the whole financial administration of the State, auditing the accounts and submitting to the Diet each year a proposition discharging or refusing to discharge the Government's liability. The details of organisation of the Supreme Court of Control and the scope of its activities will be determined by law.

The President of the Supreme Court of Control has the rank of Minister, but is not a member of the Council of Ministers. He is responsible to the Diet for the due discharge of his functions by himself and his subordinates.

Article 10.—The right of initiating laws belongs to the Government and to the Diet. Propositions and Bills involving expenditure by the State must indicate the purposes to which the expenditure is to be applied and the means of raising the necessary moneys.

Article 11.—The Diet is composed of members elected, for a period of five years beginning with the day on which it assembles, by universal, secret, direct and equal suffrage, exercised in accordance with the principle of Proportional Representation.

Article 12.—The right of taking part in the elections belongs to every Polish citizen, without distinction of sex, who has reached the age of 21 years on the date when the elections are announced and who is in full enjoyment of civic rights and has been domiciled in the electoral area since the day before the announcement of the elections in the Journal of Laws. The right to vote must be exercised in person. Soldiers on active service are not entitled to vote.

Article 13.—Every citizen is eligible for membership of the Diet who has reached the age of 25 years and is qualified to take part in the elections thereto, including soldiers on active service and without regard to domicile.

Article 14.—The right to vote cannot be exercised by a citizen convicted of offences specified by the electoral law as entailing temporary or permanent loss of the right to vote or be elected, or involving loss of a seat in the Diet.

Article 15.—State officials in the administrative, financial or judicial departments may not be elected for the areas in which they discharge their official duties. This provision does not apply to officials of the central authorities.

Article 16.—Officials of the State and local governments must be granted leave as soon as they are elected to the Diet. This provision does not apply to Ministers, Under Secretaries of State, or Professors of Higher Education. Years spent in Parliamentary duties count as years of service.

Article 17.—A Deputy appointed to an office paid out of State funds thereby vacates his seat. This provision does not apply to appointments as Minister, Under Secretary of State, or Professor of Higher Education.

Article 18.—The rules governing the method of election to the Diet will be determined by electoral law.

Article 19.—The validity of uncontested elections is decided by the Diet. The validity of contested elections is decided by the Supreme Court.

Article 20.—Deputies represent the entire nation and are not bound by any instructions from the electors.

Deputies are required to make a solemn declaration in the Diet before the Chairman in the following terms:—

"I solemnly promise that as a Deputy of the Diet of the Polish Republic I will labour honestly for the exclusive benefit of the Polish State as a whole to the best of my powers and according to my conscience."

Article 21.—From the time when the Diet assembles, Deputies are privileged, both during their term of office and afterwards, in the exercise of their functions, whether in the Diet or outside it. Deputies are answerable solely to the Diet for speeches and expressions of opinions as well as for their actions in the Diet. If a Deputy infringes the rights of a third person, he may be brought before a judicial tribunal, if the tribunal obtains authority to that effect from the Diet.

Proceedings, whether penal, administrative or disciplinary, brought against a Deputy before his election to the Diet, must be suspended until the expiration of his term of office, if the Diet so requires.

During their term of office, Deputies may not be subjected to penal or disciplinary proceedings or to arrest, without special authority from the Diet. In case of flagrant breach of the common law committed by a Deputy, the judicial authority must at once inform the Chairman of the Diet thereof, in order to obtain from him authority for apprehension and prosecution of the Deputy if this is indispensable for ensuring the proper course of justice or preventing the consequences of the offence. A Deputy under detention must be released immediately, if the Chairman of the Diet so demands.

Article 22.—A Deputy may not purchase or lease lands belonging to the State either in his own name or in that of another person, nor may he purchase goods from, or enter into contracts with, the Government, or obtain governmental concessions or other personal advantages.

A Deputy may not accept any distinction other than a military distinction from the Government.

Article 23.—A Deputy may not be a responsible editor.

Article 24.—Deputies receive an allowance to be determined by regulations and are entitled to free travelling on State lines throughout the territory of the Republic.

Article 25.—The President of the Republic convenes, opens, adjourns and dissolves the Diet and the Senate.

The Diet must be convened for its first session on the third Tuesday following the date of the elections, and in every year in October at the latest in order to pass the Budget, determine the strength and recruitment of the Army, and to deal with current business.

The President of the Republic may, if he thinks necessary, convene an extraordinary session of the Diet at any time, and is bound to do so within two weeks if one-third of the total number of Deputies so require.

Other extraordinary sessions of the Diet are held as provided by the Constitution.

The Diet can be adjourned only with its own prior consent if it is the second adjournment in the same ordinary session or if the adjournment is for a period exceeding thirty days.

The ordinary session of the Diet in the month of October may not be terminated until the Budget has been passed.

Article 26.—The Diet may dissolve itself by a decision of a majority of two-thirds of the members voting. The President of the Republic may dissolve the Diet with the consent of three-fifths of the number of Senators prescribed by law, in the presence of at least half of the number of Deputies prescribed by law.

In either case the Senate is dissolved simultaneously and without further question. The elections take place within ninety days of the date of the dissolution, upon a date to be fixed by a decision of the Diet or by order of the President of the Republic.

Article 27.—The Deputies exercise their parliamentary rights and duties in person.

Article 28.—The Diet appoints from among its own members the Chairman and his deputies and the secretaries, and constitutes its committees.

The term of office of the Chairman and of his deputies continues after the dissolution of the Diet until the constitution of the new Diet.

Article 29.—The order of debate in the Diet, the nature and number of the Committees, the number of Vice-Chairmen and secretaries, and the rights and duties of the Chairman are fixed by the rules of procedure of the Diet.

The Chairman nominates the officers of the Diet and is responsible to the Diet for their acts.

Article 30.—The sittings of the Diet are public. On a motion by the Chairman, by a representative of the Government or by thirty Deputies, the Diet may go into secret session.

Article 31.—No person shall be made liable in respect of any report of a public sitting of the Diet or of its Committees which is in accordance with fact.

Article 32.—Save as otherwise provided by the Constitution, decisions of the Diet are valid only if at least one-half of the total number of Deputies prescribed by law are present, and a simple majority of the votes is recorded in support of the decision.

Article 33.—Deputies have the right to question the Government or particular Ministers in the manner prescribed by the rules of procedure. The Minister is required to furnish the replies orally or in writing within a period not exceeding six weeks, or else to justify the absence of a definite reply in a reasoned statement. On the demand of the questioner, the answer must be communicated to the Diet. The Diet may make the matter the subject of a discussion and a vote.

Article 34.—The Diet may appoint from among its own number, or from persons outside, special Commissions for the examination of particular questions. Such Commissions shall have the right to interrogate any person concerned and to call witnesses and experts. Their powers shall be determined in each case by the Diet.

Article 35.—Every Bill passed by the Diet shall be submitted to the Senate. If the Senate raises no objection within thirty days of sending forward the Bill, the President of the Republic shall order its promulgation. At the request of the Senate, the President of the Republic may order promulgation before the expiration of the thirty days.

If the Senate decides to amend or to reject a Bill passed by the Diet, it must intimate its decision within the said thirty days, and must, at the latest within the following thirty days, refer the Bill back to the Diet with the proposed amendments.

If the amendments proposed by the Senate are passed in the Diet by a simple majority or rejected by a majority of eleven-twentieths, the President of the Republic shall promulgate the law in the form in which it is passed by the Diet after the second consideration thereof.

Article 36.—The Senate is composed of members elected by the several provinces upon the principle of proportional representation, by universal, direct, equal and secret ballot. Each province constitutes an electoral division, the number of representatives in the Senate being one-quarter of the number of representatives in the Diet and varying with the number of inhabitants. The right to vote in the election of Senators extends to every person who is entitled to vote in elections for the Diet, and who has attained the age of thirty years at or before the time of the publication of the date of the elections and has been domiciled for not less than one year within the electoral division. Recently settled migrants, who have removed from their previous domicile in order to benefit under the scheme of agrarian reform, workmen who have changed their residence in consequence of a change in the locality of their employment, and public officials who have been transferred in the service of the State, do not by reason of their change of domicile lose their right to vote. Every citizen, including members of the Army on

active service, who is entitled to vote in elections to the Senate, is eligible for election if he has attained the age of forty years on or before the date of publication of the day of the elections.

The session of the Senate is of the same duration as the session of the Diet.

No person may be at the same time a member of the Diet and of the Senate.

Article 37.—The provisions of Articles 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32 and 33 apply similarly to the Senate in respect of its members.

Article 38.—No law may be in disagreement with the present Constitution or conflict with its provisions.

CHAPTER III.

EXECUTIVE POWER.

Article 39.—The President of the Republic is elected for seven years by the Diet and the Senate in joint session as the National Assembly by an absolute majority of the votes. The President of the Republic summons the National Assembly during the three months preceding the expiration of his term of office.

If the National Assembly has not been summoned thirty days before the expiration of the presidential term of office, the Diet and Senate meet together as of full right as the National Assembly on the initiative and under the presidency of the Chairman of the Diet.

Article 40.—If the President of the Republic cannot exercise his functions, or if the position is rendered vacant by death, resignation or any other cause, the presidential functions shall be discharged by the Chairman of the Diet.

Article 41.—If the Presidency of the Republic becomes vacant the Diet and the Senate meet together, immediately and as of full right, as the National Assembly, on the initiative, and under the presidency, of the Chairman of the Diet, for the purpose of electing a new President.

If the Diet is dissolved when the Presidency of the Republic becomes vacant, the Chairman of the Diet orders without delay the new elections for the Diet and for the Senate.

Article 42.—If the President of the Republic does not exercise his functions for a period of three months, the Chairman of the Diet shall summon the Diet without delay. The Diet shall decide if it is necessary to regard the presidential office as vacant.

The decision declaring the office vacant shall be taken on a majority of three-fifths of the votes in the presence of at least half the number of Deputies fixed by law.

Article 43.—The President of the Republic exercises the executive power through the Ministers responsible to the Diet and their subordinate officials.

Every official of the Republic is responsible to the Minister of his department, who is answerable to the Diet for his acts. The appointments of officials on the Presidential Staff (*"Chancellerie civile du Président"*) must be countersigned by the President of the Council, who is responsible to the Diet for their acts.

Article 44.—Laws are signed by the President of the Republic and the respective Ministers; the President of the Republic orders their publication in the Journal of the Laws of the Republic.

The President of the Republic is entitled, for the purpose of giving effect to laws, and subject to legal authority, to issue governmental decrees, ordinances, orders or prohibitions and to use force to ensure the observance thereof.

The same right is vested in Ministers with regard to matters pertaining to their own departments, and in authorities acting under them. To be valid, every governmental act of the President of the Republic must be signed by the President of the Council, and by the Ministers within whose department the matter lies, who thereby accept responsibility for the same.

Article 45.—The President of the Republic appoints and dismisses the Prime Minister, and appoints and dismisses the responsible Ministers on the nomination of the Prime Minister. The President also appoints, on the recommendation of the Council of Ministers, the officials of the civil and military authorities provided for by law.

Article 46.—The President of the Republic is also the Supreme Head of the armed forces of the State, but he cannot exercise the supreme command during war.

The President of the Republic appoints the Commander-in-Chief of the armed forces in the event of war, on the nomination of the Council of Ministers, through the Minister for War, who is responsible to the Diet for all acts relating to the command of the forces during the war, and for the control of all military matters.

Article 47.—The prerogative of mercy and the mitigation of punishments, as well as the right of remitting a penal sentence, are vested in the President of the Republic.

The President cannot exercise this right in respect of Ministers sentenced as a result of their impeachment by the Diet.

Amnesty can only be effected by legislative means.

Article 48.—The President of the Republic represents the State in foreign affairs; he receives the diplomatic represen-

tatives of foreign States and accredits the diplomatic representatives of the Polish State in foreign States.

Article 49.—The President of the Republic concludes and ratifies conventions with foreign States and acquaints the Diet thereof.

Commercial and customs treaties, agreements which impose financial burdens on the Polish State or contain legal provisions imposing obligations on citizens or introduce changes in the frontiers of the State, and alliances cannot be concluded without the consent of the Diet.

Article 50.—The President of the Republic cannot declare war or conclude peace without the prior consent of the Diet.

Article 51.—The President of the Republic does not incur any parliamentary or civil responsibility for acts done in the exercise of his functions.

The President of the Republic may be impeached by the Diet only upon a vote approved by a majority of three-fifths, in presence of at least half of the number of Deputies fixed by law, if he is guilty of high treason, of violation of the Constitution or of penal offences. The trial shall take place before, and judgment be delivered by, the Tribunal of State, according to the provisions of a special enactment.

The President of the Republic shall be suspended from office from the time when he is put on trial before the Tribunal of State.

Article 52.—The President of the Republic receives a salary fixed by a special enactment.

Article 53.—The President of the Republic may not hold any other office, nor be a member of the Diet or the Senate.

Article 54.—Before entering into office, the President of the Republic takes the following Oath before the National Assembly:—

> "I swear before Almighty God, One in the Holy Trinity, and I promise you, Polish People, as President of the Republic, to observe and defend the laws of the Republic and its Constitution before all, to serve faithfully and, with all my strength the general good of the Nation, vigilantly to avert every injury and danger to the State, to maintain unswervingly the honour of Poland, to consider as my first duty justice towards all citizens without distinction of persons, and to consecrate myself solely to the obligations of my office.
>
> "In this, may God and his Holy Passion be my aid. Amen."

Article 55.—The Ministers form the Council of Ministers under the presidency of the Prime Minister.

Article 56.—The Council of Ministers has collective responsibility, constitutionally and politically, for the general policy of the government.

Ministers are also responsible, each in respect of matters pertaining to his department, for acts performed in the exercise of their functions, and for the conformity of such acts with the present Constitution and the other laws of the State, and for acts performed by their subordinate administrative agents, and also for the general direction of policy.

Article 57.—Within the same limits, Ministers are collectively and individually responsible for the governmental acts of the President of the Republic.

Article 58.—The Diet may by a simple majority of votes call upon Ministers to justify their actions in the parliamentary sense.

The Council of Ministers and each of its members must resign if the Diet so requires.

Article 59.—The constitutional responsibility of Ministers and its application will be determined by special enactment.

A Minister may only be impeached if at least one-half of the number of Deputies fixed by law are present, and three-fifths of the votes are in favour of the impeachment.

The Tribunal of State conducts the trials and delivers judgment.

A Minister cannot relieve himself of his constitutional responsibility by resigning his office. As soon as a Minister is impeached he is suspended from his office.

Article 60.—Ministers, and officials delegated by them, have the right to participate in the sittings of the Diet and to take part in the debate after the pre-arranged list of speakers. They shall not have the right to vote unless they are Deputies.

Article 61.—A Minister may not hold any other office. Ministers may not be members of a board of directors or of a committee of management of a profit-making institution.

Article 62.—If the duties of a Minister are discharged temporarily by an official of the Ministry, the provisions relating to Ministers shall apply to him in like manner. The office of the President of the Council shall be filled when necessary by one of the Ministers.

Article 63.—The number of Ministers, the scope of their departmental activity, their relations with one another and the powers of the Council of Ministers shall be determined by a special enactment.

Article 64.—The Tribunal of State is composed of the First President of the Supreme Court, who presides, and of twelve

Judges, of whom eight shall be elected by the Diet and four by the Senate, and who shall not be members of either House.

Only persons who do not exercise any public function and who are in full enjoyment of civil rights can be members of the Tribunal of State.

The members of the Tribunal of State are elected by the Diet and the Senate immediately after the opening of the session and for its duration.

Article 65.—The Polish State for administrative purposes shall be divided by legislation into provinces,* districts and urban and rural communes, which shall at the same time form units of local autonomy.

The units of local autonomy may unite in federations for the discharge of any of their functions.

The federations shall not have a legal status as public institutions except in virtue of a special enactment.

Article 66.—The administrative organisation of the State shall be governed by the principle of decentralisation, with the grouping as far as possible of the public administrative services in the different territorial units in one department and under one director, and by the principle of the participation in the discharge of the duties of such departments, within limits determined by law, of citizens chosen by the electors.

Article 67.—The right to decide upon matters within the ambit of the activity of local administration belongs to the elected councils.

Executive power in respect of local autonomy in the provinces and districts is exercised by bodies composed jointly of representatives of the elected councils and representatives of the administrative authorities of the State and presided over by one of the latter.

Article 68.—In addition to territorial autonomy, a special law shall provide for autonomy in the various branches of economic life by the establishment of councils representing agriculture, commerce, industry, skilled labour, salaried employment, etc., which shall form together the Supreme Economic Council of the Republic. The co-operation of the Supreme Economic Council with the State in common control of economic affairs and in legislation shall be determined by law.

Article 69.—The sources of the revenues of the State and of the autonomous federations shall be strictly delimited by law.

Article 70.—The State shall exercise its control over the activity of autonomous institutions through the next superior

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*Cf. "Departments" in France. (*Note by a Polish Editor.*)

autonomous body; such control may, however, be partially transferred by law to the jurisdiction of the State administration.

The exceptional cases, in which decisions of administrative bodies shall require the sanction of the superior autonomous bodies, or of Ministers, shall be determined by law.

Article 71.—Except as otherwise provided by law, decisions of governmental or autonomous bodies are subject to only one appeal.

Article 72.—The law shall provide for the right of appeal to the Courts from penal sentences imposed in the first instance by the administrative authorities.

Article 73.—A special law shall establish an administrative judicial system, for the purpose of determining the validity of administrative acts, whether of the government or of local bodies. At the head of this system, which shall be based on the collaboration of citizens with the judicial authorities, shall be the Administrative Tribunal.

CHAPTER IV.

THE JUDICIARY.

Article 74.—Justice is administered by the Courts in the name of the Polish Republic.

Article 75.—The organisation, jurisdiction and procedure of the Courts are prescribed by law.

Article 76.—The President of the Republic appoints the Judges, unless legislation otherwise determines, but Justices of the Peace will normally be elected by the people.

Judicial functions can only be exercised by persons fulfilling the conditions required by law.

Article 77.—Judges are independent in the exercise of their judicial functions, and are subject only to the law.

Judicial decisions cannot be modified either by the legislative or executive power.

Article 78.—A Judge can be dismissed, suspended, transferred or retired against his will only in consequence of a judicial decision and only in cases prescribed by law.

This provision does not apply in any case in which the displacing of a Judge or his retirement is consequent on a reorganisation of the Judicial System decreed by law.

Article 79.—Judges cannot be accused of crime, nor be deprived of their liberty, without preliminary authorisation by a Court designed by law, unless they are taken *flagrante delicto*, but in this case, also, the Court can demand the immediate liberation of the prisoner.

Article 80.—The status of the Judges, their rights, duties and remuneration are prescribed by law.

Article 81.—The Courts may not enquire into the validity of duly promulgated laws.

Article 82.—Ordinary trials in civil and criminal matters are public, save in so far as the law prescribes exceptions.

Article 83.—A Jury is summoned to decide on crimes entailing the severer penalties and on political crimes. The crimes requiring Courts sitting with juries, and the organisation and procedure of such Courts, shall be determined by a special law.

Article 84.—There shall be established a Supreme Court for the trial of civil and criminal cases.

Article 85.—The organisation of military courts, their character and procedure, as well as the rights and obligations of their members, shall be fixed by law.

Article 86.—A special Court shall be set up to decide on conflicts of jurisdiction as between the Administration and the Courts.

The details shall be prescribed by law.

CHAPTER V.

GENERAL DUTIES AND CIVIC RIGHTS.

Article 87.—A Polish national may not be simultaneously a national of another State.

Article 88.—Polish nationality is acquired:

(*a*) by being born of Polish parents,

(*b*) by naturalisation granted by the competent State authority.

The other conditions relating to the acquisition and termination of nationality are fixed by law.

Article 89.—Loyalty to the Polish Republic is the first duty of Polish nationals.

Article 90.—Every national is bound to respect and comply with the Constitution, and other laws and decrees in force, issuing from competent State authorities, or from local autonomous bodies.

Article 91.—Every national is bound to submit himself for military duty. The nature and mode of service, the conditions and duration of service, the conditions of exemption from military duty, and all military obligations are determined by law.

Article 92.—Every national is obliged to contribute to public charges and taxes imposed by law.

Article 93.—Every national is bound to respect legal authority and to facilitate the accomplishment of its work, and conscientiously to fulfil the public duties to which the nation or the competent authority shall have called him.

Article 94.—It is the duty of all citizens to provide education for their children, to make them good citizens of the motherland, and to assure to them at least primary instruction.

This duty will be more fully determined by law.

Article 95.—The Polish Republic guarantees within its territory full protection for life, liberty and property to all its inhabitants without distinction of origin, nationality, language, race or religion.

Subject to reciprocity, aliens enjoy the same rights as Polish subjects and have the same duties, except in matters in which the law expressly stipulates for Polish nationality.

Article 96.—All citizens are equal before the law. Public employments are open in the same degree to all, under conditions prescribed by law.

The Polish Republic does not recognise any privileges of birth, class, armorial bearings or titles, whether of nobility or otherwise, excepting scientific, official or professional distinctions.

A Polish citizen may not, without authority from the President of the Republic, accept titles or decorations from foreign States.

Article 97.—Limitations on liberty, particularly personal examination (*"la revision personnelle"*) and arrest, are only permissible in cases provided by law and according to the method fixed by law, and in pursuance of a judicial order.

If, in any case, the judicial order cannot be produced immediately, it must be transmitted within forty-eight hours, and must state the reasons for the examination or arrest.

Persons who have been arrested, and to whom the reasons for the arrest have not been communicated within forty-eight hours in writing over the signatures of the judicial authorities, shall immediately be restored to liberty.

The laws prescribe the means of compulsion which may be employed by the administrative authorities to secure the carrying out of their orders.

Article 98.—No one can be taken away from his legal judge. Exceptional Courts are only permissible in cases provided by laws promulgated before the commission of the offence. The prosecution and punishment of a citizen can only take place by virtue of a law having obligatory force.

Penalties involving corporal punishment are forbidden, and no one can be sentenced to them.

No law may deprive a citizen, who is the victim of injustice or wrong, of judicial means of redress.

Article 99.—The Polish Republic guarantees the right to property, whether the individual property of citizens or the corporate property of associations of citizens, autonomous bodies, or the State itself, as one of the fundamental principles of society, and of law and order; the Republic guarantees to all its inhabitants, institutions and communities, the protection of their property, and allows limitations or abolition of individual or collective property only in cases provided for by law for reasons of general utility and with compensation.

The law alone can decide what kinds of property, and within what limits, may be in the exclusive ownership of the State, upon grounds of public utility, and also what limitations may be imposed upon the rights of citizens and of corporations recognised by law to exploit the land, waters, minerals and other natural resources.

Land, being one of the principal factors of the life of the nation and of the State, must not be the object of unlimited alienation. The laws shall prescribe the degree in which the State has the right of compulsory purchase of rural property, and of controlling the transfer of such property in conformity with the principle that the agrarian structure of the Polish Republic ought to be based on agricultural holdings capable of normal productivity and privately owned.

Article 100.—The dwelling of the subject is inviolable. The transgression of this provision by entry into any dwelling, domiciliary search, seizure of papers or effects, saving in cases of necessity to execute administrative measures expressly authorised by law, can only take place in consequence of judicial order, and in the manner and circumstances provided by law.

Article 101.—Within the territory of the State every citizen is free to choose his domicile or place of residence, to change his domicile or emigrate, to choose his profession or means of livelihood, and also to transfer his property.

These rights can only be limited by law.

Article 102.—Labour, being the principal source of wealth within the Republic, must be under the special protection of the State.

Every citizen is entitled to protection by the State in his work, and in case of unemployment, sickness or accident, to benefit by State insurance regulated by law.

The State is bound to provide moral protection and religious ministration to citizens with whom it is directly concerned in

public institutions, such as educational establishments, barracks, hospitals, houses of detention and asylums.

Article 103.—Children, deprived of adequate parental care in respect of education, are entitled to the assistance and protection of the State within the limits fixed by law.

A judicial decree is necessary to deprive parents of their authority over their children.

Maternity is protected by special laws.

Wage-earning work by children less than fifteen years of age, and night work by women and by adolescents in different branches of industry, injurious to their health, are forbidden.

The employment for wages of children or adolescents who should be attending school is forbidden.

Article 104.—Every citizen has the right to express his ideas and opinions freely, provided that in so doing he does not violate the law.

Article 105.—Liberty of the Press is guaranteed. The Press shall not be subject to censorship and shall not be subsidised.

Delivery by post cannot be refused to newspapers and printed matter published in the country, nor can their publication be limited in the territory of the Republic.

A special law shall fix the responsibility incurred for abuse of this liberty.

Article 106.—The secrecy of letters and other correspondence may be violated only in cases provided by law.

Article 107.—Citizens, individually or by groups, have the right to present petitions to every body of public representatives, and to all public authorities of the State and of local autonomous bodies.

Article 108.—Citizens have the right of meeting and of association, as well as that of founding societies and unions.

The application of these rights is regulated by law.

Article 109.—Every citizen possesses the right of safeguarding his nationality and of cultivating his national language and customs.

Special laws of the State guarantee the full and free development of their national customs to minorities in the Polish State, aided by autonomous federations of minorities, to which statutory recognition may be given within the limits governing general autonomous federations.

In respect of such federations, the State is entitled to control, and, if necessary, is bound to supplement, their financial resources.

Article 110.—Polish nationals belonging to minorities in the nation, whether based on religion or language, have equal rights with other citizens in forming, controlling and administering at their own expense, charitable, religious and social institutions, schools and other educational establishments, with the free use of their language and practice of their religion therein.

Article 111.—Liberty of conscience and religion is guaranteed to all nationals. No one can be restricted in the exercise of rights accorded to other nationals by reason of his religion or of his religious convictions.

All inhabitants of the Polish State have the right freely to practise their form of belief in public or in private, and to conform to the precepts and rites of their religion, in so far as the practice thereof is not opposed to public order or morality.

Article 112.—The exercise of religious liberty in such a manner as to be in conflict with the law is forbidden. Religious beliefs may not be pleaded as a reason for non-fulfilment of public duties. No one may be obliged to take part in a religious act or ceremony, provided that he is not subject to the authority of a parent or guardian.

Article 113.—Every religious association recognised by the State has the right of assembly for the conduct of religious services in public; it can freely manage its own affairs, be the owner of or acquire movable or immovable property, administer and dispose of the same, possess and enjoy its revenues and endowments and continue to maintain institutions for religious, scientific or charitable purposes. No religious body can function in violation of the law.

Article 114.—The Roman Catholic faith, being that of the majority of the Nation, occupies in the State a preponderant position among religions, which all receive equal treatment.

The Catholic Church is governed by its own laws. The relations between the State and the Church shall be determined by agreement with the Holy See which shall be ratified by the Diet.

Article 115.—The Churches of religious minorities, and of other religious associations recognised by law, are governed by their own laws, which shall be recognised by the State, so long as they do not contain provisions contrary to law.

The relations between the State and these Churches or communions shall be prescribed by law after agreement with their legal representatives.

Article 116.—The recognition of a religious body, either new or not hitherto legally recognised, shall not be refused to religious

associations whose organisation, teaching and precepts are not opposed to public order or morality.

Article 117.—Scientific research and the publication of results of such researches are free. Every national has the right of teaching, founding and administering schools and educational establishments, provided he fulfils the conditions required by law relative to his qualifications and the safety of the children entrusted to him, and provided he is loyally disposed towards the State.

All schools and educational establishments, public or private, shall be controlled by the State within limits to be defined by law.

Article 118.—Primary education is compulsory on all nationals of the State. The duration, limits and method of primary education are fixed by law.

Article 119.—Instruction is free in State schools and in those of local autonomous bodies.

The State provides scholarships for exceptionally gifted poor pupils attending secondary and higher educational establishments.

Article 120.—In all educational establishments for the instruction of young people who have not reached the age of eighteen years, controlled in whole or part by the State or by local autonomous bodies, the teaching of religion is compulsory for all pupils. The direction and control of this teaching is the province of the particular religious body, without prejudice to the supreme right of control reserved to the State educational authorities.

Article 121.—Every citizen has the right to compensation for damage caused by officials of the State, whether civil or military, through official action not conforming to law, and outside the scope of their duties. The State is responsible for the damage caused, conjointly with the offending officials. The institution of complaints against the State and its agents does not depend on the authorisation of public officials. Communes and other local autonomous bodies incur the same responsibility.

Special laws shall determine the application of these principles.

Article 122.—Provisions concerning individual rights apply in equal degree to members of the armed forces. Exceptions to this principle are determined by military law.

Article 123.—The armed forces can only be employed on the requisition of the civil authority, and subject to the strict observance of law, for the purpose of suppressing disturbances or of enforcing the execution of the law. Exceptions to this

principle are only permitted by virtue of a law dealing with the state of war or siege.

Article 124.—The rights of the individual—liberty of the person (Article 97), inviolability of the dwelling (Article 100), liberty of the press (Article 105), secrecy of correspondence (Article 106), right of combination and association and of forming unions (Article 108)—may be temporarily suspended in the whole territory of the State or in any parts thereof, if rendered necessary for reasons of public safety.

The Council of Ministers has the exclusive right to decree such suspension, with the authorisation of the President of the Republic, in case of war or danger of war, of internal disorder, or of grave conspiracies of a treasonable character threatening the Constitution or the public safety.

Such a decree by the Council of Ministers, if issued when the Diet is in session, must be immediately submitted to the Diet for approval. If a decree is issued in respect of an area larger than a province while the Diet is not in session, the Diet will thereupon assemble within one week of the date of publication, in order to consider the decree.

If the Diet refuses to give its assent, the state of war ceases immediately. If the Council of Ministers decrees a state of war after the close of a session of the Diet, or after its dissolution, the decree must be submitted without delay to the newly elected Diet at its first sitting.

The principle of this Article shall be applied in detail by the law concerning the state of war.

The principles governing the temporary suspension of the aforesaid individual rights in time of war in areas which are the theatre of military operations, shall be determined by the law concerning the state of war.

CHAPTER VI.

GENERAL PROVISIONS.

Article 125.—The Constitution may be revised only if one-half at least of the total number of Deputies fixed by law and the same proportion of the members of the Senate are present, and by a two-thirds majority vote.

A motion calling for the revision of the Constitution must be signed by one-fourth of the number of Deputies fixed by law, and at least fifteen days' notice must be given of such a motion.

The second Diet elected in accordance with this Constitution may decide upon a revision of the Constitution by a three-fifths majority vote, provided that at least one-half of the number of Deputies fixed by law are present.

Every twenty-five years after the adoption of this Constitution, the Constitution may be revised in accordance with the decision of a simple majority of the Diet and Senate sitting jointly as the National Assembly.

Article 126.—This Constitution of the Polish Republic comes into force on the day of its publication, and as regards such of its provisions as require the publication of appropriate complementary laws, upon the dates when such laws come into force.

All requirements and provisions of the laws at present in force, which conflict with the provisions of this Constitution, must be submitted to the Legislative Assembly, in order that they may be brought into accord with the Constitution by legislation, within one year from the date of the adoption of this Constitution.

IV. THE REPUBLIC OF AUSTRIA.

Area: 30,766 *sq. miles.* *Population*: 6,131,445.

The history of Austria prior to the great European War was the history, not of a nation, but of an Imperial administration. Until the popular risings of 1848 that administration, as conducted from Vienna, was a personal autocracy, in which the Eastern Germans inhabiting the territory known as Austria were but the centre from which the Emperor governed the nations and peoples comprising his Empire.

After 1848 the position was much the same, with, however, this difference, that as a result of the events of that year an Assembly, known as the Reichsrat, sat in Vienna, representative of the Empire as a whole. This Constitution was granted by an Imperial decree of March 4th, 1849. It declared the Austrian Empire indivisible; it established the theoretical equality of the various provinces; it reduced the different national Diets to the level of local Councils; and it made a formal declaration of religious liberty and of the freedom of the Press. But in 1852 this Constitution was withdrawn and the personal autocracy restored.

Following upon the defeat of Austria by France and Italy in 1859, the prestige of this form of personal rule passed under a shadow, and power fell back towards the hands of the people. The people of the Empire being, however, divided among a number of nations, that power was naturally exercised most strongly by the strongest of these nations.

In 1861 a Patent was issued creating a Parliament for the Empire, to consist of two Chambers. The Upper House was constituted on a basis of heredity, and the Lower House elected by the provincial Diets. But these local Diets were themselves elected, not by direct and equal franchise, but by the Estates of each Realm. These Estates consisted of four elements—the Great Landlords, the Chambers of Commerce, Rural Districts, and the larger Cities. The Reichsrat created at Vienna, therefore, could hardly be said to be even remotely representative of the people comprising the Empire. From this Reichsrat the representatives of the strongest of the subject nations, Hungary, withdrew, and contest was therefore created between Austria and Hungary respecting the Government of the two major parts of the Empire. After the defeat of Austria by the Germans at Sadowa in 1866, this contest was concluded by the establishment of a dual Monarchy. This change was made by a modification of

the Patent of 1861. According to it the Empire was ruled from two centres, instead of, as formerly, one centre. In Vienna one Parliament sat, representative, under the Imperial rule, of the subject nations under the control of the Eastern Germans. At Budapest another Parliament sat, under the same Imperial rule (known in this case as the Kingdom of Hungary), from which the government of that part of the Empire ruled by the Hungarians was exercised.

The dominion exercised from Vienna was accordingly diminished both as to power and as to extent. The Reichsrat was still representative, not of the peoples of the different countries, but of the Diets. In this Reichsrat was reposed the legislative power; but by Article 13 of the Patent of 1861, which subsequently became Article 14 of the Constitution of 1867, it was decreed that legislative power was reposed in the Emperor's Ministry when the Reichsrat was not sitting. This led to constant political controversy, in which the question of the extension of the franchise, and the national rights claimed by the subject races, was necessarily involved. At this time, these subject races had not yet formulated any separate national demand. Their claim was rather for a federal system, by which each separate nation would govern itself under the ægis of the Empire.

In 1873 the federal claim was set back by a law introducing direct election to the Reichsrat; but this law did not create any real increased power for the subject peoples. For the representation of municipal and commercial centres was increased in greater proportion than that of rural districts, with the effect that the German element was represented in a larger proportion than the non-German element. In 1896 a law was passed granting universal suffrage; but the distribution of seats was such as to leave these privileged classes in their old position, for under both these laws elections proceeded still by the Estates.

In 1907 another electoral law was passed by which the Estates were abolished, and Austrian subjects over the age of twenty-four years, not specifically disqualified, had conferred on them the right to vote for the Lower House of the Reichsrat. The effect of this law was to make the Reichsrat proportionally representative of the various races constituting the Empire; and the business of the Legislature was, therefore, impeded and the administration of the Empire hindered by conflicts between the interests of the different races.

Such was the state of affairs when war broke out in 1914. On November 21st, 1916, the Emperor Francis Joseph died, and he was succeeded by his nephew, Charles I. The new Monarch endeavoured, in a vague way, to adopt a liberal attitude towards the demand of the different races of his Empire for national

identity. This change of policy, however, came too late. Forces had come into being, and separate national demands for independence had been formulated, which led to the disintegration of the Empire. When the Armistice was signed in November, 1918, the demand of these separate nations had already been recognised, and Austria became a separate national community, instead of, as hitherto, the centre of an Imperial sway. The Austrian State was reduced to German-Austria, consisting of Vienna, Lower Austria (exclusive of Vienna), Upper Austria, Salzburg, Styria, Burgenland, Carinthia, Tyrol (so much as had not been claimed by Italy), and Vorarlberg.

On October 4th, 1918, a conference of representatives of the three great German parties in the Reichsrat—the National Germans, the Christian Socialists and the Social Democrats—accepted as the basis of their common policy a resolution already adopted by the Social Democrats. This resolution recognised the right of the other nationalities of the Empire to Self-Determination and claimed the same right for the Germans. The Germans were prepared to discuss with the Czechs and Southern Slavs the transformation of Austria into a Federation of free national communities. If this offer was refused, the Germans would resist by every means in their power any attempt to subject German territories to the new national States then being formed by the other races. A week later a conference of all the German parties, large and small, reached complete agreement on fundamental policy, but, beyond arranging for the summoning of a further conference if necessary, took no active steps and awaited developments. On October 17th, however, the Emperor issued a Manifesto, communicated to the political leaders the previous day. The Manifesto declared that the reconstruction of the Fatherland on its natural but hitherto unrecognised bases could no longer be delayed, though the integrity of the territories of the Hungarian Crown must not be disturbed, and announced the summoning of a National Council, consisting of the Deputies to the Reichsrat from each Nation, to work out the transformation of Austria into a federal State. The leaders of all the German parties met immediately and decided to summon by telegraph a General Assembly of all German Deputies in the Reichsrat, to be held on the evening of October 21st.

By October 20th the newspapers were already referring to this gathering as the "German National Assembly," and when the 210 German Deputies met on October 21st they immediately constituted themselves a "Provisional National Assembly." It decided to appoint three Presidents, with equal rights and a rotation of duties, to represent each of the three great Parties, and to elect an Executive Committee of twenty members. Other Committees set up included a Constitution Committee, to draft and submit proposals for the election of a Constituent National

Assembly, an Administration Committee, to work out means of taking over and democratising the administrative machinery of German-Austria, and a Provisioning Committee, to negotiate with the official Austrian Government and the representatives of other nations of Austria and of foreign Governments in order to ensure supplies of food and other necessaries of life. The Executive Committee was authorised to raise loans for the provision of the necessary funds.

On October 30th, at its second sitting, the Provisional National Assembly issued a decree upon the fundamental organs of State authority. This decree declared that legislative authority was vested in the Assembly itself, and vested executive authority in a Committee of the Assembly to be known as the Council of State, consisting of three Presidents and twenty other members elected on a proportional basis by the Assembly. The Council of State was to exercise its administrative powers through a number of Commissaries, or Secretaries of State, who collectively constituted the State Government, and were jointly and severally responsible to the Council of State, and each of whom acted as Head of a Department. The Departments to be created were specified and the former Austrian Ministries transferred to them. A Constitutional Court was set up and existing laws, so far as not annulled or amended by the Decree, were continued in force.

This Decree of October 30th formed the Provisional Constitutional Charter of the new German-Austrian State, but the form of the new State was not yet definitely decided. On November 11th, the Kaiser issued a further proclamation, declaring that He would not allow His Person to be a hindrance to the free development of His peoples, acquiescing in advance in the decision of German-Austria as to the future form of the State, and renouncing all participation in the conduct of government. But this recognition of accomplished facts did not constitute a formal abdication, and on November 12th, therefore, the Provisional National Assembly decided not to leave the question of the form of the State to be determined by the Constituent Assembly but to determine it forthwith.

The law of November 12th, 1918, declares in its first Article —"German-Austria is a democratic Republic. All public authorities shall be constituted by the people." The second Article declares that "German-Austria is a constituent part of the German Republic." This was an expression not of fact, but of an aspiration which Germany was prepared to allow to be realized (as will be seen in Article 61 of the Constitution of the German Reich), but which was denied fulfilment by the Allied and Associated Powers. The Law also decreed the election of a Constituent Assembly for January, 1919.

Details as to the Constituent Assembly were determined by two laws of December 18th, 1918. It was provided that the Constituent Assembly should be elected for a period of two years and should consist of 250 Deputies, representing not only the united territory of German-Austria as eventually defined, but also considerable German-Austrian populations in the districts claimed by other new States. The right to vote was given to all men and women of 20 years of age or over, and the elections were to be held on the D'Hondt party list system of Proportional Representation, the racial division and gerrymandering of the old Austrian electoral law being, of course, done away with.

The elections took place on February 15th, 1919, four million voters participating, and the Constituent Assembly met on March 4th. The Provisional Assembly, having accomplished a long series of laws reorganizing various branches of the State system, went out of office on the meeting of the newly-elected Constituent Assembly. On March 12th, 1919, the Constituent Assembly re-affirmed the Law of November 12th, 1918, declaring that Austria was a democratic Republic, and a constituent part of the German Republic. Two days later it passed a law taking over the supreme authority of the State, which has been described as "the solemn self-enthronement of the Constituent Assembly."

The immediate problem before the Constituent Assembly was, naturally, to create a Constitution for the State, and to this task it set itself. But grave national problems confronted the nation, with which the Assembly was also concerned. The greatest of these tasks was, of course, concerned with negotiations relative to a Treaty of Peace, and this Treaty was signed, between the Austrian plenipotentiaries and the plenipotentiaries of the Allied and Associated Powers, at St. Germain on September 10th, 1919. But there were other internal difficulties with which the Assembly was occupied. Unemployment was rife and famine and disease prevalent, not to speak of problems created by the depreciating currency of the State. All these problems were undertaken by the Constituent Assembly as they arose; and side by side with the handling of these problems it was engaged in the drafting and consideration of the Constitution.

Thus it happened that the Constitution was not finally enacted until 1st October, 1920, and did not come into operation until 10th November, 1920. As finally adopted it took a federal form, as will be seen, and Austria was declared to be a Federal Democratic Republic. The Legislature, under the Constitution, consists of two Chambers, elected according to the usual federal method—that is to say, the First Chamber, the National Council, is elected by universal suffrage on principles of proportional representation; and the Second Chamber, the Federal Council, is elected by the States. Under the Constitution a Provincial

Assembly is created for each State. And it is prescribed that the two Chambers should sit together as a National Assembly for all major sovereign acts, such as the election of a President and the declaration of war. The division of legislative and executive functions between the Federation and the Provinces is worked out in great detail.

[NOTE.—In the Austrian Constitution, the term applied to the component parts of the "Bund" or Federation is "Land". There is no exact equivalent for this German word in English. In view of the relations between the "Bund" and the several "Länder" prescribed by the Constitution, it has been thought appropriate to translate the word "Land" by "Province," but it should be understood that the German word does not necessarily imply the idea of subordination which is conveyed by the English. In this respect, comparison may be made with the German Constitution, where the same word "Land" has been translated as "State."]

LAW OF 1ST OCTOBER, 1920

CONSTITUTING

THE REPUBLIC OF AUSTRIA

AS A

FEDERAL STATE

(Federal Constitutional Law).

THE NATIONAL ASSEMBLY has resolved:

FIRST SECTION.

GENERAL PROVISIONS.

Article 1.—Austria is a democratic Republic. Its law emanates from the people.

Article 2.—(1) Austria is a Federal State.

(2) The Federal State shall consist of the following Provinces: Burgenland, Carinthia, Lower Austria (Province of Lower Austria and Vienna), Upper Austria, Salzburg, Styria, Tyrol, and Vorarlberg.

Article 3.—(1) The Federal territory embraces the territories of the Federal Provinces.

(2) An alteration in the Federal territory involving an alteration in the territory of a Province or an alteration in a Provincial frontier within the Federal territory (otherwise than by peace treaties) can be made only by identical Constitutional Laws of the Federation and of the Province the territory of which is altered.

(3) Special provisions applicable to the Province of Lower Austria and Vienna are contained in the Fourth Section.

Article 4.—(1) The Federal territory constitutes a uniform territory for purposes of defence, economic affairs and customs.

(2) Internal customs, barriers or other restrictions to intercourse shall not be set up within the Federation.

Article 5.—The Federal capital and seat of the supreme Federal Government offices is Vienna.

Article 6.—(1) There shall be a Provincial citizenship for each Province. The qualification requisite for Provincial citizenship shall be the right of domicile in a commune of the Province. The conditions under which Provincial citizenship shall be acquired and lost shall be the same in every Province.

(2) Federal citizenship shall be acquired by the act of acquiring Provincial citizenship.

(3) Every citizen of the Federation shall have in each Province the same rights and duties as the citizens of the Province.

Article 7.—(1) All citizens of the Federation shall be equal before the law. Privileges of birth, sex, position, class and religion are abolished.

(2) Public officials, including members of the Federal Army, shall enjoy the unimpaired exercise of their political rights.

Article 8.—The German language shall be the official language of the Republic, but without prejudice to the rights accorded by Federal laws to linguistic minorities.

Article 9.—The universally recognised rules of International Law shall be constituent parts of the Law of the Federation.

Article 10.—Legislative and executive power in regard to the following matters is vested in the Federation:

(1) The Federal Constitution, especially elections to the National Council, plebiscites based upon the Federal Constitution; constitutional jurisdiction;

(2) Foreign affairs, including political and economic representation abroad, and especially the conclusion of all political treaties; the limitation of boundaries; foreign trade in goods and live stock; customs;

(3) Regulation and supervision of entrance into the Federal territory and departure thence; immigration and emigration; passport system; removal, dismissal, banishment and extradition from the Federal territory, and the granting of permission to pass through the Federal territory;

(4) Federal finances, especially public taxes, exclusively or partially collected for the Federation; monopolies;

(5) Currency, credit, exchange and banking; weights, measures, standards and gauges;

(6) Civil law, including company law; criminal law, exclusive of the administrative penal law and administrative penal procedure in matters falling within the sphere of independent activity of the Provinces; the

administration of justice; administrative jurisdiction; copyright; public press; expropriation, in so far as it does not concern matters falling within the sphere of independent activity of the Provinces; matters concerning solicitors, barristers, and allied professions;

7. The law of associations and of assemblies;

8. Matters concerning trade and industry; combating unfair competition; patents and the protection of patterns, marks and other distinguishing signs on goods; matters concerning patent agents; engineering and civil technology; chambers of commerce, trade and industry;

9. Transport as regards railways, shipping and air transit; matters connected with street railways which, on account of their importance in connection with transit traffic, have been declared by Federal law to be Federal routes; river and shipping police; posts, telegraphs and telephones;

10. Mining; control and maintenance of waterways navigable by boats or timber-rafts, and of waterways forming the boundary with a foreign country or between Provinces, or which flow between two or more Provinces; construction and maintenance of waterways connecting home with foreign territory or a number of Provinces with one another; general technical measures for the proper utilization of water power, excluding agricultural and small industrial works; fixation of standards and types of electrical plant and apparatus, and safety measures in connection therewith; high power supply legislation where the distributing installation extends to two or more Provinces; steam boilers and power machinery; surveying;

11. Labour laws and protection of workpeople and employees, with the exception of agricultural and forestry workers and officials; social insurance and contract insurance;

12. Public hygiene, excluding interments, the disposal of corpses, and sanitary services and life-saving services maintained by Communes; hospitals, convalescent homes, health resorts and medicinal springs in respect of hygienic supervision only; veterinary services; food supply, including food control;

13. Scientific and expert services in public archives and libraries; matters concerned with artistic and scientific collections and equipment; protection of monuments; religious matters; census of population and other statistics, in so far as they do not serve only the interests of a single Province; foundations and endowments, where such foundations and endowments are devoted to purposes which are not the exclusive concern of a single Province and have not hitherto been administered autonomously by the Provinces;

14. Federal police and Federal gendarmerie;

15. Military matters; losses due to war, care of persons who have served in war and of their dependants; measures deemed necessary (owing to war or the results of war) for ensuring uniform control over economic affairs, particularly in regard to the provision of the necessaries of life for the people;

16. Organisation of Federal administrative and other authorities; service law for Federal officials.

Article 11.—(1) Legislative power shall be vested in the Federation and executive power in the Provinces, in regard to the following matters:

1. Citizenship and right of domicile; matters of personal status, including registration and change of name; foreign police;

2. Occupational representation in so far as not included in Article 10, exceeding agricultural and forestry representation;

3. Public agencies and private commercial agencies;

4. As regards public taxation not exclusively or partially levied for the Federation:—measures to prevent double taxation or other excessive burdens, to prevent impediments to commercial intercourse or economic relations with foreign countries or between the Provinces or parts of Provinces, to prevent the imposition of charges, which are excessive or likely to impede traffic, upon the use of public traffic routes and appliances, and to prevent injury to the finances of the Federation;

5. Munitions, firearms and explosives, in so far as these are not a monopoly, and weapons; automobiles;

6. Housing of the people;

7. Administration and administrative penal law including compulsory execution and general determination of the administrative penal law, including matters in which Provincial legislation is applicable.

(2) Regulations giving effect to laws promulgated under the terms of paragraph (1) shall be issued by the Federation, unless otherwise provided by the laws themselves.

Article 12.—(1) Legislative power in respect of principles shall be vested in the Federation and the enactment of executive decrees and executive power shall be vested in the Provinces in regard to the following matters:—

1. Organisation of the administration of the Provinces;
2. Poor relief; population policy; popular sanatoria; care of mothers, infants and children; hospital and nursing homes, health resorts and medicinal springs;
3. Institutions for the protection of society against criminal, neglected or otherwise dangerous persons, such as compulsory labour and similar institutions; removal and expulsion from one Province to another;
4. Public institutions for the settlement of disputes otherwise than by the Courts;
5. Labour laws and protection of workpeople and employees where such workpeople and employees are engaged in agriculture and forestry;
6. Land reform, especially agrarian operations and re-colonisation;
7. Forestry, including pasturage; protection of plants against diseases and pests;
8. Electrical power supply and water rights, in so far as these are not included in Article 10;
9. Building;
10. Service regulations for Provincial officials exercising administrative authority.

(2) The decision, by way of final appeal, in matters connected with land reform (Para. (1), 6) shall be entrusted to a Commission appointed by the Federation, and composed of Judges, administrative officers and experts.

Article 13.—(1) Legislative and executive power shall be vested in the Federation in regard to the allocation of taxes between the Federation, the Provinces and the Communes, the apportionment of the share of the Provinces and of the Communes in the Federal receipts, and the determination of the

contributions and payments to be made from Federal funds towards the expenditure of the Provinces and Communes.

(2) Legislative and executive power shall be vested in the Provinces in regard to the allocation of Provincial taxes to the Communes, the apportionment of the share of the Communes in the Provincial receipts, and the determination of the contributions and payments from Provincial funds towards the expenditure of the Communes.

Article 14.—The spheres of action of the Federation and the Provinces in the domain of education, instruction and national culture shall be determined by a special Federal Constitutional law.

Article 15.—(1) In so far as legislative and executive power in respect of any matter is not expressly vested in the Federation, it shall remain within the sphere of independent action of the Provinces.

(2) In so far as legislation upon principles only is reserved to the Federation, the detailed execution shall be determined by legislation by the Provinces within the limits laid down by the Federal laws. The Federal law may fix a period for the promulgation of such implementary laws, the period to be not less than six months and not more than one year, save with the sanction of the Federal Council. Should this period be exceeded by any Province, the Federation shall become competent to promulgate the implementary laws for that Province. As soon as the Province has issued the implementary law, the implementary law of the Federation shall cease to be of effect.

(3) If an executive act by a Province in connection with the matters dealt with in Articles 11 and 12 is to become effective in several Provinces, the Provinces concerned must, in the first place, take steps to come to an agreement. Should they be unable to agree on the proposal of one of the Provinces, the appropriate Federal Ministry shall become competent to perform the act. Further provisions as to such cases may be made by Federal laws issued in accordance with Articles 11 and 12.

(4) In matters reserved for Federal legislation in accordance with Articles 11 and 12, the Federation shall be entitled to enforce the observance of instructions issued by it.

(5) The Provinces shall be entitled, within the sphere of their legislative powers, to determine matters necessary to the carrying-out of their objects, including matters of penal and civil law.

Article 16.—(1) The Provinces shall be bound to take any measures which may be necessary, within their independent

sphere of action, to give effect to political treaties; should a Province fail to fulfil this obligation punctually, the power to take such measures, and especially to enact the necessary laws, shall be transferred to the Federation.

(2) Similarly, the Federation shall be entitled to supervise the carrying into effect of treaties with foreign States, even in matters falling within the sphere of independent action of the Provinces. In this connection the Federation shall enjoy the same rights with respect to the Provinces as in matters of indirect Federal administration. (Article 102.)

Article 17.—(1) The position of the Federation as the holder of private rights under the Civil Law shall not be in any way affected by the provisions of Articles 10 to 15 as to competence in legislation and execution.

(2) The Federation may never, in all these legal relations, be placed by the legislation of any Province in a less favourable position than the Province itself.

Article 18.—(1) The entire State administration may be carried on only upon the basis of the laws.

(2) Each administrative authority may issue orders within its own sphere of action, and in accordance with the laws.

Article 19.—(1) The Executive administration of the Federation and of the Provinces shall be entrusted to People's Commissioners appointed by the people's representatives in the Federation and in the Provinces. The People's Commissioners shall consist of the President of the Federation, the Federal Ministers, the Secretaries of State, and the members of the Provincial Governments.

(2) The proceedings of the People's Commissioners shall be under the supervision of the people's representatives by whom they were appointed.

(3) They may be summoned before the Constitutional Court to answer for their actions and omissions, in accordance with the terms of the Federal or Provincial Constitutions.

Article 20.—The Federal or Provincial administration shall be carried on, in accordance with the law, by the various administrative departments, permanent or temporary, under the direction of the People's Commissioners. Unless otherwise provided by the Constitution of the Federation or the Provinces, these administrative departments shall be bound to obey the instructions of the People's Commissioners to whom they are subordinate, who shall be responsible for the carrying-out of their official duties.

Article 21.—(1) The conditions of service, including the salary system and disciplinary rules, of the officials of the Federa-

tion and of the Provinces who have administrative duties to perform (Article 10, paragraph 16, and Article 12, paragraph 10) shall be regulated upon uniform principles by Federal law. In particular, the law shall determine the extent to which staff representatives shall participate, without prejudice to the authority of the Federation and the Provinces, in the regulation of the rights and duties of these officials.

(2) The authority of the Federation in regard to its officials shall be exercised by the Federal People's Commissioners, that of the Provinces in regard to their officials shall be exercised by the Provincial People's Commissioners.

(3) The appointment and conditions of service of officials of District and Local Communes performing administrative duties shall be regulated in conformity with the organisation of the administrative services.

(4) The possibility of interchange of service between the Federation, the Provinces and the Communes shall at all times be open to public officials. The transfer shall be effected by agreement with the departments appointed to exercise authority in staff matters. Federal legislation to prescribe special arrangements to facilitate interchange of service can be made.

(5) Official titles for the public services of the Federation, the Provinces and the Communes may be determined by Federal law in a uniform manner. They shall be protected by law.

Article 22.—All public services of the Federation, the Provinces and the Communes shall be bound to give mutual assistance to one another within the limits of their several legitimate fields of action.

Article 23.—(1) All persons entrusted with administrative duties under the Federation, the Provinces or the Communes or with judicial duties shall be liable for every breach of the law committed in the course of their duties, whether intentionally or by negligence, to the injury of any person whatsoever. The Federation, the Provinces or the Communes shall be responsible for breaches of the law committed by the officials appointed by them.

(2) Further provisions in this respect shall be made by Federal law.

SECOND SECTION.

FEDERAL LEGISLATION.

A.—National Council.

Article 24.—Federal laws shall be passed by the National Council, elected by the people of the entire Federation, acting in

conjunction with the Federal Council, elected by the Provincial Diets.

Article 25.—(1) The seat of the National Council shall be the Federal Capital, Vienna.

(2) During the continuance of extraordinary circumstances, the President of the Federation may, at the request of the Federal Government, summon the National Council to meet in another place.

Article 26.—(1) The National Council shall be elected by the people of the Federation on the basis of the equal, direct, secret and personal suffrage of men and women who, before January 1st of the year in which the election takes place, have passed their twentieth year, and in accordance with the principles of proportional representation.

(2) The Federal territory shall be divided into self-contained electoral districts within the boundaries of the Provinces. The number of representatives to be elected by the electors in each electoral district (the electoral body) shall be proportionate to the number of citizens in that electoral district, that is, to the number of citizens of the Federation who, according to the latest census of the population, were ordinarily domiciled in the electoral district. Any division of the electorate into other electoral bodies is prohibited.

(3) The election day must be a Sunday or other public holiday.

(4) Any elector who has attained his twenty-fourth year before the 1st January of the year of the election shall be eligible for election.

(5) Deprivation of the right to vote and to be eligible for election may take place only as the result of a judicial sentence or decree.

Article 27.—(1) The legislative period of the National Council shall last for four years, reckoned from the day of its first meeting, and in any case until the day on which the new National Council meets.

(2) The newly elected Council shall be summoned by the President of the Federation within not more than 30 days after the date of the election, which shall be so arranged by the President of the Federation within not more than 30 days after the date of the election, which shall be so arranged by the Federal Government that the newly elected National Council may meet on the day after the expiration of the fourth year of the legislative period.

Article 28.—The National Council may be adjourned only by its own decision. The summons to re-assemble shall be issued by its Chairman. The Chairman shall be bound to summon the National Council immediately if so requested by at least one-fourth of its members or by the Federal Government.

Article 29. Before the expiration of the legislative period, the National Council may dissolve itself by merely passing a law to that effect. Even in such a case, the legislative period shall last until the assembling of the newly elected National Council.

Article 30.—(1) The National Council shall elect from among its own numbers the Chairman, Vice-Chairman and Deputy Vice-Chairman.

(2) The business of the National Council shall be conducted on the basis of a special law and in accordance with rules of procedure to be drawn up by the National Council itself in accordance with that law. For the adoption of the law as to the conduct of business the presence of half the members and a majority of two-thirds of the votes cast are necessary.

Article 31.—For a valid decision to be taken by the National Council the presence of at least one-third of the members and an absolute majority of the votes cast shall be necessary, save as otherwise provided by this Constitution.

Article 32.—(1) The sessions of the National Council shall be open to the public.

(2) The public may be excluded upon request being made by the Chairman or by one-fifth of the members present and agreed to by the National Council after the withdrawal of the public.

Article 33.—Truthful reports of the proceedings in the public sessions of the National Council and its committees shall be free from all liability.

B.—The Federal Council.

Article 34.—(1) The Provinces shall be presented in the Federal Council in proportion to the number of citizens in each Province according to the following conditions.

(2) In regard to representation and status in the Federal Council, Vienna and the Province of Lower Austria (Articles 108 to 114) shall rank as independent Provinces.

(3) The Province having the largest number of citizens shall send twelve members and every other Province as many members as correspond to the ratio between the number of its citizens and the number of citizens in the first-mentioned Province, a remainder in excess of one-half the quota to count as a whole.

Each Province shall, however, have a minimum representation of three members. For each member a substitute shall be appointed.

Article 35.—(1) The members of the Federal Council and their substitutes shall be elected by the Provincial Diets for the duration of their own legislative period according to the principles of proportional representation, but at least one seat must fall to the party having the second highest number of seats in the Provincial Diet or (if several parties have an equal number of seats) the second highest number of votes at the last election to the Provincial Diet. When the claims of several parties are equal, the matter shall be decided by lot.

(2) The members of the Federal Council shall not be members of the Provincial Diet which appoints them; they must, however, be eligible for election to that Diet.

(3) After the expiration of the legislative period of a Provincial Diet or after its dissolution, the members of the Federal Council appointed by it shall continue in office until the new Provincial Diet has carried out the election to the Federal Council.

(4) The provisions of this Article may be altered only when, in the Federal Council, the majority of representatives of at least four Provinces have accepted the alteration, apart from the majority of votes normally requisite for the passing of a measure in that body.

Article 36.—(1) The Chairmanship of the Federal Council shall pass every six months to each of the different Provinces in turn, in alphabetical order.

(2) The office of Chairman shall be filled by the member sent up at the head of the list by the Province entitled to the Chairmanship for the time being: the appointment of substitutes shall be regulated by the rules of procedure of the Federal Council.

(3) The Federal Council shall be summoned by its Chairman to meet at the seat of the National Council. The Chairman shall be bound to summon the Federal Council immediately, if so requested by at least one-fourth of its members or by the Federal Government.

Article 37.—(1) Save as may be otherwise provided by this law, the presence of at least one-third of the members and an absolute majority of the votes cast shall be necessary for the taking of a valid decision by the Federal Council.

(2) The Federal Council shall determine its rules of procedure by resolution. For the adoption of this resolution the

presence of one-half the members and a two-thirds majority of the votes cast shall be necessary.

(3) The sessions of the Federal Council shall be public. The public may, however, be excluded by resolution in accordance with the rules of procedure. The provisions of Article 33 shall apply also to public sittings of the Federal Council and its Committees.

C.—THE FEDERAL ASSEMBLY.

Article 38.—The National Council and the Federal Council shall meet as the Federal Assembly in joint public sitting, at the seat of the National Council, for the election of the President of the Federation and the taking of the oath by him, and also for decisions as to the declaration of war.

Article 39.—(1) The Federal Assembly shall—apart from the cases mentioned in Article 63, par. 2, Article 64, par. 2, and Article 68, par. 2—be convened by the President of the Federation. The Chairmanship shall be assumed alternately by the Chairman of the National Council and the Chairman of the Federal Council, the former to assume the office in the first instance.

(2) The rules of procedure of the National Council shall be applied in principle in the Federal Assembly.

(3) The National Council and the Federal Council may discuss the matter to be decided separately and in advance.

(4) The provisions of Article 33 shall also apply to sittings of the Federal Assembly.

Article 40.—(1) Decisions of the Federal Assembly shall be authenticated by the Chairman and countersigned by the Federal Chancellor.

(2) The Federal Chancellor shall be responsible for the official promulgation of decisions.

D.—METHODS OF FEDERAL LEGISLATION.

Article 41.—(1) Legislation may be initiated in the National Council either by the members or by the Federal Government. The Federal Council may, through the medium of the Federal Government, bring proposals for legislation before the National Council.

(2) Any proposal for legislation (Popular Initiative Demand) supported by 200,000 voters or by half of the voters of three Provinces shall be introduced into the National Council by the Federal Government to be dealt with in accordance with the rules of procedure. The popular initiative demand must be expressed in the form of a draft bill.

Article 42.—(1) Every law passed by the National Council shall be immediately transmitted by its Chairman to the Federal Chancellor, who shall communicate it at once to the Federal Council.

(2) A law shall, save as may be otherwise provided by Constitutional Law, be authenticated and promulgated only if the Federal Council agrees to it without amendment.

(3) Any proposed amendments must be communicated in writing to the National Council through the medium of the Federal Chancellor within eight weeks after the law has been laid before the Federal Council.

(4) If the National Council reaffirms its original decision, at least half of the members being present, the law as so reaffirmed shall be authenticated and promulgated. If the Federal Council accepts the law, or if no amendments are proposed within the period of time set out in paragraph 3, the law shall be authenticated and promulgated.

(5) The Federal Council may not amend laws passed by the National Council dealing with the rules of procedure of the National Council, the dissolution of the National Council, the granting of the Federal estimates, the ratification of the closing of accounts, the raising or conversion of Federal loans or the administration of Federal property. Such laws passed by the National Council shall be authenticated and promulgated without further delay.

Article 43.—Every law passed by the National Council shall be submitted to a Referendum before promulgation by the President of the Federation, if the National Council so decides or if the majority of the members of the National Council so request.

Article 44.—(1) Constitutional laws or constitutional decisions incorporated in single laws require for their adoption by the National Council the presence of at least half of the members and a majority of two-thirds of the votes recorded; they shall be expressly designated as such ("Constitutional law," "Constitutional decision").

(2) Every general alteration of the Constitution of the Federation and, if desired by one-third of the members of the National Council or of the Federal Council, every partial alteration thereof, shall be submitted to a vote of the whole people of the Federation, at the conclusion of the proceedings according to Article 42, and before promulgation by the President of the Federation.

Article 45.—(1) The result of a Referendum shall be determined by an absolute majority of the validly-recorded votes.

(2) The result of a Referendum shall be officially published.

Article 46.—(1) The procedure in regard to the Popular Initiative Demand and the Referendum shall be regulated by Federal law.

(2) Every citizen of the Federation entitled to vote for the National Council shall be entitled to vote.

(3) The President of the Federation shall conduct the Referendum.

Article 47.—(1) When Federal laws have been adopted in accordance with the Constitution, they shall be authenticated by the signature of the President of the Federation.

(2) The Federal Chancellor shall be responsible for the submission of documents for authentication by the President.

(3) The authentication shall be countersigned by the Federal Chancellor and by the competent Federal Ministers.

Article 48.—Federal laws and the State treaties indicated in Article 50 shall be published subject to the decision of the National Council; Federal laws which are dependent on a Referendum shall be published subject to the result of the Referendum.

Article 49.—(1) Federal laws and the State treaties indicated in Article 50 shall be published by the Federal Chancellor in the Federal Official Law Record. They shall come into force, if not otherwise expressly stated, at the expiration of the day of publication and despatch of the part of the Federal Official Law Record in which they are published, and shall extend, if not otherwise expressly stated, over the whole Federation.

(2) The Federal Official Law Record shall be the subject of a special Federal law.

E.—Co-operation of the National Council and the Federal Council in the Executive Administration of the Federation.

Article 50.—(1) All political State treaties and other treaties if they involve changes in the law require, to be valid, the approval of the National Council.

(2) The provisions of Article 42, paragraphs 1 to 4, and, in cases where a Constitutional Law is altered by a State treaty, of Article 44, paragraph 1, shall be applied in principle to decisions of the National Council in relation to the approval of State treaties.

Article 51.—An estimate of the income and expenditure of the Federation for the following financial year shall be laid before the National Council by the Federal Government at the latest eight weeks before the end of the financial year.

Article 52.—The National Council and the Federal Council are authorised to investigate the conduct of business by the Federal Government, to question its members upon all matters relating to the execution of their duties and to call for all information relating thereto, as well as to express, in the form of resolutions, their wishes with regard to the carrying out of their duties.

Article 53.—(1) The National Council may by resolution set up Committees of Inquiry.

(2) The Courts of Justice and all other authorities shall be bound to comply with the requests of these Committees for the production of evidence; all public officials must produce official records when they are called for.

(3) The procedure of Committees of Inquiry shall be regulated by the law relating to the rules of procedure of the National Council.

Article 54.—The National Council shall co-operate in fixing railway tariffs, post, telegraph and telephone charges and prices of monopolies, and in fixing the salaries of persons permanently employed in the service of the Federation. This co-operation shall be regulated by a Federal Constitutional Law.

Article 55.—The National Council shall also co-operate in the executive administration of the Federation, in the cases specified by this law through a Principal Committee elected from its members on the principle of proportional representation. It is especially incumbent on the Principal Committee to co-operate in the appointment of the Federal Government (Article 70). In addition, Federal legislation may prescribe that certain orders, issued by the Federal Government shall be subject to agreement with the Principal Committee.

F.—Status of the Members of the National Council and of the Federal Council.

Article 56.—The members of the National Council and the members of the Federal Council shall not be bound by any instructions in the exercise of their functions.

Article 57.—(1) Members of the National Council may not be made answerable for their votes given in the exercise of their office; and they shall be answerable only to the National Council for utterances made by them in the exercise of their office.

(2) No member of the National Council may be imprisoned or otherwise legally prosecuted for any penal offence—save when apprehended *flagrante delicto*—without the consent of the National Council.

(3) In the event of a member being apprehended *flagrante delicto,* the authorities must immediately notify the Chairman of the National Council of the arrest.

(4) If the National Council so demands, the arrest must be cancelled or the whole prosecution deferred for the duration of the legislative period.

(5) The immunity of the various organs of the National Council whose functions extend beyond the legislative period shall continue for the duration of their functions.

Article 58.—The members of the Federal Council shall enjoy throughout their term of office the same immunity as members of the Diet which returned them.

Article 59.—(1) No person may be a member at the same time of the National Council and of the Federal Council.

(2) Public employees, including those belonging to the Federal army, require no permission to be absent in order to act as members of the National Council or the Federal Council. If they become candidates for election to the National Council, the necessary free time shall be afforded them. Further provisions shall be laid down by the Service regulations.

THIRD SECTION.

EXECUTIVE ADMINISTRATION OF THE FEDERATION

A.—Administration.

1. President of the Federation.

Article 60.—(1) The President of the Federation shall be elected by the Federal Assembly in accordance with Article 38 by secret ballot.

(2) His term of office shall be four years. Re-election for the term of office immediately following is permissible on only one occasion.

(3) Only persons who are entitled to vote for the National Council and who have passed their thirty-fifth year on the 1st of January in the year of the election, may be elected as President of the Federation.

(4) Members of reigning houses, or of such families as have formerly reigned, are not eligible for election.

(5) The person in whose favour more than one-half of all the votes recorded are cast shall be elected. The balloting shall be repeated until there is an absolute majority for one person.

Article 61.—The President of the Federation may not during his period of office belong to any public representative body nor follow any other calling.

Article 62.—The President of the Federation on entering into office shall give this solemn undertaking before the Federal Assembly:—

"I solemnly promise that I will faithfully observe the Constitution and all the laws of the Republic, and do my duty to the best of my knowledge and conscience."

Article 63.—(1) Legal proceedings may be taken against the President of the Federation only by decision of the Federal Assembly.

(2) A motion to institute legal proceedings against the President of the Federation shall be submitted by the competent authorities to the National Council, which shall decide whether the matter is to be brought before the Federal Assembly. If the National Council so decides, the Federal Chancellor shall immediately call together the Federal Assembly.

Article 64.—(1) When the President of the Federation is unable to perform his duties or when his position becomes permanently vacant, all the functions of the President of the Federation are transferred to the Federal Chancellor.

(2) In the case of the permanent vacancy of the position of President of the Federation, the Federal Chancellor shall immediately call together the Federal Assembly for the election of a new President of the Federation.

Article 65.—(1) The President of the Federation shall represent the Republic in its external relations, receive and accredit ambassadors, accord recognition to foreign consuls, appoint the consular representatives of the Republic abroad and conclude State treaties.

(2) Further—in addition to the powers conferred upon him by other provisions of this Constitution—he shall fulfil the following functions:—

(*a*) the appointment of Federal officials, including Army officers, and other Federal functionaries; the granting of official titles to such;

(*b*) the creation and granting of professional titles;

(*c*) in individual cases: the pardoning of persons lawfully sentenced by the Courts, the mitigation and alteration of penalties inflicted by the Courts, the postponement of the execution of sentences and the annulment of sentences as an act of mercy, and the quashing of

judicial proceedings in regard to offences committed in the exercise of official authority;

(*d*) the declaring of illegitimate children as legitimate on the application of the parents.

(3) Special laws shall determine the extent to which the President of the Federation may exercise further powers with regard to the granting of honorary rights, extraordinary grants, extra allowances and maintenance allowances, rights of appointment and confirmation, and other powers in regard to personal matters.

Article 66.—(1) The President of the Federation may transfer his right of appointing Federal employees of certain categories to the competent members of the Federal Government.

(2) The President of the Federation may authorise the Federal Government or the competent members of the Federal Government to conclude certain categories of State treaties which do not come under the provisions of Article 50.

Article 67.—(1) All acts of the President of the Federation, save as may be otherwise provided in accordance with the Constitution, shall be done on the initiative of the Federal Government or of the Federal Ministers empowered by it. The extent to which the Federal Government or the competent Federal Ministers shall be themselves bound by proposals from other authorities shall be defined by law.

(2) All acts of the President of the Federation require, in order to be valid, the counter-signature of the Federal Chancellor or the competent Federal Minister.

Article 68.—(1) The President of the Federation shall be responsible for the discharge of his duties to the Federal Assembly in conformity with Article 142.

(2) For the purpose of enforcing this responsibility, the Federal Assembly shall be called together by the Federal Chancellor at the demand of the National Council or of the Federal Council.

(3) The adoption of a resolution of impeachment within the meaning of Article 142 requires the presence of more than one-half of the members of each of the two representative bodies and a majority of two-thirds of the votes recorded.

2.—The Federal Government.

Article 69.—(1) The Federal Chancellor, the Vice-Chancellor and the other Federal Ministers shall be entrusted with the highest administrative offices of the Federation, in so far as these

are not entrusted to the President of the Federation. Collectively they constitute the Federal Government under the presidency of the Federal Chancellor.

(2) The Vice-Chancellor shall be appointed to act as substitute for the Federal Chancellor in respect of all his functions.

Article 70.—(1) The Federal Government shall be elected as a whole by the National Council, by poll of the members by name, on a motion to be submitted by the Principal Committee.

(2) Only persons who are eligible for the National Council may be elected to the Federal Government; the members of the Federal Government must not belong to the National Council.

(3) If the National Council is not in session, the Federal Government shall be appointed provisionally by the Principal Committee; as soon as the National Council meets, the election shall take place.

(4) The provisions of paragraphs 1 to 3 shall be applied in principle to the appointment of individual members of the Federal Government.

Article 71.—When the Federal Government goes out of office, the President of the Federation shall, until the new Federal Government is formed, entrust the carrying on of the administration to members of the outgoing Government or to higher officials of the Federal Departments, and shall appoint one of them as President of the Provisional Federal Government. This provision shall be applied in principle when individual members of the Federal Government go out of office.

Article 72.—(1) The members of the Federal Government, before taking up office, shall be sworn in by the President of the Federation.

(2) The warrants of appointment of the Federal Chancellor, the Vice-Chancellor and the other Federal Ministers shall be completed by the President of the Federation by the day on which they are sworn in and countersigned by the newly appointed Federal Chancellor.

(3) The principle of these provisions shall also be applied to cases coming under Article 71.

Article 73.—In the event of a Federal Minister being temporarily unable to discharge his duties, the President of the Federation shall appoint one of the Federal Ministers or a higher official of a Federal Department as a substitute for him. This substitute shall bear the same responsibility as a Federal Minister (Article 76).

Article 74.—(1) If the National Council by express resolution withdraws its confidence from the Federal Government or from any individual member thereof, the Federal Government or the Federal Minister in question shall be removed from office.

(2) For the adoption by the National Council of a resolution withdrawing confidence, the presence of one-half the members of the National Council shall be requisite. Even so, upon demand by one-fifth of the members present, the voting may be deferred to the next working-day but one. Any further adjournment of the voting may take place only by decision of the National Council.

(3) The Federal Government and its individual members shall be relieved of their office by the President of the Federation in the cases prescribed by law or at their own request.

Article 75.—The members of the Federal Government and also the substitutes appointed by them are entitled to participate in all deliberations of the National Council, the Federal Council, and the Federal Assembly, and of the Committees connected with those representative bodies, and if specially invited by the Committee, in the deliberations of the Principal Committee of the National Council. They must be heard whenever they so demand. The National Council, the Federal Council, and the Federal Assembly, as well as their Committees, may require the attendance of members of the Federal Government.

Article 76.—(1) The members of the Federal Government (Articles 69 and 71), shall be responsible to the National Council, in accordance with Article 142.

(2) For the adoption of a resolution of impeachment in accordance with the terms of Article 142, the presence of more than one-half the members shall be requisite.

Article 77.—(1) The administrative business of the Federation shall be conducted by the Federal Ministries and the Departments subordinate to them.

(2) The number of Federal Ministries, their sphere of action and their organisation shall be determined by Federal law.

(3) The Federal Chancellor shall be responsible for the control of the Federal Chancellory, and each of the Federal Ministers shall be responsible for the control of another Federal Ministry.

(4) The Federal Chancellor and the other Federal Ministers may, under exceptional circumstances, be entrusted also with the control of a second Federal Ministry.

Article 78.—(1) In special cases a Federal Minister may be appointed without being simultaneously entrusted with the control of a Federal Ministry.

(2) Secretaries of State may be appointed to assist Federal Ministers in their administrative and parliamentary duties; they shall be appointed to and shall retire from office in the same manner as the Federal Ministers.

(3) A Secretary of State shall be subordinate to the Federal Minister and shall be bound by his instructions.

3.—The Federal Army.

Article 79.—(1) The protection of the frontiers of the Republic is the duty of the Federal Army.

(2) The Federal Army may be employed, in so far as the legitimate civil authority requests its co-operation, to protect the institutions established under the Constitution, to maintain order and security in the interior generally, and to afford assistance in natural occurrences and disasters of unusual extent.

Article 80.—(1) The National Council shall have control over the Army. In so far as direct control is not reserved to the National Council by the Army Law, the Federal Government, or the competent Federal Minister within the limits of the authority conferred upon him by the Federal Government, shall be responsible for the control of the Army.

(2) The Army Law shall determine the extent to which the authorities of the Provinces and the Communes may avail themselves directly of the co-operation of the Federal Army for the purposes mentioned in Article 79, paragraph 2.

Article 81.—The extent to which the Provinces shall co-operate in the recruitment, provisioning and housing of the Army, and in supplying its needs in other respects, shall be determined by Federal legislation.

B.—Judicial Power.

Article 82.—(1) All judicial power emanates from the Federation.

(2) Judgments and verdicts shall be given and executed in the name of the Republic.

Article 83.—(1) The constitution and jurisdiction of the courts of law shall be determined by Federal law.

(2) No person may be withdrawn from his ordinary judge.

(3) Extraordinary courts are only permissible in the cases determined by the laws on procedure in criminal matters.

Article 84.—Military jurisdiction is abolished, except in times of war.

Article 85.—The death penalty in ordinary procedure is abolished.

Article 86.—(1) Save as otherwise provided by this law, the judges shall be appointed, on the nomination of the Federal Government, by the President of the Federation or, under his authorisation, by the competent Federal Minister; the Federal Government or the Federal Minister shall receive nominations for appointment from the Senates appointed for the purpose under the Judiciary Law.

(2) The nominations for appointment to be laid before the competent Federal Minister and transmitted by him to the Federal Government must, if sufficient applicants are available, include at least three persons, or, if more than one position is to be filled, at least twice as many persons as there are judges to be appointed.

Article 87.—(1) Judges shall be independent in the exercise of their judicial functions.

(2) In the exercise of his judicial office, a judge must be prepared to discharge all business, excluding administrative matters, which is allotted to him in the distribution of judicial business in accordance with the law and which is not required by law to be dealt with by Senates or Commissions.

(3) The distribution of business among the judges of each Court shall be determined in advance for a period fixed by the Judiciary Law. A case allotted to a judge in accordance with this distribution may be withdrawn from him by order of the judicial administration only in the event of his inability to act.

Article 88.—(1) An age limit shall be fixed by the Judiciary Law, after the attainment of which the judges shall be permanently retired from office.

(2) Save as aforesaid, judges may be removed from office, or transferred against their will to another post, or retired from office, only in the cases and in the manner prescribed by law and in pursuance of a formal judicial decision. These conditions do not, however, apply to transfers or retirements necessitated by changes in the organisation of the Courts. In such cases the period within which judges may be transferred or retired without the prescribed formalities shall be determined by law.

(3) The temporary removal of judges from office may take place only by order of the President of the Court or of the higher judicial authority, the matter being at the same time referred to the competent Court.

Article 89.—(1) The Courts may not inquire into the validity of any duly promulgated law.

(2) If a Court has any doubt as to the applicability of a decree on the ground of conflict with the law, the proceedings must be discontinued and an application made to the Constitutional Court for the cancellation of the decree.

Article 90.—(1) Proceedings before Courts in which criminal and civil cases are decided must be conducted orally and in public. Exceptions to this rule shall be determined by law.

(2) Criminal proceedings shall be by indictment.

Article 91.—(1) The people shall co-operate in the administration of justice.

(2) In the case of offences punishable with heavy penalties specified by law, as also in all political crimes and offences, the guilt of the accused shall be decided by a jury.

(3) In criminal proceedings relative to other penal offences, assessors shall participate in the administration of justice if the penalty to be inflicted exceeds a limit to be determined by law.

Article 92.—The Supreme Court of Justice in Vienna shall be the court of final appeal in civil and criminal cases.

Article 93.—Amnesties for actions punishable by law may be granted by Federal law.

Article 94.—(1) Judicial proceedings shall be kept separate in all stages from administrative legal proceedings.

(2) When an administrative authority has to decide upon claims under the Civil Law, any person who deems himself injured by the decision, may, save as otherwise provided by law, seek a remedy against the other party through the ordinary legal channels.

(3) In matters connected with land reform (Article 12, paragraph 1, No. 6) the right of decision is reserved exclusively to Commissions composed of judges, administrative officials and experts.

FOURTH SECTION.

LEGISLATION AND EXECUTIVE ADMINISTRATION OF PROVINCES.

A.—General Provisions.

Article 95.—(1) The legislative powers of the Provinces shall be exercised by the Provincial Diets. The members of these shall be elected by the equal, direct, secret, personal and proportional suffrage of all male and female Federal citizens who are entitled to vote in accordance with the electoral ordinances of the

Provincial Diet, and have their ordinary domicile in the Province.

(2) The electoral ordinances of the Provincial Diet may not restrict the active and passive electoral right more narrowly than the electoral ordinance for the National Council.

(3) The electors shall exercise their right to vote in electoral districts, each of which must comprise a self-contained area. The number of representatives for each electoral district shall be proportionate to the number of citizens. The electorate may not be split up into other electoral bodies.

Article 96.—(1) The members of the Provincial Diet shall enjoy the same privilege of immunity as the members of the National Council; the principles of the provisions of Article 57 shall be applicable to them.

(2) The provisions of Articles 32 and 33 shall also apply to the sessions of the Provincial Diets and their Committees.

Article 97.—(1) Every Provincial Law must be adopted by the Provincial Diet, authenticated and counter-signed in accordance with the requirements of the Provincial Constitution, and finally promulgated by the Provincial Governor in the Official Record of Provincial Laws ("Landesgesetzblatt").

(2) In so far as a Provincial law provides for the co-operation of the Federal authorities in its execution, the consent of the Federal Government must be obtained for that co-operation. Until such consent is obtained, the Provincial Law may not be promulgated.

Article 98.—(1) The adoption of a law by the Provincial Diet must be communicated immediately after such adoption to the competent Federal Ministry before being sanctioned by the Governor of the Province.

(2) The Federal Government may, on the ground of danger to the interests of the Federation, enter an objection, supported by reasons, against the adoption of the law, within eight weeks from the day on which that adoption was communicated to the competent Federal Minister. In such a case, the law may be promulgated only if it is reaffirmed by the Provincial Diet, at least one-half of its members being present.

(3) Promulgation before the expiration of the period allowed for lodging objections shall be permissible only if the Federal Government expressly agrees thereto.

Article 99.—(1) The Provincial Constitution, which shall be decreed by Provincial Law, may be altered by Provincial Law, in so far as the Federal Constitution is not affected thereby.

(2) A Provincial Constitutional Law shall require for its adoption the presence of one-half the members of the Provincial Diet and a majority of two-thirds of the votes cast.

Article 100.—(1) Each Provincial Diet may be dissolved by the President of the Federation, on the motion of the Federal Government and with the assent of the Federal Council. The assent of the Federal Council shall require the presence of one-half of its members and a majority of two-thirds of the votes cast. The representatives of the Provincial Diet about to be dissolved may not take part in the voting.

(2) In the event of dissolution, fresh elections must be announced within three weeks, in accordance with the terms of the Provincial Constitution; the newly-elected Provincial Diet must be summoned within four weeks of the election.

Article 101.—(1) The executive administration of each Province shall be carried on by the Provincial Government elected by the Provincial Diet.

(2) The members of the Provincial Government shall not be members of the Provincial Diet. Nevertheless, no person may be elected to the Provincial Government unless he be qualified for election to the Provincial Diet.

(3) The Provincial Government shall consist of the Governor of the Province, the requisite number of substitutes, and further members.

(4) Before entering into office, the Governor of the Province shall be sworn in by the President of the Federation, and the other members of the Provincial Government by the Governor of the Province.

Article 102.—(1) The Federal executive administration within the territories of the Provinces shall, save where there are special Federal authorities (direct Federal administration), be carried out by the Governor of the Province and the Provincial authorities subordinate to him (indirect Federal administration).

(2) The following matters may be dealt with directly by Federal authorities within the limits of their spheres of action as laid down in accordance with the Constitution:—

Defining of boundaries, foreign trade in goods and live stock, customs, Federal finances, monopolies, weights, measures, standards and gauges, technical experiments, justice, matters of trade and industry, patents, trade marks, patterns and other distinctive marking of goods, engineering and civil technology, transport, federal roads, river and ship police, posts, telegraphs and telephones, mining, regulation and conservation of waters, construction and upkeep of waterways, hydrographic service, land surveying, labour laws, protection of labourers and employees, social insurance, protection of monuments, federal police, federal gendarmerie, military matters, care of persons who have served in war and of their dependants.

(3) The Federation may entrust the Federal executive administration to the Governor of a Province, even in regard to the matters set out in paragraph (2).

(4) Special Federal authorities for matters other than those set out in paragraph (2) may be established only with the assent of the Provinces concerned.

(5) The extent to which the Governors of Provinces shall have control of the Federal police and Federal gendarmerie shall be regulated by the Federal legislation referred to in Article 120, paragraph (1).

Article 103.—In matters of indirect Federal administration the Governor of the Province shall be bound by the instructions of the Federal Government and of the various Federal Ministers; in these matters, administrative appeals may be carried up to the competent Federal Ministers, unless otherwise expressly provided by Federal law.

Article 104.—The conditions of Article 102 shall not be applicable to the arrangements for transacting Federal affairs in matters specified in Article 17.

Article 105.—(1) The Governor of the Province shall represent the Province. In matters of indirect Federal administration he shall be responsible to the Federal Government, in accordance with Article 142. No immunity shall constitute any bar to the enforcement of this responsibility.

(2) The members of the Provincial Government shall be responsible to the Provincial Diet in accordance with Article 142.

(3) For the adoption of a resolution of impeachment within the meaning of Article 142, the presence of one-half the members shall be necessary.

Article 106.—An administrative official versed in the law shall be appointed as Director of the Provincial Administration, to direct the internal administration of the Provincial Government. He shall also assist the Governor of the Province in matters of indirect Federal administration.

Article 107.—Provinces may take joint action with one another only in matters coming within their sphere of independent action, and such joint action must at once be reported to the Federal Government.

B.—The Federal Capital, Vienna, and the Province of Lower Austria.

Article 108.—(1) The Provincial Diet of Lower Austria shall be divided into two Assemblies (Curiæ). One of these (the Provincial Assembly) shall consist of the Deputies of the Province excluding those representing Vienna. The election of the

other (the City Assembly) shall be regulated by the Constitution of the Federal Capital, Vienna.

(2) The number of Deputies to be allotted to each of the two Assemblies shall be proportionate to the number of citizens.

Article 109.—Both the Assemblies shall meet together as the Provincial Diet of Lower Austria for the purpose of legislating on all matters connected with the former autonomous Provincial administration declared by the Provincial Constitution to be of common concern, including, in particular, the common Constitution of the Province.

Article 110.—(1) In matters which are not of common concern, each of the two divisions of the Province shall have the status of an independent Province.

(2) In such matters the Municipal Council of Vienna and the Provincial Assembly shall function as Provincial Diets for Vienna and for the Province of Lower Austria respectively. The principles of Article 57 shall be applicable to the members of the Municipal Council of Vienna.

Article 111.—(1) The Constitution of each of the two divisions of the Province and the election of members of the Federal Council shall be deemed to be matters which are not of common concern. (Article 35).

(2) Similarly, legislation relating to taxation, in so far as it falls within the sphere of action of the Province, shall devolve upon the Municipal Council of the City of Vienna and on the Provincial Diet (Provincial Assembly).

(3) The raising of money for matters of common concern shall be governed by the common Constitution of the Province.

Article 112.—The general provisions of this Section shall apply to both divisions of the Province. In Vienna, accordingly, the Burgomaster elected by the Municipal Council shall function as the Governor of a Province, the City Senate elected by the Municipal Council shall function as the Provincial Government, and the Magistrate-Director shall function as the Director of Provincial Administration.

Article 113.—(1) Matters of common concern shall be administered by an Administrative Commission to be elected by the Provincial Diet from among its members by proportional representation.

(2) The Burgomaster of the City of Vienna and the Governor of the Province of Lower Austria shall be members of the Administrative Commission, and shall preside over it alternately.

Article 114.—Vienna may be constituted a separate Province by laws passed in identical terms by the Municipal Council of Vienna and by the Diet of the Province of Lower Austria.

C.—COMMUNES.

Article 115.—The general State Administration in the Provinces shall be organised according to the following provisions on the basis of self-government.

Article 116.—(1) The administrative districts and self-governing areas into which the Provinces shall be divided shall consist of Local Communes and District Communes.

(2) The Local Communes shall be subordinate to the District Communes and the latter to the Provinces.

Article 117.—(1) Local Communes with more than 20,000 inhabitants shall, if they so desire, be declared to be District Communes. In the case of such Communes the circuit administration ("Bezirksverwaltung") shall coincide with the communal administration.

(2) Urban districts hitherto organized as towns with their own charters shall become District Communes.

Article 118.—The Local Communes and District Communes shall also be independent economic corporations; they shall be entitled to hold and acquire property of all kinds and to dispose of it within the limits prescribed by Federal and Provincial laws, to carry on economic undertakings, to manage their own finances and to levy taxes.

Article 119.—(1) The public authorities of the Local Communes shall be the Local Communal Representative Council and the Local Communal Administration; the public authorities of the District Communes shall be the District Communal Representative Council and the District Communal Administration.

(2) Elections to all representative councils shall be by equal, direct, secret, personal and proportional suffrage of all Federal citizens ordinarily domiciled in the area of the representative council. Regulations as to the elections shall be prescribed by Provincial legislation; the active and passive electoral rights of citizens may not be more narrowly restricted by these regulations than is the case for the elections to the National Council. The electoral regulations may provide that electors shall exercise heir electoral rights in electoral districts, each of which must be elf-contained. No division of the electorate into other electoral odies shall be permitted. The Judicial Circuit District shall onstitute the electoral district for elections to the District Com-

munal Representative Council. The number of representatives to be allotted to each electoral district shall be proportionate to the number of citizens.

(3) Only persons who are ordinarily domiciled within the area of the District Commune and who are eligible for election to the Provincial Diet shall be eligible for election to the District Communal Representative Council.

(4) The Councils may appoint from among their own number, on the basis of proportional representation, special administrative committees for the individual branches of the administration; and these committees may, when certain occupational groups or groups with special interests are under consideration, add representatives of such groups to their numbers.

(5) The directors of the District Communal Administrations must be administrative officials versed in the law.

Article 120.—(1) The establishment of further principles for the organisation of the general state administration in the Provinces according to Articles 115 to 119 shall be effected by Federal Constitutional Laws; the application of these principles shall be effected by Provincial Laws.

(2) The allocation of administrative affairs, to be dealt with directly or by way of appeal, between the Representative Councils, the Administrative Committees and the Administrations, shall be determined by Federal and Provincial legislation within the limits of their respective constitutional competence.

(3) The Local Communes shall, notwithstanding the foregoing provision, be competent to deal in the first instance with the following matters:—

1. Measures for the protection of person and property (Local Security Police);
2. Relief and life-saving services;
3. Measures for the upkeep of roads, streets, public places, and bridges in the Commune;
4. Local street police services;
5. Rural police services;
6. Market and food control police services;
7. Sanitary police services;
8. Building and fire police services.

FIFTH SECTION.

CONTROL OF FEDERAL ACCOUNTS.

Article 121.—(1) The auditing of the administration of the general State finance of the Federation and of the administration of foundations, funds and institutions administered by Federal

authorities shall be conducted by the Court of Accounts. The auditing of the administration of enterprises in which the Federation is financially interested may also be entrusted to the Court of Accounts.

(2) The Court of Accounts shall prepare the final statement of accounts of the Federation and lay it before the National Council.

(3) All documents relating to State debts (financial and administrative liabilities) shall, if they involve any obligation on the Federation, be countersigned by the President of the Court of Accounts; the legality and correct accountancy of the administration merely shall be vouched for by this counter-signature.

Article 122.—(1) The Court of Accounts shall be directly subordinate to the National Council.

(2) The Court of Accounts shall consist of a President and the requisite officials and assistants.

(3) The President of the Court of Accounts shall be elected on the motion of the Principal Committee of the National Council.

(4) The President of the Court of Accounts may not be a member of any public representative body nor may he have been a member of the Federal Government or of a Provincial Government within the last five years.

Article 123.—(1) The President of the Court of Accounts shall be answerable for the discharge of his duties on the same basis as members of the Federal Government.

(2) He may be removed from office by resolution of the National Council.

Article 124.—(1) The official next in rank to the President of the Court of Accounts shall act as deputy for him.

(2) Where a deputy is acting for the President, the provisions of Article 123 shall apply to the deputy.

Article 125.—(1) The officials of the Court of Accounts shall be appointed by the President of the Federation on the proposition and with the counter-signature of the President of the Court of Accounts; this provision shall apply also to the conferring of official titles. The President of the Federation may, nevertheless, empower the President of the Court of Accounts to appoint certain classes of officials.

(2) Assistants shall be appointed by the President of the Court of Accounts.

Article 126.—No member of the Court of Accounts may take part in the direction or administration of enterprises which have to render account to the Federation or to the Provinces or which

are in receipt of a subsidy from or under contract to the Federation or the Provinces. This provision shall not apply to enterprises devoted to humanitarian purposes, or concerned with the economic position of public officials or their dependants.

Article 127.—Provincial Constitutional Laws may transfer to the Court of Accounts duties relating to the administration of the Provinces which are similar to the duties relating to the administration of the Federation which are entrusted to the Court by this law.

Article 128.—Further provisions as to the functions of the Court of Accounts shall be prescribed by Federal legislation.

SIXTH SECTION.

CONSTITUTIONAL AND ADMINISTRATIVE GUARANTEES.

A.—The Administrative Court.

Article 129.—(1) Any person claiming that his rights have been impaired by an illegal decision or decree of an administrative authority may, after carrying the matter through all the stages of administrative appeal, lodge a complaint with the Administrative Court.

(2) If the competent Federal Minister is of opinion that the interests of the Federation in matters specified in Articles 11 and 12 have been prejudiced by an illegal decision or decree of a Provincial authority, he may, in the name of the Federation, lodge a complaint of infringement of the law with the Administrative Court.

(3) No action for infringement of the law shall lie in any case where the authority is accorded, by the provisions of the law, free discretion as to the decision or decree and has exercised that discretion within the meaning of the law.

Article 130.—In respect of matters in which a complaint may be lodged with the Administrative Court, the process of administrative appeal may be shortened by legislation by the Federation or by the Provinces as may be appropriate in accordance with Articles 10 to 15.

Article 131.—The following matters are excluded from the jurisdiction of the Administrative Court:—

(1) Matters falling within the jurisdiction of the Constitutional Court;

(2) Matters upon which the ordinary Courts are competent to decide;

(3) Matters which must be heard or decided by a joint Board ("Kollegialbehörde"), of which at least one member, in the first or later stages, must be a judge.

Article 132.—A judge who has passed through the judicial or administrative service in the Province concerned shall normally be a member of any division of the Administrative Court which has to give judgment upon a disputed decision or decree of a Provincial authority.

Article 133.—(1) An illegal decision or decree shall be cancelled upon judgment to that effect being given by the Administrative Court.

(2) The administrative authorities shall be bound in the issue of a new decision or decree by the legal opinion expressed by the Administrative Court.

(3) The Administrative Court may itself decide the action to be taken in any case, provided that the matter is not one which, in accordance with the provisions of the law, is left to the free discretion of the authorities.

Article 134.—(1) The seat of the Administrative Court shall be in the Federal Capital, Vienna.

(2) It shall consist of a President, a Vice-President, and the requisite number of presidents of divisions and councillors.

(3) At least half of the members must possess the qualifications required for holding office as a judge.

Article 135.—The President, Vice-President and the members of the Administrative Court shall be appointed by the President of the Federation on the nomination of the Federal Government. As regards the President and one-half the members of the Court, the nominations made by the Federal Government must have the assent of the Principal Committee of the National Council; as regards the Vice-President and the other half of the members, the nominations must have the assent of the Federal Council.

Article 136.—The administrative jurisdiction and the organisation of the Administrative Court shall be determined by Federal Law.

B.—The Constitutional Court.

Article 137.—The Constitutional Court shall give judgment upon all claims made upon the Federation, the Provinces or the Communes, which cannot be decided by the ordinary judicial procedure.

Article 138.—The Constitutional Court shall also have jurisdiction in all disputes as to competence:—

(*a*) between the Courts and Administrative authorities;

(*b*) between the Administrative Court and the ordinary Courts, and more especially between the Administrative Court and the Constitutional Court itself;

(*c*) between Provinces and also between a Province and the Federation.

Article 139.—(1) The Constitutional Court shall give judgment as to the illegality of orders issued by any Federal or Provincial authority upon the motion of a Court or *ex-officio*, when the order pre-supposes a finding by the Constitutional Court, and also on the motion of the Federal Government in regard to the illegality of orders issued by a Provincial Government, and on the motion of a Provincial Government in regard to the illegality of orders issued by the Federal Government.

(2) Immediately upon judgment being given by the Constitutional Court annulling an order as illegal, the competent authority shall publish notice of the annulment, which shall take effect from the day of publication.

Article 140.—(1) The Constitutional Court shall give judgment in all questions as to the unconstitutionality of laws, in the case of Provincial laws upon the motion of the Federal Government, and in the case of Federal laws upon the motion of a Provincial Government, but *ex-officio* when the law presupposes a finding by the Constitutional Court.

(2) The motion mentioned in paragraph (1) may be brought forward at any time; the authority responsible for the motion must immediately communicate it to the Provincial Government concerned or to the Federal Government.

(3) Immediately upon delivery of a judgment by the Constitutional Court annulling a law as unconstitutional, the Federal Chancellor or the Governor of the Province concerned shall publish notice of the annulment, which shall take effect from the day of publication unless the Constitutional Court fixes a period for the annulment. This period may not exceed six months.

(4) The provisions of Article 89, Paragraph (1), shall not apply to an inquiry into the constitutionality of laws by the Constitutional Court.

Article 141.—The Constitutional Court shall give judgment upon cases of disputed elections to the National Council, the Federal Council, the Provincial Diets, and all other public representative bodies and, on the motion of any such representative body, upon a declaration of forfeiture of a seat by one of its members.

Article 142.—(1) The Constitutional Court shall give judgment upon motions of impeachment of the supreme Federal and Provincial authorities for illegal acts committed in the exercise of their official functions.

(2) The motion of impeachment may be made:—

(*a*) when directed against the Federal President, on the the ground of violation of the Federal Constitution—by decision of the Federal Assembly;

(*b*) when directed against members of the Federal Government and authorities subject to the same constitutional responsibility in relation to them, on the ground of violation of the law—by decision of the National Council;

(*c*) when directed against members of a Provincial Government and authorities subjected to the same responsibility by the Provincial Constitution, on the ground of violation of the law—by decision of the Provincial Diet concerned;

(*d*) when directed against the Governor of a Province, on the ground of violation of the law or failure to comply with the decrees or other instructions of the Federation in matters of indirect Federal administration—by decision of the Federal Government.

(3) An adverse finding by the Constitutional Court shall involve removal from office and also, in exceptionally grave cases, deprivation of political rights for a period; in respect of minor infringements of the law in the cases referred to in Paragraph (2), Section (d), the Constitutional Court may confine itself to establishing the fact of a breach of the law.

Article 143.—Proceedings against the persons mentioned in Article 142 may also be instituted in respect of a criminal offence committed in the execution of official duties. In such cases the Constitutional Court shall have exclusive jurisdiction; any proceedings which may be pending in the ordinary Criminal Courts shall be transferred to the Constitutional Court. The Constitutional Court may in such cases apply the provisions of the penal law in addition to those of Article 142, Paragraph (3).

Article 144.—(1) The Constitutional Court shall give judgment on complaints of violation, by a decision or decree of an administrative authority, of rights guaranteed under the Constitution, after the matter has been taken through all the stages of administrative appeal.

(2) An unconstitutional decision or decree shall be annulled on judgment to that effect being given by the Constitutional

Court. The authorities shall be bound by the legal opinion expressed by the Constitutional Court in the issue of any new decision or decree.

Article 145.—The Constitutional Court shall give judgment upon violations of international law in accordance with the provisions of a special Federal law.

Article 146.—The Federal President shall be responsible for the execution of the judgments of the Constitutional Court.

Article 147.—(1) The Constitutional Court shall sit in Vienna.

(2) It shall consist of a President, a Vice-President and the requisite number of members and substitute members.

(3) The President, Vice-President and one-half of the members and deputy members shall be elected by the National Council, and the other half of the members and deputy members by the Federal Council, and they shall hold office for life.

Article 148.—Further provisions as to the organisation and procedure of the Constitutional Court shall be prescribed by Federal legislation.

SEVENTH SECTION.

FINAL PROVISIONS.

Article 149.—(1) In addition to this Law, the following enactments shall be deemed to be Constitutional Laws within the meaning of Article 44, Paragraph (1), subject to the alterations provided for by this law:—

Law of 21st December, 1867. Reichsgesetzblatt* No. 142, on the public rights of State citizens for the Kingdoms and Provinces represented in the Reichsrat.

Law of 27th October, 1862, R.G. Bl. No. 87, on the protection of personal liberty.

Law of 27th October, 1862, R.G. Bl. No. 88, on the protection of domiciliary rights.

Decree of the Provisional National Assembly of 30th October, 1918, St. G. Bl. No. 3 (Staatsgesetzblatt* No. 3).

Law of 3rd April, 1919, St. G. Bl. No. 209, concerning the banishment and the taking over of the property of the House of Hapsburg-Lorraine.

Law of the 3rd April, 1919, St. G. Bl. No. 211, relating to the abolition of the nobility, the temporal orders of Knights and Dames and certain titles and dignities.

*The official collection of laws.

Law of 8th May, 1919, St. G. Bl. No. 257, relating to the State arms and State seal of the Republic of German-Austria, with the alterations effected by Articles 2, 5 and 6 of the Law of 21st October, 1919, St. G. Bl. No. 484.

Section V. of Part III, of the Treaty of St. Germain of 10th September, 1919, St. G. Bl. No. 303 of 1920.*

(2) Article 20 of the Law of 21st December, 1867, R.G. Bl. No. 142, and the Law of 5th May, 1869, R. G. Bl. No. 66, based upon that Article, are repealed.

Article 150.—The transition to the Federal Constitution established by this Law shall be regulated by a separate Constitutional Law which shall come into operation simultaneously with this Law.

Article 151.—(1) This Law shall come into operation on the day of the first sitting of the National Council, save in so far as exceptions may be made by the Law mentioned in Article 150.

(2) Nevertheless the provisions of Article 50, Paragraph (1), and of Article 66, Paragraph (2), shall come into force on the day of the promulgation, the right of approval vested in the National Council being exercised by the National Assembly until the coming into operation of the other provisions of this Law.

Article 152.—The State Government is entrusted with the execution of this law.

(*Here follow the Signatures*).

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*This Section comprises the stipulations as to protection of minorities imposed upon Austria by the Allied and Associated Powers.

V. THE ESTHONIAN REPUBLIC.

Area: 23,160 square miles. *Population*: 1,750,000.

Not until after the Russian Revolution of 1917 did Esthonia emerge as a distinct political entity, revealing before the world a distinct national consciousness. It is therefore necessary to deal briefly with the historical origin of the people, as well as with the historical origin of the Constitution.

The Esthonians are a people akin to the Finns, and occupy a territory lying between the Gulfs of Finland and Riga and Lakes Peipus and Pskov. Early in the 13th century the Teutonic *Order of the Knights of the Sword* occupied the southern half of this territory. About the same time the Danes occupied the northern half. About a century later the Germans acquired this northern portion by purchase from the Danes, and they unified the whole territory with Livonia (Lettland or Latvia). On the dissolution of the *Order of the Knights of the Sword* the territory was again divided, the southern portion going to Poland and the northern to Sweden. Later again, in 1639, Sweden acquired practically the whole of modern Esthonia, which remained a Swedish province until its cession, a century later, in 1721, to Russia. A condition of the cession was that a form of government should be granted to Esthonia by Russia. The territory remained Russian until the Russian Revolution of 1917. It did not, however, exist as an integral unit, the southern part being included in Livonia.

For economic reasons, apart from these political causes, the history of Esthonia is closely inter-related with the history of Russia, for Reval and other Esthonian ports can be kept clear from ice practically all the year round. They therefore form the natural outlet, not only for the products of the immediate hinterland, but for regions so far afield as the north and north-central districts of Russia as well as of Siberia. The ancient connection with Germany, moreover, helped Esthonia to be the highway of exchange between Russia and Germany. Many raw materials were manufactured, as to their first stage, in Russia, the middle stage being continued in Germany, and the final being completed again in Russia, the traffic continuing across Esthonia.

For two centuries, while Esthonia was included as a province of Russia, the local Diets remained in existence, but their power and authority were continually restricted. Political power was generally exercised, on the one hand, by Russian officials, and, on the other hand, by the landlords of the country, the "Baltic

Barons," descendants of the old Teutonic Knights. Though the people were pure Esthonian to the extent of 95 per cent. of the total population, the small German and Russian minority, consisting of officials and landlords, formed a governing caste, wealthy, hostile, and especially during the past half century, bitterly anti-national. Education, for example, was compulsory either in Russian or in German.

The first evidence of their distinctive nationality was given by the mass of the people at the elections to the first Russian Duma of 1905, for Esthonia elected a separate group of members who put forward a distinctive national claim. This claim, however, was confined at that time, to a demand for autonomy in a democratic federal Russian State.

The next stage occurred after the Russian Revolution in 1917, when the Czarist rule was overthrown. Prince Lvov, Chief of the Provisional Government, issued a decree, on April 12th, 1917, in which autonomy was conferred on Esthonia. Under this decree the territory of Esthonia included the area which had previously been incorporated in Livonia. The decree authorised the setting up of an Esthonian National Council for this territory. The National Council was to be elected by universal, equal and secret suffrage for both sexes on the principles of Proportional Representation. It was therefore fully representative of the Esthonian people. This Esthonian National Council met at Reval on July 14th, 1917, and established a National Government.

Hardly had the new Esthonian government been established, however, when, in November, the Bolshevik Revolution in Russia overthrew the Provisional Government, and dispersed the Russian Constituent Assembly. Later, however, on the 20th of that month, the Esthonian National Council adopted the following resolutions:—

(1) The Esthonian National Council proclaims itself the sole repository of the sovereign power in Esthonia until the assembling of the Constituent Assembly of Esthonia.

(2) In order that a definitive decision may be taken as to the basis of political organisation, the form of the State and the establishment of democracy, an Esthonian Constituent Assembly shall be convened forthwith on the basis of democratic suffrage.

(3) For the period during which it is not sitting, the Esthonian National Council remits its powers and functions to a Committee composed of the President and Elders of the National Council and the members of the Administration. Decrees and arrangements made by this Committee shall be submitted for the

decision of the National Council thereon on its meeting.

These decisions had direct reference to the Bolshevik Revolution. The third resolution, for example, was designed to meet the growing danger from the Bolsheviks. For, according to this resolution, power was entrusted to a smaller body in case it should not be possible for the Esthonian National Council to continue to meet.

The anticipated danger was not long in maturing, for the Russian Bolshevik Government declared the Esthonian National Council to be dissolved, and invaded Esthonia, receiving aid from Esthonian and Lettish Bolsheviks. Though the Council was dispersed, however, the Committee established by it maintained itself in being and continued to meet. It met at Reval on January 23rd, 1918, in conference with representatives of all political parties except the Bolsheviks. This Conference declared Esthonia to be an independent Republic. The Conference left the national boundaries to be defined subsequently by plebiscite. It despatched envoys to seek recognition in foreign States. It organised the national defence to such good effect that, by the middle of February, the power of the Bolsheviks, already weakened from causes which led subsequently to the peace of Brest-Litovsk, had been broken, and order had been re-established.

On February 24th, the Esthonian Republic was proclaimed at Reval and other towns. But in the meantime other dangers had matured. In the same month of February the Treaty of Brest-Litovsk had been made between the Russians and the Germans; and this Treaty provided for the evacuation of Esthonia by the Russians and its occupation by German troops for police purposes pending the re-establishment of the State organisation. German troops had, indeed, already invaded Esthonian territory. The power of the German "Baltic Barons" had, therefore, been restored.

The Germans, now in occupation, proceeded without delay to proclaim the suppression of the Provisional Government and the dissolution of the National Council, to establish a military dictatorship, and to create local assemblies entirely under German control. The Provisional Government, however, contrived to remain in being; and in May, 1918, this Government secured from the Allied Powers *de facto* recognition of Esthonia as an independent State.

The Armistice of November, 1918, led to the withdrawal of German forces by an agreement with the Esthonian Government dated November 19th. The following day the Esthonian National Council re-assembled and confirmed the measures taken since its last meeting by the Committee and the Provisional Government. The powers of this Provisional Government were widened, and

the Government proceeded to arrange for the election of a Constituent Assembly to replace the National Council.

The Constituent Assembly was elected on the principles of Proportional Representation, by universal, equal, direct and secret suffrage, between April 5th and April 7th, 1919. The Assembly numbered 129 members, and met for the first time on April 23rd, when it formed a new Government. On May 19th the Assembly confirmed the National Council's decision that Esthonia should be an Independent Republic; and on June 4th it adopted a provisional Constitution pending the construction of a final Constitution.

The Constituent Assembly then proceeded with its task of framing this final and permanent Constitution, the drafting being entrusted to a Committee of its members. In the meantime it continued to act as a National Legislature. Particularly it devoted itself to the work of nationalizing the great estates of the "Baltic Barons" and dividing them among the people. A law to this effect was adopted on October 10th. It furnished assistance in the raid of General Judenitch against the Bolshevik Government of Russia. It supported the efforts of Latvia to expel the Russian invasion. It organised resistance to the German invasion under General Von der Goltz in June, 1919. During the whole of this year, 1919, indeed fighting with Russia continued, and was not terminated until the Armistice of December 31st. Peace was concluded on February 20th, 1920, at Dorpat under a Treaty which was ratified by the Constituent Assembly on February 10th. By this Treaty Soviet Russia recognised the complete *de jure* independence of Esthonia, and paid an indemnity of 15,000,000 gold roubles. Certain mutual economic concessions were arranged by the Treaty, and subsequently the boundary between Soviet Russia and Esthonia was defined by common consent. This was followed by the recognition of the *de jure* sovereignty of Esthonia by Finland in June, 1920, and by the Supreme Council of the Allied Powers on January 26th, 1921.

The work of framing the Constitution was completed in little more than a year, the Constitution being adopted and passed into law on June 15th, 1920. Certain consequent legislation thereupon became necessary to implement the Constitution. Therefore the supplementary organic law dealing with elections to the State Assembly, and with the method of procedure under the Initiative and Referendum embodied in the Constitution, was adopted by the Constituent Assembly on July 2nd, 1920. The Assembly was not elected for any fixed term, but having completed its work of Constitution making and passed the necessary consequent legislation, it dissolved itself in December, 1920. Elections for the first State Assembly under the Constitution were held on November 28th, 1920, and the new State Assembly met on January 4th, 1921.

The Constitution of the Esthonian Republic is remarkable for its simplicity and its brevity. Legislative power is vested in a small single Chamber,* elected for terms of three years, by adult suffrage, on principles of Proportional Representation. This State Assembly elects and appoints the Executive. The Executive consists of a Head of the State and the Ministers, all of whom hold office only so long as they enjoy the confidence of the Assembly. The Assembly also directly elects the judges of the Supreme Court. The Initiative and the Referendum are provided in a form suggesting their frequent use. The intention is clearly that the people should at all times exercise continuous control over the State Assembly, and, through the Assembly, over both the Executive and the Judiciary. By way of a summary reminder to that effect, it is provided that if the decision of the Assembly should happen to be reversed by the people on a Referendum, the Assembly automatically dissolves in order that a general election of new representatives may at once take place.

* It is noteworthy that the neighbouring Republics of Latvia and Lithuania also have Single-Chamber Legislatures.

THE CONSTITUTION

OF THE

ESTHONIAN REPUBLIC.

(Adopted by the Constituent Assembly on 15th June, 1920.)

The Esthonian people, with unshaken faith, and the resolute will to create a State based on justice, law, and liberty, to maintain internal and external peace for the general well-being, and to guarantee the social progress of present and future generations, has framed the following Constitution, which has been adopted by the Constituent Assembly.

CHAPTER I.

GENERAL PROVISIONS.

Article 1.—Esthonia is an independent Republic in which the sovereign power is in the hands of the people.

Article 2.—The territory of Esthonia includes Harjumaa, Läänemaa, Järwama, Wirummaa, with the town of Narwaa and district, Tartumaa Wiljandimaa, Parnumma, the town of Walk, Wörumaa, Petserimaa and other border regions inhabited by Esthonians, the islands of Saaremaa (Oesel), Muhumaa, (Moon), and Hiumaa (Dago), and other islands and reefs situated in Esthonian waters.

The delimitation of the Esthonian frontiers shall be determined by International Treaties.

Article 3.—The sovereign power of Esthonia cannot be exercised otherwise than on the basis of the Constitution and the laws passed in accordance with the Constitution.

Article 4.—Only laws initiated and adopted by the lawful institutions of the country are valid in Esthonia. The universally recognised general rules of international law are an integral part of the Esthonian laws.

No one may be presumed to be ignorant of the law.

Article 5.—The State language of the Esthonian Republic is Esthonian.

CHAPTER II.

CONSTITUTIONAL RIGHTS OF ESTHONIAN CITIZENS.

Article 6.—All citizens of the Republic are equal before the law. Public privileges or prejudices derived from birth, religion,

sex, social position, or nationality may not exist. In Esthonia there are no legal class divisions or titles.

Article 7.—The Esthonian Republic confers no decorations or marks of distinction on its citizens, excepting members of the defence forces in time of war. Esthonian citizens are likewise forbidden to accept foreign decorations.

Article 8.—Personal liberty is guaranteed in Esthonia.

No person may be prosecuted, save in the cases and according to the forms prescribed by law.

No person may be arrested, or in any way deprived of his personal liberty, save by order of a judicial authority, except when apprehended *flagrante delicto*. The order must be based on stated reasons and must be communicated to the person imprisoned at least three days after his arrest. Any citizen has the right to require that the order be communicated to the person affected, if this has not been done within the aforesaid period.

No person may be brought against his will before any Court other than that designated by law.

Article 9.—No person may be punished for any act, unless a penalty has been attached thereto by a law which came into force before the commission of the said act.

Article 10.—The inviolability of the dwelling is guaranteed.

No domiciliary search or investigation may be made, save in cases provided for by law.

Article 11.—In Esthonia there is freedom of religion and conscience. No person may be obliged to perform any religious act, to be a member of any religious association, or to pay public taxes for the benefit of any such association.

Every Esthonian citizen may freely practise the rites of his religion, provided they are not contrary to public order or morality.

The religious belief or political opinions of any citizen may not be pleaded in justification of any offence, or of the non-fulfilment of civic duties.

There is no State religion in Esthonia.

Article 12.—Science and the arts, and the teaching thereof are unrestricted in Esthonia. Elementary education is obligatory and free in the primary schools. Instruction in their mother-tongue is guaranteed to racial minorities. Public instruction is placed under the control of the State.

The autonomy of institutions for higher education is guaranteed within the limits laid down by their statutes, which must be approved by legislation.

Article 13.—In Esthonia there is liberty for the expression of ideas in speech, writing, print, and pictorial representation and

sculpture. This liberty may not be restricted, save for reasons of morality and of the security of the State.

There is no censorship in Esthonia.

Article 14.—The secrecy of communications by post, telegraph, telephone or other general means, is guaranteed. The Courts may authorise exceptions to this rule in cases provided for by law.

Article 15.—The right of addressing complaints and requests to public institutions is guaranteed in Esthonia. Such requests may not be accompanied by any compulsion or threat. The institutions concerned are bound to deal with such complaints or requests.

Article 16.—State officials may be proceeded against in the Courts without prior authorization.

Article 17.—Liberty to establish and change one's place of dwelling is guaranteed in Esthonia. No person may be deprived of this right, save by the Courts.

Restrictions may also be placed upon this right by other authorities, for reasons of public health, in such cases and in such manner as may be prescribed by law.

Article 18.—All persons are free to assemble peaceably and unarmed.

All citizens have the right to form associations.

The right to strike is assured.

These rights may be limited only by law and solely in the interests of public safety.

Article 19.—Freedom to choose one's occupation as well as to originate enterprises or industries of an agricultural, commercial, industrial or other nature, is guaranteed in Esthonia. No person may be deprived of this right, save in accordance with and subject to the limits laid down by the law.

Article 20.—Each Esthonian citizen is free to declare to what nationality he belongs. In cases where personal determination of nationality is impossible, the decision shall be taken in the manner prescribed by law.

Article 21.—Racial minorities in the country have the right to establish autonomous institutions for the preservation and development of their national culture and to maintain special organisations for their welfare, so far as is not incompatible with the interests of the State.

Article 22.—In districts where the majority of the population is not Esthonian, but belongs to a racial minority, the language used in the administration of local self-governing authorities may be the language of that racial minority, but every citizen has the right to use the language of the State in dealings

with such authorities. Local self-governing bodies which use the language of a racial minority must use the national language in their communications with governmental institutions, and with other local self-governing bodies which do not make use of the language of the same racial minority.

Article 23.—Citizens of German, Russian or Swedish nationality have the right to address the central administration of the State in their own language. The use of these languages in the Courts, and in dealings with the local administrations of the State and of self-governing bodies, shall be the subject of detailed regulation by special laws.

Article 24.—The right of private property is guaranteed to every citizen in Esthonia. Property may be expropriated without the consent of the owner only if the public interest so requires, and upon the basis and in the manner prescribed by law.

Article 25.—The organisation of economic life in Esthonia must conform to the principles of justice, so as to ensure to all citizens a life worthy of human beings, by means of laws for the encouragement of agriculture, the ensuring of a dwelling and of work for every citizen, the protection of maternity, the safeguarding of labour, the assistance of the aged, and the relief of disablement due to accidents at work.

Article 26.—The enumeration of the rights and liberties of citizens in the foregoing articles (6 to 24), does not exclude other rights derived from the Constitutional Law, or in accord therewith.

Restrictions placed upon the liberty of the citizen and his fundamental rights in exceptional circumstances, as when a State of Defence is proclaimed, may not be brought into operation save after the period prescribed by law, and upon the basis of, and within the limits laid down by, the law.

CHAPTER III.

THE NATION.

Article 27.—The nation exercises the sovereign power in Esthonia through citizens who possess the right to vote. Every citizen who has reached the age of twenty years has the right to vote, if he has been an Esthonian subject for a period of not less than one year.

Article 28.—The following are not entitled to vote:—

(1) Persons legally declared to be of unsound mind;

(2) Blind and deaf-mute persons, and spendthrifts placed under legal guardianship.

Certain categories of malefactors are deprived of the right to vote by the Organic Electoral Law.

Article 29.—The people exercise sovereign power through:—

(1) the Referendum;

(2) the Legislative Initiative; and

(3) their power of electing the members of the State Assembly.

Article 30.—Every law passed by the State Assembly (Riigikogu) shall remain unpromulgated for a period of two months, reckoned from the day on which it is passed, if one-third of the members of the State Assembly so demand. If, within this period of two months, 25,000 citizens entitled to vote demand that the adoption or rejection of the said law be submitted to a Referendum of the people, promulgation or non-promulgation of the law shall be determined by the result of the Referendum.

Article 31.—In the exercise of the right of the Legislative initiative, 25,000 citizens entitled to vote may demand the promulgation, amendment or repeal of a law. The Bill for this purpose shall be presented to the State Assembly, which may either pass the Bill into law or reject it. In the latter case the Bill shall be submitted to a Referendum for adoption or rejection by the people. If the majority of the citizens voting accept the Bill, it shall come into force as the law of the State.

Article 32.—If the people reject a law passed by the State Assembly, or accept a law rejected by the Assembly, new elections for the Assembly shall be held not later than seventy-five days after the holding of the Referendum.

Article 33.—The Referendum of the people shall take place under the control of the officers (*bureau*) of the State Assembly. The basis and procedure governing the Referendum are prescribed by a special law.

Article 34.—The following matters may not be submitted to a Referendum, or be the subject of the Legislative Initiative by the people: The Budget and State loans; laws relating to the payment of taxes; the declaration of war and conclusion of peace; the declaration of a state of defence and the withdrawal of the same; and treaties with foreign States.

CHAPTER IV.

THE STATE ASSEMBLY (RIIGIKOGU).

Article 35.—The State Assembly exercises legislative power as the representative of the nation.

Article 36.—The State Assembly consists of one hundred members, elected on the principle of proportional representation, by universal, equal, direct and secret suffrage.

The State Assembly may increase the number of its members, but the law providing for an increase in number shall not come into force until the next elections to the State Assembly.

The electoral law for the State Assembly forms a special organic law, distinct from the present law.

Article 37.—Every Esthonian elector is entitled to vote at elections for the State Assembly and is eligible for election thereto.

Article 38.—Members of the State Assembly, with the exception of the assistants to members of the Government of the Republic, may not become officials of the Government, or of institutions under the control of the Government.

Article 39.—The State Assembly is completely renewed by elections every three years. The term of office of the members dates from the day of the publication of the results of the elections.

Article 40.—If a member of the State Assembly ceases to be entitled to vote, is placed under arrest with the consent of the State Assembly, resigns or dies, his place shall be filled, in accordance with the rules laid down by the electoral law, by a new member, who shall hold office for the remainder of the period fixed by the preceding article.

Article 41.—The ordinary sessions of the State Assembly commence each year on the first Monday in October.

Article 42.—The officers of the State Assembly may summon the Assembly in extraordinary session, if circumstances so require, and shall be bound to do so upon request by the Government of the Republic, or by one-fourth of the members of the State Assembly.

Article 43.—At its first sitting after the elections, the State Assembly elects its Chairman and other officers (*membres du Bureau*). The Chairman of the previous State Assembly shall preside over this sitting until the new Chairman is elected.

Article 44.—The State Assembly prescribes its own rules of procedure, which shall be promulgated as law.

Article 45.—The members of the State Assembly are not bound by any instructions from the electors.

Article 46.—The State Assembly can come to valid decisions if at least half of its members are present.

Article 47.—The sittings of the State Assembly are public. Only in extraordinary cases, if two-thirds of the members agree, the sitting of the State Assembly may be declared secret.

Article 48.—Save as provided in the rules of procedure, no member of the State Assembly may be made answerable for political utterances in the Assembly or its Committees.

Article 49.—Members of the State Assembly may not be imprisoned without the consent of the Assembly, save when apprehended *flagrante delicto*. In such a case, the officers of the State Assembly must, within forty-eight hours at latest, be informed of the imprisonment and of the reasons therefor. The officers shall report the matter to the Assembly at its next sitting.

The State Assembly may defer the imprisonment, or suspend any other restriction placed on the liberty of a member, until the end of the session, or until the expiry of its term of office.

Article 50.—The members of the State Assembly are exempt from military service during their term of office.

Article 51.—The travelling allowances and salaries of members of the State Assembly are fixed by law, and may not be altered by the State Assembly, save for subsequent sessions.

Article 52.—The State Assembly passes laws, determines the Budget, revenues and expenditure of the State, and decides as to loans and other matters in accordance with the principles of the Constitution.

Article 53.—The officers of the State Assembly are responsible for the publication of laws passed by the National Assembly.

Article 54.—Every law comes into operation, save as may be otherwise provided by the law itself, on the tenth day after its publication in the Official Gazette. "Riigi Teataja."

Article 55.—The State Assembly exercises its powers of control through machinery set up by itself, by means of which it supervises the State Administration, the economic affairs of State undertakings, and the utilization of credits provided for by the State Budget.

Article 56.—Every member of the State Assembly has the right to address questions to the Government at sittings of the State Assembly; one-fourth of the number of members of the State Assembly, as fixed by law, may interpellate the Government, and the Government is bound to reply to such interpellation.

CHAPTER V.

THE GOVERNMENT.

Article 57.—The Government of the Republic exercises executive power in Esthonia.

Article 58.—The Government is composed of the Head of the State (Riigiwanem) and the Ministers. The number of the latter, their powers and duties, are determined by a special law.

Article 59.—The State Assembly appoints the Government and receives its resignation. If a Minister resigns, his duties are

discharged by another member of the Government, designated by the Government, until a new Minister is appointed.

Article 60.—The Government of the Republic directs the internal and external policy of the State, and ensures the preservation of internal and external security and the execution of the laws.

The Government—

(1) frames the Budget of receipts and expenditure of the State, and submits it to the State Assembly for confirmation;

(2) appoints and dismisses civil and military officials of the State, save in so far as this right is vested by law in any other authority;

(3) concludes treaties with foreign States in the name of the Esthonian Republic, and submits them to the State Assembly for ratification;

(4) declares war and concludes peace in accordance with the decisions of the State Assembly;

(5) proclaims a state of defence throughout the whole or a part of the territory, and submits the proclamation to the State Assembly for ratification;

(6) presents proposals for legislation to the State Assembly;

(7) issues decrees and ordinances in accordance with the laws;

(8) decides appeals for amnesties.

Article 61.—The Head of the State acts as representative of the Esthonian Republic, directs and correlates the activities of the Government of the Republic, and presides over the councils of Ministers, and may require each individual Minister to render an account of his actions.

Article 62.—The Government of the Republic appoints a substitute for the Head of the State from among its own members.

Article 63.—The sittings of the Council of Ministers are private; on exceptional and ceremonial occasions they may be held in public.

Article 64.—The Government of the Republic must possess the confidence of the State Assembly. If the Government or any of its members find that the Assembly has withdrawn its support, they must resign.

Article 65.—The State Chancellory is attached to the Government of the Republic, and placed under the supervision of the Head of the State. The State Chancellory is directed by the State Secretary appointed by the Government of the Republic.

Article 66.—All decisions of the Government must be signed by the Head of the State, the Minister responsible for carrying them into effect, and the State Secretary.

Article 67.—The Head of the State and the Ministers may not be impeached for offences committed in the exercise of their functions, save in pursuance of a decision to that effect by the State Assembly, and may be tried only by the Supreme Court of Justice.

CHAPTER VI.

THE JUDICIAL POWER.

Article 68.—The Courts are empowered to administer justice in Esthonia, and are independent in the exercise of that power.

Article 69.—The Supreme Court of Justice, the judges of which are elected by the State Assembly, exercises supreme jurisdiction in Esthonia.

Article 70.—The Supreme Court of Justice appoints judges, save as the law may provide that they shall be elected.

Article 71.—Judges may be dismissed only by judicial process.

Judges may not be transferred from one place to another against their will, except where transfer is necessary for the due execution of the law.

Article 72.—Judges may not hold any other paid office except in cases permitted by law.

Article 73.—Certain classes of criminal cases are tried by the Court of Assize in accordance with the conditions and forms prescribed by law.

The preceding Article (Number 72) is not applicable to jurors.

Article 74.—Extraordinary Courts may not be established, save in time of war or during a state of defence of the territory, or on board ships of war, and then only within the limits prescribed by a special law.

CHAPTER VII.

LOCAL SELF-GOVERNMENT.

Article 75.—Governmental power is exercised through local self-governing bodies in all cases where no special organs of the central authority have been established by law.

Article 76.—The representative assemblies of local self-government are elected on the principle of proportional representation, by universal, equal, direct and secret suffrage.

Article 77.—Local self-governing bodies have the right to impose taxes for the purpose of balancing their Budgets, within the limits and in the manner prescribed by law.

CHAPTER VIII.

THE DEFENCE OF THE STATE.

Article 78.—All citizens of the State are obliged to take part in the defence of the State, upon the conditions and in the manner prescribed by law.

Article 79.—The organization of the troops raised for the preservation of the security of the country shall be determined by special law.

Article 80.—As soon as general mobilization is ordered, or as hostilities commence, the Government of the Republic shall transfer the supreme command of the troops to the Commander-in-Chief, who shall be appointed by the Government, and whose powers shall be defined by a special law.

Article 81.—The Government of the Republic may issue orders and decrees relating to the army within the limits and in the manner prescribed by law.

Article 82.—The issue of the order for mobilization is decided by the State Assembly.

The Government of the Republic may order mobilization in the absence of a decision by the State Assembly, if a foreign State has declared war on the Republic, or has commenced hostilities, or has ordered mobilization against the Republic.

CHAPTER IX.

THE BUDGET AND TAXES.

Article 83.—No person may be taxed save in accordance with law.

Article 84.—No pension, remuneration or compensation may be paid out of State funds save in accordance with law.

Article 85.—The Budget of receipts and expenditure of the State is fixed for each year. The Budget for one year may, by legislation, be given continued effect until the adoption of the Budget for the following year.

CHAPTER X.

THE OPERATION OF THE CONSTITUTION AND ITS AMENDMENT.

Article 86.—The Constitution is the inviolable rule governing the activities of the State Assembly, the Courts, and Governmental organizations.

Article 87.—The right of initiative in the amendment of the Constitutional Law may be exercised by the people in the same manner as the Popular Initiative, and by the State Assembly in the ordinary manner.

Article 88.—Amendments of the Constitution proposed by the Popular Initiative, or by the State Assembly, are determined by Popular Referendum.

Article 89.—Every proposal for the amendment of the Constitutional Law must be published for the information of the people at least three months before being put to the vote.

VI. THE CZECHOSLOVAK REPUBLIC.

Area: 54,264 sq. miles. *Population*: 13,595,816.

The Czechoslovakian Constitution was passed on February 29th, 1920, following upon the international recognition of the Czechoslovak Republic in the Treaties of Versailles and St. Germain with which the European War was concluded. Its territory as that territory was defined under the Treaty of St. Germain, comprises Bohemia, Moravia, Slovakia, part of Silesia, and a portion of Ruthenia south of the Carpathians. The political history of the Czechs and the Slovaks, the two most important peoples comprising the new State, is one of a long political struggle against German domination on the part of the Czechs and against Magyar domination on the part of the Slovaks. Both are Slavonic peoples, speaking kindred languages, and they became incorporated respectively in the Austrian and Hungarian kingdoms at different periods earlier in their history. The most stubborn resistance, however, occurred in the Czech part of the new State, and it is to the political efforts of this half that its origin is mainly due.

The territories now inhabited by the Czechs and Slovaks were occupied by them in the 6th century as a consequence of the Slav invasion into Central Europe. In the 9th century the two peoples were included as part of the great Moravian Empire, which extended south into what is now known as Hungary. The westward invasion of the Magyars early in the 10th century broke up the Moravian Empire. The Magyars settled in the territory now occupied by them, and subjected the Slovaks to their domination. The Czechs, however, continued an independent State, known as the Kingdom of Bohemia, ruled by its own native Slav princes as part of the Holy Roman Empire. Early in the 15th century Bohemia was the seat of the reformation of John Huss, as a result of which the greater part of the Bohemian population broke away from the Catholic faith, with political consequences that ended in the Hussite wars, which weakened Bohemia but still left her as an independent State.

As a consequence of the Turkish menace, the Czechs in 1526 entered into a confederation with Austria and with Hungary for purposes of common defence under the direction of the Habsburg Dynasty. Each of the three States was an independent unit in the Confederation, with, however, a common army, a common finance, and a common dynasty. But the Habsburgs soon employed these common agencies in a determined effort to suppress the Czech religion and the separate Bohemian institu-

tions. This led to the Czech Revolution of 1618, which ended two years later in disastrous defeat at the battle of the White Mountain. The result was the execution of the national leaders, the expulsion, by persecution, of a large part of the population, the confiscation of a great part of the soil, and the complete subjection of the State to the Habsburgs.

During two centuries Bohemia took no further part in the life of nations and seemed indeed to be unaware of its national identity. The country was ruled by the Imperial Crown, to which the Bohemian Diet, a close aristocratic body resting on its ownership of the soil, was responsible. After the Napoleonic wars the national sense revived. It found expression at first in a literary revival. After the Treaty of Vienna, and under the absolute rule of Metternich, it was not possible for this reviving sense of nationality to find its inevitable expression in a political demand. But during the popular and national revivals that occurred everywhere throughout Europe about 1848, and laid in ruins the entire Metternich system, this demand ultimately found voice.

In 1847 the Bohemian Diet had indicated its sense of this change by demanding certain reforms from Vienna. In order to bid for the support of the middle classes, it had demanded that the towns should have a larger representation in the Diet. It had demanded a greater control for itself over the finances of the country. And it had demanded that the Czech language should be taught in all the higher schools of the country. The popular events of 1848, however, raced past these considered demands made in high places. Early in March of that year the people of Prague met in a vast Assembly, as a consequence of which a deputation was appointed to proceed to Vienna.

This deputation was charged to present the national demand that a Diet should be convened representative of all Bohemian territory (including, that is to say, Moravia and Silesia, separated from Bohemia under Imperial rule), elected on a popular franchise; that the Czech language should hold equal rights with the German in the State; and that certain other reforms should at once be introduced. This deputation did not receive a satisfactory reply. A second deputation was therefore sent. To this second deputation the Austrian Emperor replied that the re-union of Moravia and Silesia with Bohemia would be referred to a general meeting of representatives from all parts of the Empire; that in the meantime equality of rights would be afforded to both nationalities in Bohemia, Czech and German; and that a new meeting of the Estates would be called, which would include representatives of the principal towns. This Diet would, according to Imperial promise, have power to create a new Constitution for the Bohemian State. There is no doubt that this Assembly would have established Bohemian autonomy within the Austrian Empire; but though the elections were held on

May 17th, the Assembly never met; for in the meantime the movement in Prague had led to events that brought it temporarily to disaster.

As part of the movement for national revival it had been resolved to hold a Pan-Slav Congress. To this Congress the Poles and Jugo-Slavs sent delegates. On the 12th June, 1848, this Congress issued a manifesto to Europe proclaiming "the liberty, equality and fraternity of nations". During the debates which led to this manifesto the dissolution and dismemberment of the Austrian Empire had been freely advocated, and proposals made for a free Slav federation to take its place throughout Central Europe. During this Congress, public feeling, which had become inflamed, and which required but little incitement, official or otherwise, to bring it to a head, broke out in the form of riots throughout the city. The immediate consequence of these riots was the famous bombardment of Prague by Prince Windischgrätz. The result of this bombardment was that the city capitulated, and the national revival was effectually brought to nought.

The later consequences of the Windischgrätz bombardment were, however, more extensive. They spread throughout the Empire; and the Czech movement lost the support it had hoped to gain by similar movements in other parts of the Empire. In Bohemia itself all attempts towards political, social, and national liberty were ruthlessly suppressed, Czech newspapers suppressed in similar manner, and the Czech language banished from schools and State offices.

The result of this year, however, was the constitution by an Imperial Decree of March 4th, 1849, of the Austrian Imperial Parliament, the Reichsrat. To this Assembly 88 Czech deputies were elected, who formed a united nationalist party. In 1852 this Constitution was withdrawn and the personal autocracy restored. In 1860, after the defeat of Austria in the Italian campaign of 1859, the Imperial power and authority were greatly diminished, with consequent addition of strength to national movements in the Empire. This resulted in the formulation of a constitutional system in Bohemia, when, on the 20th October, 1860, Diets with limited powers were established in Bohemia and Moravia. Four months later, however, on the 26th February, 1861, a new Central Parliament was established at Vienna. To this Assembly Bohemia sent representatives; but in 1863 these representatives withdrew for some years from the Parliament at Vienna, holding that this Parliament had encroached upon the powers which by the decree of 1860 had been guaranteed to the Diet of Prague.

All these movements were towards a separate national party policy, intending to achieve material and other benefits for Bohemia. It was not until about 1890 that the new movement known as the Realist party was instituted under the leadership

f Professor Mazaryk. It was the intention of the new party to reate a democratic national movement. Its philosophy was that f entire independence from the Austrian Empire. To this novement the youth of the nation rallied. At that time Professor Mazaryk was a Deputy to the Reichsrat at Vienna. Three years ater he resigned from politics; and it was not till 1900 that he ounded the party that, in spite of many difficulties, led at last o the independence of the modern Czechoslovak State. He was ssisted by a remarkable agricultural and industrial development hat conferred on Bohemia a considerable power in the Austrian Empire. And it was at this time that the national scheme was xtended to include the Slovaks, who were without power in the Budapest Parliament, and within whose territory the Hungarians ad submerged all signs of national life.

By the time the war broke out in 1914, the Czechs, strengthned by the rapidly increasing economic importance of their ountry, the grant of manhood suffrage in 1907, their determined fforts to maintain their own language, and their repeated uccesses in extorting concessions from the Austrian Government, were not far from their goal of complete control of their own ational affairs. The contest between Czech and German resulted n 1911 in insoluble conflicts over a proposed division of Bohemia nto twenty administrative and judicial districts, of which ten were to be Czech, six German and four mixed. Again, in 1913, cute differences arose over the language to be employed in the nunicipalities and the position of Government teachers in the chools. The Czech and German parties in the Bohemian Diet refused to work together and on July 26, 1913, the Government issolved the Diet and appointed an Imperial Administrative Commission. The Commission consisted of only three Germans and of five Czechs. The bitterness of the German criticism of his composition was the measure of their realization of the imminence of final defeat.

Such was the state of affairs when the European war broke out in 1914. Until then Professor Mazaryk had only controlled a minority of the nation, but the events of war brought him and the ideals that he espoused to the leadership of the nation. The war led to an active suppression of national movements in the territories inhabited by both Czechs and Slovaks. Some of the leading newspapers in both languages were suppressed, and those which remained were subjected to the strictest censorship. Some of the leaders of the people were thrown into jail and others sentenced to death. Early in the war Professor Mazaryk escaped abroad to represent his case before the Allied powers. These powers were at war with Austria; he received hospitality in these countries, and was recognised as head of the putative Czechoslovak State, which it became part of their intention to establish.

In the Austro-Hungarian Empire it was not possible to do anything until the Austrian Reichsrat met in May, 1920. But on the assembly of that Reichsrat all the Czech deputies united in a firm and unanimous declaration that it was their intention to ask for an independent, democratic Czechoslovakian State. To this end they established what became known as the Bohemian Union, and on the 6th January, 1918, a meeting was held of all the Czech deputies to the Reichsrat and of the Diets of Bohemia, Moravia, and Austrian Silesia, at which in solemn assembly a demand was formulated for national independence, and that the Czechoslovaks be granted participation and full freedom of defending their rights at the Peace Conference.

The victory of the Allies resulted in the recognition of freedom for the subject states of their enemies. Among these the first to receive attention was the Czechoslovak State, which had in fact, already been recognised as a preliminary to the acceptance of a truce. The way was, therefore, now clear for the creation of a national Constitution. Before the end of September, 1918, the Czechoslovak National Council had been formed; and on October 28th the National Council undertook the Government of the existing territories. Preparations were therefore at once made for the convocation of a Constituent Assembly and for the formation of a regular government.

At the time it was impossible to hold elections. Therefore the unusual step was taken of calling the different political parties to nominate members for such an Assembly. One of these parties, the Bohemian Germans, was invited to send representatives, but it refused to do so lest it should be assumed as having acknowledged the identity of such Germans in the new State.

The Constituent Assembly met for the first time on November 14th, 1918. It immediately declared the Czechoslovak State as a democratic Republic, and elected Professor Mazaryk as its first President. According to the terms of his appointment, he holds office for life. An Executive was also created responsible to the Assembly. During the following year this Constituent Assembly was occupied with the task of debating the Constitution put before it by the Executive. While its task continued, the Assembly undertook the current legislation required by the difficult circumstances through which the country was passing. During the same year it was also engaged in negotiating with the Allied powers concerning the territory to be allotted to the new State in the Treaty of Peace. This Treaty was negotiated on behalf of the new State by the President of the Council of Ministers and the Minister for Foreign Affairs, and was ratified by the Constituent Assembly.

This Treaty was the international charter by which the Czechoslovak State entered among recognised nations. It only remained, therefore, to give that State its final form by the

prescription of a Constitution; and this task was accomplished on the 20th February, 1920. The Assembly then terminated its work on the 15th April, and the first General Election under the Constitution was held during that month.

It will be seen that this Constitution depended in several matters on the Treaty of Peace by which the Czechoslovak State was recognised and established. The provisions of the Treaty necessarily became formal provisions under the Constitution. This affected not only the rights of minorities scattered throughout the population, but included the constitutional innovation of the creation, as it were, of a State within a State. For Chapter II, of the Treaty (attached hereto) recognised the Ruthene territory south of the Carpathians as part of the Czechoslovak state, but gave to it a special Diet, with special powers of legislation in matters of religion, education, language and local administration, besides such other powers as might be assigned to it by the Czechoslovak Legislature. It also conferred on this territory a governor to be appointed by the President of the Czechoslovak Republic but to be responsible to the Ruthene Diet. It also confirmed to this territory certain important rights as to the appointment of officials, who were to be, as far as possible, inhabitants of the territory. Further, it bestowed the right of appeal, past the Czechoslovak State, to the League of Nations; and all matters granted and confirmed to the territory were placed under the protection of the League of Nations.

All these matters were accordingly incorporated in the Constitution. The portions of the Treaty dealing with Ruthenia are dealt with in Chapter I., Article 3, of the Constitution where, however, the Ruthenia of the Treaty is referred to as Russinia. This Chapter of the Treaty is, therefore, appended here.

EXTRACT FROM THE
TREATY
BETWEEN THE
PRINCIPAL ALLIED AND ASSOCIATED POWERS
AND
CZECHOSLOVAKIA.

Signed at Saint-Germain-en-Laye, September 10, 1919.

CHAPTER II.

Article 10.—Czechoslovakia undertakes to constitute the Ruthene territory south of the Carpathians within frontiers delimited by the Principal Allied and Associated Powers as an autonomous unit within the Czechoslovak State, and to accord to it the fullest degree of self-government compatible with the unity of the Czechoslovak State.

Article 11.—The Ruthene territory south of the Carpathians shall possess a special Diet. This Diet shall have powers of legislation in all linguistic, scholastic and religious questions, in matters of local administration, and in other questions which the laws of the Czechoslovak State may assign to it. The Governor of the Ruthene territory shall be appointed by the President of the Czechoslovak Republic, and shall be responsible to the Ruthene Diet.

Article 12.—Czechoslovakia agrees that officials in the Ruthene territory will be chosen as far as possible from the inhabitants of this territory.

Article 13.—Czechoslovakia guarantees to the Ruthene territory equitable representation in the Legislative Assembly of the Czechoslovak Republic, to which Assembly it will send deputies elected according to the Constitution of the Czechoslovak Republic. These deputies will not, however, have the right of voting in the Czechoslovak Diet upon legislative question of the same kind as those assigned to the Ruthene Diet.

Article 14.—Czechoslovakia agrees that the stipulations of Chapters I. and II., so far as they affect persons belonging to racial, religious or linguistic minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. They shall not be modified without the assent of a majority of the Council of the League of Nations. The United States, the British Empire, France, Italy and Japan hereby agree not to withhold their assent from any modification in these Articles which is in due form assented to by a majority of the Council of the League of Nations.

Czechoslovakia agrees that any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances.

Czechoslovakia further agrees that any difference of opinion as to questions of law or fact arising out of these Articles between the Czechoslovak Government and any one of the Principal Allied and Associated Powers, or any other Power a Member of the Council of the League of Nations, shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations. The Czechoslovak Government hereby consents that any such dispute shall, if the other party hereto 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.

THE LAW OF FEBRUARY 29TH, 1920.

PRELIMINARY TO THE

CONSTITUTIONAL CHARTER

OF THE

CZECHOSLOVAK REPUBLIC.

WE, THE CZECHOSLOVAK NATION, desiring to consolidate the perfect unity of our people, to establish the reign of justice in the Republic, to assure the peaceful development of our native Czechoslovak land, to contribute to the common welfare of all citizens of this State and to secure the blessings of freedom to coming generations, have in our National Assembly this 29th day of February, 1920, *adopted the following Constitution for the Czechoslovak Republic; and in doing so we declare that it will be our endeavour to see that this Constitution, together with all the laws of our land, be carried out in the spirit of our history as well as in the spirit of those modern principles embodied in the idea of Self-Determination, for we desire to take our place in the Family of Nations as a member at once cultured, peace-loving, democratic and progressive.*

Article 1.—1. Enactments which are in conflict with the Constitutional Charter or with laws which may supplement or amend it are invalid.

2. The Constitutional Charter may be altered or amended only by laws specifically designated as Constitutional Laws. (*See Article* 33).

Article 2.—A Constitutional Court shall decide as to whether the laws of the Czechoslovak Republic and the Diet of Carpathian Ruthenia (Russinia) conform with Article 1.

Article 3.—1. The Constitutional Court shall consist of seven members, two of whom shall be members of and appointed by the High Court of Administration, and two shall be members of and appointed by the High Court of Justice; the remaining two members and the Chairman shall be nominated by the President of the Republic.

2. The appointment of representatives of the above-mentioned Courts to the Constitutional Court, the sessions and procedure thereof, and the execution of its judgments shall be provided for by a special law.

Article 4.—1. The present National Assembly shall sit until the convocation of the Senate and the Chamber of Deputies.

2. Such laws as may have been enacted by the National Assembly, but not made public in the official record by the day of the assembling of the Chamber of Deputies and the Senate, shall not be promulgated if returned by the President of the Republic to the National Assembly.

3. The requirements of the provisional Constitution fixing a period for the exercise of the rights of the President of the Republic under Article 11 thereof and for the promulgation of laws after enactment shall apply to laws enacted by the present National Assembly.

Article 5.—The present President shall remain in office until a new election takes place. The duties and obligations of the President, as defined in the Constitutional Charter, become effective simultaneously with the adoption of the Constitutional Charter.

Article 6.—Until the election of the full number of members of the National Assembly, as required by the Constitutional Charter, the number of members actually elected shall determine the quorum necessary for the constitutional validity of any vote.

Article 7.—1. The provisions of the foregoing Articles 1, 2, 3 (Section 1) and 6 shall be an integral part of the Constitutional Charter within the meaning of Article 33 of that Charter.

2. Laws, the enactment of which is required by the Constitutional Charter in order to give effect to the provisions thereof, shall not be deemed integral parts of that Charter within the meaning of the preceding Section, unless otherwise provided by the Charter.

Article 8.—1. The Constitutional Charter shall come into force on the day of its promulgation.

2. Article 20 of the Charter shall not apply to members of the present National Assembly.

Article 9.—On the day designated in Article 8, Section 1, all laws and regulations in conflict with the spirit of this Charter and the republican form of the State, as well as all previously enacted Constitutional Laws, shall become invalid, even if part of the latter are not directly opposed to the Constitutional Laws of the Czechoslovak Republic.

Article 10.—This law shall come into force at the same time as the Constitutional Charter, and shall be executed by the Government in the same way.

THE
CONSTITUTIONAL CHARTER
OF THE
CZECHOSLOVAK REPUBLIC.

CHAPTER I.
GENERAL PROVISIONS.

Article 1.—1. The people are the sole source of all State power in the Czechoslovak Republic.

2. This Constitutional Charter determines through what organs the sovereign people shall express their will in laws, provides for the execution of these laws, and guarantees to the people their rights and liberties. Such limitations are imposed upon these organs of government as shall preserve to the people all rights guaranteed by this Charter.

Article 2.—The Czechoslovak State shall be a Democratic Republic, the head of which shall be an elected President.

Article 3.—1. The territories of the Czechoslovak Republic shall form a united and indivisible unit, the frontiers of which may be altered only by Constitutional Law (Article 1 of the Preliminary Law).

2. In accordance with the treaty concluded at St. Germain-en-Laye on September 10th, 1919, between the Principal Allied and Associated Powers of the one part and the Czechoslovak Republic of the other part, the autonomous territory of Carpathian Russinia, which voluntarily united with the Czechoslovak Republic, shall be and remain an integral part of the Republic and shall be afforded the widest measure of self-government compatible with the unity of the Czechoslovak Republic.

3. Carpathian Russinia shall have its own Diet, which shall elect its presiding officer and other officials.

4. This Diet shall have legislative power in linguistic, educational and religious matters, in matters of local administration and in such other matters as may be assigned to it by the laws of the Czechoslovak Republic. Laws enacted by this Diet shall be published in a separate series and shall be countersigned by the Governor of Russinia if they have been approved and signed by the President of the Republic.

5. Carpathian Russinia shall be represented in the National Assembly by its just proportion of Deputies and Senators elected

according to the general election laws of the Czechoslovak Republic.

6. The head of Russinia shall be a Governor, who shall be appointed by the President of the Czechoslovak Republic on the recommendation of the Government, and who shall be responsible also to the Diet of Russinia.

7. Public officials in Russinia shall be, in so far as possible, selected from the population of Russinia.

8. Details as to the right of suffrage and eligibility to the Diet shall be defined by special legislation.

9. The law enacted by the National Assembly defining the frontiers of Carpathian Russinia shall form part of the Constitutional Charter.

Article 4.—1. The national allegiance of all citizens of the Czechoslovak Republic is one and indivisible.

2. The conditions governing the acquisition, the rights and duties, and the termination of citizenship in the Czechoslovak Republic, shall be determined by law.

3. A citizen or subject of a foreign State cannot at the same time be a citizen of the Czechoslovak Republic.

Article 5.—1. The capital of the Czechoslovak Republic is Prague.

2. The colours of the Republic are white, red and blue.

3. Official emblems and flags shall be determined by law.

CHAPTER II.

LEGISLATIVE POWER.

Constitution and Powers of the National Assembly and of its Two Chambers.

Article 6.—1. Legislative power over the whole territory of the Czechoslovak Republic shall be exercised by the National Assembly, which shall be composed of two Chambers: a Chamber of Deputies and a Senate.

2. The seat of both Chambers shall be at Prague. In case of absolute necessity, the National Assembly may be temporarily convened at some other place in the Czechoslovak Republic.

Article 7.—1. The legislative and administrative powers of the Diets of Bohemia, Moravia and Silesia no longer exist.

2. Unless otherwise provided therein, enactments of the National Assembly shall be binding throughout the Czechoslovak Republic.

Article 8.—The Chamber of Deputies shall be composed of 300 members, elected by universal, equal, direct and secret suffrage on the principle of Proportional Representation. Elections shall be held on Sundays.

Article 9.—The right to vote for the Chamber of Deputies may be exercised by all citizens of the Czechoslovak Republic, without distinction of sex, who are 21 years of age and who comply with the other provisions of the electoral law relating to the Chamber.

Article 10.—All citizens of the Czechoslovak Republic who are 30 years of age and who comply with the other provisions of the electoral law relating to the Chamber may be elected as Deputies to the Chamber.

Article 11.—The term for which the Chamber of Deputies is elected shall be six years.

Article 12.—Details as to the exercise of suffrage rights and the manner of carrying out elections shall be prescribed by the electoral law relating to the Chamber of Deputies.

Article 13.—The Senate shall consist of 150 members elected by universal, equal, direct and secret suffrage on the principle of Proportional Representation. Elections shall be held on Sundays.

Article 14.—The right to vote for the Senate may be exercised by all citizens of the Czechoslovak Republic without distinction of sex who are 26 years of age and who comply with the other provisions of the law relating to the constitution and the rights and powers of the Senate.

Article 15.—All citizens of the Czechoslovak Republic without distinction of sex who are 45 years of age and who comply with the other conditions of the law relating to the constitution and the powers of the Senate may be elected to the Senate.

Article 16.—The term for which the Senate is elected shall be eight years.

Article 17.—Details as to the exercise of the suffrage and the manner of carrying out elections shall be prescribed by the law relating to the constitution and powers of the Senate.

Article 18.—No person may be at the same time a member of both Chambers.

Article 19.—1. An Electoral Court shall determine the validity of elections to the Chamber of Deputies and the Senate.

2. Details shall be regulated by law.

Article 20.—1. If a Civil Servant is elected a member of the National Assembly and has taken the oath as a member thereof,

he shall be granted leave automatically for the duration of his term in the Assembly; he shall be entitled to his regular salary, but with no local or special allowances, and he shall retain his right to automatic advancement. University professors are entitled to leave of absence; if they make use of this right, the same provisions apply to them as to other State servants.

2. All other public servants and officials shall likewise have the right to obtain leave during their term as members of the National Assembly.

3. Members of the National Assembly cannot take up paid appointments in the Civil Service until after the expiration of one year from the time they cease to be members.

4. This provision does not apply to Ministers. The time limit in Section 3 shall not affect Deputies or Senators who were Civil Servants before they became members of the National Assembly, provided that they return to the same department.

5. Prefects of Departments and Districts may not be members of the National Assembly.

6. Members of the Constitutional Court, assessors of the Electoral Court, and members of Councils of Departments cannot at the same time be members of the National Assembly.

Article 21.—Members of both Chambers are free to resign at any time.

Article 22.—1. Members of the National Assembly shall exercise their functions in person. They shall not receive instructions from any person whatsoever.

2. They shall not address to public authorities requests in the personal interest of individuals unless they do so in the exercise of their ordinary profession.

3. At the first sitting of the National Assembly at which they attend members shall take the following oath: "I pledge myself to be faithful to the Czechoslovak Republic, to uphold its laws and carry out my duties to the best of my ability and power." Refusal to take this oath or the making of any reservation thereto shall involve immediate termination of membership.

Article 23.—Members of the National Assembly may not be proceeded against in respect of their votes in the Chamber of its Committees. For statements made in the exercise of their functions, members shall be amenable only to the disciplinary rules of their respective Chambers.

Article 24.—1. Members of the National Assembly shall be amenable to civil or criminal prosecution in regard to other matters only with the consent of their respective Chambers. If this consent be not granted, such prosecution shall become permanently null and void.

2. This provision shall not apply to the legal liability of a member as responsible editor of a periodical.*

Article 25.—If a member of either Chamber be apprehended and arrested in the commission of a criminal act, the Court or other authority having jurisdiction shall forthwith inform the Chairman of that Chamber of the arrest. If the Chamber or, when the Chamber is not in session, the Committee elected in accordance with Article 54, should not within a fortnight give its consent to the arrest the member shall be released forthwith. If consent to the arrest be given by the Committee, the Chamber must give a decision upon the matter within 14 days of its next meeting.

Article 26.—Members of both Chambers shall have the right to refuse to give evidence as witnesses in reference to matters confided to them as members of the Chamber, even after they cease to be members. This provision shall not apply to a case of attempting to corrupt a member.

Article 27.—Members of both Chambers shall have a right to an allowance to be determined by law.

Article 28.—1. The President of the Republic shall summon both Chambers for two ordinary sessions each year—the Spring and the Autumn session, the former to begin in March, the latter in October.

2. Furthermore, he may summon the National Assembly for extraordinary sessions whenever he may deem it necessary. If an absolute majority of the members of either Chamber makes application to the President of the Council of Ministers, stating the subject to be discussed, the President of the Republic shall summon the Assembly within a fortnight from the date of such application; should he fail to do so, the Chairmen of both Chambers shall convoke the Assembly within the following fortnight.

3. If not less than four months have elapsed since the last ordinary session the President of the Republic shall, upon demand being made by not less than two-fifths of the members of either Chamber, summon the National Assembly to meet within a fortnight from the date of the demand. Should he fail to do so, the Chairmen of both Chambers shall convoke the Assembly within the following fortnight.

Article 29.—The sessions of both Chambers shall begin and end simultaneously.

Article 30.—1. The sessions of the Chambers shall be terminated by the President of the Republic.

*In reference to libel and incitement to crime.

2. The President of the Republic may not adjourn the National Assembly for more than one month, and not more frequently than once a year.

Article 31.—1. The President of the Republic shall have the right to dissolve the Chambers.

2. He may not exercise this right during the last six months of his term of office. After the expiration of the normal term of the Chambers, or after the dissolution of either Chamber, new elections shall take place within 60 days.

3. The dissolution of the Senate shall not stay criminal proceedings instituted before the Senate in accordance with Articles 67 and 79.

Article 32.—A vote may be taken in either Chamber, save as otherwise provided in this law, if at least two-thirds of the members are present. An absolute majority of the members present is required to give validity to a decision.

Article 33.—The decision as to a declaration of war or as to the amendment of this Constitutional Charter shall require a three-fifths majority of all the members in each Chamber.

Article 34.—1. A decision of the Chamber of Deputies for the impeachment of the President of the Republic, the President of the Council or other members of the Government, shall require a two-thirds majority with two-thirds of all the members present.

2. The procedure in the Senate when sitting as a criminal court shall be regulated by law.

Article 35.—Each Chamber shall elect its own Chairman and other officers.

Article 36.—The sittings of both Chambers shall be public. Secret sittings may be held only in cases in which the rules of procedure so provide.

Article 37.—1. The basic principles upon which the Chambers shall function and their relations with one another, with the Government and with the public shall be determined, within the limits laid down by this Constitution, by a special law. The internal arrangements of each Chamber shall be regulated by its own rules of procedure.

2. Until the Chamber of Deputies and the Senate decide upon new rules of procedure, the rules adopted by the present National Assembly shall hold good.

Article 38.—1. When the two Chambers meet in joint session as the National Assembly (Articles 56, 59, 61, 65), the procedure shall be that of the Chamber of Deputies.

2. Such a joint session shall be summoned by the President of the Council and presided over by the Chairman of the Chamber of Deputies.

3. The President of the Senate shall be the Vice-Chairman.

Article 39.—Ministers shall have the right at any time to attend all sittings of both Chambers and of their Committees. They shall have the right to speak whenever they so request.

Article 40.—1. At the request of either Chamber or of any of their Committees a Minister shall appear in person at the sitting.

2. If not called for in person the Minister may be represented by officials designated by him.

Article 41.—1. Proposals for legislation may be originated by the Government or by either of the Chambers.

2. Every proposal for legislation presented by a member of either Chamber shall be accompanied by an estimate of its financial effect, together with a proposal for defraying the expenses involved.

3. Proposals by the Government for Budget and Defence Laws must be initiated in the Chamber of Deputies.

Article 42.—A Constitutional Law shall require the consent of both Chambers. This applies also to other laws save as may be otherwise provided by Articles 43, 44, 48.

Article 43.—1. The Senate shall come to a decision on a Bill passed by the Chamber of Deputies within a period of six weeks, or in the case of Budget and National Defence Bills within a period of one month. The Chamber of Deputies shall come to a decision upon a Bill passed by the Senate within a period of three months.

2. These periods shall be reckoned from the day on which the Bill passed by one Chamber is transmitted in print to the other Chamber and may be prolonged or shortened by previous agreement between the two Chambers. The period of one month laid down for a decision by the Senate on Budget or National Defence Bills may not be prolonged.

3. If, during the period so prescribed, the term of office of the Chamber which is to take action on a Bill from the other Chamber should expire, or should that Chamber be dissolved or adjourned, or if its session has been terminated, a further period of delay shall be reckoned from the first day of its next sitting.

4. If either Chamber should not come to a decision upon a Bill passed by the other Chamber within the period fixed by the preceding sections, it shall be deemed to have given its assent to the decision of the first Chamber.

Article 44.—1. A Bill passed by the Chamber of Deputies shall become law despite an adverse decision of the Senate, if the Chamber of Deputies declares, by an absolute majority of the whole number of its members, that it adheres to its first decision. But should the Senate reject by a majority of three-fourths of the whole number of its members a Bill passed by the Chamber of Deputies, the Bill shall become law if the Chamber of Deputies reaffirms its decision by a majority of three-fifths of the whole number of its members.

2. A Bill initiated by the Senate shall be referred to the Chamber of Deputies. If the latter rejects the Bill, and the Senate reaffirms its decision by an absolute majority of the whole number of its members, the Bill shall be referred back to the Chamber of Deputies. If the Chamber of Deputies rejects it a second time by an absolute majority of the whole number of its members, the Bill shall not become law.

3. Bills so rejected may not be reintroduced into either Chamber until after the lapse of one year.

4. Amendment by one Chamber of a Bill originating in the other Chamber shall be deemed a rejection of the Bill.

Article 45.—Should either Chamber, having to reconsider a Bill already once considered by it, or to reconsider a Bill passed by the other Chamber in accordance with Article 44, Section 2, be dissolved, or should its term of office expire, before it has given a decision thereon for the second time, the decision of the new Chamber shall be deemed to be a second decision for the purpose of Article 44.

Article 46.—1. Should the National Assembly reject a Bill introduced by the Government, the Government may decree that the question whether the rejected Bill shall become law shall be decided by referendum. The decision of the Government must be unanimous.

2. The right of voting on referendum belongs to all persons qualified to vote in an election for the Chamber of Deputies.

3. Details as to the referendum shall be determined by law.

4. A referendum may not be held on Bills initiated by the Government for the purposes of amending or adding to the Constitutional Charter or any part thereof (*Article 1 of the Preliminary Law*).

Article 47.—The President of the Republic shall have the right to return any Bill passed by the National Assembly with his observations thereon within a period of one month reckoned from the day on which the decision of the National Assembly was communicated to the Government.

Article 48.—1. Should both Chambers, by an absolute majority of the whole number of their members, upon a vote taken by roll-call, re-affirm a Bill returned to them, the Bill shall be promulgated as law.

2. Should the Bill not receive the necessary majority in each Chamber, the Bill shall be promulgated as law if, upon a new vote taken by roll-call, the Chamber of Deputies re-affirms it by a majority of three-fifths of the whole number of its members.

3. In the case of a Bill requiring the attendance of a larger number of members and a specified majority for its passage, the same attendance and majority shall be required for its passage when returned by the President of the Republic.

4. The provisions of Article 45 apply in such cases.

Article 49.—1. Before a Bill becomes valid as law it shall be promulgated in the manner determined by law.

2. Laws shall be promulgated in the following terms:—

> "The National Assembly of the Czechoslovak Republic has enacted the following law . . . ."

3. The law shall be promulgated within the lapse of eight week-days after the expiration of the period laid down in Article 47. Should the President of the Republic make use of the right vested in him by that Article, the law shall be promulgated within the lapse of eight week-days reckoned from the day on which its re-enactment by the National Assembly is notified to the Government (*Article* 48).

Article 50.—Every law shall specify the member of the Government responsible for its execution.

Article 51.—1. Every law shall be signed by the President of the Republic, the President of the Council, and the Minister responsible for its execution. If the President be ill, or incapacitated, and there be no Vice-President, the President of the Council shall sign on his behalf.

2. For the purpose of signing laws, a deputy appointed in accordance with the provisions of Article 71 may act in the stead of the President of the Council.

Article 52.—1. Each Chamber shall have the right to interpellate the President of the Council and other members of the Government on all matters within the scope of their duties, to exercise control over the administrative acts of the Government, to elect Committees, to which Ministers must furnish information, and to adopt addresses and resolutions.

2. The President and members of the Council are bound to reply to interpellations by members of the Chambers.

Article 53.—The control of the financial administration of the State and of the State debt shall be regulated by law.

Article 54.—1. During the period elapsing between the dissolution of either Chamber or the expiration of its term of office and its re-assembly, and also during any period when the sessions of the Chambers have been adjourned or terminated, a Committee of 24 members shall be set up for the purpose of dealing with urgent matters, even in cases where legislation would normally be necessary, and for supervising the exercise of governmental and executive powers. Sixteen members of this Committee, with an equal number of substitutes, shall be elected by the Chamber of Deputies; eight members, and the same number of substitutes, shall be elected by the Senate, in both cases for a period of one year. Each substitute shall represent only the member for whom he has been appointed as substitute.

2. The first election shall take place immediately after the two Chambers come into being. The Chairmen and officers of both Chambers may vote in the election. When either Chamber assembles after a fresh election, an election shall be held for the members of the Committee for that Chamber, even though the year of office of the acting members has not yet expired.

3. The election shall take place on the principles of Proportional Representation. Grouping of parties shall be permissible. Should all parties be in agreement, the election shall take place in open session. Objection by not more than 20 Deputies or 10 Senators shall not prevent election in this manner.

4. The members of the Committee shall remain in office until new members are elected. The substitutes shall act for members who are temporarily or permanently incapacitated from carrying out their duties. Should any member or substitute become unable to act during his term of office, a new member shall be elected to act for the remainder of his predecessor's term. The newly-elected member must belong to the same group as the old member unless that group decides not to propose a candidate or to refrain from taking part in the election.

5. No member of the Government may act on the Committee whether as member or substitute.

6. Immediately after its formation the Committee shall elect a Chairman and a Deputy Vice-Chairman from among the members elected by the Senate.

7. The provisions of Articles 23 to 27 of the Constitutional Charter shall apply to the members of the Committee.

8. The Committee shall be competent to deal with all matters falling within the legislative and administrative powers of the National Assembly, save that it shall not have power:—

(*a*) to elect the President of the Republic or his deputy;

(*b*) to amend Constitutional Laws (*Article 1 of the Preliminary Law*), or to vary the powers of Administrative Departments, save by extending the powers of Departments already established;

(*c*) to increase the obligations of citizens by new and permanent financial provisions, to add to their obligations in regard to national defence, to impose a permanent charge upon the finances of the State, or to alienate the property of the State;

(*d*) to give its consent to a declaration of war.

9. In the case of measures which normally would require to be enacted by legislation, or which involve expenditure or payments apart from the Budget, the consent of an absolute majority of the whole number of members of the Committee shall be required.

10. In all other cases the attendance of one-half of the members of the Committee shall be sufficient, and questions shall be decided by an absolute majority of all the members present. The Chairman shall vote only in case of an equality of votes.

11. Urgent decisions, for which legislation would normally be necessary, may be taken only on the recommendation of the Government and with the approval of the President of the Republic.

12. Measures taken by the Committee in virtue of the preceding section shall have the validity of provisional laws. They shall be promulgated in the Collection of Laws and Decrees, reference being made to Article 54 of the Constitutional Charter, and they shall be signed by the President of the Republic, by the President of the Council or his deputy, and by at least one-half of the Ministers. Measures to which the President of the Republic refuses his consent may not be promulgated.

13. The jurisdiction of the Constitutional Court shall extend to measures taken by the Committee in cases where legislation would normally be necessary, and these measures must be submitted to it by the Government at the same time as they are promulgated in the Collection of Laws and Decrees. The Constitutional Court shall decide if the measures submitted to it satisfy the requirements of Section 8, Clause (*b*).

14. The Chairman of the Committee, or his deputy, shall render account of the actions of the Committee at the first sitting of the Chamber of Deputies and the Senate, even if they have ceased to be members of the Chamber of Senate.

15. Measures not approved by the two Chambers within a period of two months reckoned from the date of their next meeting shall cease to be valid.

CHAPTER III.

GOVERNMENTAL AND EXECUTIVE POWER.

Article 55.—Governmental decrees shall be issued only in execution of a law and within the limits of that law.

The President of the Republic.

I.

Article 56.—1. The President of the Republic shall be elected by the National Assembly (*Article* 38).

2. Any citizen of the Czechoslovak Republic may be elected as President who is eligible for the Chamber of Deputies and has reached the age of 35 years.

Article 57.—1. For an election to be valid the attendance of an absolute majority of the total effective membership of the Chamber of Deputies and the Senate is necessary. The election shall be decided by a majority of three-fifths of those present.

2. If, after two ballots, no decision has been reached, a third ballot shall take place between the two candidates who have obtained the highest number of votes. The candidate obtaining a majority of the votes shall be elected. In the case of an equality of votes the decision shall be made by lot.

3. Details shall be determined by law.

Article 58.—1. The period of office of the President shall be reckoned from the day when the newly-elected President takes the oath in accordance with Article 65.

2. The term of office of the President shall be seven years.

3. The election of the President shall take place within the four weeks prior to the expiration of the term of office of the existing President.

4. No person may be elected as President on more than two consecutive occasions. A President, who has been elected for two consecutive terms, may not be re-elected until after the lapse of a period of seven years from the expiration of his last term. This provision shall not apply to the first President of the Czechoslovak Republic.

5. The President shall remain in office until his successor is elected.

Article 59.—Should the President die or resign during his term of office, a new election shall be held in accordance with the Provisions of Articles 56 and 57. The President so elected shall serve for seven years. The National Assembly shall meet for this purpose within 14 days (*Article* 38).

Article 60.—Until the new President is elected (*Article* 59), or while the President is unable by sickness or otherwise to carry

out his functions, these functions shall be discharged by the Government, which may entrust the President of the Council with certain special duties.

Article 61.—1. In the event of the President being ill or incapacitated for more than six months, the Government may, by a decision taken with three-fourths of its members present, call upon the National Assembly to elect a Deputy-President, who shall act until the President shall be able to resume his functions.

2. The provisions of Article 58, Section 4, shall apply also to the Deputy-President.

Article 62.—The same provisions shall apply to the election of the Deputy-President as to the election of the President.

Article 63.—1. The President of the Republic may not at the same time be a member of the National Assembly. If a member of the National Assembly be elected as Deputy-President he shall vacate his seat in the National Assembly for so long as he is acting as Deputy-President.

2. The principal residence of the President shall be at Prague.

II.

Article 64.—1. The functions of the President shall be as follows:—

(1) He shall represent the State in its external relations and negotiate and ratify international conventions. Commercial treaties, treaties imposing on the State or its citizens any charges or obligations whatever, whether financial or personal, and in particular military obligations, and treaties involving changes in the territory of the State require the consent of the National Assembly. As regards alterations in the territory of the State the consent of the National Assembly must be expressed in the form of a Constitutional Law (*Article* 1 *of the Preliminary Law*).

(2) He shall receive and appoint diplomatic representatives.

(3) He shall proclaim the existence of a state of war, declare war with the prior consent of the National Assembly, and shall present Treaties of Peace to the Assembly for its approval.

(4) He shall summon, adjourn, and dissolve the National Assembly (*Articles* 28-31) and shall proclaim the close of the sessions of the Chambers.

(5) He shall have the right to return, with observations thereon, laws passed by the National Assembly (*Article* 47) and shall sign the laws of the Assembly (*Article* 51) and of the Diet of Carpathian Ruthenia (*Article* 3), and the decrees of the Committee appointed under Article 54.

(6) He shall report to the National Assembly, orally or in writing, upon the state of the Republic, and shall recommend to

the consideration of the Assembly such measures as he deems necessary and useful.

(7) He shall appoint and dismiss the Ministers, and fix the number of them.

(8) He shall appoint all professors of higher education, judges, and all State officials, and officers from the sixth class upwards.

(9) He shall grant donations and pensions on the recommendation of the Government.

(10) He shall be the Commander-in-Chief of all the armed forces of the Republic.

(11) He shall have the right to grant pardon in accordance with Article 143.

2. All governmental and executive powers are vested in the Government, save in so far as they may be now or hereafter expressly reserved to the President of the Republic by the Constitutional Charter, or by laws of the Czechoslovak Republic promulgated after 15th November, 1918.

III.

Article 65.—The President of the Republic shall take oath upon his honour and conscience before the National Assembly, to seek diligently to further the welfare of the Republic and its people, and to observe the Constitutional and all other Laws.

Article 66.—The President of the Republic shall not be held answerable at law for the exercise of his functions. The Government shall be responsible for all declarations by the President in the exercise of his presidential functions.

Article 67.—1. The President may not be proceeded against on any criminal charge save high treason, in which case he shall be tried by the Senate upon indictment by the Chamber of Deputies (*Article* 34). The only penalty that may be inflicted upon the President shall be the loss of his office of President and permanent disqualification therefor.

2. Details shall be determined by law.

Article 68.—Every governmental or executive act of the President shall be countersigned by a responsible member of the Government in order to be valid.

Article 69.—The foregoing provisions concerning the President of the Republic apply also to his Deputy (*Article* 61).

THE GOVERNMENT.

Article 70.—1. The President of the Republic shall appoint and dismiss the President and members of the Council (the Ministers).

2. The official seat of the Government shall be at Prague (*Article* 6, *Sec.* 2).

Article 71.—The Government shall choose from among its members a Deputy-President of the Council to act in the stead of the President. If both the President and his deputy be unable to act the eldest member of the Government shall carry out his duties.

Article 72.—The President shall designate the members of the Government who shall take charge of the several Ministries.

Article 73.—The members of the Government shall take oath before the President of the Republic upon their honour and conscience to fulfil their duties conscientiously and impartially and to observe the Constitutional and all other laws.

Article 74.—No member of the Government may be a member of the management or board of directors or be a representative of any joint stock or limited liability company carrying on business for profit.

Article 75.—The Government shall be responsible to the Chamber of Deputies, which may vote a resolution of lack of confidence. Such a resolution shall not be carried save by an absolute majority of votes, the voting being taken by roll-call and an absolute majority of the Deputies being present.

Article 76.—A motion of lack of confidence must be signed by not less than 100 Deputies and shall be referred to a committee for report thereon within a period not exceeding eight days.

Article 77.—The Government may ask the Chamber of Deputies for a resolution of confidence. Such a resolution shall be discussed without submission to a Committee.

Article 78.—1. If the Chamber of Deputies should pass a vote of lack of confidence in the Government, or should it reject the Government's proposal of confidence, the Government shall be obliged to place its resignation in the hands of the President of the Republic, who shall decide to whom the business of the Government shall be entrusted until a new Government is formed.

2. If this resignation should take place at a time when there is no President or Deputy-President, the Committee set up in accordance with Article 54 shall consider the resignation and take the necessary provisional measures regarding the conduct of the business of the Government.

Article 79.—1. If the President of the Council or the members of the Government infringe the Constitutional or other laws, whether by design or by gross neglect of their official duties, they shall be held responsible under the criminal law.

2. The indictment shall be presented by the Chamber of Deputies (*Article 34*). The trial shall take place before the Senate.

3. Details shall be determined by law.

Article 80.—The Government shall act collectively, and its decisions shall be valid if an absolute majority of Ministers be present in addition to the President or his deputy.

Article 81.—The Government, acting collectively, shall decide in particular upon—

(*a*) Government Bills to be presented to the National Assembly, Governmental decrees (*Article 84*) and proposals for submission to the President of the Republic for the exercise of the rights conferred on him by Article 47;

(*b*) all matters of a political character;

(*c*) the appointment of judges, State officials and officers from the 8th class upwards so far as such appointments are vested in the Central Administration, and proposals for the appointment of officials nominated by the President of the Republic (*Article 64, Section 1, Clause 8*).

Article 82.—The President of the Republic shall have the right to be present at meetings of the Government and to preside thereat, and to require the Government and each of its members to furnish written reports upon any matter within the scope of their duties.

Article 83.—The President of the Republic shall have the right to summon the Government or any of its members to attend him in Council.

Article 84.—Every Governmental Decree shall be signed by the President of the Council or his deputy, by the Minister responsible for the execution thereof, and in addition by at least half the total number of Ministers.

MINISTRIES AND SUBORDINATE ADMINISTRATIVE OFFICES.

Article 85.—The powers and spheres of activity of the Ministers shall be determined by law.

Article 86.—In the subordinate administrative offices of the State the non-official public shall be represented as far as possible, and in all administrative offices care shall be taken to ensure the utmost protection of the rights and interests of citizens.

Article 87.—1. No person may hold at the same time positions in a subordinate administrative office and in an administrative office superior to, or exercising supervision over, the former.

2. Exceptions to this rule shall be determined by law.

Article 88.—1. A court composed of independent judges and having jurisdiction throughout the Republic shall hear final appeals to ensure legal protection against acts of administrative officers.

2. Details shall be determined by law.

Article 89.—The organisation of subordinate administrative offices of the State shall be determined in principle by law, to which effect shall be given in detail by Governmental Decree.

Article 90.—It shall be within the competence of the Executive to establish and organise State organisations exclusively concerned with administration in economic matters without governmental authority.*

Article 91.—The constitution and powers of self-governing bodies shall be determined by special laws.†

Article 92.—The extent to which the State may be held responsible for injuries caused by illegal acts of public officials shall be determined by law.

Article 93.—Public officials shall observe the Constitutional and all other laws in the exercise of their duties. This provision shall apply equally to non-official members of administrative authorities.

CHAPTER IV.

JUDICIAL POWER.

Article 94.—1. Justice is administered in the State Courts, the organisation, jurisdiction (territorially and otherwise) and procedure of which shall be regulated by law.

2. No person may be tried by any other than his legal judge.

3. Extraordinary Courts may not be established save for criminal prosecutions in cases previously determined by law and for a limited period.

Article 95.—1. Jurisdiction in matters of Civil Law is vested in the Civil Courts, which may be either ordinary, extraordinary, or arbitration Courts. Jurisdiction in criminal matters is vested in the Civil Criminal Courts save in so far as it is not allocated to Military Criminal Courts by special legislation, and save in so far as such matters are not subject to general regulations determining criminal procedure in matters of police or finance.

2. A single Supreme Court shall be established for the entire territory of the Czechoslovak Republic.

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*"Public State offices can be organized only by a law, or at least upon the basis of a law (Articles 85, 89). But State institutions of an economic character—*e.g.*, salt works or tobacco factories connected with the State monopoly—can be organized by a simple decree of the Government, because thereby no 'actes d'autorite' are created, and such institutions cannot authoritatively impose one-sided obligations but have to come to an agreement with a third person if they want anything. Their acts are only 'actes de gestion.'"—(Note by Dr. Vilem Mathesius, Professor in the University of Prague.)

†"Corporations having a public character (Chambers of Commerce, Universities, etc.) can be organized only by a law, not by a simple decree of the Government." (Note by Dr. Mathesius.)

3. The powers and duties of juries shall be determined by special legislation.

4. Trial by jury may be temporarily suspended in cases provided for by law.

5. The jurisdiction of Military Courts may not be extended to the civil population save in accordance with legal regulations and only in time of war and in respect of acts committed at such time.

Article 96.—1. Actions at law arising in connection with matters of administration shall in all cases be dealt with apart from the ordinary administration of justice.

2. Conflicts of authority between the Courts and the administrative authorities shall be settled in a manner determined by law.

Article 97.—1. The conditions as to the qualification of judges shall be determined by law.

2. The conditions of service of judges shall be determined by law.

Article 98.—1. Judges shall be independent in the exercise of their functions and bound only by the law.

2. Judges shall take an oath of office promising to observe the laws.

Article 99.—1. Judges shall in all cases be appointed for life. They may not be transferred against their will, dismissed or pensioned, save in the case of a re-organisation of the judicial system within a period fixed by law or in virtue of a disciplinary decision by the proper authority. They may also be pensioned in virtue of a decision by the proper authority when they have reached the age fixed by law. Details shall be determined by legislation, which shall also lay down the conditions upon which judges may be suspended from office.

2. The judges constituting the various Courts of First and Second Instance shall be allocated for a period of one year. Exceptions shall be determined by law.

Article 100.—Judges may not exercise any other paid profession, whether temporarily or permanently, save as may be otherwise provided by law.

Article 101.—1. Judgments shall be given in the name of the Republic.

2. Proceedings before the Courts shall be oral and public. Judgments in criminal cases shall always be delivered in public. The public may not be excluded from proceedings save as provided by law.

3. Procedure in the Criminal Courts shall be based on a definite formulated charge.

Article 102.—Judges shall have the right when trying an action to examine into the validity of a Governmental Decree. In the case of a law they may only inquire into the question whether it was properly promulgated.

Article 103.—1. The President of the Republic shall have the right to grant amnesties, and to remit or commute sentences and the legal consequences of verdicts of Criminal Courts, particularly in regard to the loss of the right of election to the National Assembly and to other representative bodies. He shall also have the right to order that criminal proceedings shall not be commenced or shall be suspended, except in cases where the action is brought by a private individual.

2. The President of the Republic may not exercise these rights in the case of members of the Government accused or sentenced in accordance with Article 79.

Article 104.—The manner in which the State and judges shall be held responsible for damages caused by breaches of the law by judges in the exercise of their functions shall be determined by special legislation.

Article 105.—1. In all cases in which an administrative authority gives a decision affecting private rights in virtue of laws dealing with such matters, it shall be lawful for the party affected by the decision to appeal for a revision thereof through the Civil procedure after other appeals have been exhausted.

2. Details shall be determined by law.

CHAPTER V.

RIGHTS, LIBERTIES, AND DUTIES OF CITIZENSHIP.

Equality.

Article 106.—1. Privileges of sex, birth or occupation shall not be recognised.

2. All persons residing in the Czechoslovak Republic shall enjoy within its territory, in equal measure with the nationals of the Republic, full and absolute protection of life and liberty without distinction of origin, nationality, language, race or religion. Exceptions to this principle may be made only in cases recognised by international law.

3. Titles may be conferred only when they indicate office or occupation. This provision shall not apply to academic distinctions.

Liberty of Person and Property.

Article 107.—1. Personal liberty shall be guaranteed. Detailed provisions shall be made by a law which shall form part of this Constitutional Charter.

2. Deprivation of, or limitations upon, personal liberty shall not be permitted save in accordance with law. Public authorities may not require personal service from any citizen save in cases provided for by law.

Article 108.—1. Every Czechoslovak national may reside at will in any part of the Czechoslovak Republic, acquire real property therein and follow any occupation within the limitations prescribed by the general law.

2. Limitations may be imposed upon the exercise of this right only in the public interest and in accordance with legislation.

Article 109.—1. Private property may be restricted only by law.

2. Expropriation may take place only in virtue of a law and on payment of compensation, save in so far as it may be now or hereafter provided by law that compensation shall not be given.

Article 110.—The right to emigrate may be restricted only by law.

Article 111.—1. All imposts and public taxes without exception must be authorised by law.

2. Penalties may not be imposed or threatened save in accordance with law.

LIBERTY OF THE DWELLING.

Article 112.—1. Every dwelling shall be inviolable.

2. Detailed provision shall be made by a law which shall form part of this Constitutional Charter.

LIBERTY OF THE PRESS, OF MEETING AND OF ASSOCIATION.

Article 113.—1. The freedom of the Press and the right to meet peaceably and without arms and to form associations shall be guaranteed. It is therefore in principle forbidden to subject the Press to any preliminary censorship. The exercise of the rights of meeting and forming associations shall be regulated by law.

2. An association may not be dissolved unless it acts in violation of the criminal law or contrary to public peace and order.

3. Restrictions may be imposed by law, particularly as regards meetings in public places, the formation of associations for purposes of profit, and the participation of foreigners in political associations. The law may likewise determine what restrictions may be placed on the application of the principles of the preceding Sections in case of war or of the outbreak of internal troubles seriously threatening the republican form of the State, the Constitution or public peace and order.

Article 114.—1. The right of association for the purpose of safeguarding and ameliorating economic conditions and the status of workers and employees shall be guaranteed.

2. All acts, whether of individuals or associations, which constitute an intentional violation of this right, are forbidden.

RIGHT OF PETITION.

Article 115.—Every person shall enjoy the right of petition. Legal persons and corporations shall enjoy the right only within the limits of their legal powers.

SECRECY OF CORRESPONDENCE.

Article 116.—1. The secrecy of correspondence shall be guaranteed.

2. Details shall be determined by law.

LIBERTY OF EDUCATION, CONSCIENCE AND OPINION.

Article 117.—1. Every person shall be free within the limits permitted by law to express his opinions by speech, writing, print, picture or other similar means.

2. The same freedom shall apply to legal persons within the limits of their legal powers.

3. No person may be prejudiced in his interests as worker or employee in consequence of the exercise of this right.

Article 118.—Artistic activities and scientific research and the publication of the results thereof are free in so far as they do not violate the criminal law.

Article 119.—Public instruction shall be carried on so as not to be in conflict with scientific research.

Article 120.—1. Private establishments for instruction and education may be permitted only upon the conditions laid down by law.

2. Authority and control over all instruction and education shall be vested in the State authorities.

Article 121.—Liberty of conscience and of religion shall be guaranteed.

Article 122.—Every inhabitant of the Czechoslovak Republic shall enjoy in the same degree as nationals of the Republic the right to practise in public or in private any faith, religion or creed whatsoever, so far as the practice thereof does not violate the law or public order and morality.

Article 123.—No person may be constrained, either directly or indirectly, to take part in any religious act whatsoever, exception being made of the rights of parents and guardians.

Article 124.—All religions shall be equal before the law.

Article 125.—The exercise of certain religious practices may be prohibited if they are contrary to public order or morality.

MARRIAGE AND THE FAMILY.

Article 126.—Marriage, the family and motherhood shall be under the special protection of the law.

MILITARY OBLIGATIONS.

Article 127.—1. Every able-bodied male citizen of the Czechoslovak Republic shall be bound to undergo military training and to obey when summoned to the defence of the State.

2. Details shall be determined by law.

CHAPTER VI.

PROTECTION OF NATIONAL, RELIGIOUS AND RACIAL MINORITIES.

Article 128.—1. All citizens of the Czechoslovak Republic shall be in all respects equal before the law and shall enjoy the same civil and political rights, without distinction of race, language or religion.

2. Differences of religion, creed, faith or language shall not prejudice any citizen of the Czechoslovak Republic in any way, within the limits laid down by general laws, particularly in regard to public employment, office or honours and to the exercise of any trade or calling.

3. All citizens of the Czechoslovak Republic may, within the limits laid down by general laws, freely use any language whatsoever, whether in private or business affairs or in matters of religion, in the Press, or in publications of any kind, or in public meetings.

4. The foregoing provisions shall be, without prejudice to the rights of State authorities in such matters in virtue of laws at present in force or hereafter promulgated, for the purpose of ensuring public order, the safety of the State, or effective supervision by the State.

Article 129.—The principles upon which the rights of languages in the Czechoslovak Republic shall be based, shall be determined by a special law which shall form part of the Constitutional Charter.

Article 130.—Inasmuch as citizens are entitled in accordance with general laws to establish, manage and administer, at their own expense, religious, charitable and social institutions, schools and other educational establishments, all citizens, without distinction of nationality, language, religion or race, shall be on an equality and shall have the right to the free use of their own language and the free exercise of their own religion in such institutions.

Article 131.—In towns and districts, where a considerable proportion of Czechoslovak citizens speak a language other than the Czechoslovak language, facilities shall be guaranteed, within the limits laid down by general educational legislation, to enable the children of such citizens to receive instruction in their own tongue. Instruction in the Czechoslovak language may at the same time be made obligatory.

Article 132.—In towns and districts where a considerable proportion of Czechoslovak citizens belong to a minority as regards race, religion or language, and where sums of public money are set aside for educational purposes in the State or municipal budgets or otherwise, a due share in the allocation and use of such sums shall be accorded to such minorities, within the limits of the general regulations concerning public administration.

Article 133.—The application of the principles of Articles 131 and 132, and in particular the definition of the expression "considerable proportion," shall be provided for by special legislation.

Article 134.—Every manner whatsoever of forcible denationalization shall be forbidden. Violation of this principle may be declared by law to be a criminal offence.

VII. THE GERMAN REICH.

Area: 250,471. *Population*: 59,857,283.

After the dissolution of the Holy Roman Empire, and until the latter half of the 19th century, Germany consisted of a number of independent States and Duchies, the inhabitants of which spoke the same language and shared the same literature, and the hereditary rulers of which conferred together in a Diet to which they appointed their deputies. It was not until the 19th century that a conception of national unity had grown up, without which a national Constitution, in the modern sense, cannot be said to possess its indispensable preliminary.

The humiliation of the Napoleonic conquests and the success of the War of Liberation aroused these States to some sense of their political inter-dependence in face of a common danger, and stimulated the traditions common to peoples all of whom spoke the same language. But the intrigues that preceded the Treaty of Vienna in 1812, and the jealousies and rivalries that followed the adoption of that Treaty, gave a check to the conception that danger had engendered. Under that Treaty a Diet was formed to which all the German States appointed representatives. This Diet included the widest representation, but possessed small political power, for Austria was represented on it, though it ruled its own separate Empire, as well as Holstein, over the Dukedom of which the King of Denmark held sway.

In this Diet Prussia and Austria were naturally the strongest members, and the constituent States were pulled asunder in the struggle for power between these two. Nevertheless, during the early decades the conception of national unity gathered strength, chiefly owing to the literary and cultural activity in which all the German people shared. Since States are but the achievement of the common thoughts and desires of the populations that inhabit them, it was inevitable that such a literary revival should lead to the desire for political recognition of their separate unity.

Moreover, forces had come into being, by which a number of the German States were linked in an economic unity. Each of the German States had its own separate customs policy, and the tangle of these policies had brought about economic confusion. Early in the 19th century Prussia (which, under the Treaty of Vienna, held wide territories, stretching among all the States) began to institute a common Customs Union under its hegemony. This Customs Union, known as the *Zollverein*, gradually received the adhesion of an increasing number of States, until, in spite of all

difficulties, it included by 1854 all the German States with the exception of Austria. This union was effected by the diplomacy and under the leadership of Prussia; and since Prussia had from the first seen that such a German Customs Union could only be brought about if the political system of the Confederation were re-organised, the guiding principle of the *Zollverein*, as well as its inevitable tendency, was to bring about the political unity towards which the cultural influences were already leading the German peoples.

As elsewhere in Europe, these influences came to a culmination in 1848. In spite of vigorous press laws instituted by the Diet, and official repression in all the States, the popular agitation had spread over a number of years; and it expressed itself now in a demand for national unity under a Liberal Constitution. The strength of the national movement was now such that it could no longer be denied. Early in this year, 1848, as the result of a number of meetings in different parts of Germany, a number of politicians, including Ministers of State in several of the States, met on March 5, at Heidelberg, and issued an invitation to all members of the States or Legislative Assemblies throughout Germany to meet in a *Vorparlament* for the discussion of matters preliminary to the calling of a Constituent Assembly. This *Vorparlament* accordingly met on March 31, at Frankfort. The majority of those who came to it were prominent Liberals who had previously formed part of the Legislatures of the several States. It at once appointed a Committee of Fifty, on which it devolved the preparations for the election of a National Constituent Assembly. After the election of this Committee the *Vorparlament* separated; and, pending the meeting of the National Assembly, efforts were made to prepare certain material for its discussion.

There were thus two authorities in Germany representing the nation as a whole during this period. The first was the Committee of Fifty and the second the Federal Diet. The existence of these two bodies side by side, one representing the old authority and the other the new, was a significant anomaly aptly representing the state of German thought at the time. When, therefore, it became necessary to postpone the meeting of the National Assembly from May 1st to May 18th, concurrent decrees from both bodies were required, and were issued.

The National Assembly met, thus, on May 18 at Frankfort. None of the Governments of the various States were represented in it. It was directly representative of the German people. A demand was made to extend the Federal Diet and to make it a sort of Second Chamber to the National Assembly. But this demand failed. Therefore, when the Assembly set itself to the task of creating a Central Power, it was confronted with the difficulty of not knowing how the Governments of the various

States would regard such a power. Nevertheless, a Central Power was created. An Austrian Archduke was elected as Vicar of the Empire, and he appointed an Imperial Ministry responsible to the Assembly; and the Federal Diet, by a formal Act, transferred to him its rights and powers. A further anomaly was thus created, that an Austrian Archduke should have been elected Vicar, though Austria protested that no law passed by the Frankfort Assembly should have power in Austria without the consent of its Government, whereas Prussia, which participated in the Acts of the Assembly, was excluded from the leadership of the States towards which she aspired. And it was on the rock of Prussian opposition and reaction that the Frankfort Assembly was finally to break.

Having appointed a Central Power, the Assembly proceeded to the task of drafting a Constitution for the Empire. Although, under the circumstances, rapid progress was essential to success, the difficulties were great; and the Assembly began slowly to complete its work, section by section, with no official draft before it to assist it in its labour. In the meantime a similar Assembly for the State of Prussia was sitting, and encountered a stubborn body of reaction, among the leaders of which was one, Otto von Bismarck. The foreign policy of the Vicar, inspired by Austria, in relation to the Schleswig-Holstein controversy had aroused the increasing disfavour of the Prussian Government. A new Foreign Minister had been appointed; and the Assembly was once again confronted with the contest between Austria and Prussia. But now Prussia was opposed to the Liberal tendencies of the Constitution being drafted at Frankfort.

Ultimately an attempt was made to find a solution by offering the German Crown to the King of Prussia as hereditary Emperor, on the basis of his accepting the Constitution drafted by the Assembly. On March 27, 1849, this course was adopted. On March 27, the second reading of the Constitution was carried, and on the following day the King of Prussia was elected Emperor. A deputation of 32 Members was appointed to convey this offer to Berlin.

Exactly one month later the King of Prussia refused the offer, and invited the Governments of the various States to a Conference in Berlin. This was an undisguised attempt to create a National Union on lines devised by Prussia, and in opposition to the Constitution devised at Frankfort. By this time 29 German Governments had already accepted the Frankfort Constitution, and a contest arose therefore between Berlin and Frankfort. In this contest Berlin represented, generally, ancient State rights, and, specifically, the reaction against liberalism, whereas Frankfort represented the National Union on a liberal basis of popular control.

Between these two principles the appeal ultimately went to arms. In several cases the Army took sides with the people. But the appeal to arms brought about the collapse of the Frankfort Assembly. That Assembly had hitherto chiefly relied upon middle-class opinion; but when, in the course of fighting, the issue inevitably became one of reaction and revolution, with the expression of extreme opinions on each side, this body of citizens fell in with the forces of reaction. Moreover, both Prussia and Austria recalled their representatives from Frankfort. The Assembly steadily diminished in its numbers, and as steadily diminished in authority. Ultimately it collapsed, and with it collapsed the liberal movement of which it had been the culmination.

The Constitution adopted at Frankfort, however, is a document of considerable importance. It was retained in the affections of many Germans during the changes which followed. And when, in 1918, the Prussian Dynasty abdicated at the conclusion of the great European War, it was to this Constitution that the builders of a new Constitution returned, from it constructing no small part of the present German Constitution.

In the meantime, German history took the course indicated when Prussia took the field in 1849. In 1862 Bismarck was appointed as Minister-President of Prussia; and within three years of his appointment to power Prussia declared war against Austria. As a result of that war Prussia annexed the smaller German States which had fought on the Austrian side. These were Hanover, Hesse-Cassel, Nassau and Frankfort, including the disputed duchies of Schleswig and Holstein. He also formed military alliances with other more powerful German States. The War, and the Treaty of Prague with which it was concluded on August 23, 1866, had, in fact, created the substance of a German Empire under Prussian hegemony. The problem was to give form to this new hegemony; and to this end Bismarck invited the States north of the Main to send delegates to Berlin to discuss plans for a union. The invitation was accepted by all the States, and a Conference of Plenipotentiaries met in December, 1866.

Before this Conference certain of Bismarck's friends had been working on a Constitution for a North German Confederation. This draft Bismarck took in hand; revised it throughout in a single night's sitting; and submitted it to the Conference on December 16. The Conference continued until February 7, 1867, when it was agreed to submit the final draft to the various Governments for their acceptance. As a consequence of this Act, elections were held on February 12 throughout the States north of the Main, and on February 24 a Constituent Assembly met to discuss the recommended draft. The Constitution itself was finally passed on April 17, and was then sent to the Governments of the several States. Accepted by these Governments, it was then

submitted to the State Assemblies, and was adopted by them all during the month of June. On July 1st, 1867, this Constitution was finally promulgated, and the North German Confederation came into existence. Thus the first stage of Bismarck's scheme for German unity under Prussian hegemony was completed; and this fact was signalised when, on July 4, Bismarck, already Minister-President of Prussia, was appointed Chancellor of the Confederation.

It is worthy of note that the task of making a Constitution for this North German Confederation had occupied Bismarck and his advisors during eleven months of uninterrupted work, while the nation was undistracted by war without or turmoil within. In other words, under these favourable conditions, and with no conflicting points of view to adjust, he had taken exactly as long over the **Constitution for Germany north of the Main** as the Frankfort Assembly, nearly 20 years before, had taken over the Constitution for all Germany. The comparison is significant. It is all the more significant when it is remembered that without the earlier work of the Frankfort Assembly before him, it is undoubted that Bismarck would have taken very much longer than he did. It is right to remember this circumstance, if only to dispose of the charge of unnecessary dilatoriness so often brought against the deputies at Frankfort.

The creation of the North German Confederation provided a basis for Bismarck's future action. His intention was still to create unity for all Germany under Prussian hegemony. And this result was achieved after the Franco-Prussian War of 1870. All the German States had fought in the war under conditions that seemed to tend in the direction of such unity. Nevertheless the difficulties in Germany south of the Main were considerably greater than in Germany north of the Main. These difficulties were centred, particularly, in the independence of two States, Bavaria and Württemberg. There were also difficulties present in the mind of the old King of Prussia, who deemed his title sufficient of itself without the addition of an Emperorship of Germany; and in the mind of the Crown Prince, who desired German unity on the basis of the Liberal aspirations of 1848.

Through all these tangles Bismarck proceeded on his way with characteristic stubbornness and independence of will, hated and regarded with suspicion alike by soldiers and civilians, by the Monarch and the Liberals. And he succeeded. The Liberals accepted a State particularism and Parliamentary irresponsibility, which they did not want. Bavaria accepted identification in a Reich which it did not want. The King of Prussia accepted a title as Emperor of Germany which he did not want, and publicly ignored his Chancellor on the State occasion of his receiving it. But Bismarck got precisely what he did want, and that was a united

Germany under the perpetual leadership of Prussia, on the basis of State rights, and the acknowledgment of the divine right of princes in opposition to the popular claims that elsewhere in Europe had created constitutional and responsible government.

Under this Constitution the Reich was based on three fundamental principles; first, autonomy of the individual States; second, control of foreign relations by the Confederation, with financial and economic unity under the Confederation; and third, Prussian supervision of military establishments in peace and war. These had been the basis of the North German Confederation, and were substantially incorporated into the new Confederation, subject to certain modifications in respect of the Southern States of Bavaria, Württemberg, and Baden. The King became hereditary German Emperor, with the Chancellor of the Empire to be appointed by Prussia. The Bundesrat, or Federal Council, was expanded to include the representatives of the new States entering the Confederation, and the Reichstag to include the citizens of those States. But, as before, the Chancellor and his Ministry were not dependent on the will and consent of the Legislature.

This Reich lasted from 1871, when it was declared, till the Great European War that broke out in 1914. At the end of that War it fell in ruin as the result of defeat and revolution but during the whole course of that war forces were making for change. The stress of war made it inevitable that the Government of the Reich should be dependent on public confidence, and this meant, in effect, the practical adoption of responsible government. In 1917 a special Committee of the Reichstag was entrusted with examination of the question as to what extent a revision of the Reich Constitution should be made to meet these desires. But no fundamental change was made until nearly the moment of military collapse in the field, when in a decree of September 30, 1918, the Kaiser made the momentous declaration: "I desire that the German people shall co-operate more effectually than hitherto in the determination of the destinies of the Fatherland. To that end it is my will that men in whom the people repose their confidence shall share to the widest extent in the rights and duties of the Government."

This meant, in effect, the subordination of the Ministry of the Reich to the will of the Reichstag, and necessitated a fundamental change in the Constitution. Hitherto the Kaiser's Ministers had not been permitted to act as Deputies in the Reichstag, and accordingly Article 21, Section (2) of the Constitution was annulled to enable such Deputies to enter the Government as Secretaries of State without losing their seats and votes. The supreme military command was subordinated to Parliamentary control; and the consent of the Legislature was required for the conclusion of treaties and for declarations of war and peace. In

authorising the promulgation of these laws the Kaiser added a statement, saying that "a new ordinance comes into operation which transfers the fundamental rights from the person of the Kaiser to the people. . . . The function of the Kaiser is to serve the people." This declaration was the political abdication of the Kaiser; and it was followed a few days later by his constitutional abdication and flight.

These changes might have taken their normal course, and brought the German Constitution by orderly evolution into conformity with the practice of other nations, but for the outbreak of the revolution of November, 1918. This revolution destroyed Bismarck's work and Bismarck's Constitution; and for a time threw Germany into chaos. Beginning in Kiel on November 1, Soldiers' and Workers' Councils began to be established all over the country on the lines of the establishment of similar Councils in Russia. The Reich-Chancellor endeavoured to meet this revolution by fuller concessions; but to no purpose.

Finally the abdication of the Kaiser was agreed to, with the renunciation of the Throne by the Crown Prince. The appointment of a Regent was suggested pending the determination of the future form of Government of the German people. But the course of events ran too strong even for satisfaction with such measures. The Kaiser fled the country, and a state of affairs resulted in Germany by which a break in continuity was effected between the old Reich, known by German Constitutional writers as the Kaiser-Reich, and the new Reich, known as the Reich-Republic. Technical attempts were made to retain this continuity, but with the disappearance of the Kaiser, and the fall from power of the Ministers of the old State, the Reichstag also changed its character. It continued merely as a College of People's Representatives, the power and authority of which were disputed by the Workers' and Soldiers' Councils that were being rapidly formed throughout Germany.

For a time, therefore, there were two opposing authorities in Germany. For on November 10, the Greater Berlin Workers' and Soldiers' Council had elected an Executive Committee of the German Republic; and this Committee constituted itself the Controlling Organ of the Provisional Government which had been established in Berlin, consisting of three Majority and three Minority Socialists, who ruled in name as the authority appointed by the Reichstag. This Provisional Government, describing itself as the "Council of People's Commissaries," issued a proclamation on November 12, declaring the election of a new Reichstag, to meet as a Constituent Assembly, and to be elected by universal, equal, secret and direct suffrage on the basis of Proportional Representation by all men and women of, at least, 20 years of age.

Between the two authorities—the Workers' and Soldiers' Councils through their Executive, and the Provisional Government with its projected Constituent Assembly—sharp conflict prevailed.

The relative strengths of the two sides fluctuated. At one stage the Provisional Government acknowledged the legislative and executive authority of these Councils, and of a National Assembly to be created of such Councils. But on December 6, this conflict came to a head. On that date a Conference was held in Berlin of all Soldiers' and Workers' Councils, when the controversy as to whether the form of Government in Germany should be according to the system of Councils or after the manner of an ordinary legislative assembly, was finally decided. It was then resolved that elections for the Constituent Assembly should proceed; and that, on the meeting of this Assembly, all authority, legislative executive and military, should be transferred to it.

Elections were accordingly held on January 19, 1919, under the provisions of a decree issued by the Provisional Government on November 30, 1918. All men and women over 20 years of age, including soldiers, were entitled to vote, and the elections were held by universal, equal, direct and secret ballot on a system of Proportional Representation. The number of Deputies returned was 421, of whom 36 were women.

Thus met the National Assembly, or *Reichsversammlung*, by which the present Constitution was devised, passed and prescribed. It met on February 6, 1919, in the historic Theatre at Weimar. Its first act was to create a temporary Constitution of the Reich. The Council of People's Commissaries, or Provisional Government, resigned all authority to it, acknowledging it as the highest and only Sovereign in Germany. A similar declaration was made by the Executive Committee of the Councils. Ebert, head of the Provisional Government, was elected as first President of the Reich; and the way was, therefore, clear for the main business before the Assembly, the creation of a permanent Constitution. In the meantime the State continued under the Provisional Constitution, which was necessarily marked by compromise and by evasion of many essential difficulties. Certain new organisations, however, were created under this Provisional Constitution, such as the Referendum, which were subsequently taken over into the later permanent Constitution.

In its search for a constitutional basis on which to begin, the Constituent Assembly was faced with obvious difficulties. During the revolution of the previous few months all the framework of the previous Constitution had been melted. It, therefore, became necessary to cast an entirely new framework. With characteristic industry all the Constitutions of the world were ransacked, particularly Constitutions such as the Swiss, which were both republican and federal. It proved, in the result, that

the drafters had to look, not abroad, but within the country; and they turned to the valuable work done by the Assembly that met in Frankfort in 1849. For the present Constitution is in great part based upon, and indebted to the work of, these original founders of unity, who had to wait thus long before it could bear fruit.

Shortly after it had been first created the Provisional Government had appointed Dr. Hugo Preuss, Secretary of State for the Interior, to the task of drafting a new Reich Constitution. It was, therefore, he who first turned to the early work of the Frankfort Constitutionalists. As originally drafted by him, the Constitution showed its likeness to the work of 1848 in its marked advance from federalism to unitarism. It was, therefore, strongly opposed to the Bismarck model, and placed, as the Frankfort Legislators desired to place, the National Government, as representative of the German people, in control over a number of subordinate and particular State authorities, whereas Bismarck's model had grouped together a number of particular States, conferring on one of them a virtual dominance over the others. In the Preuss Draft the competence of the subordinate States was strictly limited. Each of them was made completely dependent on the Reich, which was empowered to prescribe for each of the State Constitutions certain standard provisions in regard to the form of the State, electoral law, ministerial responsibility, police, as well as a number of other matters.

Moreover, apparently to overcome the dominance of Prussia, provision was made for populations to contract out of one subordinate State, either to create a distinct State of their own, or to join some other existing State. The dominant principle of the Constitution in the Preuss Draft was the frequent insistence on the sovereignty of the people, not merely as a pious expression, but everywhere as a practical mode of government. In the forefront of his draft was placed a section dealing with the Fundamental Rights of the people; and, according to his original plan, the State organisations followed after, being based upon, these Fundamental Rights.

Such were the essential characteristics of the Preuss Draft. On its publication it aroused strong opposition, particularly in the State Governments. Representatives of these Governments therefore met in conference with the Provisional Government in Berlin on January 25, before the meeting of the National Assembly. The result of these deliberations was the preparation of a new draft for submission to the National Assembly as a Ministerial Bill. The new Draft bore a very different character from the Preuss Draft. The influence of the member-States was unmistakable. Unitarism was checked, and federalism more strongly emphasised. The Constitutional authority of the member-States

was re-established. The right of populations to secede from member-States was restricted within much narrower limits. Moreover, member-States were able to effect treaties with foreign countries with the consent of the Reich, and could not be restricted in their former independent military administration without their own consent. The unification of railways, posts, telegraphs and navigation was to be effected only by treaty between the Reich and State Governments. Similar changes were made in respect of certain fiscal matters, such as spirit monopoly, customs and excise. The Fundamental Rights of the people were, however, preserved, but they were worked out with greater detail.

This Draft, so revised, was placed before the National Assembly for its consideration on February 21, 1919. It was expounded in detail by Dr. Preuss, and at the end of the first reading it was referred to a special Committee of 28 members, who were appointed for the purpose of examining it in detail and reporting to the Constituent Reichstag.

The Constitution Bill did not return from the Committee to the Reichstag till July. When it was returned it was found to have been considerably changed, both as to form and as to content. Parts I. and II., for example, were transposed. Where in the original Draft, Part I. had dealt with the Fundamental Rights and Duties of Germans, and Part II. with the organisation and functions of the Reich, it was now found that the organisation and functions of the Reich were made to precede the Fundamental Rights and Duties of citizens. This alteration was characteristic. Moreover, the section dealing with Fundamental Rights and Duties was itself entirely recast. Nevertheless, the outstanding features of the original Draft were preserved in the new revised Draft. The emphasis was still laid upon unitarism, and the economic and political centre of gravity of the German State system was transferred to the Reich. The State character of the particularist Governments was retained in words, but in effect it was reduced to a practical nullity.

Debate was resumed on the Constitution on the 2nd of July. The second reading lasted from the 2nd to the 22nd July. The question as to State rights still was the centre of discussion, and particularly keen discussion was maintained to the very last moment on the question of the re-grouping of States, with the result that these matters were subject to compromise up to the last hour in consequence of the series of amendments that were moved in respect of them.

Other matters were also freely compromised, such as the Referendum and the Initiative, Workers' and Economic Councils, and franchise qualifications. Ultimately the new Reich Constitution was adopted on the 31st July, 1919, by 262 votes against 75.

The Constitution was then prescribed. On its coming into force the Assembly which adopted it might automatically have been dissolved for the election of the first Reichstag under the Constitution. It was, however, decided that the Constituent Assembly should by resolution itself become the first Reichstag under the Constitution, both to save the confusion of further elections, and to enable legislation consequent upon the Constitution to be proceeded with without delay. This was, therefore, done. The Constituent Reichstag by resolution became the first Reichstag under the Constitution; and the new German Reich-Republic formally took its place among the Nations in the room of the older Kaiser-Reich.

[NOTE.—The exact titles of the new German Republic as a whole and of its constituent Republics were the subject of acute discussion in the Constituent Assembly. Proposals to call the whole Republic a "Bund," or Federation, and the constituent Republics "Mitglied," or "Member" States, were defeated, and the words "Reich" and "Länder" adopted. The word "Reich" has been retained in the translation; there is no satisfactory equivalent in English and the German word is coming into current use. It is perhaps necessary, however, to point out that while the present title of the German Republic is the same as was applied to the German Empire, the word itself has no Imperialist significance, but conveys much the same idea of community of national feeling and organisation as the English word "Commonwealth." The word "Land," literally "Land" or "Country," has been translated by "State." This has the disadvantage of risking confusion between, for example, "State" authority in the general sense, and the authority of the States in the sense of the authority of the individual "Länder," but has, nevertheless, been deemed the best solution of the difficulty. The importance of the terminology may be appreciated by a comparison of the German and Austrian Constitutions, the relation of the parts to the whole rendering a translation of "Land" by "Province" permissible in the latter case and quite inappropriate in the former.]

CONSTITUTION

OF

THE GERMAN REICH

Of 11th August, 1919.

The German people, united in every branch and inspired by the determination to renew and establish its realm in freedom and justice, to be of service to the cause of peace at home and abroad, and to further social progress, has given itself this Constitution.

PART I

ORGANISATION AND FUNCTIONS OF THE REICH.

SECTION I.

THE REICH AND THE STATES.

Article 1.—The German Reich is a Republic.

All State authority emanates from the people.

Article 2.—The territory of the Reich consists of the territories of the German States. Other territories may, by a law of the Reich, be incorporated in the Reich if their population so desires in virtue of the right of self-determination.

Article 3.—The colours of the Reich are black, red and gold. The commercial flag is black, white and red, with the colours of the Reich in the upper inside corner.

Article 4.—The generally recognised rules of International Law are valid as binding constituent parts of the Law of the German Reich.

Article 5.—State authority is exercised in the affairs of the Reich through the institutions of the Reich on the basis of the Constitution of the Reich and in State affairs by the institutions of the States on the basis of the Constitutions of the States.

Article 6.—The Reich has exclusive legislative power as regards:—

1.—Foreign relations;

2.—Colonial affairs;

3.—Nationality, freedom of domicile, immigration and emigration, and extradition;

4.—Military organisation;

5.—The monetary system;

6.—Customs, as well as uniformity in the sphere of customs and trade, and freedom of commercial intercourse;

7.—Posts and telegraphs, including telephones.

Article 7.—The Reich has legislative power as regards:—

1.—Civic rights;

2.—Penal law;

3.—Judicial procedure, including the carrying out of sentences, as well as official co-operation between public authorities;

4.—Passports and the police supervision of foreigners;

5.—Poor-relief and vagrancy;

6.—The Press, associations and assemblies;

7.—Population questions and the care of motherhood, infants, children and young persons;

8.—Public health and veterinary matters, and the protection of plants against disease and pests;

9.—Labour laws, the insurance and protection of workers and employees, together with Labour Bureaux;

10.—The institution of vocational representative bodies for the territory of the Reich;

11.—The care of persons who took part in the war, and of their dependants;

12.—The law of expropriation;

13.—The formation of associations for dealing with natural resources and economic undertakings, as well as the production, preparation, distribution and determination of prices of economic commodities for common use;

14.—Commerce, the system of weights and measures, the issue of paper money, banking affairs and the system of exchange;

15.—Traffic in foodstuffs and luxuries, as well as in articles of daily necessity;

16.—Industry and mining;

17.—Insurance matters;

18.—Navigation, deep sea and coastal fishery;

19.—Railways, inland navigation, motor traffic by land, water and air, as well as the construction of high-roads, so far as this is concerned with general traffic and home defence;

20.—Theatres and cinemas.

Article 8.—Further, the Reich has legislative power as regards taxes and other revenues in so far as they are appropriated

wholly or in part to its purposes. Should the Reich appropriate taxes or other revenues hitherto appertaining to the various States, it must take into consideration the maintenance of the vitality of those States.

Article 9.—Where there is need for the issue of uniform regulations, the Reich has legislative power as regards:—

1.—Sanitary administration;

2.—The maintenance of public order and security.

Article 10.—The Reich may by legislation lay down fundamental principles governing:—

1.—The rights and duties of religious associations;

2.—Education, including higher education and scientific literature;

3.—The law as to the conditions of service of officials of all public bodies;

4.—The land laws, the distribution of land, land settlement and small holdings, the tenure of landed property;

5.—Burial of the dead.

Article 11.—The Reich may by legislation lay down fundamental principles governing the admissibility and mode of collection of State taxes, in so far as they are requisite either for the purpose of preventing:—

1.—Loss of revenue or injury to the commercial relations of the Reich;

2.—Double taxation;

3.—Charges for the use of public means of communication and their accessories, which are excessive and constitute a hindrance to traffic;

4.—Assessments which are prejudicial to imported goods, as opposed to home products, in dealings between the separate States and parts of a State; or

5.—Bounties on exportation; or for the purpose of protecting important social interests.

Article 12.—So long and in so far as the Reich does not make use of its legislative power, the States retain that power for themselves. This does not apply to the exclusive legislative power of the Reich.

The Government of the Reich has the right of veto in respect of any laws of a State which refer to subjects included in Article 7, Number 13, in so far as the welfare of the Reich as a whole is thereby affected.

Article 13.—The law of the Reich overrides the law of a State.

Where there exists any doubt or difference of opinion as to whether any provision of State law is compatible with the law of the Reich, an appeal may be made by the competent Reich or State authorities to the decision of the Supreme Court of the Reich in accordance with the more detailed provisions to be prescribed by a law of the Reich.

Article 14.—Laws of the Reich are carried into execution by the State authorities, unless these laws decree otherwise.

Article 15.—The Government of the Reich exercises control in those affairs in which the Reich has legislative power.

In so far as laws of the Reich are carried into execution by State authorities, the Government of the Reich may issue general instructions. For the purpose of supervision of the execution of laws of the Reich, the Government is empowered to despatch Commissioners to the State central authorities, and, with their consent, to the subordinate authorities.

It is the duty of the State Governments, at the request of the Government of the Reich, to remedy defects observed in the execution of laws of the Reich. In case of differences of opinion, both the Government of the Reich and the State Government may appeal to the decision of the Supreme Court, save where appeal to another Court has been prescribed by law of the Reich.

Article 16.—Officials entrusted with the direct administration of the Reich in the various States shall, as a rule, be citizens of the State in question. Officials, employees and workmen of the administration of the Reich shall, if they desire it, be employed as far as possible in their native districts, unless considerations of training or the exigencies of the service are opposed to this course.

Article 17.—Each State must have a republican constitution. The representatives of the people must be elected by the universal equal, direct and secret suffrage of all men and women of the German Reich, upon the principles of proportional representation. The State Government must enjoy the confidence of the people's representatives.

The principles governing elections of the people's representatives apply also to elections to local bodies. By a State law the qualification for a vote may, however, be declared conditional upon a year's residence in the district.

Article 18.—The organisation of the Reich into States shall serve the highest economic and cultural interests of the people with all due consideration for the will of the population concerned.

Alteration of the territory of the States, and the formation of new States within the Reich, shall be effected by means of a law of the Reich amending the Constitution.

Where the States concerned give their direct consent, a simple law of the Reich suffices.

A simple law of the Reich suffices also in a case where the consent of one of the States concerned has not been obtained, but where an alteration of territory or reorganisation is demanded by the will of the population and required by the paramount interests of the Reich.

The will of the population is ascertained by a plebiscite. The Government of the Reich orders the taking of a plebiscite when demanded by one-third of those inhabitants of the territory to be separated who are entitled to vote for the Reichstag.

For the determination of an alteration or reorganisation of territory, the proportion of votes required is three-fifths of the number cast; or, at least, a majority of the votes of persons qualified. Even when it is a question only of the separation of a portion of a Prussian administrative area (Regierungsbezirk), a Bavarian district (Kreis) or of a corresponding administative district (Verwaltungsbezirk) in other States, the will of the population of the whole district in question shall be ascertained. Should the area of the territory to be separated and that of the whole district (Bezirk) not coincide, the will of the population of the former may, by means of a special law of the Reich, be declared sufficient.

The consent of the population having been obtained, the Government of the Reich shall lay before the Reichstag a law in accordance with the decision.

In the case of union or separation, should any dispute arise on the question of arrangements as to property, the decision on such points shall be given, upon an application from one party, by the Supreme Court of the German Reich.

Article 19.—Constitutional controversies within a State in which no Court exists for their settlement, and disputes, not of a private nature, between different States or between the Reich and a State, are decided, upon an application from one of the parties, by the Supreme Court of the German Reich, unless another Court of the Reich is competent.

The President of the Reich carries out the decision Supreme Court.

SECTION II.

THE REICHSTAG.

Article 20.—The Reichstag is composed of the Deputies of the German people.

Article 21.—The Deputies are representatives of the whole people. They are subject to their conscience only, and are not bound by any instructions.

Article 22.—The Deputies are elected by the universal, equal, direct and secret suffrage of all men and women above the age of twenty, upon the principles of proportional representation. Elections must take place on a Sunday, or a public holiday.

Details are determined by the election law of the Reich.

Article 23.—The Reichstag is elected for four years. New elections must take place not later than sixty days after the expiration of its term of office.

The Reichstag must hold its first meeting not less than thirty days after the election.

Article 24.—The Reichstag assembles annually on the first Wednesday in November at the seat of the Government of the Reich. The President of the Reichstag must summon it earlier if requested by the President of the Reich or by at least one-third of the members.

The Reichstag determines the conclusion of the session and the day of re-assembly.

Article 25.—The President of the Reich may dissolve the Reichstag, but only once for any one reason.

The new elections must take place not later than sixty days after the dissolution.

Article 26.—The Reichstag elects its Chairman, Deputy-Chairman and Secretaries. It determines its own rules of procedure.

Article 27.—Between two sessions or elective periods the Chairman and Vice-Chairman of the last session continue to discharge their duties.

Article 28.—The Chairman exercises domestic and police authority within the Reichstag buildings. He is responsible for the administration of the House; regulates receipts and expenditure within the limits fixed by the Budget of the Reich, and represents the Reich in all the legal business and legal proceedings connected with his administration.

Article 29.—The Reichstag conducts its business in public. Upon the motion of fifty members, supported by a two-thirds majority, the public may be excluded.

Article 30.—Accurate reports of deliberations in the public sessions of the Reichstag, of a State Diet, or of their Committees are privileged.

Article 31.—A Court of Inquiry into Elections is established in connection with the Reichstag. It also decides the question as to whether a Deputy has forfeited his membership.

The Court consists of members of the Reichstag, chosen by it for the electoral period, and of members of the Administrative Court of the Reich, appointed by the President of the Reich, upon the motion of the presiding officer of that Court.

The Court gives judgment after public *viva voce* investigation by three members of the Reichstag and two judicial members.

Apart from the investigations before this Court, the proceedings are conducted by an official of the Reich, appointed by the President of the Reich. Further provisions as to procedure are determined by the Court.

Article 32.—For a decision of the Reichstag, a simple majority of votes is required, where no other proportion of votes is prescribed by the Constitution. The rules of procedure may permit exceptions in the case of elections to be undertaken by the Reichstag.

The number required to form a quorum is regulated by the rules of procedure.

Article 33.—The Reichstag and its Committees may require the attendance of the Chancellor of the Reich and of any Ministers of the Reich.

The Chancellor and the Ministers of the Reich, and officials appointed by them, have access to the sittings of the Reichstag and its Committees. The States are entitled to send plenipotentiaries to these sittings, for the purpose of stating the point of view of their Government with regard to the subject under discussion.

At their request, Government representatives must be heard during the debate, and the representatives of the Government of the Reich must be heard without regard to the Order of the Day.

Such representatives are subject to the authority of the Chair.

Article 34.—The Reichstag has the right to appoint Committees of Inquiry and must do so on the motion of one-fifth of its members. These Committees examine in open session such evidence as may be considered necessary by the Committee or by the movers of the motion for their appointment. The public may be excluded by a resolution of the Committee of Inquiry supported by a two-thirds majority. The rules of procedure prescribe the procedure of the Committee and determine the number of its members.

The Courts and administrative authorities are bound to comply with the request of such Committees for the production of evidence; the official documents of the authorities must be laid before them if desired. The regulations as to criminal procedure are applicable in principle to the investigations of the Committees and of the authorities applied to by them, but the privacy of correspondence and of postal, telegraphic and telephonic communications must be respected.

Article 35.—The Reichstag appoints a Standing Committee for Foreign Affairs which may also continue its work beyond the sessions of the Reichstag and after the expiration of the term of office or the dissolution of the Reichstag, until the assembly of the new Reichstag. The sittings of this Committee are not public, unless so decided by the Committee upon a two-thirds majority.

The Reichstag also appoints a Standing Committee for the Protection of the Rights of the Representatives of the People as against the Government of the Reich, for the period when the Reichstag is not in session, and after the expiration of its term of office.

These Committees have the same rights as Committees of Inquiry.

Article 36.—No judicial or administrative proceedings may be taken at any time against any Member of the Reichstag or of any State Diet, on account of any vote he has given, or of any utterances made in the exercise of his functions, nor may he be called to account in any other way outside the House.

Article 37.—No Member of the Reichstag or of a State Diet may be summoned for examination or arrested for any action involving criminal proceedings during the period of a session, without the consent of the House of which he is a member, unless the member be apprehended at the time of the act or, at the latest, in the course of the following day.

The same consent is requisite for any other limitation of personal liberty which might hinder a Deputy in the exercise of his functions.

Any criminal proceedings against a Member of the Reichstag or of a State Diet and any arrest or other limitation of personal freedom shall, upon demand of the House of which he is a member, be suspended for the duration of the session.

Article 38.—Members of the Reichstag or a State Diet are entitled to refuse evidence with regard to persons who have confided any facts to them in their capacity as Deputies, or to whom they, in the exercise of their functions as Deputies, have made confidential statements; they may likewise refuse to give

evidence as to such facts. With regard also to the sequestration of documents, they are in the position of persons who have a legal right to refuse evidence.

No search or sequestration may be carried out upon the premises of the Reichstag or of a State Diet without the consent of the Chairman.

Article 39.—Officials and members of the Military Forces do not require leave of absence in order to exercise their functions as Members of the Reichstag or of a State Diet.

If they are candidates for a seat in these bodies, they shall be granted the requisite leave in order to prepare for the election.

Article 40.—Members of the Reichstag are entitled to travel free on all German railways, and to receive allowances as determined by a law of the Reich.

SECTION III

THE PRESIDENT OF THE REICH AND THE GOVERNMENT OF THE REICH.

Article 41.—The President of the Reich is elected by the whole German people.

Every German who has completed his thirty-fifth year is eligible.

Details shall be determined by a law of the Reich.

Article 42.—The President of the Reich when entering upon his office takes the following oath before the Reichstag:—

> "I swear to dedicate my powers to the welfare of the German people, to augment their prosperity, to guard them from injury, to maintain the Constitution and the laws of the Reich, to fulfil my duties conscientiously, and to do justice to every man."

The addition of a religious asseveration is permissible.

Article 43.—The President of the Reich holds office for seven years. Re-election is permissible.

The President of the Reich may, upon the motion of the Reichstag, be removed from office before the expiration of his term by the vote of the people. The resolution of the Reichstag requires to be carried by a two-thirds' majority. Upon the adoption of such a resolution, the President of the Reich is prevented from the further exercise of his office. Refusal to remove him from office, expressed by the vote of the people, is equivalent to re-election, and entails the dissolution of the Reichstag.

Penal proceedings may not be taken against the President of the Reich without the consent of the Reichstag.

Article 44.—The President of the Reich may not at the same time be a member of the Reichstag.

Article 45.—The President of the Reich represents the Reich in international relations. He concludes alliances and other treaties with Foreign Powers in the name of the Reich. He accredits and receives ambassadors.

The declaration of war and the conclusion of peace are dependent upon the passing of a law of the Reich.

Alliances and treaties with foreign States which refer to matters in which the Reich has legislative power require the consent of the Reichstag.

Article 46.—The President of the Reich appoints and dismisses officials and officers of the Reich, where no other system is determined by law. He may delegate his right of appointment and dismissal to other authorities.

Article 47.—The President of the Reich has Supreme Command over all the armed forces of the Reich.

Article 48.—In the event of a State not fulfilling the duties imposed on it by the Constitution or the laws of the Reich, the President of the Reich may make use of the armed forces to compel it to do so.

Where public security and order are seriously disturbed or endangered within the Reich, the President of the Reich may take the measures necessary for their restoration, intervening in case of need with the help of armed forces. For this purpose he is permitted, for the time being, to abrogate either wholly or partially the fundamental rights laid down in Articles 114, 115, 117, 118, 123, 124, and 153.

The President of the Reich must, without delay, inform the Reichstag of any measures taken in accordance with paragraph 1 or 2 of this Article. Such measures shall be abrogated upon the demand of the Reichstag.

Where there is danger in delay, the State Government may take provisional measures of the kind indicated in paragraph 2, for its own territory. Such measures shall be abrogated upon the demand of the President of the Reich or the Reichstag.

Details are to be determined by a law of the Reich.

Article 49.—The President of the Reich exercises the right of pardon for the Reich.

The grant of amnesty by the Reich requires to be effected by a law of the Reich.

Article 50.—All orders and decrees of the President of the Reich, including those relating to the armed forces, require for their validity the counter-signature of the Chancellor or the competent Minister of the Reich. The counter-signature entails the undertaking of responsibility.

Article 51.—In case of any disability the President of the Reich is represented in the first instance by the Chancellor of the Reich. Should it be probable that the disability might continue for some time, his representative shall be appointed by a law of the Reich.

The same applies to the case of premature vacancy in the office of President pending the carrying out of the new election.

Article 52.—The Government of the Reich consists of the Chancellor of the Reich and the Ministers of the Reich.

Article 53.—The President of the Reich appoints and dismisses the Chancellor of the Reich and, on the latter's recommendation, the Ministers of the Reich.

Article 54.—The Chancellor of the Reich and the Ministers of the Reich require the confidence of the Reichstag in the administration of their office. Any one of them must resign should the confidence of the Reichstag be withdrawn by an express resolution.

Article 55.—The Chancellor of the Reich presides over the Government of the Reich and directs its business, according to rules of procedure drawn up by the Government of the Reich and approved by the President of the Reich.

Article 56.—The Chancellor of the Reich determines the main lines of policy, for which he is responsible to the Reichstag. Within these main lines each Minister of the Reich directs independently the department entrusted to him, for which he is personally responsible to the Reichstag.

Article 57.—The Ministers of the Reich must submit to the Government for consideration and decision the drafts of all Bills and other matters for which such a course is prescribed by the Constitution or by law, as well as differences of opinion upon questions affecting the sphere of action of more than one Minister of the Reich.

Article 58.—The Government of the Reich comes to a decision by a majority of votes. In case of an equality of votes the presiding member gives the casting vote.

Article 59.—The Reichstag may arraign the President of the Reich, the Chancellor and the Ministers before the Supreme Court of the German Reich for culpable violation of the Constitution or of a law of the Reich. The motion for the arraignment must be

signed by at least one hundred members of the Reichstag, and requires the assent of the majority prescribed for alterations of the Constitution. Details are to be regulated by the law of the Reich as to the Supreme Court.

SECTION IV.

THE REICHSRAT.

Article 60.—A Reichsrat is formed in order to represent the German States in the legislation and administration of the Reich.

Article 61.—In the Reichsrat, each State has at least one vote. In the larger States, one vote is assigned for each million inhabitants. Any surplus not less than the total population of the smallest State is reckoned as a full million. No State may be represented by more than two-fifths of all the votes.

*German Austria will, after her union with the German Reich, acquire the right of participation in the Reichsrat, with the number of votes corresponding to her population. Until that time, the representatives of German Austria have an advisory voice.

The number of votes shall be re-adjusted by the Reichsrat after each general census of the population.

Article 62.—In Committees appointed by the Reichsrat from its members no State shall have more than one vote.

Article 63.—The States are represented in the Reichsrat by members of their Governments. However, one-half of the Prussian votes shall be assigned, according to a State law, to representatives of Prussian provincial administrations.

The States are entitled to send to the Reichsrat as many representatives as they have votes.

Article 64.—The Government of the Reich must convene the Reichsrat upon the demand of one-third of its members.

Article 65.—The Reichsrat and its Committees are presided over by a member of the Government of the Reich. The members of the latter are entitled, and, if requested, are bound, to take pa

*According to Article 80 of the Treaty of Peace between the Allied and Associated Powers and Germany, signed at Versailles, June 28th, 1919, "Germany acknowledges and will respect strictly the independence of Austria, within the frontiers which may be fixed in a Treaty between that State and the Principal Allied and Associated Powers; she agrees that this independence shall be inalienable, except with the consent of the Council of the League of Nations." A declaration that all provisions of this Constitution which are in contradiction with the terms of the Treaty of Peace are null and void was signed on September 22nd, 1919, at Paris, by the acting Head of the German Delegation.

in the deliberations of the Reichsrat and its Committees. They must be heard upon their demand at any time during the debate.

Article 66.—The Government of the Reich and each member of the Reichsrat are authorised to lay proposals before the Reichsrat.

The Reichsrat regulates the conduct of its business by rules of procedure.

The plenary sessions of the Reichsrat are public. The public may be excluded during the discussion of certain subjects, in accordance with the rules of procedure.

For a decision a simple majority of the votes is required.

Article 67.—The Reichsrat shall be kept informed by the Ministries of the Reich of the progress of affairs in the Reich. Upon important subjects the Committees of the Reichsrat concerned shall be called into consultation by the Ministries of the Reich.

SECTION V.

LEGISLATION OF THE REICH.

Article 68.—Bills are introduced by the Government of the Reich or by members of the Reichstag.

The laws of the Reich are passed by the Reichstag.

Article 69.—The introduction of Bills by the Government of the Reich requires the consent of the Reichsrat. Should the Government and the Reichsrat not be in agreement, the former may, nevertheless, introduce the Bill; but, in doing so, must state the divergent view of the Reichsrat.

Should the Reichsrat adopt a Bill to which the Government does not agree, the latter must introduce the Bill in the Reichstag with a statement of its own point of view.

Article 70.—The President of the Reich shall prepare for publication the laws which have been adopted in accordance with the Constitution, and, within the period of one month, shall promulgate them in the Journal of Laws of the Reich (*Reichsgesetzblatt*).

Article 71.—Laws of the Reich come into force, unless otherwise provided therein, fourteen days from the day on which the Journal of Laws of the Reich is published in the capital.

Article 72.—The promulgation of a law of the Reich shall be deferred for two months, if one-third of the Reichstag so demands. Laws which the Reichstag and the Reichsrat declare to be urgent may, however, be promulgated by the President of the Reich, notwithstanding such a demand.

Article 73.—A law passed by the Reichstag shall, before its promulgation, be submitted to the decision of the people, if the President of the Reich so determines within one month.

A law, the promulgation of which is deferred on the motion of at least one-third of the Reichstag, shall be submitted to the decision of the people, if desired by one-twentieth of those entitled to the franchise.

There may also be an appeal to the decision of the people if one-tenth of those entitled to the franchise initiate a request for the introduction of a Bill. This popular initiative must be based on a complete draft of the Bill. It shall be submitted to the Reichstag by the Government, accompanied by a statement of the Government's attitude in regard to it. The appeal to the decision of the people shall not take place if the proposed Bill is accepted without amendment by the Reichstag.

The President of the Reich is alone entitled to institute an appeal to the decision of the people on the Budget and on laws dealing with taxation and decrees as to payments to employees.

The procedure in connection with the appeal to and initiative by the people is to be regulated by a law of the Reich.

Article 74.—The Reichsrat may enter an objection against a law passed by the Reichstag.

This objection must be lodged with the Government of the Reich within two weeks after the final vote in the Reichstag, and must be supported by reasons, presented at latest within a further two weeks.

When an objection is entered, the law shall be brought before the Reichstag for further consideration. Should the Reichstag and the Reichsrat not arrive at an agreement, the President of the Reich may, within three months, order an appeal to the people upon the subject in dispute. Should the President not make use of this right, the law shall not come into operation. Should the Reichstag decide by a two-thirds' majority against the objection of the Reichsrat, the President must, within three months, either promulgate the law in the form approved by the Reichstag or order an appeal to the people.

Article 75.—A decision of the Reichstag can be annulled by the decision of the people only when a majority of those entitled to the franchise take part in the vote.

Article 76.—The Constitution may be amended by legislation. But decisions of the Reichstag as to such amendments come into effect only if two-thirds of the legal total of members be present, and if at least two-thirds of those present have given their consent.

Decisions of the Reichsrat in favour of amendments of the Constitution also require a majority of two-thirds of the votes cast. Where an amendment of the Constitution is decided by an appeal to the people as the result of a Popular Initiative, the consent of the majority of the voters is necessary.

Should the Reichstag have decided upon an alteration of the Constitution in spite of the objection of the Reichsrat, the President of the Reich shall not promulgate the law if the Reichsrat, within two weeks, demands an appeal to the people.

Article 77.—The Government of the Reich issues the general administrative instructions necessary for the execution of the laws of the Reich, unless otherwise provided by law. For this purpose, the Government needs the assent of the Reichsrat when the execution of the law of the Reich is the business of the Authorities of the States.

SECTION VI.

ADMINISTRATION OF THE REICH.

Article 78.—The conduct of foreign affairs is the exclusive concern of the Reich.

In affairs regulated by State legislation, the States may conclude agreement with foreign States. These agreements require the consent of the Reich.

Conventions with foreign States as to the alteration of the frontiers of the Reich are concluded by the Reich, with the consent of the State concerned. Alterations in the frontier may be effected only by a law of the Reich, except in the case of a simple rectification of the borders of uninhabited portions of a district.

In order to guarantee representation of the interests of individual States arising from their special economic relations with foreign States or their proximity thereto, the Reich undertakes the requisite arrangements and measures in agreement with the State concerned.

Article 79.—The defence of the Reich is a matter for action by the Reich. The military organisation of the German people is regulated uniformly by means of a law of the Reich, regard being had to the individual conditions of each State.

Article 80.—Colonial affairs are exclusively the business of the Reich.

Article 81.—All German merchant shipping constitutes a united commercial fleet.

Article 82.—Germany forms one customs and commercial district, enclosed by one common customs frontier.

The customs frontier coincides with the foreign frontier. To seaward it is formed by the shore of the mainland, with the islands belonging to the territory of the Reich. On the sea or on other bodies of the water, deviations may be made in the course of the Customs frontier.

The territories or portions of the territories of a foreign State may be included in the Customs district by State treaties or by agreement.

In cases of special necessity certain areas may be excluded from the Customs district. In the case of free ports, exclusion can be set aside only by means of a law amending the Constitution.

Places excluded from the Customs district may join a foreign customs district by means of a State treaty or by agreement.

All natural products as well as products of manufacture and industry in which there is free trade within the Reich, may be imported, exported or sent in through transit across the frontiers of the States and local authorities. Exceptions may be allowed by a law of the Reich.

Article 83.—Customs and duties upon articles of consumption are administered by authorities of the Reich.

In the administration of taxes by the authorities of the Reich arrangements shall be made so as to ensure to the various States the protection of special State interests within the domain of agriculture, trade, manufacture and industry.

Article 84.—The Government of the Reich regulates by law:—

1.—The organisation of the administration of taxes in the States, so far as is required for the purpose of uniform and equal execution of the laws of the Reich on taxation;

2.—The organisation and powers of the authorities entrusted with the superintendence of the execution of the laws of the Reich on taxation;

3.—The settlement of accounts with the States;

4.—The reimbursement of expenses of administration in the execution of the laws of the Reich on taxation.

Article 85.—All receipts and expenditures of the Reich must be estimated for each financial year and be shown in the Budget.

The Budget must be passed into law before the opening of the financial year.

Items of expenditure shall normally be granted for one year; in special cases, they may be granted for a longer period. In general, provisions in the Budget law of the Reich, which extend

beyond the financial year or do not refer to the receipts and expenditure of the Reich or their administration, are inadmissible.

The Reichstag may neither increase items of expenditure, nor include new ones, in the draft of the Budget, without the consent of the Reichsrat.

Failing the consent of the Reichsrat the provisions of Article 74 apply.

Article 86.—In order to secure discharge of the responsibility of the Government of the Reich, the Minister of Finance for the Reich shall, in the following financial year, submit to the Reichstag and the Reichsrat an account of the expenditure out of all revenues of the Reich. The auditing of accounts shall be regulated by law of the Reich.

Article 87.—Funds may be obtained by way of loan in case of special necessity, and, as a rule, only for expenditure on productive undertakings. Such a proceeding, as well as the giving of a security on behalf of the Reich, may be effected only upon the authority of a law of the Reich.

Article 88.—The postal and telegraph services, together with the telephone services, are exclusively the affairs of the Reich.

Postage stamps are uniform for the whole Reich.

The Government of the Reich, with the consent of the Reichsrat, issues the instructions which determine the conditions and charges for the use of the means of communication. With the consent of the Reichsrat, the Government may transfer these powers to the Minister of Posts.

For the purpose of consultative co-operation in matters connected with postal, telegraphic and telephonic communications and the charges therefor, the Government of the Reich shall, with the consent of the Reichsrat, establish an Advisory Council.

Treaties referring to means of communication with foreign countries are concluded only by the Government of the Reich.

Article 89.—It is the duty of the Government of the Reich to assume ownership of the railways serving for general traffic, and to manage them on a uniform traffic system.

The rights of States to acquire private railways shall be transferred upon demand to the Government of the Reich.

Article 90.—With the transfer of the railways, the Reich assumes the power of expropriation and the sovereign rights of the States as regards the railway service. The Supreme Court decides, in case of dispute, as to the extent of such rights.

Article 91.—The Government of the Reich, with the consent of the Reichsrat, issues orders for regulating the construction,

management and working of the railways. With the consent of the Reichsrat, the Government may delegate these powers to the competent Minister of the Reich.

Article 92.—Notwithstanding the incorporation of their budget and accounts with the general Budget and accounts of the Reich, the railways of the Reich shall be administered as an independent, economic undertaking responsible for defraying its own expenses, inclusive of interest and a sinking-fund for the railway debt, and also for accumulating a reserve. The amount of the sinking-fund and reserve, as well as the purposes to which the reserve is to be applied, shall be regulated by means of a special law.

Article 93.—For the purpose of consultative co-operation in matters concerning railway traffic and rates, the Government of the Reich shall, with the consent of the Reichsrat, establish Advisory Councils for the Railways of the Reich.

Article 94.—Where the Government of the Reich has taken over in a certain district the railways serving for general traffic, new railways serving the same purpose may be constructed within this district only by the Reich, or with its consent. Should the construction of new or the alteration of existing railways by the Reich affect the sphere of activity of the police authorities of a State, the Railway Administration of the Reich must consult the State Authorities before coming to a decision.

Where the Reich has not yet taken over the railways, it may, on the authority of a law of the Reich, construct at its own expense, or permit another body to construct (subject, when necessary, to reservation of the right of expropriation), railways considered necessary for general traffic or for the defence of the territory, even without the consent of the States through the territory of which the railway is to run, but without prejudice to the sovereign rights of the States.

Every railway system must permit other railways to make junctions with it at the cost of the latter.

Article 95.—Railways for general traffic, which are not under the administration of the Reich, are subject to its supervision.

Railways subject to such supervision shall be constructed and equipped upon the principles laid down by the Reich. They must be maintained in good working order, and developed in accordance with the requirements of traffic. Both passenger and goods traffic must be attended to and organised in accordance with their needs.

In the supervision of rates, uniform and low railway rates are to be aimed at.

Article 96.—All railways, including those not serving for general traffic, must comply with the requirements of the Reich as to the use of railways for the purpose of State defence.

Article 97.—It is the duty of the Reich to acquire and administer waterways serving for general traffic.

After this transfer, waterways serving for general traffic may be constructed or extended only by or with the consent of the Reich.

In the administration, extension or construction of waterways, the requirements of agriculture and the water supply must be safeguarded, in agreement with the States. Their improvement must also be taken into consideration.

Every waterways administration must permit junctions with its system to be made by other inland waterways, at the expense of the latter. The same obligation extends to the establishment of a connection between inland waterways and railways.

With the transfer of the waterways, the Reich assumes authority as to expropriation, and the fixing of rates, as well as the control of river and shipping police.

The business of the River Development Associations in relations to the development of natural waterways in the Rhine, Weser and Elbe districts is to be taken over by the Reich.

Article 98.—For the purpose of co-operation in matters concerning waterways, Advisory Councils shall be established with the consent of the Reichsrat, in accordance with detailed regulations by the Government of the Reich.

Article 99.—In connection with natural waterways, dues may be levied only in respect of such works, appliances and other installations as are intended for the facilitation of traffic.

Expenses of the establishment and maintenance of installations not intended exclusively for the facilitation of traffic, but intended also for other purposes, may be defrayed only up to a proportionate amount by means of dues on navigation. Interest and sinking fund on the capital expended shall be reckoned as expenses of establishment.

The provisions of the previous paragraph apply to dues levied for artificial waterways, as well as to installations in connection therewith and in the ports.

In the sphere of inland navigation, the basis for the assessment of navigation dues may be the total expenses of a waterway, a river-district, or a system of waterways.

These provisions apply also in respect of timber rafts upon navigable waterways.

The imposition of taxes upon foreign ships and their cargoes, different from or higher than those levied upon German ships and cargoes, is a question for the Reich alone.

The Reich may, by means of a law, require contributions in other ways from parties concerned in navigation, for the provision of funds for the maintenance and development of the German system of waterways.

Article 100.—For the purpose of meeting the expenses of maintenance and development of inland waterways, a law of the Reich may provide for contributions from those who profit in any other way than by navigation in the construction of dams, in cases where several States have shared in, or where the Reich alone has borne the expenses of construction.

Article 101.—It is the duty of the Reich to assume ownership and administration of all navigation marks, particularly light-houses, light-ships, buoys, barrels and beacons. After such transfer, marks may be constructed and extended only by, or with the consent of, the Reich.

Section VII.

Administration of Justice.

Article 102.—Judges are independent and subject only to the law.

Article 103.—The ordinary jurisdiction is exercised by the High Court of the Reich and the Courts of the States.

Article 104.—The judges of the ordinary Courts are appointed for life. They may be removed from office, permanently or temporarily transferred to another position or retired only on the authority of a judicial decision, and only upon the grounds and by the methods of procedure fixed by law. Age limits may be fixed by legislation, upon reaching which judges shall retire.

Provisional removal from office when authorised by law is not affected by the above.

In the case of a re-arrangement of the Courts or their circuits, the State Administration of Justice may order compulsory transfer to another Court, or removal from office, but only on condition of the retention of full salary.

These provisions do not apply to commercial judges, assessors and jurymen.

Article 105.—Extraordinary Courts are prohibited. No one may be withdrawn from his legal judge. Legal regulations regarding Courts-Martial and Summary Military Courts are not affected by the above. Military Courts of Honour are abolished.

Article 106.—Military jurisdiction is abolished, except in time of war and on board warships. Details are regulated by a law of the Reich.

Article 107.—In the Reich and the States, administrative courts shall be established by law for the protection of individuals against regulations and decrees of the administrative authorities.

Article 108.—A Supreme Court for the German Reich shall be established by law of the Reich.

PART II.

FUNDAMENTAL RIGHTS AND DUTIES OF GERMANS.

SECTION I.

THE INDIVIDUAL.

Article 109.—All Germans are equal before the law.

Men and women have fundamentally the same civic rights and duties.

Public legal privileges or disadvantages of birth or rank shall be abolished. Titles of nobility shall be simply a part of the name, and may no longer be conferred.

Titles may be conferred only when they indicate an office or calling; academic degrees are not hereby affected.

Orders and badges of honour may not be conferred by the State.

No German is permitted to accept a title or order from a foreign Government.

Article 110.—Nationality in the Reich and the States is acquired and terminated as may be provided by the law of the Reich. Every subject of a State is also a subject of the Reich.

Every German has the same rights and duties in any State of the Reich as the subjects of that State.

Article 111.—All Germans enjoy the right of change of domicile within the whole Reich. Everyone has the right to stay in any part of the Realm that he chooses, to settle there, acquire landed property and pursue any means of livelihood. Restrictions may be imposed only by law of the Reich.

Article 112.—Every German is entitled to emigrate to countries outside the Reich. Emigration may be restricted only by law of the Reich.

All nationals of the Reich within and beyond its territory are entitled to claim the protection of the Reich in relation to a foreign power.

No German may be handed over to a foreign Government for prosecution or punishment.

Article 113.—Sections of the population of the Reich speaking a foreign language may not be restricted, whether by way of legislation or administration, in their free racial development; this applies specially to the use of their mother tongue in education,

as well as in questions of internal administration and the administration of justice.

Article 114.—Personal liberty is inviolable. No encroachment on or deprivation of personal liberty by any public authority is permissible except in virtue of a law.

Persons, who have been deprived of their liberty, shall be informed—at the latest on the following day—by what authority and on what grounds the deprivation of liberty has been ordered; opportunity shall be given them without delay to make legal complaint against such deprivation.

Article 115.—The residence of every German is an inviolable sanctuary for him; exceptions are admissible only in virtue of laws.

Article 116.—No punishment may be inflicted for any action unless the action was designated by law as punishable, before it was committed.

Article 117.—The secrecy of correspondence and of the postal, telegraph and telephone services is inviolable. Exceptions may be permitted only by law of the Reich.

Article 118.—Every German has the right, within the limits of general laws, to express his opinion freely, by word of mouth, writing, printed matter or picture, or in any other manner. This right must not be affected by any conditions of his work or appointment, and no one is permitted to injure him on account of his making use of such rights.

No censorship shall be enforced, but restrictive regulations may be introduced by law in reference to cinematograph entertainments. Legal measures are also admissible for the purpose of combating bad and obscene literature, as well as for the protection of youth in public exhibitions and performances.

Section II.

The Life of the Community.

Article 119.—Marriage, as the foundation of family life and of the preservation and growth of the nation, is under the special protection of the Constitution. It rests upon the equal rights of both sexes.

The preservation of the purity and health of the family and its social advancement is the task both of the State and of the local authorities. Families with a large number of children have a right to corresponding provision.

Motherhood has a claim upon the protection and care of the State.

Article 120.—The rearing of the rising generation, in physical, mental and social efficiency, is the highest duty and natural right of the parents, the accomplishment of which is watched over by the community of the State.

Article 121.—By means of legislation, opportunity shall be provided for the physical, mental and social nurture of illegitimate children, equal to that enjoyed by legitimate children.

Article 122.—Young persons shall be protected against exploitation, as well as against moral, spiritual, or bodily neglect. Both the State and the local authorities must undertake the necessary arrangements.

Protective measures of a compulsory character may only be imposed by virtue of a law.

Article 123.—All Germans have the right without notification or special permission to assemble peaceably and unarmed.

Open-air meetings may be made notifiable by a law of the Reich, and in case of direct danger to public security may be forbidden.

Article 124.—All Germans have the right to form unions and associations for purposes not in contravention of the penal laws. This right may not be restricted by preventive regulations. The same provisions apply to religious unions and associations.

Every union is at liberty to acquire legal rights in accordance with the provisions of the Civil Code. These rights shall not be refused to a union on the ground that its objects are of political, social-political, or religious nature.

Article 125.—The freedom and the secrecy of elections are guaranteed. Details are to be determined by electoral laws.

Article 126.—Every German has the right to address written petitions or complaints to the competent authorities or the representatives of the people. This right may be exercised by individuals, and by several persons in common.

Article 127.—Communes and associations of Communes have the right to administer their own affairs within the limits of the laws.

Article 128.—All citizens of the State, without distinction, are eligible for public offices, as provided by law and in accordance with their qualifications and abilities.

All exceptional provisions against women officials are annulled.

The conditions of employment of officials shall be determined by law of the Reich.

Article 129.—Officials are appointed for life, save as may be otherwise provided by law. Pensions and provision for surviving

dependants shall be regulated by law. Rights duly acquired by officials are inviolable. Officials may have recourse to legal proceedings in respect of financial claims.

Officials may not be provisionally removed from office, or provisionally or permanently retired, or transferred to another post with a lower salary, save in accordance with and in the manner determined by law.

Every penalty inflicted on an official must be subject to appeal and the possibility of revision. Unfavourable entries may not be made in the personal record of an official, unless he has been given an opportunity to reply to them. Officials have the right to examine their personal records.

The inviolability of duly acquired rights and opportunity to have recourse to legal proceedings in respect of financial claims are also specially guaranteed to professional soldiers. In other respects their status shall be determined by law of the Reich.

Article 130.—Officials are servants of the community and not of any party.

Freedom of political opinions and the free right of association are guaranteed to all officials.

Officials have special Service representation, details in regard to which shall be determined by law of the Reich.

Article 131.—Should an official, in the exercise of the public authority conferred upon him, neglect an official duty incumbent upon him in relation to a third party, the responsibility, as a matter of principle, falls upon the State or the corporate body in whose service the official is acting. Their right to take retributory action is reserved. Recourse to the ordinary process of law must not be excluded.

More detailed regulations shall be prescribed by legislation by the appropriate authority.

Article 132.—It is the duty of every German to undertake the duties of honorary offices according to the provisions of the laws.

Article 133.—All citizens are bound, according to the provisions of the laws, to undertake personal service for the State and the local authorities.

Military service is organised in accordance with the terms of the Military Defence Law of the Reich. This Law determines also to what extent certain fundamental rights must be restricted for members of the armed forces to ensure the fulfilment of their duties and the maintenance of military discipline.

Article 134.—All citizens, without exception, contribute in proportion to their means to all public taxes, in accordance with the provisions of the laws.

SECTION III.

RELIGION AND RELIGIOUS ASSOCIATIONS.

Article 135.—All inhabitants of the Reich enjoy full liberty of faith and of conscience. The undisturbed practice of religion is guaranteed by the Constitution and is under State protection. The general laws of the State shall remain unaffected hereby.

Article 136.—Civil and political rights and duties are neither dependent upon nor restricted by the practice of religious freedom.

The enjoyment of civil and political rights, as well as admission to official posts, are independent of religious creed.

No one is bound to disclose his religious convictions. The authorities have the right to make enquiries as to membership of a religious body only when rights and duties depend upon it or when the collection of statistics ordered by law requires it.

No one may be compelled to take part in any ecclesiastical act or ceremony, or to participate in religious practices or to make use of any religious form of oath.

Article 137.—There is no State Church.

Freedom of association is guaranteed to religious bodies. The union of religious bodies within the territory of the Reich is subject to no restriction.

Every religious body regulates and administers its affairs independently, within the limits of the laws applicable to all. It appoints its officers without the co-operation of the State or of the local authorities.

Religious bodies acquire legal status in accordance with the general regulations of the civil code.

Religious bodies remain legal corporations in so far as they have been so up to the present. Equal rights shall be granted to other religious bodies upon application, if their constitution and the number of their members offer a guarantee of permanence. Where several such religious bodies, which are legal corporations, combine to form one union, this union becomes a legal corporation.

Religious bodies, which are legal corporations, are entitled to levy taxes on the basis of the civic tax-rolls, in accordance with the provisions of the laws of the States.

Associations, devoting themselves to the common promotion of a world-philosophy, shall be placed upon an equal footing with religious bodies.

So far as further regulations may be necessary for the carrying-out of these provisions, they shall be prescribed by legislation of the States.

Article 138.—Outstanding State liabilities to religious bodies, whether founded upon legislation, contract or exceptional legal title, shall be redeemed by legislation by the States. The governing principles of such legislation shall be prescribed by the Reich.

The property and other rights of religious bodies and unions in respect of their institutions, foundations and other property devoted to public worship, education and social welfare, are guaranteed.

Article 139.—Sundays and holidays recognised by the State shall remain under legal protection as days of rest and spiritual improvement.

Article 140.—The members of the armed forces are guaranteed the necessary free time for the performance of their religious duties.

Article 141.—Religious bodies have the right of entry for religious purposes into the army, hospitals, prisons, or other public institutions, so far as is necessary for the conduct of public worship and religious ministrations, but any form of compulsion is forbidden.

SECTION IV.

EDUCATION AND SCHOOLS.

Article 142.—Art and science, and the teaching thereof, are free.

The State guarantees their protection and participates in furthering them.

Article 143.—Provision shall be made for the education of the young by means of public institutions. The Reich, the States and the local authorities shall co-operate in their organisation. The training of teachers shall be regulated in a uniform manner for the whole Reich, on the general lines laid down for higher education.

Teachers in public schools have the rights and duties of State officials.

Article 144.—The whole system of education is under the supervision of the State, which may assign a share in such work to the local authorities. School inspection is carried out by competent, trained and expert officials of high rank.

Article 145.—School attendance is compulsory for all. The fulfilment of this obligation is provided for by primary schools, with at least an eight years' course, followed by continuation schools with a course extending to the completion of the eighteenth year of age.

Instruction and all accessories are free of charge in the primary and continuation schools.

Article 146.—The public system of education shall be organically developed. Upon the basis of primary schools common to all shall be built up a system of secondary and higher education. The governing consideration in the building up of this system shall be the diversity of vocations and, as regards the admission of a child into any particular school, its capacity and inclination, not the economic and social standing of its parents.

Upon the request of persons responsible for the education of children, however, primary schools in accordance with their religious creed or philosophic views may be established in a locality, so far as is possible without interference with the orderly development of the school system, especially as regards the general principles of the first paragraph of this Article. The wishes of persons responsible for the education of children shall be taken into account as far as possible. Further details shall be determined by legislation by the States in accordance with principles laid down by a law of the Reich.

Public provision shall be made by the Reich, the States and the local authorities, for the admission of persons of small means to secondary and higher educational institutions; in particular, educational assistance grants shall be provided for the parents of children considered suitable for education in secondary and higher schools until the completion of their education.

Article 147.—Private schools, as a substitute for public schools, require the approval of the State, and are subject to the laws of the States. Approval may be granted when the private schools are not inferior to the public schools in their educational aims and organisation, nor in the professional qualifications of their teaching staff; further, there must be no segregation of pupils based upon the means of their parents. Approval shall be refused when the economic and legal position of the teaching staff is not sufficiently assured.

Private primary schools are permissible only when there is in a locality no public primary school corresponding to the religious creed or philosophic views of a minority of persons responsible for the education of children whose desires must be taken into consideration in accordance with Article 146, para-

graph 2, or when the educational administrative authorities recognise that a special educational interest is involved.

Primary preparatory schools are to be abolished.

Private schools not serving as substitutes for public school retain their existing legal rights.

Article 148.—All schools shall aim at inculcating moral character, a civic conscience, personal and vocational efficiency, imbued with the spirit of German nationality and international goodwill.

In giving instruction in public schools, care must be taken not to give offence to the susceptibilities of those holding different opinions.

The duties of citizenship and technical education are subjects of instruction in the schools. Upon the completion of the period of school attendance, every pupil receives a copy of the Constitution.

The Reich, the States and the local authorities shall promote the organisation of popular culture, including popular high schools.

Article 149.—Religious instruction is a regular subject in schools, with the exception of undenominational (secular) schools. The giving of such instruction shall be regulated in accordance with legislation upon schools. Religious instruction shall be given in accordance with the principles of the religious body concerned, without prejudice to the right of State supervision.

The giving of religious instruction and the undertaking of spiritual duties are subject to the declared assent of the teacher; participation in religious instruction and in religious rights and ceremonies is subject to the declared assent of the person responsible for the religious education of the child.

The theological Faculties in the Universities shall continue to be maintained.

Article 150.—Monuments of artistic, historic, and natural interest, and exceptional landscapes are under the protection and care of the State.

It is the business of the Reich to prevent the removal of German art treasures into foreign countries.

Section V.

Economic Life.

Article 151.—The organisation of economic life must correspond to the principles of justice, and be designed to ensure for

all a life worthy of a human being. Within these limits the economic freedom of the individual must be guaranteed.

Legal compulsion is permissible only in order to enforce rights which are threatened, or to subserve the pre-eminent claims of the common weal.

Freedom of trade and industry is guaranteed in accordance with the provisions of laws of the Reich.

Article 152.—Freedom of contract shall prevail in economic relations, subject to the provisions of the laws.

Usury is forbidden. Contracts which are opposed to morality are void.

Article 153.—Property is guaranteed by the Constitution. Its extent and the restrictions placed upon it are defined by law.

Expropriation may be effected only for the benefit of the general community and upon the basis of law. It shall be accompanied by due compensation, save in so far as may be otherwise provided by a law of the Reich. In case of dispute as to the amount of compensation, resort may be had to legal proceedings in the ordinary course, unless a law of the Reich otherwise determines. Property of the States, local authorities and public utility associations may be expropriated by the Reich only on payment of compensation.

The ownership of property entails obligations. Its use must at the same time serve the common good.

Article 154.—The right of inheritance is guaranteed in accordance with the provisions of the Civil Law.

The share in any inheritance which accrues to the State is determined by law.

Article 155.—The distribution and use of land shall be supervised by the State in such a way as to prevent abuse and with a view to ensuring to every German a healthy dwelling and to all German families, particularly those with many children, a dwelling and economic homestead suited to their needs. Special consideration shall be given in the framing of the Homestead Laws to persons who have taken part in the war.

Landed property may be expropriated when required to meet the needs of housing, or for the purpose of land settlement, the bringing of land into cultivation or the improvement of husbandry. Testamentary trusts are to be terminated.

The cultivation and full ultilization of the land is a duty the landowner owes to the community. Increment in the value of landed property, not accruing from any expenditure of labour

and capital upon the land, shall be devoted to the uses of the community.

All riches in the soil and all natural sources of power of economic value shall be under the control of the State. Private royalties shall be transferred to the State by legislation.

Article 156.—The Reich may, by legislation, without prejudice to the payment of compensation and subject to appropriate application of the provisions governing expropriation, transfer to public ownership private economic undertakings which are suitable for socialization. It may itself undertake, or assign to the States or local authorities a share in the management of such undertakings and associations, or otherwise ensure to itself a determining influence therein.

Further, the Reich may by legislation, in case of pressing necessity and in the economic interests of the community, oblige economic undertakings and associations to combine, on a self-governing basis, for the purpose of ensuring the co-operation of all productive factors of the nation, associating employers and employees in the management, and regulating the production, manufacture, distribution, consumption, prices and the import and export of commodities upon principles determined by the economic interest of the community.

Industrial and agricultural co-operative societies and federations thereof may be incorporated into the public economic system, at their own request and with due regard to their constitution and special characteristics.

Article 157.—Labour is under the special protection of the Reich.

The Reich will frame a uniform labour code.

Article 158.—Intellectual work, the rights of discoverers, inventors and artists are under the protection and care of the Reich.

By means of international agreements, recognition and protection must be ensured abroad for the products of German science, art, and technical skill.

Article 159.—Freedom of association for the maintenance and improvement of labour and economic conditions is guaranteed to everyone and for all occupations. All agreements and measures tending to restrict or obstruct such freedom are illegal.

Article 160.—Every person in the position of an employee or workman has a right to such free time as is necessary for the exercise of his civic rights, and, in so far as the business in which he is employed will not be seriously injured thereby, for the

discharge of honorary public duties entrusted to him. Legislation shall determine how far such a person may be entitled to claim compensation.

Article 161.—The Reich will, with the full co-operation of insured persons, create a comprehensive system of insurance for the maintenance of health and fitness for work, the protection of motherhood and provision for the economic consequences of old age, infirmity, and the vicissitudes of life.

Article 162.—The Reich will initiate international regulation of the legal conditions of workers, with a view to securing for the working class of the world a universal minimum of social rights.

Article 163.—It is the moral duty of every German, without prejudice to his personal liberty, to make such use of his mental and bodily powers as shall be necessary for the welfare of the community.

Every German must be afforded an opportunity to gain his livelihood by economic labour. Where no suitable opportunity of work can be found for him, provision shall be made for his support. Details shall be determined by special laws of the Reich.

Article 164.—The independent middle class in agriculture, industry and commerce, shall be encouraged by legislative and administrative measures, and shall be protected against exploitation and oppression.

Article 165.—Workers and salaried employees are called upon to co-operate with equal rights in common with the employers in the regulation of wages and conditions of labour and in the general economic development of the forces of production. The organisations on both sides and the agreements made by them shall be recognised.

For the protection of their social and economic interests, workers and salaried employees shall have legal representation in Workers' Councils for individual undertakings and in District Workers' Councils grouped according to economic districts and in a Workers' Council of the Reich.

The District Workers' Council and the Workers' Council of the Reich shall combine with representatives of the employers and other classes of the population concerned so as to form District Economic Councils and an Economic Council of the Reich, for the discharge of their joint economic functions and for co-operation in the carrying-out of laws relating to socialization. The District Economic Councils and the Economic Council of the Reich

shall be so constituted as to give representation thereon to all important vocational groups in proportion to their economic and social importance.

All Bills of fundamental importance dealing with matters of social and economic legislation shall, before being introduced, be submitted by the Government of the Reich to the Economic Council of the Reich for its opinion thereon. The Economic Council of the Reich shall have the right itself to propose such legislation. Should the Government of the Reich not agree with any such proposal, it must nevertheless introduce it in the Reichstag, accompanied by a statement of its own views thereon. The Economic Council of the Reich may arrange for one of its own members to advocate the proposal in the Reichstag.

Powers of control and administration in any matters falling within their province may be conferred upon Workers' Councils and Economic Councils.

The constitution and functions of the Workers' and Economic Councils and their relations with other autonomous social organizations are within the exclusive jurisdiction of the Reich.

PROVISIONAL AND CONCLUDING ARRANGEMENTS.

Article 166.—Until the establishment of the Administrative Court of the Reich its place shall be taken, as regards the formation of the Court of Inquiry into Elections, by the High Court of the Reich.

Article 167.—The provisions of Article 18, paragraphs 3 to 6, shall not come into force until two years after the publication of the Constitution of the Reich.

Article 168.—Until the promulgation of the State law provided for in Article 63, but at the longest for the period of one year, all Prussian votes in the Reichsrat may be exercised by members of the Government.

Article 169.—The date on which the provisions of Article 83, paragraph 1, are to come into force shall be determined by the Government of the Reich.

For a suitable transition period, the collection and administration of customs and excise may, at their request, be left to the States.

Article 170.—The administration of the postal and telegraphic services of Bavaria and Württemberg shall be transferred to the Reich by 1st April, 1921, at the latest.

Should no agreement as to the conditions of transfer have been attained by 1st October, 1920, the decision shall be given by the Supreme Court.

Up to the date of transfer the existing rights and responsibilities of Bavaria and Württemberg shall remain in force. Postal and telegraphic communications with neighbouring foreign States shall, however, be regulated exclusively by the Reich.

Article 171.—State railways, waterways and navigation marks shall be transferred to the Reich by 1st April, 1921, at the latest.

Should no agreement as to the conditions of transfer have been attained by 1st October, 1920, the decision shall be given by the Supreme Court.

Article 172.—Up to the date at which the law of the Reich as to the Supreme Court comes into force, its functions shall be discharged by a Senate of seven members, four of whom shall be elected by the Reichstag and three by the High Court from its own members. It shall regulate its own procedure.

Article 173.—Until the promulgation of a law of the Reich in accordance with Article 138, the hitherto existing State liabilities to religious bodies, founded upon legislation, contract, or exceptional legal titles, shall remain in force.

Article 174.—Until the promulgation of the law of the Reich provided for in Article 146, paragraph 2, the existing legal position shall be maintained. The law must give special consideration to those districts of the Reich in which a school is already legally established which is not divided according to religious creeds.

Article 175.—The provisions of Article 109 do not apply to orders and decorations conferred for merit during the war years, 1914 to 1919.

Article 176.—All public officials and members of the armed forces must take the oath of allegiance to this Constitution. Details shall be determined by decree of the President of the Reich.

Article 177.—Where in existing laws the use of a religious formula is required in taking an oath, the person concerned may legally replace the religious formula by the declaration "I swear." Otherwise, the substance of the oath as provided by law remains unaltered.

Article 178.—The constitution of the German Reich of 16th April, 1871, and the law of 10th February, 1919, as to the provisional government of the Reich are repealed.

The remaining laws and decrees of the Reich remain in force, so far as they are not in conflict with the present Constitution. The provisions of the Treaty of Peace signed at Versailles on 28th June, 1919, are unaffected by the Constitution.

Regulations of authorities, issued in due legal manner upon the basis of existing laws, remain valid until they are annulled by the issue of further regulations or by legislation.

Article 179.—Where, in laws or decrees, reference is made to provisions or institutions abolished by this Constitution, they shall be replaced by the corresponding provisions or institutions of this Constitution. In particular, the National Assembly is replaced by the Reichstag, the Committee of the States by the Reichsrat, and the President of the Reich, elected on the basis of the law as to the provisional government of the Reich, is replaced by the President of the Reich elected upon the basis of this Constitution.

The power of issuing decrees vested in the Committee of the States in accordance with hitherto existing regulations is transferred to the Government of the Reich; the consent of the Reichsrat shall be requisite for the issue of decrees, in accordance with the provisions of this Constitution.

Article 180.—Until the meeting of the first Reichstag, the National Assembly shall have the status of the Reichstag. Until the first President of the Reich enters upon his office, the duties of his office shall be discharged by the President of the Reich elected under the law as to the provisional government of the Reich.

Article 181.—The German people, through their National Assembly, have decreed and prescribed this Constitution. It comes into force upon the day of its promulgation.*

SCHWARZBURG, 11th August, 1919.

*The Constitution was published in Berlin in the Official Journal of Laws on 14th August, 1919.

VIII. THE RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC.

*Area**: 7,438,420 *sq. miles.* *Population**: 124,050,553.

The constitutional history of Russia may be taken as beginning in October, 1905. After the disaster of the Russo-Japanese war the Czar's Government lost, in the eyes of the people, the glamour of sanctity, and the paternal authority which it had hitherto exercised. This had led to a new conception of popular responsibility which expressed itself in the demand for constitutional Government. The weakening sense of authority on the one hand, and the increased sense of responsibility on the other, were given recognition by the Czar in a rescript promulgated in August, 1905, providing for the election of an Imperial Duma or Assembly. This Duma had neither Executive nor Legislative functions. It was merely a consultative body, and it failed by so great a measure to satisfy the people's demand, that the demand found expression in scenes hitherto unfamiliar in Russia. The general discontent was fed by serious economic distress in the towns and cities as a result of the recent war. The political discontent and the economic disorganisation culminated in an extraordinarily widespread general strike.

The declared intention of this strike was to compel a revision of the Imperial rescript. In October the Czar was compelled to yield. He issued a manifesto "to grant to the population the immutable guarantees of civil liberty upon the basis of real inviolability of person, of liberty of conscience, of speech, of assembly, and of association," to extend the franchise for the elections (then about to take place) to the Duma convened under the decree of August, and "to establish as an immutable rule that no law shall become effective without the approval of the Imperial Duma, and that the representatives of the people be granted the right of exercising an effective supervision as to the legality of the acts of the Imperial authorities."

It is interesting to note that, in the following December regulations were issued to extend the franchise to the mass of the people by a system of indirect voting that is reflected in the present system, as is evident in the Constitution printed here. These

*Excluding the Associated Republics of Azerbaijan, Georgia and the Far East, but including the Siberian Provinces and the autonomous republics and areas federated with European Soviet Russia.

regulations permitted labourers to choose electors to provincial and urban electoral colleges, these colleges to elect members to the Duma; and in this way an extraordinarily elaborate system of indirect election was created.

The First Duma met in May, 1906. It proceeded at once to demand direct universal suffrage, complete parliamentary government, expropriation of the landlords, and several other drastic reforms. It was dissolved in July.

The Second Duma met in March, 1907. It proved equally intractable, and was dissolved in June. The immediate occasion was its refusal to surrender a number of Socialist members who were accused of complicity in a plot to suborn the Army. In violation of the manifesto of October, 1905, the electoral system was then altered by Imperial decree, so as to provide, by a manipulation of the electoral colleges, that elective power should lie in the hands of the property classes, even though no one was ostensibly deprived of the vote.

The Third Duma met in November, 1907. The subsequent history of the Russian Duma need not be traced in detail. The spirit of the fundamental laws of May, 1906, is summed up in Article 4:—"The Emperor of all the Russias wields a supreme autocratic power. To obey his authority, not only through fear, but for the sake of conscience, is ordered by God Himself."

The Legislature consisted of two Chambers: the Imperial Council, a body established by the Czar Alexander I. in 1810, and the Imperial Duma, newly created. One half of the members of the Imperial Council were nominated by the Emperor. The other half were elected by groups, by the Clergy, Corporations of Nobles, Chambers of Commerce, local Assemblies (or Zemstvos) and similar bodies. The Ministers, also nominated by the Emperor, were members by virtue of their office.

The Council had equal legislative powers with the Duma, but it did not, in fact, usually initiate legislation. The Duma, as has been said, was elected by an elaborate machinery of electoral colleges and assemblies. The arrangement of these colleges was very elaborate and complicated. There was one electoral college for each Province (*Goubernia*) or unit of Government. Large landed proprietors sat in these colleges in person, and so were electors in the first degree. Elections to these colleges proceeded, as it were in a series of concentric circles, so that peasants were electors only in the third degree. In the factories, workmen elected representatives direct to the electoral colleges of the *Goubernia*. In the seven largest towns direct elections to the Duma prevailed, but the electorate was divided into two classes according to taxable property. Throughout the colleges a system of majority voting

operated so as generally to multiply the voting power of the wealthy classes. In spite of these precautions the powers of the Duma were extremely limited. All matters dealing with the Army and Navy were outside its purview. The Budget arrangements excluded hundreds of millions of roubles from any control by the Duma. Yet, even if the Budget were rejected, the Czar's Ministry had the right to continue the operation of the Budget of the previous year, and even to impose new taxes necessary to carry out new laws.

The Executive was the Czar's Executive. Ministers were responsible to the Czar, not to the Duma, and they could only be interpellated as to the legality of their acts, not as to their policy. The Czar had power to issue ordinances when the Duma was not sitting, and he could prorogue or dissolve the Duma as often as he pleased. Moreover, he had the right to suspend the constitutional laws by declaring a state of siege. And, as a matter of fact, he did so suspend them in Poland, St. Petersburg, and other parts of the Empire, very frequently, at his pleasure.

The system, however, was a failure. It meant but the recognition that pure autocracy had at least to conduct itself according to democratic forms. In fact, the system had practically broken down, and the country was ripe for another revolution, when the European war broke out in August, 1914. Under the strain of three years' war, the system completely broke down. In March, 1917, in the midst of a popular rising, the Czar's Government was overthrown. Thereupon a Committee of the Duma set up a Provisional Government under Prince Lvov. Ministry followed Ministry in rapid succession. Each Ministry endeavoured to carry on the war against the Central Powers while proposing to its Allies "peace without annexations or indemnities." The intention of each, however, was to achieve peace so as to get time to suppress rebellion, restore order, and proceed with the solution of the land problem, which was at the base of much of the social ferment, and to arrange for the election of a Constituent Assembly charged to frame a Constitution for the new Russia.

In the meantime, however, side by side with this abortive constitutionalism, a revolutionary organisation had existed. This organisation had been constructed on a system of Councils (Soviets) of workers, soldiers and peasants. These Soviets had in fact been the machinery through which the Revolution of 1905 had been engineered. After that Revolution they had been suppressed. They re-appeared and provided the driving force which made possible the Revolution of March, 1917. After that Revolution the organisation of Councils existed openly. In June, 1917, an All-Russian Congress of Soviets met in Petrograd to which 781 delegates came from many parts of Russia.

This Congress was a purely Socialist class-organisation. It had no legal State authority or standing. The great majority of the delegates belonging to the Socialist party had co-operated with other political parties in the Provisional Government. Pending the meeting of a Constituent Assembly they agreed in September, 1917, to the election of a Democratic Council to constitute a Provisional Parliament, to which the Government should be responsible. Elections were to be held for this Democratic Council by a congress of representatives of Soviets and local governing bodies, and representatives of the propertied classes were to be added to complete the Constitution of the Council.

In the meantime, however, the situation was rapidly developing, and a new element was coming to the front. These were the Bolsheviki. The Bolshevik Socialist Party claimed that the Soviets should take over all State power, and that the Soviet organisation should become a State organisation. To this end it organised itself, and, on the night of November 6-7, 1917, it took possession of Petrograd, arrested the Provisional Government, and set up a Military Revolutionary Committee in its stead.

Its plans had been carefully made. On the day after these events the Second Congress of Soviets met in order to organise the State on the basis of the recent seizure of power. The majority of the members of the Congress—390 out of 645—were Bolshevik Socialists, and the Congress declared the existence of the Russian Soviet Republic, according to which the organisation of a political party was substituted for the State organisation, or lack of organisation, that hitherto existed. The Congress appointed a Council of People's Commissaries as the Government. It issued decrees on the land, on peace, and on the formation of revolutionary committees in the Army. And it sent out agents to organise the new system where it had not already existed as a political structure. In Moscow and other industrial centres, where the organisation had already existed, it was not long before the new system was firmly established as a mode of government.

These events thrust the preparation for a Constituent Assembly to one side, and rudely anticipated the findings of such an Assembly. The elections to this Assembly had been continually deferred, and it happened that they actually took place during the first week of the November Revolution. But the Bolsheviki claimed that the developments which had occurred, since the first draft of the party lists of candidates, had rendered the election useless and unrepresentative. They, therefore, dissolved the Assembly on the day when it first assembled, January 18th, 1918.

In spite of attacks from without and rebellions from within, the Bolsheviki remained in control of the country, and the Soviet system continued as the mode of government and representation.

They arranged to substitute their own Constituent Assembly for the Assembly which they had dissolved. For the very day on which the Constituent Assembly was dissolved, January 18th, 1918, the Third All-Russian Congress of Soviets met and adopted "the declaration of the rights of the working classes," which forms Part I. of the existing Russian Constitution. Out of the 710 delegates to this Congress 434 were Bolsheviki. A Fourth Congress met in March, and a Fifth in July, 1918. The Fifth Congress, at its sitting on July 10th, 1918, adopted the full Constitution here printed. Amendments were made by later Congresses; and these amendments, up to the Ninth Congress of December, 1921, are summarised at the end of the text of the Constitution.

Apart from the first two parts of this Constitution, a large portion of which belongs rather to the field of pamphleteering than to the field of constitutional writing, its most distinctive feature is the system of a series of indirect elections, by which the authority of the people is percolated through a number of legislative and administrative bodies, each group of which elects and creates the next above it. It has already been remarked that the principle of indirect elections had characterised what purported to be constitutional government under the old regime. But the new system, embodied in the Soviet Constitution, was much more elaborate than the old, and was also distinguished by legislative and administrative responsibility being reposed in each series of electoral colleges—or, regarded from another point of view, distinguished by each series of legislative and administrative Councils being employed as electoral colleges for the next series above it. As a form of organisation for a political party, such a system is not unknown, but it is singular as a form of organisation for a State.

According to this system the unit and foundation of government is the Soviet, or Council, of the village, factory settlement or town. As the Constitution puts it, the Village Soviet "is the supreme organ of authority within its own competence, and within the boundary of the locality it serves. The population of the locality concerned must carry out all decisions of the Village Soviet." Villages with less than 300 inhabitants do not elect separate Soviets, but either govern themselves by a general assembly of electors (similar to the *Landesgemeinden* of Switzerland), or combine with neighbouring villages for the election of a common Soviet. In such elections the populations of estates and factories situated outside villages join in the election of village Soviets.

In the towns, Soviets are elected mainly by the workshops, commercial or educational establishments, large stores and other similar gatherings of workers. For every 500 employees one deputy is elected to the town Soviet. Workers in concerns which

employ less than 100 unite for electoral purposes with workers of other small concerns. Where the workers are scattered, they are assembled at special electoral meetings by their Trade Union, and their wives, domestic workers and others not within the purview of the Trade Union, are convened ward by ward.

These two forms of Soviets, for villages and for towns, form the basis of the entire superstructure. Only for them do the people vote by direct election. Articles 64 and 65 define those who are entitled to such electoral rights. According to these Articles the right to vote is held by all citizens "without distinction of sex, religion or nationality, and without residential qualification," provided that they fall under certain categories. That is to say, they must either be "those who earn their living by productive work useful to Society," or, "soldiers in the Army and Navy of the Soviet Republic," or, "citizens of the above categories who are incapacitated from work." "Those who employ others for the sake of profit," "those who live on income not arising from their own labour," "private businessmen, agents, middlemen," and a number of others duly set forth in Article 65, are excluded from the right to vote.

Elections for such Soviets, by electors so defined, take place once every year, but (as, indeed, prevails throughout the entire system) deputies so elected may be recalled at any time by their electors. Each of these local Soviets appoints its own small Executive Committee. In the case of villages, however, which have a population of less than 10,000 inhabitants, the Chairman of the Soviet acts as the Executive. Village Soviets are required to meet at least twice each month, and town Soviets meet more frequently.

On this basis, then, the structure of the State system is raised, and is framed, according to its general outline, on the geographical arrangement of the country, in tier above tier, to the central government of the country. The Village Soviets combine to elect Rural District (*Volost*) Congresses of Soviets, originally "in the proportion of one deputy for every 10 members of the Soviet" (Article 53 *d*), but after December, 1919, "in the proportion of one deputy for every 100 inhabitants." These Rural District (*Volost*) Congresses elect an Executive Committee of three to seven members, charged with "the general direction, control and co-ordination of the work of all the Soviets in the rural districts" under their purview. These Executive Committees are organised usually in three departments:—Administration, War and Land. At first these Rural District (*Volost*) Congresses were intended to meet once a month, but this intention broke down in practice. In 1919 it was found in fact that they met on an average once in three months, and at the end of 1921 it was decided that they should

meet in future only once a year. Conferences of Chairmen and secretaries of Village Soviets are held as frequently as possible.

Next above these *Volost* Soviet Congresses come the County Secretaries of Village Soviets are held as frequently as possible. (*Uyezd*) Congresses. Yet, though these *Uyezd* Congresses hold higher rank than the *Volost* Congresses, they hold a similar place in the general scheme of organisation, since both *Uyezd* and *Volost* Congresses are created from exactly the same constituents, though by a different manner of election. For the *Uyezd* Congresses, like the *Volost* Congresses, "are composed of representatives of the Village Soviets," but "in the proportion of one deputy for every 1,000 inhabitants," with a maximum of 300 deputies for the County (*Uyezd*). *The Uyezd* Congress is required to meet once a year. It elects an Executive Committee, the work of which is organised in a dozen departments, among which are departments dealing with Administration, War, Labour and Social Welfare, Education, Finance, Agriculture, Food and Health.

Next above these again are the Provincial (*Goubernia*) Congresses. The *Goubernia* Congress, however, is not only higher in rank than either of the two Congresses already mentioned, but its Constitution creates a definite advance in the general scheme of organisation. It is removed one stage still further from the direct vote of the electorate. In the general scheme the *Uyezd* Congress may be regarded as put to one side, for the *Goubernia* Congress is, like it, created directly from the *Volost* Congress, but, unlike it, also from representatives of the Town Soviets. To this *Goubernia* Congress the *Volost* Congress elects delegates "in the proportion of one deputy for every 10,000 *inhabitants,*" and the Town Soviet elects delegates "in the proportion of one deputy for every 2,000 *electors.*" It is provided, however, that "if the *Uyezd* Congress of Soviets be held immediately before the *Goubernia* Congress, the election takes place on the same principle, not by the *Volost* Congress, but by the *Uyezd* Congress." It is stipulated in addition that not more than 300 such delegates may be appointed from both bodies of constituents. This *Goubernia* Congress also meets once a year, and also elects an Executive Committee, the work of which is organised in fifteen departments. In addition to the departments established by the Executive of the *Uyezd* Congress, the departments of Justice, Posts and Telegraphs, and a special Judicial Department entitled "Extraordinary Commission," are added.

Next above these, once again, the Constitution provides for Regional (*Oblast*) Congress, which hold the same relation to the *Goubernia* Congresses as the *Uyezd* Congresses hold to the *Volost* Congresses. These *Oblast* Congresses are composed of representatives of Town Soviets and *Uyezd* Congresses. The *Uyezd* Congresses send delegates in the proportion of one deputy for every

25,000 *inhabitants*, and the Town Soviets delegates in the proportion of one deputy for every 5,000 *electors*. Each of these Congresses is composed of a maximum of 500 deputies for the whole Region or *Oblast*.

How far these various Congresses of Soviets meet and function according to the organisation provided by the Constitution is not clear. The amendments of the Seventh All-Russian Congress in December, 1919 (which are noted in their due place) seem to imply that they met but rarely, and with such long intervening periods of time that they could hardly have kept any close attention to public administration. In some measure this was due to many of their functions being absorbed by the supreme authority above them all, which acted directly through the Executive Committees which they appointed, irrespective of the legislative functions of the Congresses which appointed them.

The supreme authority of the entire system is the All-Russian Congress of Soviets. This consists of deputies of Town Soviets (which remain a constant element throughout) in the proportion of one deputy for every 25,000 electors, and *Goubernia* Congresses in the proportion of one deputy for every 125,000 inhabitants. It is, therefore, a very large body, the Congress of 1921, for example, comprising no less than 1,631 members. Yet, though, according to the Constitution, this Congress is the supreme authority, it meets only once a year and the greater part of its powers are delegated to an Executive Committee, elected by it, and known as the All-Russian Central Executive Committee.

This Executive Committee is a body consisting of 300 members. In 1920 it met every two months in sessions of about a week's duration, but it is now provided that it should meet four times a year for longer sessions. Its functions are in many respects like those of Western Parliaments. It considers decrees affecting the political and economic life of the nation; it introduces any radical changes in State institutions; it receives reports from the various permanent Committees which it appoints; and to it the Commissariats, or Ministries, appointed by it are responsible. In addition to these functions it also exercises judicial and administrative functions.

Every member of the Central Executive Committee must be actively engaged in governmental work in either a central or local body. Its meetings are thus virtually the constant reunions of those engaged in the administration of the country; and it follows that its members are practically also its officials, and represent the Central Executive Committee in the parts of the country in which they work.

The Central Executive Committee is, therefore, a very important body in spite of the infrequency of its meetings. Above

it again, are two other bodies, both responsible to it, but holding a somewhat special relation to one another. The first of these is the Council of People's Commissaries, and the second the Presidium or Standing Committee—of which, in the latter may be discerned the relic of the older organisation of a political party, and in the former the addition of a State Executive Council.

The Council of People's Commissaries is, thus, the Executive Council of the State, and consists of the heads of the nineteen principal administrative departments of the State. It rules by decrees and regulations which are transmitted to the subordinate Executive Committees of Provincial (*Goubernia*), County (*Uyezd*), and Rural District (*Volost*) Congresses, and directly to local Soviets of Villages and of Towns, or, more generally, to the appropriate departments of such bodies. A decision of an individual Commissary may, however, be set aside in certain circumstances by a Provincial (*Goubernia*) Executive Committee.

In addition to the People's Commissaries sitting as a Council, moreover, a number of the more important Commissaries (such as those in charge of the Departments of War, Labour, Transport, Agriculture, Food), together with a representative of the All-Russian Council of Trade Unions, constitute the Council of Labour and Defence. This Council acts as a kind of Cabinet Committee, co-ordinating the activity of all Departments of the State in the interests of the defence of the country and of economic reconstruction. It supervises the work of great inter-departmental Commissions (such as the State Economic Planning Commission and the State Electrification Commission); and it receives reports from a hierarchy of "Economic Conferences," constituted from the various Congresses of Soviets according to the same plan as itself. The decisions of this Council of Labour and Defence are, however, not conveyed directly to the Soviets and Congresses of Soviets, but are carried out through the ordinary machinery of the Commissaries and Executive Committees of Congresses, and may be set aside only by the Council of Commissaries or the Central Executive Committee itself.

Side by side with the Council of People's Commissaries exists the Standing Committee, or Presidium, of the All-Russian Central Executive Committee. This body holds a curious position. It is, as it were, a kind of court of reference and control over the People's Commissaries. It controls these Commissaries much as, in other countries, the Executive of a political organisation is supposed to hold control over its Parliamentary deputies. In matters of State, however, this Presidium presents an interesting parallel with the Headship of a State, such as, in ordinary Republics, is held by a President or Consul, and in Monarchies by a King.

This Standing Committee is elected by the Central Executive Committee, and all the decisions of the Council of People's Commissaries are subject to its review, and may in fact be annulled by it. It has the general responsibility for the allocation of work among the various Soviet authorities, of which it is the representative head. It is responsible for the preparation of material for the sessions of the Central Executive Committee. Its existence, therefore, and the powers which it possesses, indicate an important intention to secure, by this device, control by the Central Executive Committee (acting as the State Assembly) over the decisions and activities of the Council of People's Commissaries (acting as the State Executive).

Such is the system outlined in the following Constitution. It is a system unlike any other Constitutional system. In conclusion, it is perhaps hardly necessary to add that the circumstances in which this Constitution was framed, and under which it has been applied, have been full of change and difficulty. It is, therefore, more than usually necessary to distinguish between its textual provisions as here defined, and what might have proved, and may now prove, to have been, and to be, the actual results in practice.

CONSTITUTION

(FUNDAMENTAL LAW)

OF THE

RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC.

Decree of the Fifth All-Russian Congress of Soviets, adopted on July 10th, 1918.

INTRODUCTION.

The Declaration of Rights of the Labouring and Exploited Masses confirmed by the Third All-Russian Congress of Soviets in January, 1918, together with the Constitution of the Soviet Republic, ratified by the Fifth All-Russian Congress, are the Fundamental Law of the Russian Socialist Federal Soviet Republic.

This Fundamental Law becomes operative from the moment of its publication, in its final form, in the "Izvestia" ("Official Gazette") of the All-Russian Central Executive Committee.* It shall be reprinted in all the local organs of the Soviets and displayed prominently in all public Soviet institutions.

The fifth All-Russian Congress instructs the People's Commissariat for Education to introduce into all schools and educational institutions, without exception, the study of the basic principles of this Constitution, as well as their explanation and interpretation.

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*The date of publication was July 19th, 1918.

THE CONSTITUTION (Fundamental Law) OF THE RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC.

Adopted by the Fifth All-Russian Congress of Soviets at the Session of July 10th, 1918.

PART I.

DECLARATION OF RIGHTS OF THE LABOURING AND EXPLOITED MASSES.

CHAPTER I.

1. Russia is declared a Republic of Soviets of Workers', Soldiers' and Peasants' Deputies. All central and local authority is vested in these Soviets.

2. The Russian Soviet Republic is established on the basis of a free union of free nations, as a federation of national Soviet Republics.

CHAPTER II.

3. With the fundamental aim of suppressing all exploitation of man by man, of abolishing for ever the division of society into classes, of ruthlessly suppressing all exploiters, of bringing about the Socialist organisation of society, and of establishing the triumph of Socialism in all countries, the Third All-Russian Congress of Soviets further decrees:

(*a*) In order to establish the socialisation of land, private ownership of land is abolished; all land is declared national property, and is handed over to the workers, without compensation, on the basis of an equitable division, carrying with it the right of use only.

(*b*) All forests, underground mineral wealth, and waters of national importance, all live stock and appurtenances, together with all model-farms and agricultural concerns, are declared public property.

(*c*) As a first step towards the complete transfer to the Workers' and Peasants' Soviet Republic of all factories, workshops, mines, railways, and other means of production and transport, and in order to ensure the supremacy of the workers over the exploiters, the Congress ratifies the Soviet law on workers' control of industry and that on the Supreme Economic Council.

(*d*) The Third All-Russian Congress of Soviets regards the law repudiating the debts contracted by the government of the Tsar, the landlords, and the bourgeoisie as a first blow at international financial capitalism; and it expresses its entire confidence that the Soviet Government will continue firmly in this direction, until the international revolt of the workers against the yoke of capitalism shall have secured a complete victory.

(*e*) The Congress ratifies the transfer of all banks to the Workers' and Peasants' Government, as one of the conditions ensuring the emancipation of the toiling masses from the yoke of capitalism.

(*f*) In order to exterminate all parasitic elements of society, and to organise the economic life of the country, work useful to the community shall be obligatory upon all.

(*g*) In order to secure the supremacy of the labouring masses, and to guard against any possibility of the exploiters regaining power, the Congress decrees the arming of the workers, the formation of a Socialist Red Army of workers and peasants, and the complete disarmament of the propertied classes.

CHAPTER III.

4. Expressing its firm determination to deliver humanity from the grip of financial capital and imperialism, which during this, the most criminal of wars, have drenched the world with blood, the Third All-Russian Congress of Soviets wholeheartedly associates itself with the policy of the present Soviet administration in its repudiation of the secret treaties, in its organisation of the widest possible fraternising between the workers and peasants in the ranks of the opposing armies, and in its efforts to attain at all costs a democratic, workers' peace, secured by revolutionary means—a peace without annexations or indemnities, on the basis of the free self-determination of nations.

5. With the same object, the Third All-Russian Congress of Soviets insists on the complete repudiation of the barbarous policy of capitalist civilisation, which built up the prosperity of the exploiters in a few privileged nations on the enslavement of millions of labourers in Asia, in the colonies, and in the small nations.

6. The Third All-Russian Congress of Soviets cordially approves the action of the Council of People's Commissaries in proclaiming the independence of Finland, in beginning the withdrawal of Russian troops from Persia, and in granting to Armenia full self-determination.

CHAPTER IV.

7. The Third All-Russian Congress of Soviets of Workers', Soldiers' and Peasants' Deputies considers that now, at the decisive moment in the struggle between the workers and their exploiters, there can be no place for the latter on any organ of government. Power must belong completely and exclusively to the labouring masses and to their true representative bodies—the Soviets of Workers', Soldiers' and Peasants' Deputies.

8. At the same time, striving to bring about the really free and voluntary, and therefore the complete and lasting union of the working classes of all the various nationalities of Russia, the Third All-Russian Congress of Soviets confines itself to formulating the main principles of the federation of the Soviet Republics of Russia, leaving to the workers and peasants of each nationality the right to decide freely, at their own national Congress of Soviets, whether they desire, and upon what basis they desire, to participate in the Federal Government and in other federal Soviet institutions.

PART II.

GENERAL PRINCIPLES OF THE CONSTITUTION OF THE RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC.

CHAPTER V.

9. The principal object of the Constitution of the Russian Socialist Federal Soviet Republic, a Constitution for the present period of transition, consists in the establishment (in the form of a strong Soviet Government) of the dictatorship of the urban and rural workers, combined with the poorer peasantry, to secure the complete suppression of the bourgeoisie, the abolition of the exploitation of man by man, and the establishment of Socialism, under which neither class divisions nor State coercion arising therefrom will any longer exist.

10. The Russian Republic is a free Socialist community of all the workers of Russia. All authority within the Russian Republic is vested in the entire working population of the country, organised in the urban and rural Soviets.

11. The Soviets of regions with special usages and national characteristics of their own may unite in autonomous regional unions, governed (like all other regional unions which may be formed) by regional Congresses of Soviets and their executive organs. These autonomous regional unions enter into the Russian Socialist Federal Soviet Republic on a federal basis.

12. Supreme authority in the Russian Socialist Federal Soviet Republic is vested in the All-Russian Congress of Soviets and, during the period between the Congresses, in the All-Russian Central Executive Committee of Soviets.

13. To ensure for the workers genuine liberty of conscience, the Church is separated from the State and the school from the Church; and freedom of religious and anti-religious propaganda is assured to every citizen.

14. To ensure for the workers effective liberty of opinion, the Russian Socialist Federal Soviet Republic puts an end to the dependence of the press upon capital; transfers to the working

class and to the peasants all the technical and material resources necessary for the publication of newspapers, pamphlets, books, and other printed matter; and guarantees their unobstructed circulation throughout the country.

15. To ensure for the workers complete freedom of meeting, the Russian Socialist Federal Soviet Republic, recognising the right of its citizens freely to organise meetings, processions, and so on, places at the disposal of the workers and peasants all premises convenient for public gatherings, together with lighting, heating, and furniture.

16. To ensure for the workers full liberty of association, the Russian Socialist Federal Soviet Republic, which has destroyed the economic and political power of the propertied classes, and has thus removed the obstacles which hitherto in capitalist society prevented the workers and peasants from enjoying freedom of association and action, lends to the workers and peasants all its material and moral assistance to help them to unite and to organise themselves.

17. To ensure for the workers effective access to education the Russian Socialist Federal Soviet Republic sets before itself the task of providing for the workers and poorer peasants a complete, universal, and free education.

18. The Russian Socialist Federal Soviet Republic proclaims it the duty of all citizens to work, on the principle "He that does not work, neither shall he eat."

19. To safeguard in every possible way the conquests of the great workers' and peasants' revolution, the Russian Socialist Federal Soviet Republic declares it the duty of all its citizens to defend the Socialist fatherland, and establishes universal military service. The honour of bearing arms in defence of the revolution is granted only to the workers. The leisured sections of the population will fulfil other military duties.

20. Recognising the solidarity of the workers of all nations, the Russian Socialist Federal Soviet Republic extends all political rights enjoyed by Russian citizens to foreigners working within the territory of the Russian Republic, provided that they belong to the working class or to the peasantry working without hired labour. It authorises the local Soviets to confer upon such foreigners, without any annoying formalities, the rights of Russian citizenship.

21. The Russian Socialist Federal Soviet Republic grants the right of asylum to all foreigners persecuted for political and religious offences.

22. The Russian Socialist Federal Soviet Republic, recognising the equality of all citizens before the law, irrespective of race

or nationality, declares it contrary to the fundamental laws of the Republic to institute or tolerate privileges, or any prerogative whatsoever, founded on such grounds, or to repress national minorities, or in any way to limit their rights.

23. In the general interest of the working class, the Russian Socialist Federal Soviet Republic deprives individuals and sections of the community of any privileges which may be used by them to the detriment of the Socialist revolution.

PART III.

A.—THE ORGANISATION OF THE CENTRAL AUTHORITY.

CHAPTER VI.

THE ALL-RUSSIAN CONGRESS OF SOVIETS OF WORKERS, PEASANTS, COSSACKS AND RED ARMY DEPUTIES.

24. The All-Russian Congress of Soviets is the supreme authority of the Russian Socialist Federal Soviet Republic.

25. The All-Russian Congress of Soviets is composed of representatives of town Soviets, on the basis of one deputy for every 25,000 electors, and representatives of Provincial Congresses of Soviets, on the basis of one deputy for every 125,000 inhabitants.

NOTE 1.—If a provincial congress of Soviets has not been held before the All-Russian Congress of Soviets, delegates to the latter are sent direct from the county congresses of Soviets.

NOTE 2.—If a regional congress of Soviets immediately precedes the All-Russian Congress of Soviets, delegates to the latter may be sent by the regional congress.

26. The All-Russian Congress of Soviets is convened by the All-Russian Central Executive Committee of Soviets at least twice a year.*

27. An extraordinary All-Russian Congress may be convened by the All-Russian Central Executive Committee, either on its own initiative, or at the demand of local Soviets representing in the aggregate at least one-third of the total population of the Republic.

28. The All-Russian Congress of Soviets elects the All-Russian Central Executive Committee, consisting of not more than 200 members.†

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*Amended to once a year by the Ninth All-Russian Congress of Soviets, December, 1921.

†See Note at end as to subsequent amendments by the Seventh, Eighth and Ninth All-Russian Congresses.

29. The All-Russian Central Executive Committee is responsible in all matters to the All-Russian Congress of Soviets.

30. In the period between the Congresses, the All-Russian Central Executive Committee is the supreme authority of the Republic.

CHAPTER VII.

The All-Russian Central Executive Committee.

31. The All-Russian Central Executive Committee is the supreme legislative, administrative, and controlling body of the Russian Socialist Federal Soviet Republic.

32. The All-Russian Central Executive Committee has the general direction of the Workers' and Peasants' Government, and all government organs throughout the country; unifies and co-ordinates legislative and administrative work; and superintends the application of the Soviet Constitution, the decrees of the All-Russian Congresses of Soviets, and the decisions of the central organs of government.

33. The All-Russian Central Executive Committee examines and ratifies drafts of decrees and other proposals submitted by the Council of People's Commissaries or individual departments; it also issued its own decrees and regulations.

34. The All-Russian Central Executive Committee convenes the All-Russian Congress of Soviets, to which it submits a report of its work, together with statements on general policy and on various detailed questions.

35. The All-Russian Central Executive Committee appoints the Council of People's Commissaries for the general direction of the affairs of the Russian Socialist Federal Soviet Republic; it also appoints the various departments (People's Commissaries), which direct the various branches of administration.

36. The members of the All-Russian Central Executive Committee themselves work in the departments (People's Commissariats), or undertake special work for the All-Russian Central Executive Committee.

CHAPTER VIII.

The Council of People's Commissaries.*

37. With the Council of People's Commissaries rests the general direction of the affairs of the Republic.

38. With this object, the Council of People's Commissaries issues decrees, orders, and instructions; and takes all general measures necessary to secure prompt and orderly administration.

*See Note at end as to subsequent amendments by the Seventh, Eighth and Ninth All-Russian Congresses.

39. The Council of People's Commissaries immediately informs the All-Russian Central Executive Committee of all its orders and decisions.

40. The All-Russian Executive Committee has the right to annul or suspend any decision or order of the Council of People's Commissaries.

41. All decisions of the Council of People's Commissaries of general political importance are submitted to be examined and ratified by the Central Executive Committee.

NOTE.—Measures of extreme urgency may be enforced on the sole authority of the Council of People's Commissaries.

42. The members of the Council of People's Commissaries are in charge of the various People's Commissariats.

43. There are eighteen People's Commissariats, *viz.*, Foreign Affairs; War; Marine; Home Affairs; Justice; Labour; Social Welfare; Education; Posts and Telegraphs; Nationalities; Finance; Transport; Agriculture; Foreign Trade; Food; State Control; Supreme Economic Council; Health.

44. Attached to each People's Commissary, and under his presidency, is a Board, the members of which are confirmed in their appointments by the Council of People's Commissaries.

45. The People's Commissary has the power personally to make decisions on all questions within the scope of his department, informing his Board on the subject. Should the Board disagree with any decision of the People's Commissary, it has the right, without stopping the execution of the decision, to bring the question before the Council of People's Commissaries or the Presidium of the All-Russian Central Executive Committee. This right of appeal belongs to every member of the Board.

46. The Council of People's Commissaries is responsible to the All-Russian Congress of Soviets and to the All-Russian Central Executive Committee.

47. The People's Commissaries and their Boards are responsible to the Council of People's Commissaries and to the All-Russian Central Executive Committee.

48. The title of People's Commissary belongs exclusively to the members of the Council of People's Commissaries, controlling the general business of the Russian Socialist Federal Soviet Republic, and no other representative of central or local powers may adopt it.

CHAPTER IX.

THE COMPETENCE OF THE ALL-RUSSIAN CONGRESS OF SOVIETS, AND OF THE ALL-RUSSIAN CENTRAL EXECUTIVE COMMITTEE.

49. Within the competence of the All-Russian Congress of Soviets and the All-Russian Central Executive Committee fall all questions of national importance, namely:—

(*a*) The ratification, alteration, and supplementing of the Constitution of the Russian Socialist Federal Soviet Republic.

(*b*) The general direction of the external and internal policy of the Russian Socialist Federal Soviet Republic.

(*c*) The determination and alteration of frontiers, with power to detach any territories of the Russian Socialist Federal Soviet Republic, or to abandon the rights of the Republic in respect thereof.

(*d*) The establishment of the boundaries and competence of regional unions of Soviets which are part of the Russian Socialist Federal Soviet Republic, and to arbitration in disputes which may arise amongst them.

(*e*) The admittance of new members into the Russian Socialist Federal Soviet Republic, and the recognition of the severance of those parts which have left the Russian Federation.

(*f*) The determination of the administrative divisions of the territory of the Republic, and the ratification of regional groupings.

(*g*) The establishment and modification of the system of weights, measures, and coinage.

(*h*) Relations with foreign powers, declaration of war and conclusion of peace.

(*i*) The floating of loans, the negotiation of tariff, commercial and financial agreements.

(*j*) The establishment of a basis and general outline for the economic life, both as a whole and in its separate branches, of the Russian Socialist Federal Soviet Republic.

(*k*) The adoption of the budget of the Russian Socialist Soviet Republic.

(*l*) The levying of taxes and imposition of public duties.

(*m*) The organisation of the armed forces of the Republic.

(*n*) Legislation, the organisation of the judicature of criminal and civil jurisdiction.

(*o*) The appointment of and recall of both the individual members, the entire Council of People's Commissaries, and the confirmation of the appointment of the Chairman of the Council of People's Commissaries.

(*p*) The publication of general regulations concerning the acquisition or loss of civic rights by Russian citizens, and also the rights of foreigners within the territory of the Republic.

(*q*) The granting of total or partial amnesties.

50. In addition to the questions enumerated, the All-Russian Congress of Soviets and the All-Russian Central Executive Committee may decide on any other matter which they deem within their jurisdiction.

51. The All-Russian Congress has as its special and exclusive prerogative:—

(*a*) The power of establishing, supplementing, and modifying the fundamental elements of the Soviet Constitution.

(*b*) The granting of total or partial amnesties.

52. Questions coming within the scope of clauses (*c*) and (*h*) of Article 49 may be dealt with by the All-Russian Central Executive Committee only when it is impossible to convene the All-Russian Congress of Soviets.

B.—THE ORGANISATION OF LOCAL SOVIET AUTHORITY.

CHAPTER X.

CONGRESSES OF SOVIETS.

53. *The Congresses of Soviets are composed as follows:—

(*a*) Regional (Oblast) Congresses. These are composed of representatives of town Soviets and of county congresses; in the case of the latter, in the proportion of one deputy for every 25,000

*By Decree of the Seventh Soviet Congress, December, 1919, Part II., it was decided that "Congresses of Soviets (provincial, county and rural district) must consist of representatives of all the Soviets in the territory of the respective administrative unit, as well as of the localities (villages, factories, works, etc.) in which questions of administration are decided by the general meeting of electors (Article 57 of the Constitution)". Accordingly, at Provincial Congresses, in addition to the representation indicated in para. (a) of Art. 56, Soviets of factory settlements with a population exceeding 5,000 inhabitants are granted representation, in the proportion of one deputy for ever 2,000 electors. Para. (b) of this Article, as to County Congresses, was also amended so as to read—"These are composed of representatives of all the Soviets exercising authority in the county's territory, including the Soviet of the county town, in the proportion of one deputy

inhabitants, and in the case of the former, in the proportion of one deputy for every 5,000 electors, with a maximum of 500 deputies for the whole region. They may also be composed of deputies to the provincial congresses of Soviets, elected in the same proportion, if the latter congresses are held immediately before the regional congress.

(*b*) Provincial (*Goubernia*) Congresses. These consist of representatives of the town Soviets and the rural district congresses of Soviets; in the proportion of one deputy for every 10,000 inhabitants in the case of the latter, and in the proportion of one deputy for every 2,000 electors, in the case of the former; with a maximum of 300 deputies for the whole province. If the county congresses of Soviets be held immediately before the provincial congress the election takes place on the same principle, not by the rural district congresses but by the county congresses.

(*c*) County (*Uyezd*) Congresses. These are composed of representatives of the village Soviets, in the proportion of one deputy for every 1,000 inhabitants, with a maximum of 300 deputies for the county.

(*d*) Rural District (*Volost*) Congresses. These are composed of representatives of all the village Soviets of the rural districts, in the proportion of one deputy for every ten members of the Soviet.

NOTE 1.—In the County Congresses are represented the Soviets of towns of not more than 10,000 inhabitants. Soviets of villages of less than 1,000 inhabitants meet together to elect delegates to the County Congress.

NOTE 2.—Village Soviets of less than ten members send one delegate to the Rural District Congress.

54. The Soviet Congresses are convened by the executive organs of Soviet authority, that is to say, the executive committees, either upon their own initiative or at the demand of local Soviets, if these represent at least a third of the population of the locality. In any case, Regional Congresses must be held not less than twice a year, Provincial and County Congresses at least once in three months, and Rural District Congresses at least once a month.*

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for every 1,000 inhabitants in the case of village Soviets, and of one deputy for every 200 electors in the case of town Soviets, of Soviets of factory settlements, as well as of Soviets of factories and works situated outside settlements, with a maximum of 300 delegates for the whole county." Para. (d), as to Rural District Congresses, was amended to read—"These are composed of representatives of all the Soviets exercising authority in the territory of the rural district, in the proportion of one deputy for every 100 inhabitants."

*This Article was amended by the Ninth All-Russian Congress of Soviets in December, 1921, as follows:—

(1) All ordinary Congresses of Soviets of the autonomous republics, regions, provinces, counties, and rural districts are convened once a year.

55. Every Congress of Soviets (regional, provincial, county, rural district) elects its own executive committee, with a membership not greater than (a) for regions and provinces, 25; (b) for counties, 20; and (c) for rural districts, 10. The executive committee is responsible to the congress by which it was elected.*

56. Within the limits of its administration, every congress of Soviets (regional, provincial, county, rural district) is the supreme authority within its own territory; between the congresses its authority is vested in its executive committee.

CHAPTER XI.

Councils of Deputies (Soviets).

57. Councils of Deputies (Soviets), are elected as follows:—

(*a*) In towns—in the proportion of one deputy for every 1,000 inhabitants, with a minimum of 50 and a maximum of 1,000 members.

(*b*) In the county (farms, hamlets, villages, encampments, small towns with a population of less than 10,000, mountain valleys)—in the proportion of one deputy for every 100 inhabitants, with a minimum of three, and a maximum of fifty members for each locality. Deputies are elected for a period of three months.

NOTE.—In rural localities, wherever this is possible, questions of administration will be directly decided by the general assembly of the electors of the village concerned.

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(2) Elections for town, settlement, and village Soviets are held once a year.

NOTE 1.—In cases of necessity, provincial executive committees may convene extraordinary county congresses of Soviets, and county executive committees, rural district congresses of Soviets, at which now executive committees may be elected.

NOTE 2.—The Presidium of the All-Russian Central Executive Committee may decide that extraordinary congresses of Soviets of autonomous republics, regions, and provinces should be convened, and, when necessary, that new elections of executive bodies should be held.

*Detailed regulations as to the organisation and duties of Rural District Executive Committees were issued by the All-Russian Central Executive Committee in March, 1920, under authority of the Decree of the Seventh Soviet Congress of December, 1919.

As regards Provincial Congresses, this Article was supplemented by the Ninth All-Russian Congress of Soviets, in December, 1921, as follows:—"Provincial Congresses of Soviets shall have the right to appoint members to act on the provincial executive committees in excess of the number fixed by the Constitution, the appointments being made in order that the provincial executive committee should include not less than one representative from each county and from each industrial district. Enlarged sessions of the provincial executive committees are convened at the time fixed by the provincial executive committees."

58. For the transaction of current affairs, the Soviet elects an executive committee, composed of not more than five members in the villages, and in the towns with a minimum of three and a maximum of fifteen. (In Petrograd and Moscow, the maximum is forty). The executive committee is entirely responsible to the Soviet by which it was elected.

59. The Soviet is convened by the executive committee on the initiative of the latter, or at the demand of at least half the members of the Soviet, at least once a week in the towns, and twice a week in the country.

60. The Soviet, within the limits of its administration or, in the case described in the note to paragraph 57, the general assembly of the electors, constitutes the supreme authority for its locality.

CHAPTER XII.

The Competence of the Local Soviet Authorities.

61. *Regional, provincial, county, and rural district executive organs, as well as the village Soviets take cognizance of the following:—

(*a*) Execution of all instructions issued by the appropriate higher organs of Soviet authority.

(*b*) Adoption of all appropriate measures for developing the cultural and economic life of their territory.

(*c*) Solution of all questions of purely local importance.

(*d*) Unification of all Soviet activities within the limits of their territory.

62. The Congresses of Soviets and their executive committees have the right of control over the activities of the local Soviets, *i.e.*, the regional congress exercises control over all the Soviets in its region, the provincial congress has control over all the Soviets in its province, except over those town Soviets which do not enter into the composition of the County Congresses. The regional and

*The Decree of the Seventh Soviet Congress, Part IV., provides as follows—"The general meetings of Soviets must consider all fundamental questions of local general importance. Soviets must act not only as instruments for agitation and information, but also as a business mechanism. Every member of a Soviet, when possible, is immediately charged with definite work of public importance. All members of Soviets are obliged to submit reports to their electors at least once every fortnight. A member of a Soviet who on two successive occasions, without good cause, has failed to comply with this rule is deprived of his mandate, and a new deputy is elected in his place."

Detailed regulations as to the constitution, powers and organisation of village Soviets were issued by the All-Russian Central Executive Committee, under the authority of the above-mentioned Decree, in February, 1920.

provincial congresses together with their executive committees, have the further right of cancelling decisions of Soviets within their respective areas, provided they notify the central Soviet authority in important cases.

63. *To ensure the execution of the duties imposed upon the organs of Soviet authority there are created, in connection with every Soviet (town and village) and every executive committee (regional, provincial, county, and rural district), the appropriate departments, under the charge of departmental managers.

PART IV.

ELECTORAL RIGHTS.

CHAPTER XIII.

64. The right to vote and to be elected to the Soviets belongs to all citizens of the Russian Socialist Federal Soviet Republic without distinction of sex, religion, or nationality, and without any residential qualification: provided that on the day of the election they have reached the age of eighteen, and are in one of the following categories:—

(*a*) All those who earn their living by productive work useful to society, and those who are engaged in domestic occupations which enable the former to follow their callings, namely, workers and employees of all kinds and categories whether in industry, commerce, argriculture, &c.; peasants and labouring cossacks who do not employ others for private gain.

(*b*) Soldiers in the army and navy of the Soviet Republic.

(*c*) Citizens of the above categories who are incapacitated for work.

NOTE 1.—The local Soviet may, with the approval of the central authority, lower the legal age fixed by this paragraph.

NOTE 2.—In addition to Russian citizens, persons mentioned in paragraph 20 (Part II., Chapter 5) also enjoy electoral rights.

65. The following persons have neither the right to vote nor the right to be elected, even if they are included within one of the above mentioned categories:—

(*a*) Those who employ others for the sake of profit.

*The decree of the Seventh Soviet Congress of December, 1919, Part V, makes detailed provision as to the organisation and duties of Executive Committees and their Departments, including provision for the appointment at the head of each Department of a Director who need not be a member of the Executive Committee. The Decree also instructed the All-Russian Central Executive Committee to work out regulations establishing the functions of the Presidiums of Executive Committees.

(*b*) Those who live on income not arising from their own labour, interest on capital, industrial enterprises, landed property, &c.

(*c*) Private business men, agents, middlemen, &c.

(*d*) Monks and priests of all religious denominations.

(*e*) Agents and employees of the former police, special corps of gendarmeric, and secret service; and also members of the late ruling dynasty of Russia.

(*f*) Persons legally recognised as mentally deranged or imbecile; together with those under wardship.

(*g*) Persons convicted of infamous or mercenary crimes, during a period fixed by law or by the sentence of the court.

CHAPTER XIV.

Electoral Procedure.

66. Elections are conducted according to established practice, on dates fixed by the local Soviet.

67. Elections take place in the presence of an electoral commission and a representative of the local Soviet.

68. Where the presence of a representative of the local Soviet is impossible, his place is taken by the chairman of the electoral commission, and, in his absence, by the chairman of the electoral assembly.

69. A minute is drawn up of the proceedings of the election and of the result of the poll. This is signed by the members of the electoral commission and by the representative of the local Soviet.

70. Details of electoral procedure, and the participation of trade union and other labour organisations, are fixed by the local Soviets, in conformity with instructions issued by the All-Russian Central Executive Committee.

CHAPTER XV.

Verification and Annulment of Elections, and Recall of Delegates.

71. All documents connected with an election are handed over to the Soviet concerned.

72. The electoral results are checked by a credentials commission appointed by the Soviet.

73. This commission reports to the Soviet the result of its inquiry.

74. The Soviet decides as to the validity of a deputy's mandate in the case of a dispute.

75. In the event of the invalidation of any election the Soviet orders a new election.

76. If the election as a whole is irregular, the question of its annulment is decided by the Soviet immediately superior.

77. The All-Russian Central Executive Committee is the final court of appeal.

78. The electors have the right at any time to recall the delegates whom they have sent to the Soviet, and to proceed to new elections.

PART V.

CHAPTER XVI.

THE NATIONAL BUDGET.

79. The Russian Socialist Federal Soviet Republic, during the present transitory period of the proletarian dictatorship, adopts a financial policy auxiliary to its fundamental aim of the expropriation of the capitalists and the creation of conditions which will secure the equality of all the citizens of the Republic in the production and distribution of wealth. To this end it aims at placing at the disposal of the organs of Soviet authority all the resources necessary to satisfy the local and national requirements of the Soviet Republic, encroaching without fear upon the rights of private property.

80. The revenue and the expenditure of the Russian Socialist Federal Soviet Republic are embodied in a national budget.

81. The All--Russian Congress of Soviets, or the All-Russian Central Executive Committee, assesses taxation, determines the sources of public revenue, and allocate its distribution between the State and the local Soviets.

82. The Soviets can only impose taxation for purely local needs; needs of a general and national character are met by grants from the State Treasury.

83. No expenditure may be made of money from the funds of the State Treasury without an authorised credit in respect thereof in the State estimates, or a special order of the central authority.

84. Credits with the State Treasury, required for purposes of national importance, are opened to local Soviets by order of the appropriate People's Commissary.

85. All credits granted by the State Treasury to the Soviets, as well as those allocated by local estimates for purely local

requirements, must be expended directly and according to the programme, by paragraphs and clauses, laid down in the estimates; and they cannot be diverted to any other purpose without a special decision of the All-Russian Central Executive Committee or the Council of People's Commissaries.

86. The local Soviets prepare half-yearly and yearly estimates for local needs. The estimates of village Soviets, the rural district executive committees, and of those town Soviets which participate in the county congresses, together with the estimates of the county Soviet authorities, are ratified by the respective provincial and regional congresses, or the executive committees of the latter. The estimates of the town, provincial, and regional Soviet authorities, are ratified by the All-Russian Central Executive Committee and the Council of People's Commissaries.

87. For expenditure not provided for in the estimates, and in cases where the sum allocated by the estimates is insufficient, the Soviets apply for supplementary credits to the appropriate People's Commissariats.

88. Should local resources prove insufficient for local needs, subsidies or loans from the State Treasury to the local Soviets to cover urgent expenditure are authorised by the All-Russian Executive Committee and by the Council of People's Commissaries.

PART VI.

THE ARMS AND FLAG OF THE RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC.

CHAPTER XVII.

89. The arms of the Russian Socialist Federal Soviet Republic consist of a sickle and a hammer, gold upon a red field and in the rays of the sun, the handles crossed and turned downwards: the whole surrounded by a wreath of ears of corn, with the inscription:—

(*a*) "RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC," and

(*b*) "WORKERS OF ALL COUNTIES, UNITE!"

90. The commercial, naval, and military flag of the Russian Socialist Federal Soviet Republic consists of red (scarlet) material, on the upper corner of which, near the staff, are the letters in gold "R. S. F. S. R." or the inscription "Russian Socialist Federal Soviet Republic."

AMENDMENTS OF THE CONSTITUTION.

In addition to the alterations indicated in the footnotes to the text, the provisions of the Constitution, as ratified by the Fifth All-Russian Congress of Soviets, were considerably amplified, particularly in regard to the Central Executive Committee, by Decrees of the Seventh, Eighth and Ninth All-Russian Congresses, held in the month of December in 1919, 1920 and 1921.

The Seventh Congress decreed that "between the sessions of the All-Russian Central Executive Committee, the Presidium (of the A. R. C. E. C.) has the right of ratifying the decisions of the Council of People's Commissaries, as well as of suspending the execution of such decisions, postponing them for reconsideration by the next plenary session of the All-Russian Central Executive Committee. The Presidium appoints individual People's Commissaries on the recommendation of the Council of People's Commissaries." Ordinary sessions of the Central Executive Committee were to be convoked by the Presidium every two months, and extraordinary meetings were to be convoked on the initiative of the Presidium, at the suggestion of the Council of People's Commissaries, or at the demand of one-third of the members of the Committee. The Standing Orders of the Central Executive Committee, adopted in the same month of December, 1919, included, *inter alia,* provisions conferring upon the members of the Committee immunity from arrest without the consent of the Presidium or the Chairman and from trial save by decision of the Presidium or the Committee itself. Attendance of members was made compulsory for all meetings of the Committee and of its departments and commissions in which they worked. All members of the Committee were authorised, upon production of their mandates, to enter all Soviet institutions and to obtain any information they required.

The Eighth Congress provided that "all decrees concerning the establishment of general standards of political or economic life, as well as all decrees introducing radical changes in the existing practice of any State institutions, must be examined by the All-Russian Central Executive Committee. Moreover, all draft decrees and resolutions upon questions of general political and economic significance, in which are included all more important measures concerning military and foreign affairs, shall be published by the Presidium of the A. R. C. E. C. at least two clear weeks before its session, in order that local Soviets may have time and opportunity to consider them before the final decision is taken." The Central Executive Committee was instructed to enforce its control over the work of departments and local Soviets and to institute a general review of the work and personnel of the People's Commissariats. The membership of the Committee was raised to

300 persons and regular sessions were again ordered to be held not less frequently than once every two months. The powers conferred by the previous Congress were extended so as to authorise the Presidium of the Central Executive Committee to annul resolutions of the Council of People's Commissaries and to issue the necessary regulations in the name of the Committee through administrative channels, reporting on the matter to the next regular session of the Committee. Disputes as to the relations between the People's Commissariats and other central authorities and the local Executive Committees and questions as to the administrative and economic divisions of the Republic were to be decided by the Presidium of the Central Executive Committee. A number of other provisions were also decreed with a view to regulating and systematizing the relations between central and local authorities so as to ensure the conduct of the business of local or special organs of the central authorities through the Provincial and District Executive Committees and the local Soviets. The Presidium of the Central Executive Committee was instructed to expedite the preparation of a scheme for new administrative divisions of the Republic, which had been ordered by the preceding Congress, and to ensure the completion by 1st March, 1921, of the work of the Committee's Commission on the Federal Constitution.

The Ninth Congress amended Article 26 of the Constitution to the effect that ordinary All-Russian Congresses should be convened once a year (as they had in fact been meeting for the preceding three years) instead of twice a year. The decisions of the Seventh and Eighth Congresses as to the All-Russian Central Executive Committee were also amended. The Committee was to be convened not less than three times a year, for sessions of longer duration than previously, and in addition should meet immediately after the conclusion of each All-Russian Congress of Soviets, for the election of its Presidium and Commissions and of the Council of People's Commissaries. A budget commission, a federal commission and other permanent commissions, each under the chairmanship of a member of the Presidium, were provided for. The membership of the Committee was increased "in view of the growth of the Russian Soviet Federation and the desire of individual Soviet Republics to have their representatives on the highest legislative body of the Republic." Articles 54 and 57 of the Constitution and the decisions of the Seventh and Eighth Congresses as to Congresses of local Soviets and their Executive Committees were amended and instructions were given that the Central Executive Committee at its next ordinary session should reduce the number of Provincial Executive Committees by amalgamating neighbouring provinces.

IX. THE UNITED STATES OF MEXICO.

Area: 767,198 sq. miles. *Population*: 15,501,684.

Conquered from the Aztecs and colonised early in the 16th century by Spain, Mexico remained a Spanish colony until 1821. In 1810 a movement for national independence had begun in Mexico. This movement was strongly opposed by the clergy and many of the privileged classes. In 1813, as the result of a popular revolution, an elected Congress assembled at Chilpancingo, asserted the independence of Mexico, and agreed upon a republican Constitution. This Constitution was short-lived, for the revolution was suppressed, and the Spanish Constitution adopted in so far as it applied to Mexico.

In March, 1820, however, events in Spain caused quite a different view of Mexican independence to be taken by the privileged classes. For in that year in Spain a Liberal Constitution, which had been repudiated by King Fernando VII., was imposed on Spain by a military rising. The privileged classes in Mexico, fearing the imposition of the new Spanish Constitution, which would deprive them of their privileges, became adherents of Mexican independence. Their very leader, Augustine de Iturbide, who had put down the revolution eight years before, now became leader in the war for independence.

This fact influenced the result of the first Mexican Constitution; for Iturbide proclaimed what became known as the "Plan of Iguala," according to which the establishment of limited monarchy, the maintenance of the privileges of the clergy, the confirmation of the Catholic faith, together with equality of rights for Spaniards and native-born Mexicans, were asserted as the fundamentals of the new State. When the Mexican Congress met on February 24, 1822, to discuss the Constitution of the State, a conflict at once arose between Iturbide and the Republicans. The Republicans were in the majority in the Congress, but the issue was settled by a pronouncement by the Army in favour of Iturbide, who was, therefore, elected Emperor and crowned on the 21st July, 1822.

It not infrequently happens that a Constitution enforced by arms creates a continual series of reactions against it; and the progress of a nation's constitutional history is created from such reactions, even to excess on the other side. So it happened in Mexico. The Plan of Iguala had been accepted by the Spanish

Viceroy, but it gave no popular satisfaction. Before long Iturbide was forced to go into exile. The Congress, therefore, declared his rule illegal, and placed the executive power in a triumvirate, representatives of the Spanish, the monarchical, and republican parties.

A new Congress met on the 7th November, 1823, and on the 3rd December, it began the discussion of a project for a Fundamental Law. On January 31, 1824, a provisional Constitution, containing the basis of a future permanent Constitution, was adopted. It consisted of 36 Articles, and gave Mexico a representative, federal, republican Government. The final Constitution was adopted later the same year. It was in many particulars a copy of the Constitution of the United States, and it remained in force for eleven years.

In 1833 Antonia Lopez de Santa Anna, Captain General of Vera Cruz, became President. At that time a certain wave of reaction from federal principles had occurred, and the new President turned for support to those who advocated a unified and centralised state. The following year, 1834, the Congress undertook to reform the Constitution of 1824, and two years later, in 1836, a new Fundamental Law was issued abandoning the federal principle. The new Constitution, however, aroused very strong opposition; and in the division of opinion Mexico was without an effective Constitution for the next decade.

It was not until 1847 that an Act was passed bringing back into full force the Constitution of 1824. By this time two presidents had succeeded Antonia Lopez de Santa Anna, and the wave of reaction had receded; but he came back to power in 1853, and a new revolution was started. Certain military centres put forward a project, therefore, according to which he was to be deprived of the power which he exercised arbitrarily, and an interim President appointed pending the convention of a Constituent Assembly. The movement spread in military circles, and Ignacio Comonfort became leader of the movement. In August, 1854, Antonia Lopez de Santa Anna fled, and in October an Interim President was appointed.

In February, 1856, the Constituent Assembly met. Comonfort was elected President, and issued a provisional Organic Law consisting of 125 Articles. Under this Organic Law the executive and judicial powers were organised on a centralised basis. Generally speaking it was a democratic document, but it was left open for the Council of Ministers to give the President discretionary powers when it judged that such powers were required. The final Constitution was, in the meantime, being debated by the Assembly, and was finally adopted on the 5th February, 1857.

This Constitution of 1857 is the basis of the Constitution of to-day. It is partly federal and partly central. It abolished all ecclesiastical and military privileges, with the result that armed opposition broke out among the privileged classes and their supporters. This revolution lasted for some years, and as a consequence general chaos prevailed, and the Government became bankrupt. In 1861, therefore, European intervention was offered in the form of a French expedition. Under the persuasion of French troops a provisional Mexican government offered the Crown of Mexico to Maximilian of Austria. Maximilian accepted the offer in 1864, and established a nominal rule over about two-thirds of the country. But in 1867, the French troops having been withdrawn under pressure from the United States of America, Maximilian was defeated by Republican forces under Benito Juarez and executed.

It was in the conflict with Maximilian that Porfirio Diaz first came into prominence, but it was not until ten years later that he became President. Three years later, in 1880, he was succeeded by Gonzalez. In 1884 he was again elected President, and, as a result of several re-elections, continued as President until 1911.

Diaz ruled under the Constitution of 1857, but in effect his rule was one of absolute authority. During the whole period of his rule the state of Mexico was one of peace. He suppressed disorder thoroughly, and enforced the law, on the one hand, and, on the other, pressed forward a definite constructive policy. The economic progress under his rule was considerable, and it was owing to him that railway development proceeded rapidly during these years.

His policy, however, contained within itself the seeds of future trouble, and the effects of the reaction from his policy will be clearly traced in the present Constitution. In the first place, although the privileged classes were theoretically excluded from the Constitution, in practice they steadily increased their power. In the second place, in opening up the economic resources of the country, he relied chiefly on foreign capital under the control of strong financial corporations abroad to which concessions were granted. Therefore, while Mexico showed every outward sign of prosperity, there were deep inward signs of decay and discontent. The poverty of the labouring classes drove them into revolt; and in May, 1911, Diaz resigned the presidency.

A succession of revolts and assassinations succeeded, culminating in April, 1913, in civil war. Not till December, 1915, when General Carranza succeeded to the presidency, was there any sign of settled government. And in 1917 the adoption of a new Constitution was undertaken by Congress. This is the Constitution in force at present. Substantially it was based upon the Constitution

of 1857, but it bears the marks of the history that supervened since that time. These marks are noticeable chiefly in two directions: first, in the increased provisions against clerical privileges; and second, provisions against the exploitation of Mexican resources by foreign capital. In considering the provisions of the Constitution, which deal with the conservation of natural resources, an important fact should be borne in mind. It is a principle of English Common Law that the ownership of land carries with it the ownership of all that lies beneath the surface. Spanish law, however, proceeds on the principle that wealth below the surface of the soil is vested originally in the State, and it is this principle which underlies some of the most striking provisions of the Mexican Constitution.

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POLITICAL CONSTITUTION

OF THE

UNITED STATES OF MEXICO.

Adopted on the 31st January, 1917, amending that of the 5th February, 1857.

TITLE I.

CHAPTER I.

OF PERSONAL GUARANTEES.

Article 1.—Every person in the United States of Mexico shall enjoy all guarantees granted by this Constitution; these shall neither be abridged nor suspended except in such cases and under such conditions as are herein provided.

Article 2.—Slavery is forbidden in the United States of Mexico. Slaves who enter the national territory shall, by this act alone, recover their freedom, and enjoy the protection of the law.

Article 3.—Instruction is free; that given in public institutions of learning shall be secular. Primary instruction, whether higher or lower, given in private institutions shall likewise be secular.

No religious corporation nor minister of any religious creed shall establish or direct schools of primary instruction.

Private primary schools may be established only subject to official supervision.

Primary instruction in public institutions shall be gratuitous.

Article 4.—No person shall be prevented from engaging in any profession, industrial or commercial pursuit or occupation of his liking, provided it be lawful. The exercise of this liberty shall only be forbidden by judicial order when the rights of a third person are infringed, or by executive order, issued under the conditions prescribed by law, when the rights of society are violated. No one shall be deprived of the fruit of his labour except by judicial decree.

Each State shall determine by law what professions shall require licenses, the conditions to be complied with in obtaining the same, and the authorities empowered to issue them.

Article 5.—No one shall be compelled to render personal services without due compensation and without his full consent, excepting labour imposed as a penalty by judicial decree, which shall conform to the provisions of Clauses 1 and 2 of Article 123.

Only the following public services shall be obligatory, subject to the conditions set forth in the respective laws:—Military service, jury service, service in municipal and other public elective office, whether this election be direct or indirect, and service in connection with elections, which shall be obligatory and without compensation.

The State shall not permit any contract, covenant or agreement to be carried out having for its object the abridgment, loss or irrevocable sacrifice of the liberty of man, whether by reason of labour, education, or religious vows. The law, therefore, does not permit the establishment of monastic orders, of whatever denomination, or for whatever purpose contemplated.

Nor shall any person legally agree to his own proscription or exile, or to the temporary or permanent renunciation of the exercise of any profession or industrial or commercial pursuit.

A contract for labour shall only be binding to render the services agreed upon for the time fixed by law and shall not exceed one year to the prejudice of the party rendering the service; nor shall it in any case whatsoever embrace the waiver, loss or abridgment of any political or civil right.

In the event of a breach of such contract on the part of the party pledging himself to render the service, the said party shall only be liable civilly for damages arising from such breach, and in no event shall coercion against his person be employed.

Article 6.—The expression of ideas shall not be the subject of any judicial or executive investigation, unless it offend good morals, impair the rights of third parties, incite to crime, or cause a breach of the peace.

Article 7.—Freedom of writing and publishing writings on any subject is inviolable. No law or authority shall have the right to establish censorship, require bond from authors or printers, nor restrict the liberty of the press, which shall be limited only by the respect due to private life, morals, and public peace. Under no circumstances shall a printing press be sequestrated as the *corpus delicti.*

The organic laws shall prescribe whatever provisions may be necessary to prevent the imprisonment, under pretext of proceedings against offences of the press, of the vendors, newsboys,

workmen, and other employees of the establishment publishing the writing which forms the subject-matter of the proceedings, unless their responsibility be previously established.

Article 8.—Public officials and employees shall respect the exercise of the right of petition, provided that the petition be in writing and in a peaceful and respectful manner; but this right may be exercised in political matters solely by citizens.

To every petition there shall be given an answer in writing by the official to whom it may be addressed, and the said official shall be bound to inform the petitioner of the decision taken within a brief period.

Article 9.—The right peaceably to assemble or to come together for any lawful purpose shall not be abridged; but only citizens shall be permitted to exercise this right for the purpose of taking part in the political affairs of the country. No armed assembly shall have the right to deliberate.

No meeting or assembly shall be deemed unlawful, nor may it be dissolved, which shall have for its purpose the petitioning of any authority or the presentation of any protest against any act, provided no insults be proffered against the said authority, nor violence resorted to, nor threats used to intimidate or to compel the said authority to arrive at a favourable decision.

Article 10.—The inhabitants of the United States of Mexico are entitled to have arms of any kind in their possession for their protection and legitimate defence, excepting such as are expressly prohibited by law, and such as the nation may reserve for the exclusive use of the army, navy and national guard; but they shall not bear such arms within inhabited places, except subject to the police regulations thereof.

Article 11.—Everyone has the right to enter and leave the Republic, to travel through its territory, and to change his residence, without necessity of a letter of security, passport, safe conduct, or any other similar requirement. The exercise of this right shall be subordinated to the powers of the judiciary, in the event of civil or criminal responsibility, and to those of the executive, in so far as relates to the limitations imposed by law in regard to emigration, immigration, and the public health of the country, or in regard to undesirable foreigners resident in the country.

Article 12.—No titles of nobility, prerogatives, or hereditary honours shall be granted in the United States of Mexico, nor shall any effect be given to those granted by other countries.

Article 13.—No one shall be tried according to private laws or by special tribunals. No person or corporation shall have privileges nor enjoy emoluments which are not by way of compen-

sation for public services and established by law. Military jurisdiction shall be recognised for the trial of criminal cases having direct connection with military discipline, but the military tribunals shall in no case and for no reason extend their jurisdiction over persons not belonging to the army. Whenever a civilian shall be implicated in any military crime or offence, the cause shall be heard by the appropriate civil authorities.

Article 14.—No law shall be given retroactive effect to the prejudice of any person whatsoever.

No person shall be deprived of life, liberty, property, possessions, or rights without due process of law instituted before a duly created court, in which the essential elements of procedure are observed, and in accordance with previously existing laws.

In criminal cases no penalty shall be imposed by mere analogy or even by *a priori* evidence, but the penalty shall be decreed by a law in every respect applicable to the crime in question.

In civil suits the final judgment shall be according to the letter or the juridical interpretation of the law; in the absence of the latter, the general legal principles shall govern.

Article 15.—No treaty shall be authorised for the extradition of political offenders, or of offenders of the common class, who have been slaves in the country where the offence was committed. Nor shall any agreement or treaty be entered into which abridges or modifies the guarantees and rights which this Constitution grants to the individual and to the citizen.

Article 16.—No one shall be molested in his person, family, domicile, papers, or possessions except by virtue of an order in writing of the competent authority setting forth the legal ground and justification for the action taken. No order of arrest or detention shall be issued against any person other than by competent judicial authority, nor unless preceded by a charge, accusation or complaint for a specific offence punishable by imprisonment, supported by an affidavit of a credible party or by such other evidence as shall make the guilt of the accused probable; in cases *flagrante delicto* any person may arrest the offender and his accomplices, placing them at once at the disposal of the judicial authority. Only in urgent cases instituted by the authorities, when there is no judicial authority available, may the administrative authorities, on their strictest accountability, order the detention of the accused, placing him at the disposal of the judicial authorities. Every search warrant, which may only be issued by the judicial authority, and which must be in writing, shall specify the place to be searched, the person or persons to be arrested, and the objects sought, to which the proceeding shall be strictly limited; at the conclusion of which

a detailed written statement shall be drawn up in the presence of two witnesses proposed by the occupant of the place to be searched, or in his absence or on his refusal, by the official making the search.

Administrative officials may enter private houses solely for the purpose of determining that the sanitary and police regulations have been complied with; they may likewise demand the exhibition of books and documents necessary to prove that the fiscal regulations have been obeyed, subject to the respective laws, and to the formalities prescribed for cases of search.

Article 17.—No one shall be imprisoned for debts of a purely civil character. No one shall take the law into his own hands, nor resort to violence in the enforcement of his rights. The courts shall be open for the administration of justice at such times and under such conditions as the law may establish; their services shall be gratuitous, and all judicial costs are accordingly prohibited.

Article 18.—Preventive detention shall be exercised only for offences meriting punishment inflicted on the person. The place of detention shall be different and completely separated from that set apart for the serving of sentences.

The Federal and State Governments shall, in their respective territories, organize the penal system—penal colonies or prisons—on the basis of labour as a means of regeneration.

Article 19.—No preventive detention shall exceed three days except for reasons specified in the formal order of commitment, which shall set forth the offence charged, the substance thereof, the time, place, and circumstances of its commission, and the facts disclosed in the preliminary examination; these facts must always be sufficient to establish the wrongful act and the probable guilt of the accused. All authorities ordering any detention or consenting thereto, as well as all agents, subordinates, wardens, or jailors executing the same, shall be liable for any breach of this provision.

The trial shall take place only for the offence or offences set forth in the formal order of commitment. If it shall develop in the course of trial that another offence different from that charged has been committed, a separate accusation must be brought. This, however, shall not prevent the joinder of both proceedings, if deemed desirable.

Any maltreatment during apprehension or confinement, any molestation inflicted without legal justification, and any exaction or contribution levied in prison are abuses which the law shall correct and the authorities repress.

Article 20.—In every criminal trial the accused shall enjoy the following guarantees:—

I.—He shall be at liberty on demand and upon giving a bond up to ten thousand pesos, according to his status and the gravity of the offence charged, provided, however, that the said offence shall not be punishable with more than five years' imprisonment; he shall be set at liberty without any further requirement than the placing of the stipulated sum at the disposal of the proper authorities, or the giving of an adequate mortgage or personal security.

II.—He may not be forced to be a witness against himself; wherefore isolation or other means working towards this end is hereby strictly prohibited.

III.—He shall be publicly notified within forty-eight hours after being handed over to the judicial authorities of the name of his accuser, and of the nature of and cause for the accusation, so that he may be familiar with the offence with which he is charged, may reply thereto, and make his preliminary statement.

IV.—He shall be confronted with the witnesses against him, who shall testify in his presence, if they are to be found in the place where the trial is being held, so that he may cross-examine them in his defence.

V.—All witnesses which he shall offer shall be heard in his defence, as well as all evidence received, for which he shall be given such time as the law may prescribe; he shall furthermore be assisted in securing the presence of any person or persons whose testimony he may request, provided they are to be found at the place of trial.

VI.—He shall be entitled to a public trial by a judge or jury of citizens who can read and write, and are also citizens of the place and district where the offence shall have been committed, provided the penalty for such offence be greater than one year's imprisonment. The accused shall always be entitled to trial by jury for all offences committed by means of the press against the public peace or against the internal or external security of the Republic.

VII.—He shall be furnished with all information of record needed for his defence.

VIII.—He shall be tried within four months, if charged with an offence the maximum penalty for which does not exceed two years' imprisonment, and within one year, if the maximum penalty be greater.

IX.—He shall be heard in his own defence, either personally or by counsel, or by both, as he may desire. In case he shall have no one to defend him a list of official counsel shall be submitted to him, in order that he may choose one or more to act in his defence. If the accused shall not desire to name any counsel for

his defence, after having been called upon to do so at the time of his preliminary examination, the court shall appoint counsel to defend him. The accused may name his counsel immediately on arrest, and shall be entitled to have him present at every stage of the trial; and shall be bound to have him appear as often as required by the court.

X.—In no event may imprisonment or detention be extended through failure to pay counsel fees or through any other pecuniary charge, by virtue of any civil liability or other similar cause. Nor shall detention be extended beyond the time set by law as the maximum for the offence charged.

The period of detention shall be reckoned as a part of the final sentence.

Article 21.—The imposition of all penalties is an exclusive power of the judiciary. The prosecution of offences is the duty of the Public Prosecutor and of the judicial police, who shall be under the immediate command and authority of the public prosecutor. The punishment of violations of municipal and police regulations belongs to the administrative authorities, and shall consist only of a fine or of imprisonment not exceeding thirty-six hours. Should the offender fail to pay the fine this shall be substituted by the corresponding period of arrest, which shall in no case exceed fifteen days.

Should the offender be a workman or unskilled labourer, he shall not be punished with a fine greater than the amount of his weekly pay or salary.

Article 22.—Punishments by mutilation and infamy, by branding, flogging, beating with sticks, torture of any kind, excessive fines, confiscation of property and any other unusual or extraordinary penalties are prohibited.

Attachment of the whole or part of the property of any person made under judicial authority to cover any civil liability arising out of the commission of any offence, or by reason of the imposition of any tax or fine, shall not be deemed a confiscation of property.

Article 23.—Capital punishment is likewise forbidden for all political offences; in the case of offences other than political it shall only be imposed for high treason committed during a foreign war, parricide, murder with malice aforethought, arson, abduction, highway robbery, piracy, and grave military offences.

Article 24.—Every one is free to embrace the religion of his choice, and to practise all ceremonies, devotions, or observances of his particular creed, either in places of public worship or at home, provided that such practices do not constitute offences punishable by law.

Every religious act of public worship shall be performed strictly within the places of public worship, which shall be at all times under governmental supervision.

Article 25.—Sealed correspondence sent through the mails shall be free from search, and its violation shall be punishable by law.

Article 26.—No member of the army shall in time of peace be quartered in private dwellings, without the consent of the owner; nor shall any other exaction be demanded. In time of war the military forces may demand lodging, equipment, provisions, and other assistance, in the manner provided by the military law relating thereto.

Article 27.—The ownership of lands and waters comprised within the limits of the national territory is vested originally in the Nation, which has had, and has, the right to transmit the title thereof to private persons, thereby constituting private property.

Private property shall not be expropriated except for reasons of public utility, and upon payment of compensation.

The Nation shall have at all times the right to impose on private property such limitations as the public interest may demand, as well as the right to regulate the development of natural resources, which are susceptible of appropriation, in order to conserve them and equitably to distribute the public wealth. For this purpose necessary measures shall be taken to divide large landed holdings; to develop small holdings; to establish new centres of rural population with such lands and waters as may be indispensable to them; to encourage agriculture, and to prevent the destruction of natural resources, and to protect property from damage detrimental to society. Settlements, hamlets situated on private property and communes which lack lands or water or do not possess them in sufficient quantities for their needs shall have the right to be provided with them from the adjoining properties, always having due regard for small landed holdings. Wherefore, all grants of lands made up to the present time under the decree of January 6, 1915, are confirmed. Private property, the acquisition of which is necessary for the said purposes, shall be considered as taken for public utility.

To the Nation belongs direct authority over all minerals or substances which in veins, layers, masses, or beds constitute deposits whose nature is different from the components of the land, such as minerals from which metals and metalloids used for industrial purposes are extracted; beds of precious stones, rock salt and salt mines formed directly by marine waters, products derived from the decomposition of rocks, when their exploitation requires underground work; phosphates which may be used for

fertilizers; solid mineral fuels; petroleum and all hydrocarbons—solid, liquid, or gaseous.

In the Nation is likewise vested the ownership of the waters of territorial seas to the extent and in the terms fixed by International Law; the waters of the lagoons and marshes along the coast; those of inland lakes of natural formation which are directly connected with continually flowing waters; those of principal rivers or tributaries from the points at which there is a permanent current of water in their beds to their mouths, whether they flow to the sea or cross two or more States; those of intermittent streams which traverse two or more States in their main body; the waters of rivers, streams, or torrents, when they bound the national territory or that of the States; waters extracted from mines; and the beds and banks of the lakes and streams hereinbefore mentioned, to the extent fixed by law. Any other stream of water not comprised within the foregoing enumeration shall be considered as an integral part of the private property through which it flows; but the use of the waters when they pass from one landed property to another shall be considered of public utility and shall be subject to the provisions prescribed by the States.

In the cases to which the two foregoing paragraphs refer, the ownership of the Nation is inalienable, and may not be lost by prescription; concessions shall be granted by the Federal Government to private parties or civil or commercial corporations organised under the laws of Mexico, only on condition that the said resources be regularly developed, and on the further condition that the legal provisions be observed. Legal capacity to acquire ownership of lands and waters of the Nation shall be governed by the following provisions:—

I.—Only Mexicans by birth or naturalisation and Mexican companies have the right to acquire authority over lands, waters, and their appurtenances, or to obtain concessions to develop mines, waters or mineral fuels in the Republic of Mexico. The Nation may grant the same right to foreigners, provided they agree before the Department of Foreign Affairs to be considered Mexicans in respect to such property, and accordingly not to invoke the protection of their Governments in respect to the same, under penalty, in case of breach, of forfeiture to the Nation of property so acquired. Within a zone of 100 kilometres from the frontiers, and of 50 kilometres from the sea coast, no foreigner shall under any conditions acquire direct authority over lands and waters.

II.—The religious institutions known as churches, irrespective of creed, shall in no case have legal capacity to acquire, hold, or administer real property or loans made on such real property; all such real property or loans as may be at present held by the

said religious institutions, either on their own behalf or through third parties, shall vest in the Nation, and any one may give information as to property so held. Presumptive proof shall be sufficient to declare the information well-founded. Places of public worship are the property of the Nation, as represented by the Federal Government, which shall determine which of them may continue to be devoted to this purpose. Episcopal residences, rectories, seminaries, asylums or collegiate establishments of religious institutions, convents or any other buildings built or designed for the administration, propaganda, or teaching of the tenets of any religious creed shall forthwith vest, as of full right, directly in the Nation, to be used exclusively for the public services of the Federation or of the States, within their respective jurisdictions. All places of public worship which shall later be erected shall be the property of the Nation.

III.—Public and private charitable institutions for the assistance of the necessitous, for scientific research, or for the diffusion of knowledge, mutual aid societies or organisations formed for any other lawful purpose shall in no case acquire more landed property than is indispensable for their object, and is directly or indirectly destined for that purpose, but they may acquire, hold, or administer loans made on real property unless the mortgage terms exceed ten years. In no case shall institutions of this character be under the patronage, direction, administration, charge, or supervision of religious corporations or institutions, nor of ministers of any religious creed or of their dependants even though either the former or the latter shall not be in the exercise of their office.

IV.—Commercial stock companies shall not acquire, hold, or administer rural properties. Companies of this nature which may be organised to develop any manufacturing, mining, petroleum or other industry, excepting only agricultural industries, may acquire, hold, or administer lands only in an area absolutely necessary for their establishments or adequate to serve the purposes indicated, which the Executive of the Union or of the respective State in each case shall determine.

V.—Banks duly organised under the laws governing credit institutions may hold capital invested in rural or urban property in accordance with the provisions of the said laws, but they may not own nor administer more real property than that absolutely necessary for their direct purposes.

VI.—Properties held in common by co-owners, hamlets, towns, congregations, tribes, and other settlements which, as a matter of fact or law, conserve their communal character, shall have legal capacity to enjoy in common the waters, woods, and

lands belonging to them, or which may have been or shall be restored to them according to the law of January 6, 1915. The law shall determine only the method of carrying out the allocation of the lands.

VII.—Excepting the corporations to which Clauses III., IV., V. and VI. hereof refer, no other civil corporation may hold or administer on its own behalf real estate or capital invested therein, with the single exception of buildings designed directly and immediately for the purposes of the Institution. The States, the Federal District, and The Territories, as well as the municipalities throughout the Republic, shall enjoy full legal capacity to acquire and hold all real estate necessary for public services.

The Federal and State laws shall determine within their respective jurisdictions those cases in which the occupation of private property shall be considered of public utility; and in accordance with the said laws the administrative authorities shall make the proper declarations. The amount fixed as compensation for the expropriated property shall be based on the sum at which the said property shall be valued for fiscal purposes in the land tax registry or revenue offices, whether this value be that manifested by the owner or merely impliedly accepted by reason of the payment of his taxes on such a basis, to which there shall be added ten per cent. The increased value which the property in question may have acquired through improvements made subsequent to the date of the fixing of the fiscal value shall be the only matter subject to expert opinion and to judicial determination. The same procedure shall be observed in respect to objects whose value is not recorded in the revenue offices.

All proceedings, findings, decisions and all operations of demarcation, concession, composition, judgment, compromise, alienation, or auction which may have deprived co-owners, hamlets, settlements, congregations, tribes, and other settlement organisations still existing since the law of June 25, 1856, of the whole or a part of their lands, woods and waters, are declared null and void; all findings, resolutions, and operations which may subsequently take place and produce the same effects shall likewise be null and void. Consequently, all lands, forests, and waters of which the above-mentioned settlements may have been deprived shall be restored to them according to the decree of January 6, 1915, which shall remain in force as a constitutional law. In any case in which the adjudication upon lands applied for by any of the communities mentioned does not, under the provisions of the said decree, result in restitution, they shall receive such lands by way of grant and in no case shall they fail to receive such lands as are essential to them. Only such lands, title to which may have been acquired in the divisions made by virtue of the said law of

June 25, 1856, or such as may be held in undisputed ownership for more than ten years are excepted from the provision of nullity, provided their area does not exceed fifty hectares:* Any excess over this area shall be returned to the commune, and the owner shall be indemnified. All laws of restitution enacted by virtue of this provision shall be immediately carried into effect by the administrative authorities. Only members of the commune shall have the right to the lands destined to be divided, and the rights to these lands shall be inalienable so long as they remain undivided; the same provision shall govern the right of ownership after the division has been made.

The exercise of the functions belonging to the Nation by virtue of this article shall follow judicial process; but as a part of this process and by order of the proper tribunals, which order shall be issued within the maximum period of one month, the administrative authorities shall proceed without delay to the occupation, administration, auction, or sale of the lands and waters in question, together with all their appurtenances, and in no case may the acts of the said authorities be revoked until an execution order has been issued.

During the next constitutional term, the Congress and the State Legislatures shall enact laws within their respective jurisdictions for the purpose of carrying out the division of large landed estates, subject to the following basic principles:—

(*a*) In each State and Territory there shall be fixed the maximum area of land which any one individual or legally organised corporation may own.

(*b*) The excess over the area thus fixed shall be subdivided by the owner within the period set by the laws of the respective locality; and these subdivisions shall be offered for sale on such conditions as the respective governments shall approve, in accordance with the said laws.

(*c*) If the owner shall refuse to make the subdivision, this shall be carried out by the local government, by means of expropriation proceedings.

(*d*) The value of the subdivisions shall be paid in annual amounts sufficient to redeem the principal and interest within a period of not less than twenty years, during which the person acquiring them may not alienate them. The rate of interest shall not exceed five per cent. per annum.

(*e*) The owner shall be bound to accept bonds of a special issue to guarantee the payment of the property

*About 125 acres.

expropriated. With this end in view, the Congress shall issue a law authorising the States to issue bonds to meet their land debt.

(*f*) The local laws shall regulate the family patrimony and determine what property shall constitute the same on the basis of its inalienability; it shall not be subject to attachment nor to any charge whatever.

All contracts and concessions made by former governments from and after the year 1876 which shall have resulted in the monopoly of lands, waters, and natural resources of the Nation by a single individual or corporation, are declared subject to revision, and the Executive is authorised to declare those null and void which seriously prejudice the public interest.

Article 28.—There shall be no monopolies of any kind whatsoever in the United States of Mexico; nor exemption from taxation; nor any prohibition even under cover of protection to industry, excepting only those relating to the coinage of money, to the postal, telegraphic, and radio-telegraphic services, to the issuing of notes by a single banking institution to be controlled by the Federal Government, and to the privileges which for a limited period the law may concede to authors and artists for the reproduction of their work, and, lastly, to those granted inventors for the exclusive use of their inventions or improvements.

The law will accordingly severely punish, and the authorities diligently prosecute, any accumulating or cornering by one or more persons of necessaries for the purpose of bringing about a rise in prices; any act or measure which shall stifle or endeavour to stifle free competition in any production, industry, trade, or public service; any agreement or combination of any kind entered into by producers, manufacturers, merchants, common carriers, or any other public service, to stifle competition, and to compel the consumer to pay exorbitant prices; and, in general, whatever constitutes an unfair and exclusive advantage in favour of one or more specified persons to the detriment of the public in general or of any special class of society.

Associations of labour organised to protect their own interests shall not be deemed a monopoly.

Nor shall co-operative associations or unions of producers be deemed monopolies when, in defence of their own interests or of the general public, they sell directly in foreign markets national or industrial products which are the principal source of wealth of the region in which they are produced, provided they be not necessaries, and provided further that such associations be under the supervision or protection of the Federal Government or of that of the States, and provided further that authorisation be in

each case obtained from the respective legislative bodies. These legislative bodies may, either on their own initiative or on the recommendation of the Executive, revoke, whenever the public interest shall so demand, the authorisation granted for the establishment of the associations in question.

Article 29.—In cases of invasion, grave disturbance of the public peace, or any other emergency which may place society in grave danger or conflict, the President of the Republic of Mexico, and no one else, with the concurrence of the Council of Ministers, and with the approval of the Congress, or if the latter shall be in recess, of the Permanent Committee, shall have power to suspend throughout the whole Republic or in any portion thereof, such guarantees as shall be a hindrance in meeting the situation promptly and readily; but such suspension shall in no case be confined to a particular individual, but shall be made by means of a general decree, and only for a limited period. If the suspension occur while the Congress is in session, this body shall grant such powers as in its judgment the executive may need to meet the situation; if the suspension occur while the Congress is in recess, the Congress shall be convoked forthwith for the granting of such powers.

CHAPTER II.

OF MEXICANS.

Article 30.—A Mexican shall be such either by birth or by naturalisation.

I.—Mexicans by birth are those born of Mexican parents, within or without the Republic, provided in the latter case the parents be also Mexicans by birth. Persons born within the Republic of foreign parentage shall likewise be considered Mexicans by birth, if within one year after they come of age they shall declare to the Department of Foreign Affairs that they elect Mexican citizenship, and shall furthermore prove to the said Department that they have resided within the country during the six years immediately prior to the said declaration.

II.—Mexicans by naturalisation are:—

(*a*) The children of foreign parentage born in the country, who shall elect Mexican citizenship in the manner prescribed in the foregoing clause, but who have not the residence qualification required in the said section.

(*b*) Those persons who shall have resided in the country for five consecutive years, have an honest means of livelihood, and shall have obtained naturalisation from the said Department of Foreign Affairs.

(c) Those of mixed Indian and Latin descent who may have established residence in the Republic, and shall have manifested their intention to acquire Mexican citizenship.

In the cases stipulated in these sections, the law shall determine the manner of proving compliance with the requirements therein demanded.

Article 31.—It shall be the duty of every Mexican:—

I.—To compel the attendance at either private or public schools of their children or wards, when under fifteen years of age, in order that they may receive primary instruction and military training for such periods as the law of public instruction in each State shall determine.

II.—To attend on such days and at such hours as the town council shall in each case prescribe, to receive such civic instruction and military training as shall fit them to exercise their civic rights, shall make them skilful in the handling of arms and familiar with military discipline.

III.—To enlist and serve in the national guard, pursuant to the organic law relating thereto, for the purpose of preserving and defending the independence, territory, honour, rights, and interests of the country, as well as domestic peace and order.

IV.—To contribute in the proportionate and equitable manner prescribed by law towards the public expenses of the Federation, the State and the municipality in which he resides.

Article 32.—Mexicans shall be preferred under equal circumstances to foreigners for all kinds of concessions and for all public employments, offices or commissions, when citizenship is not indispensable. No foreigner shall serve in the army nor in the police corps nor in any other department of public safety during times of peace.

Only Mexicans by birth may belong to the national navy, or fill any office or commission therein. The same qualification shall be required for captains, pilots, masters, and chief engineers of Mexican merchant ships, as well as for two-thirds of the members of the crew.

CHAPTER III.

OF ALIENS.

Article 33.—Aliens are those who do not possess the qualifications prescribed by Article 30. They shall be entitled to the guarantees 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.

CHAPTER IV.

OF MEXICAN CITIZENS.

Article 34.—Mexican citizenship shall be enjoyed only by those Mexicans who have the following qualifications:—

I.—Are over 21 years of age, if unmarried, and over 18 if married.

II.—Have an honest means of livelihood.

Article 35.—The prerogatives of citizens are:—

I.—To vote at popular elections.

II.—To be eligible for any elective office and be qualified for any other office or commission, provided they have the other qualifications required by law.

III.—To assemble for the purpose of discussing the political affairs of the country.

IV.—To serve in the army or national guard for the defence of the Republic and its institutions, as by law determined.

V.—To exercise the right of petition in any matter whatever.

Article 36.—It shall be the duty of every Mexican citizen:—

I.—To register in the land tax register of the municipality, setting forth any property he may own, and his professional or industrial pursuit, or occupation; and also to register in the electoral registration lists, as by law determined.

II.—To enlist in the national guard.

III.—To vote at popular elections in the electoral district to which he belongs.

IV.—To discharge the duties of the Federal or State offices to which he may be elected, which service shall in no case be gratuitous.

V.—To serve on the Town Council of the municipality wherein he resides, and to perform all electoral and jury service.

Article 37.—Citizenship shall be lost:—

I.—By naturalisation in a foreign country.

II.—By officially serving the Government of another country, or accepting its decorations, titles, or employment without

previous permission of the Federal Congress, excepting literary, scientific and humanitarian titles, which may be accepted freely.

III.—By compromising themselves in any way before ministers of any religious creed or before any other person not to observe the present Constitution, or the laws arising thereunder.

Article 38.—The rights or prerogatives of citizenship shall be suspended for the following reasons:—

I.—Through failure to comply, without sufficient cause, with any of the obligations imposed by Article 36. This suspension shall last for one year, and shall be in addition to any other penalties prescribed by law for the same offence.

II.—Through being subjected to criminal prosecution for an offence punishable with imprisonment, such suspension to be reckoned from the date of the formal order of commitment.

III.—Throughout the term of imprisonment.

IV.—Through vagrancy or habitual drunkenness, declared in the manner provided by law.

V.—Through being a fugitive from justice, the suspension to be reckoned from the date of the order of arrest until the prescription of the criminal action.

VI.—Through any final sentence which shall decree as a penalty such suspension.

The law shall determine the cases in which they may be regained.

TITLE II.

CHAPTER I.

OF THE NATIONAL SOVEREIGNTY AND FORM OF GOVERNMENT.

Article 39.—The national sovereignty is vested essentially and originally in the people. All public power emanates from the people, and is instituted for their benefit. The people have at all times the inalienable right to alter or modify the form of their government.

Article 40.—It is the will of the Mexican people to constitute themselves into a democratic, federal, representative Republic, consisting of States, free and sovereign in all that concerns their internal affairs, but united in a federation according to the principles of this fundamental law.

Article 41.—The people exercise their sovereignty through the Federal powers in the matters belonging to the Union, and through those of the States in the matters relating to the internal administration of the latter. This power shall be exercised in the manner respectively established by the Constitution, both Federal

and State. The Constitutions of the States shall in no case co travene the stipulations of the Federal Constitution.

CHAPTER II.

OF THE INTEGRAL PARTS OF THE FEDERATION AND THE NATIONAL TERRITORY.

Article 42.—The national territory comprises the integ parts of the Federation and the adjacent islands in both ocea It likewise comprises the Island of Guadalupe, those of Revil gigedo, and that of La Pasion, situated in the Pacific Ocean.

Article 43.—The integral parts of the Federation are:—T States of Aguascalientes, Campeche, Coahuila, Colima, Chiap Chihuahua, Durango, Guanajuato, Guerrero, Hidalgo, Jalis Mexico, Michoacan, Morelos, Nayarit, Nuevo Leon, Oaxa Puebla, Queretaro, San-Luis-Potosi, Sinaloa, Sonora, Tabas Tamaulipas, Tlaxcala, Vera Cruz, Yucatan, Zacatecas, the Fede District, the Territory of Lower California, and the Territory Quintana Roo.

Article 44.—The Federal District shall embrace its pres territory; in the event of the removal of the Federal Powers some other place it shall be created into the State of the Val of Mexico with such boundaries and area as the Federal Congr shall assign to it.

Article 45.—The States and Territories of the Federat shall keep their present boundaries and areas, provided that boundary question shall exist between them.

Article 46.—The States having pending boundary questi shall arrange or settle them as provided by this Constitution.

Article 47.—The State of Nayarit shall have the territo area and boundaries at present comprising the territory of Te

Article 48.—The Islands in both Oceans embraced within national territory shall depend directly on the Federal Gove ment, excepting those over which the States have up to the pres time exercised jurisdiction.

TITLE III.

CHAPTER I.

OF THE DIVISION OF POWERS.

Article 49.—The Supreme Power of the Federation is divi for its exercise into legislative, executive, and judicial.

Two or more of these powers shall never be united in person or corporation, nor shall the legislative power be vested one individual, except in the case of extraordinary powers gran to the Executive, in accordance with the provisions of Article

CHAPTER II.

OF THE LEGISLATIVE POWER.

Article 50.—The Legislative power of the United States of Mexico is vested in a general Congress, which shall consist of a House of Representatives and a Senate.

SECTION I.

OF THE ELECTION AND INSTALLATION OF THE CONGRESS.

Article 51.—The House of Representatives shall consist of representatives of the Nation, all of whom shall be elected every two years by the citizens of Mexico.

Article 52.—One Representative shall be chosen for each 60,000 inhabitants or for any fraction thereof exceeding 20,000, on the basis of the general Census of the Federal District and of each State and Territory. Any State or Territory in which the population shall be less than that fixed by this Article shall, nevertheless, elect one representative.

Article 53.—There shall be elected a substitute for each Representative.

Article 54.—The election of Representatives shall be direct, in accordance with the provisions of the electoral law.

Article 55.—Representatives shall have the following qualifications:—

I.—They shall be Mexican citizens by birth and in the enjoyment of their rights.

II.—They shall be over 25 years of age on the day of election.

III.—They shall be natives of the States or Territories respectively electing them, or domiciled and actually resident therein for six months immediately prior to the election. The domicile shall not be lost through absence in the discharge of any elective office.

IV.—They shall not be on active service in the Federal Army, nor have any command in the police corps or rural constabulary in the district in which the election takes place, for at least ninety days prior to the election.

V.—They shall not hold the office of Secretary nor Assistant Secretary of any Executive Department, nor of Justice of the Supreme Court, unless they shall have resigned therefrom ninety days immediately prior to the election.

No State Governor, Secretary of State of the several States, nor State Judge shall be eligible in the Districts within their several

jurisdictions, unless they shall have resigned from their office ninety days immediately prior to the day of election.

VI.—They shall not be ministers of any religious creed.

Article 56.—The Senate shall consist of two Senators from each State, and two from the Federal District, chosen in direct election.

Each State Legislature shall certify to the election of the candidate who shall have obtained a majority of the total number of votes cast.

Article 57.—There shall be elected a substitute for each Senator.

Article 58.—Each Senator shall serve four years. The Senate shall be renewed by half every two years.

Article 59.—The qualifications necessary to be a Senator shall be the same as those necessary to be a Representative, excepting that of age, which shall be at least thirty-five years, on the day of election.

Article 60.—Each House shall be the judge of the election of its members, and shall decide all questions arising therefrom. Its decisions shall be final.

Article 61.—Representatives and Senators are inviolable in respect of opinions expressed by them in the discharge of their duties, and shall never be called to account for them.

Article 62.—Representatives and Senators shall be disqualified, during the terms for which they have been elected, from holding any Federal or State commission or office for which any emolument is received without previous permission of the respective House; in the event of their accepting such commission or office, they shall forthwith lose their representative character for such time as they shall hold such appointive office. The same provision shall apply to substitute Representatives and Senators, when on active service. The violation of this provision shall be punished by forfeiture of the office of Representative or Senator.

Article 63.—The Houses shall not open their sessions nor exercise their functions without a quorum, in the Senate of two-thirds, and in the House of Representatives of a majority of the total membership; but the members present of either House shall meet on the day appointed by law, and compel the attendance of the absentees within the next thirty days, and they shall warn them that failure to comply with this provision shall be taken to be a refusal of office, and the corresponding substitutes shall be summoned forthwith; the latter shall have a similar period within which to present themselves, and on their failure to do so the seats shall be declared vacant and new elections called.

Representatives or Senators who shall be absent during ten consecutive days without proper cause or without leave of the President of the respective House, notice of which shall be duly communicated to the House, shall be understood as waiving their right to attend until the next session, and their substitutes shall be summoned without delay.

If there shall be no quorum to constitute either of the Houses, or to continue their labours, once constituted, the substitutes shall be ordered to present themselves as soon as possible for the purpose of taking office until the expiration of the thirty days hereinbefore mentioned.

Article 64.—No Representative or Senator, who shall fail to attend any daily session without proper cause or without previous permission of the respective House, shall be entitled to the daily salary corresponding to the day on which he shall have been absent.

Article 65.—The Congress shall meet on the first day of September of each year in regular session for the consideration of the following matters:—

I.—To audit the accounts of the previous year, which shall be submitted to the House of Representatives not later than ten days after the opening of the session. The audit shall not be confined to determining whether the expenditures do or do not conform with the respective items in the Budget, but shall comprise an examination of the exactness of, and authorisation for, payments made thereunder, and of any liability arising from such payments.

No other secret items shall be permitted than those which the Budget for that year may consider necessary as such; these amounts shall be paid out by the Secretary of Executive Departments under written orders of the President.

II.—To examine, discuss and approve the Budget for the next fiscal year, and to levy such taxes as may be needed to meet the expenditures.

II.—To study, discuss, and vote on all Bills presented and to discuss all other matters incumbent upon the Congress by virtue of this Constitution.

Article 66.—The regular session of the Congress shall last the period necessary to deal with all of the matters mentioned in the foregoing article, but it may not be extended beyond the thirty-first day of December of the same year. Should both Houses fail to agree as to adjournment prior to the above date, the matter shall be decided by the Executive.

Article 67.—The Congress shall meet in extraordinary session whenever so summoned by the President, but in such event it shall consider only the matter or matters submitted to it by the President, who shall specify such matter or matters in the notice convening the meeting. The President shall have power to convene in extraordinary session only one of the Houses when the matter to be referred to it pertains to its exclusive jurisdiction.

Article 68.—Both Houses shall hold their meetings in the same place, and shall not move to another without having first agreed upon the moving and the time and manner of accomplishing it, as well as upon the place of meeting, which shall be the same for both Houses. If both Houses agree to change their meeting place, but disagree as to the time, manner and place, the President shall settle the question by choosing one of the two proposals. Neither House may suspend its sessions for more than three days without the consent of the other.

Article 69.—The President of the Republic shall attend at the opening of the sessions of the Congress, whether regular or extraordinary, and shall submit a report in writing; this report shall, in the former case, relate to the general state of the Union; and in the latter, it shall explain to the Congress or to the House addressed the reasons or causes which rendered the summons necessary, and the matters requiring immediate attention.

Article 70.—Every measure of the Congress shall be in the form of a law or decree. The laws or decrees shall be communicated to the Executive after having been signed by the Presidents of both Houses, and by one of the Secretaries of each. When promulgated, the enacting clause shall read as follows:—

"The Congress of the United States of Mexico decrees (text of the law or decree)."

Section II.

OF THE INITIATION AND PASSAGE OF THE LAWS.

Article 71.—The right to originate legislation pertains:—

I.—To the President of the Republic;

II.—To the Representatives and Senators of the Congress;

III.—To the State Legislatures.

Bills submitted by the President of the Republic, by State Legislatures, or by delegations of the States shall be at once referred to committee. Those introduced by Representatives or Senators shall be subject to the rules of procedure.

Article 72.—Bills, action on which shall not pertain exclusively to one of the Houses, shall be discussed first by one and then

by the other, according to the rules as to the form, intervals, and the mode of procedure as to discussions and votes.

(*a*) After a Bill has been approved in the House where it originated it shall be sent to the other House for consideration. If passed by the latter it shall be transmitted to the President, who, if he has no observations to make thereon, shall immediately promulgate it.

(*b*) Bills not returned within ten working days by the President with his observations to the House in which they originated, shall be considered approved, unless during the said ten days the Congress shall have adjourned or suspended its sessions, in which event they shall be returned on the first working day after the Congress shall have reassembled.

(*c*) Bills rejected in whole or in part by the President shall be returned with his observations to the House where they originated. They shall be discussed anew by this House, and, if confirmed by a two-thirds majority of the total votes, shall be sent to the other House for reconsideration. If approved by it, also by the same majority vote, the Bill shall become law and shall be returned to the President for promulgation.

The voting on a law or decree shall be by name.

(*d*) A Bill totally rejected by the revising chamber shall be returned with the proper observations to the House of origin. If examined anew and approved by an absolute majority of the members present, it shall be returned to the House rejecting it, which shall once again take it under consideration, and if approved by it, likewise by the same majority vote, it shall be sent to the President for the purposes of Clause (*a*), but if the said House fail to approve it, it shall not be reintroduced in the same session.

(*e*) If a Bill is rejected in part or modified or amended by the House of revision, the new discussion in the House of origin shall be confined to the portion rejected, or to the amendments or additions, without the approved articles being altered in any respect. If the additions or amendments made by the House of revision be approved by an absolute majority of the members present in the House of origin, the Bill shall be transmitted to the President for the purposes of Clause (*a*); but if the amendments or additions by the House of revision be rejected by a majority vote of the House of origin, they shall be returned to the former House in order that the reasons set forth by the latter may be taken into consideration. If, in this second revision, the said additions or amendments be rejected by an absolute majority of the members present, the portions of the Bill which have been approved by both Houses shall be sent to the President for the purposes of Clause (*a*). If the House of revision insist by a

majority vote of the members present upon the additions or amendments, no action shall be taken on the whole Bill until the next session, unless both Houses agree, by a majority vote of the members present, to the promulgation of the law without the articles objected to, which shall be left till the next session, when they shall be then discussed and voted upon.

(*f*) The same formalities as are required for the enactment of laws shall be observed for their interpretation, amendment, or repeal.

(*g*) No Bill rejected in the House of origin before passing to the other House shall be reintroduced during the session of that year.

(*h*) Legislative measures may be originated in either House, excepting Bills dealing with loans, taxes, or imposts, or with the raising of troops, which must have their origin in the House of Representatives.

(*i*) The opening stages of a Bill shall be discussed preferably in the House where it was introduced, unless one month shall have elapsed since it was referred to committee, and not reported on, in which event an identical Bill may be presented and discussed in the other House.

(*j*) The President of the Union shall not make any observations touching the resolutions of the Congress, or of either House, when acting as an electoral body or as a grand jury, nor when the House of Representatives shall declare that there are grounds to impeach any high federal authority for official offences.

Nor shall he make any observations touching the convocation decree issued by the Permanent Committee as provided in Article 84.

SECTION III.

OF THE POWERS OF THE CONGRESS.

Article 73.—The Congress shall have power:

I.—To admit new States or Territories into the Federal Union.

II.—To establish Territories as States which have a population of eighty thousand inhabitants, and the necessary means to provide for their political existence.

III.—To form new States within the boundaries of existing ones, provided the following conditions are complied with:—

(1) That the section or sections wishing to be established as States have a population of one hundred and twenty thousand inhabitants at least;

(2) That proof be given to the Congress that it has sufficient means to provide for its political existence;

(3) That the Legislatures of the States affected be heard as to the advisability or inadvisability of granting such Statehood, which opinion shall be given within six months reckoned from the day on which the particular application is forwarded;

(4) That the opinion of the President of the Federal Government be also heard on the subject; this opinion shall be given within seven days after the date on which it is requested;

(5) That the creation of the new State be voted upon favourably by two-thirds of the Representatives and Senators present in their respective Houses;

(6) That the resolution of the Congress be ratified by a majority of the State Legislatures, upon examination of a copy of the record of the case, provided that the Legislatures of the States to which the section belongs shall have given their consent;

(7) That the ratification referred to in the foregoing clause be given by two-thirds of the Legislatures of the other States, if the Legislatures of the States to which the section belongs have not given their consent.

IV.—To settle finally the limits of the States, terminating the differences which may arise between them relative to the demarcation of their respective territories, at least when the differences are of a contentious nature.

V.—To change the seat of the Supreme Powers of the Federation.

VI.—To legislate in all matters relating to the Federal District and the Territories, as hereinafter provided:—

(1) The Federal District and the Territories shall be divided into municipalities, each of which shall have the area and population sufficient for its own support and for its contribution towards the common expenses.

(2) Each municipality shall be governed by a town council elected by the direct vote of the people.

(3) The Federal District and each of the Territories shall be administered by Governors under the direct orders of the President of the Republic. The Governor of the Federal District shall report to the President, and the Governor of each Territory shall report to the President through the channels prescribed by law. The Governor of the Federal District and the Governor of each Territory shall be appointed by the President, and may be removed by him at will.

(4) The Superior Judges and the Judges of First Instance of the Federal District as well as of the Territories shall be named by the Congress, acting in each case as an electoral college.

In the temporary or permanent absences of the said Superior Judges these shall be replaced by appointment of the Congress, and in recess by temporary appointments of the Permanent Committee. The organic law shall determine the manner of filling temporary vacancies in the case of Judges, and shall designate the authority before whom they shall be called to account for any dereliction, without prejudice to the provisions of this Constitution with regard to the responsibility of officials. From and after the year 1923 the Superior Judges and those of First Instance to which this clause refers may only be removed from office for misconduct and after judicial enquiry, unless removed for promotion to the next higher grade. From and after the said date the salary enjoyed by the said officials shall not be diminished during their term of office.

(5) The office of the Public Attorney (Ministerio Publico) of the Federal District and of the Territories shall be in charge of an Attorney-General, who shall reside in the City of Mexico, and of such Public Attorney or Attorneys as the law may determine; the said Attorney-General shall be under the direct orders of the President of the Republic, who shall appoint and remove him at will.

VII.—To levy the taxes necessary to meet the expenditures of the Budget.

VIII.—To establish the bases upon which the Executive may make loans on the credit of the nation; to approve the said loans and to acknowledge and order the payment of the national debt.

IX.—To enact tariff laws on foreign commerce and to prevent restrictions from being imposed on inter-State commerce.

X.—To legislate for the entire Republic in all matters relating to mining, commerce, and credit institutions, and to establish the sole bank of issue, as provided in Article 28 of this Constitution.

XI.—To create or abolish Federal offices, and to fix, increase, or decrease the salaries assigned thereto.

XII.—To declare war, upon examination of the facts submitted by the Executive.

XIII.—To regulate the manner in which letters of marque may be issued; to enact laws according to which prizes on sea and land shall be adjudged valid or invalid; and to frame the admiralty law for times of peace and war.

XIV.—To raise and maintain the army and navy of the Union, and to regulate their organisation and service.

XV.—To make rules for the organisation and discipline of the National Guard, reserving for the cities from which it is

formed the right of appointing their respective commanders and officers, and to the States the power of instructing it in conformity with the discipline prescribed by the said regulations.

XVI.—To enact laws on citizenship, naturalisation, colonisation, emigration, immigration, and public health of the Republic.

(1) The Public Health Council shall depend directly upon the President of the Republic, without the intervention of any Secretary of State, and its general provisions shall be binding throughout the Republic.

(2) In the event of serious epidemics or of the risk of introduction of diseases from abroad, the Public Health Department shall put into force without delay the necessary preventive measures, subject to their subsequent sanction by the President of the Republic.

(3) The sanitary authorities shall have executive powers, and their decisions shall be obeyed by the administrative authorities of the country.

(4) All measures which the Council shall have put into effect in its campaign against alcoholism and the sale of substances injurious to man and tending to degenerate the race shall be subsequently revised by the Congress in such cases as fall within its powers.

XVII.—To enact laws on general means of communication, post roads and post offices, and to enact laws as to the use and development of the waters subject to the Federal jurisdiction.

XVIII.—To establish mints, regulate the monetary system, fix the value of foreign moneys, and adopt a general system of weights and measures.

XIX.—To make rules for the occupation and alienation of uncultivated lands and the prices thereof.

XX.—To enact laws as to the organisation of the diplomatic and consular services.

XXI.—To define the crimes and offences against the Federation, and to fix the penalties therefor.

XXII.—To grant pardons for offences subject to federal jurisdiction.

XXIII.—To make rules for its internal government, and to enact the necessary provisions to compel the attendance of absent Representatives and Senators, and to punish the acts of commission or omission of those present.

XXIV.—To issue the organic law of the office of the Controller of the Treasury.

XXV.—To sit as an electoral college, and to name the Justices of the Supreme Court, and the Superior and Inferior Judges of the Federal District and Territories.

XXVI.—To accept the resignation of the Justices of the Supreme Court, Justices of the Nation, and of the Superior and Inferior Judges of the Federal District and Territories, and to name substitutes in their absence, and to appoint their successors.

XXVII.—To establish professional schools of scientific research and fine arts, vocational, agricultural, and trade schools, museums, libraries, observatories and other institutes of higher learning, until such time as these establishments can be supported by private funds. These powers shall not pertain exclusively to the Federal Government.

All degrees conferred by any of the above institutions shall be valid throughout the Republic.

XXVIII.—To sit as an electoral college and to choose the person to assume the office of President of the Republic, either as a substitute President or as a President *ad interim* in the terms established by Articles 84 and 85 of this Constitution.

XXIX.—To accept the resignation of the President of the Republic.

XXX.—To audit the accounts which shall be submitted annually by the Executive; this audit shall comprise not only the checking of the items disbursed under the Budget, but the exactness of and authorisation for the expenditure in each case.

XXXI.—To make all laws necessary for carrying into execution the foregoing powers and all other powers vested by this Constitution in the several branches of the Government.

Article 74.—The House of Representatives shall have the following exclusive powers:—

I.—To sit as an electoral college to exercise the powers conferred by law as to the election of the President.

II.—To watch by means of committee appointed from among its own members the faithful performance of the duties of the Comptroller of the Treasury.

III.—To appoint all the higher officials and other employees of the office of the Comptroller of the Treasury.

IV.—To approve the annual Budget, after a discussion as to what taxes must in its judgment be levied to meet the necessary expenditures.

V.—To take cognisance of all charges brought against public officials, as herein provided, for official offences, and should

the circumstances so warrant, to impeach them before the Senate; and further to act as a grand jury to decide whether there is or is not good ground for proceeding against any official enjoying constitutional privileges, whenever accused of offences of the common order.

VI.—To exercise such other powers as may be expressly vested in it by this Constitution.

Article 75.—The House of Representatives, in passing the Budget, shall not fail to assign a definite salary to every office created by law, and if for any reason such salary shall not be assigned, the amount fixed in the preceding Budget or in the law creating the office shall be presumed to be assigned.

Article 76.—The Senate shall have the following exclusive powers:—

I.—To approve the Treaties and diplomatic conventions concluded by the President with foreign powers.

II.—To confirm the nominations made by the President of diplomatic ministers or agents, consuls-general, higher officials of the Treasury, colonels and other superior officers of the army and navy, in the manner and form provided by law.

III.—To authorise the giving of permission for national troops to go beyond the limits of the Republic, or to permit foreign troops to pass through the national territory, and to consent to the presence of fleets of another nation for more than one month in Mexican waters.

IV.—To consent to the President of the Republic disposing of the National Guard outside the limits of its respective States or Territories, and to fix the amount of the force to be used.

V.—To declare, when all the constitutional powers of any State have disappeared, that the occasion has arisen to give to the said State a provisional Governor, who shall arrange for elections to be held according to the Constitution and laws of the said State. The appointment of such a Governor shall be made by the Senate with the approval of two-thirds of its members present or during recess by the Permanent Committee by the same two-thirds majority, from among three names submitted by the President. The official thus selected shall not be chosen constitutional Governor in the elections to be held under the summons which he shall issue. This provision shall govern whenever the State Constitutions do not provide for the contingencies.

VI.—To sit as a grand jury to take cognisance of such official offences of functionaries as are expressly prescribed by this Constitution.

VII.—To exercise such other powers as may be expressly vested in it by this Constitution.

VIII.—To adjust all political questions arising between the powers of the State whenever one of them shall appeal to the Senate, or whenever by virtue of such differences a clash of arms has arisen to interrupt the constitutional order. In this event the Senate shall decide in accordance with the Federal Constitution and the Constitution of the State involved.

The exercise of this power and of the foregoing shall be regulated by law.

Article 77.—Each House may, without the intervention of the other:—

I.—Pass resolutions upon matters exclusively relating to its own interior government.

II.—Communicate with the other House and with the Executive, through committees appointed from among its members.

III.—Appoint the employees in the office of its secretary and make all rules and regulations for the said office.

IV.—Issue writs for extraordinary elections to fill any vacancies which may occur in its membership.

SECTION IV.

OF THE PERMANENT COMMITTEE.

Article 78.—During the recess of the Congress there shall be a Permanent Committee consisting of twenty-nine members, fifteen of whom shall be Representatives and fourteen Senators, appointed by the respective Houses on the eve of the day of adjournment.

Article 79.—In addition to the powers expressly vested in it by this Constitution, the Permanent Committee shall have the following powers:—

I.—To give its consent to the use of the National Guard as provided in Article 76, Clause IV.

II.—To administer the oath of office, should the occasion arise, to the President, to the Justices of the Supreme Court, to the Superior Judges of the Federal Districts and Territories, on such occasions as the latter officials may meet in the city of Mexico.

III.—To report on all pending matters, so that they may be considered in the next session.

IV.—To call extraordinary sessions in the case of official or ordinary offences committed by Secretaries of State or Justices of the Supreme Court, and official offences committed by State governors, provided the case shall have been already instituted by the Committee of the Grand Jury, in which event no other business of the Congress shall be considered, nor shall the sessions be prolonged beyond the time necessary for a decision.

CHAPTER III.

OF THE EXECUTIVE POWER.

Article 80.—The exercise of the Supreme Executive power of the Union is vested in a single individual, who shall be called "President of the United States of Mexico."

Article 81.—The election of the President shall be direct, in accordance with the terms of the electoral law.

Article 82.—The President of the Republic shall have the following qualifications:—

I.—He shall be a Mexican citizen by birth, in the full enjoyment of his rights, and he must be the son of Mexican parents by birth.

II.—He shall be over thirty-five years of age at the time of election.

III.—He shall have resided in the country during the entire year prior to the election.

IV.—He shall not belong to the ecclesiastical state, nor be a minister of any religious creed.

V.—In the event of belonging to the army, he shall have retired from active service 90 days prior to the election.

VI.—He shall not be a Secretary or Assistant Secretary of any Executive Department, unless he shall have resigned from office 90 days prior to the election.

VII.—He shall not have taken part, directly or indirectly, in any uprising, riot, or military coup.

Article 83.—The President shall enter upon the duties of his office on the first day of December, shall serve four years, and shall never be re-elected.

The citizen who shall replace the constitutional President in the event of his permanent disability shall not be elected President for the ensuing term.

Nor shall the person designated as acting President during the temporary disabilities of the constitutional President be re-elected President for the ensuing term.

Article 84.—In the event of the permanent disability of the President of the Republic, if this shall occur within the first two years of his term of office, the Congress, if in session, shall forthwith act as an electoral college, and with the attendance of at least two-thirds of its total membership shall choose a President by secret ballot and by a majority vote; and the same Congress shall issue the summons for Presidential elections, and shall endeavour to have the date set for this event as far as possible coincident with the date of the next election of Representatives and Senators to Congress.

Should the disability of the President occur while Congress is in recess, the Permanent Committee shall forthwith designate a President *ad interim*, who shall call Congress together in extraordinary session, in order that it may in turn issue the summons for Presidential elections in the manner provided in the foregoing paragraph.

Should the disability of the President occur in the last two years of his term of office, the Congress, if in session, shall choose the substitute to conclude the period of the Presidential term; if Congress shall not be in session the Permanent Committee shall choose a President *ad interim*, and shall summon Congress in extraordinary session, in order that it may act as the electoral college and proceed to the election of the substitute President.

The President *ad interim* may be chosen by Congress as substitute President.

The citizen designated as President *ad interim* for the purpose of calling elections, in the event of the disability, of the President within the two first years of the respective term, shall not be chosen in the elections held to fill such vacancy and for which he was designated.

Article 85.—If the President-Elect shall fail to present himself at the beginning of any constitutional term, or if the election shall not have been held and the result made known by the 1st of December, the outgoing President shall nevertheless vacate office and the President *ad interim* chosen by the Congress, or in its recess by the Permanent Committee, shall forthwith assume the executive power. All action taken hereunder shall be governed by the provisions of the foregoing article.

In case of a temporary disability of the President, the Congress, or the Permanent Committee if the Congress shall not be in session, shall designate an acting President during such disability. If a temporary disability shall become permanent, the action prescribed in the preceding article shall be taken.

In the event of a leave of absence being granted to the President of the Republic, the person acting in his stead shall not be

disqualified from being elected in the ensuing period, provided he shall not have been in office during the holding of elections.

Article 86.—The President shall not resign office except for grave cause, which shall be authorised by Congress, to which body the resignation shall be tendered.

Article 87.—The President, before entering upon the discharge of the duties of his office, shall make the following affirmation before the Congress, or in its recess before the Permanent Committee:—

"I do solemnly affirm that I will defend and enforce the Constitution of the United States of Mexico and the laws enacted thereunder, and that I will faithfully and conscientiously perform the duties of President of the United States of Mexico, to which I have been chosen by the people, having ever in mind the welfare and prosperity of the Nation; if I shall fail to do so, may the Nation call me to account."

Article 88.—The President shall not absent himself from the national territory without the permission of the Congress.

Article 89.—The President shall have the following powers and duties:—

I.—To promulgate and execute the laws enacted by the Congress, providing within the executive sphere for their faithful observance.

II.—To appoint and remove at will the Secretaries of Executive Departments, the Attorney General of the Republic, the Governor of the Federal District, the Governors of Territories, the Attorney General of the Federal District and Territories; and to appoint and remove at will all other Federal employees whose appointment or removal is not otherwise provided for by law or in this Constitution.

III.—To appoint, with the approval of the Senate, all ministers, diplomatic agents and consuls general.

IV.—To appoint, with the approval of the Senate, the colonels and other superior officers of the army and navy and the superior officials of the treasury.

V.—To appoint all other officers of the national army and navy, as by law provided.

VI.—To dispose of the permanent land and sea forces for the domestic safety and external defence of the Union.

VII.—To dispose of the National Guard for the same purposes, as provided by Article 76, Clause IV.

VIII.—To declare war in the name of the United States of Mexico, after the passage of the corresponding resolution by the Congress of the Union.

IX.—To grant letters of marque, upon the terms and conditions fixed by the Congress.

X.—To conduct diplomatic negotiations and to make treaties.

XI.—To call Congress, or either of the Houses, in extraordinary session, whenever in his judgment it may be advisable.

XII.—To afford the judiciary the assistance necessary for the expeditious exercise of its functions.

XIII.—To open all kinds of posts, establish maritime and frontier custom houses and designate their location.

XIV.—To grant, according to law, pardons to criminals sentenced for offences within the jurisdiction of the Federal tribunals, and to all persons sentenced for offences of the common order in the Federal District and Territories.

XV.—To grant exclusive privileges for a limited time, according to the laws relating thereto, to persons making discoveries, inventions and improvements in any branch of industry.

XVI.—Whenever the Senate shall not be in session, the President may temporarily make the nominations enumerated in Clauses III and IV hereof, but these nominations shall be submitted to the Senate as soon as it re-convenes.

XVII.—To exercise such other rights and duties as are expressly conferred upon him by this Constitution.

Article 90.—For the transaction of administrative matters of the Federal Government there shall be the number of Secretaries of Executive Departments which the Congress may by law establish, which law shall likewise assign among the various departments the several matters with which each shall be charged.

Article 91.—No person shall be appointed Secretary of the Executive Department who is not a Mexican citizen by birth, in the enjoyment of his rights, and who has not attained the age of thirty years.

Article 92.—All regulations, decrees and orders of the President shall be signed by the Secretary of the Executive Department to which the matter pertains. They shall not be binding without this requisite. All regulations, decrees, and orders of the President touching the government of the Federal District and the administrative departments shall be transmitted directly by the President to the Governor of the District and to the chief of the respective department.

Article 93.—The Secretaries of Executive Departments shall on the opening of each regular session report to the Congress as

to the state of their respective Departments. Either House may summon a Secretary of an Executive Department to inform it, whenever a bill or other matter pertaining to his department is under discussion or consideration.

CHAPTER IV.

OF THE JUDICIAL POWER.

Article 94.—The judicial power of the Federation is vested in a Supreme Court and in Circuit and District Courts, whose number and powers shall be fixed by law. The Supreme Court of Justice shall consist of eleven members; it shall sit only as a body and its hearings shall be public, except in the cases where public interest or morality shall otherwise require. It shall meet at such times and under such conditions as by law prescribed. No sittings of the Court shall be held without the attendance of at least two-thirds of its total membership, and all decisions rendered shall be by a majority vote.

The Justices of the Supreme Court chosen to this office in the forthcoming elections shall serve two years; those elected at the conclusion of this first term shall serve four years, and from and after the year 1923, the Justices of the Supreme Court, the Circuit and District Judges may only be removed for malfeasance and after impeachment proceedings, save in the case of the promotion of Circuit and District Judges to the next higher grade.

The same provision shall apply, in so far as it be applicable, to the terms of two and four years, respectively, to which this Article refers.

Article 95.—The Justices of the Supreme Court shall have the following qualifications:

I.—They shall be Mexican citizens by birth, in the full enjoyment of their civil and political rights.

II.—They shall be over thirty-five years of age at the time of election.

III.—They shall be graduates in law of some institution or corporation authorised by law to confer such degrees.

IV.—They shall be of good repute and not have been convicted of any offence punishable with more than one year's imprisonment; but conviction of larceny, deceit, forgery, embezzlement or any other offence seriously impairing their good name in the public mind shall disqualify them from office, whatever may have been the penalty imposed.

V.—They shall have resided in the country for the last five years, except in the case of absence due to public service abroad for a period not exceeding six months.

Article 96.—The members of the Supreme Court of Justice shall be chosen by the Congress, acting as an electoral college; the presence of at least two-thirds of the total number of Representatives and Senators shall be necessary for such action. The election shall be by secret ballot and by a majority vote, and shall be held as among the candidates previously proposed, one being nominated by each State Legislature, as provided in the respective State laws.

Should no candidate receive a majority on the first ballot, the balloting shall be repeated between the two candidates receiving the highest number of votes.

Article 97.—All Circuit and District Judges shall be appointed by the Supreme Court of Justice; they shall have such qualifications as are by law required, shall serve four years and shall not be removed except by impeachment proceedings or for incapacity to discharge their duties, in accordance with the law.

The Supreme Court of Justice may remove the District Judges from one District to another, or it may fix their seats in another locality, as it may deem most advantageous to the public business. A similar procedure shall be observed in the case of Circuit Judges.

The Supreme Court of Justice may likewise appoint auxiliary Circuit and District Judges to assist in the labours of such courts as have an excessive amount of business, in order that the administration of justice may be speedy; it shall also name one or more of its members or some District or Circuit Judge or shall designate one or more special Commissioners, whenever it shall deem it advisable or on the request of the President or of either House or of any State Governor, solely for the purpose of inquiring into the behaviour of any Judge or Federal Justice or into any fact or facts which amount to a violation of any individual rights or to the subversion of the popular will or of any other offence punishable by Federal statute.

The Circuit and District Courts shall be assigned among the several Justices of the Supreme Court who shall visit them periodically, shall observe the conduct of their Judges, listen to any complaint presented against them and perform all such other acts as the law may require. The Supreme Court shall appoint and remove at will its Clerk of the Court and other employees on the roster established by law. The Circuit and District Judges shall likewise appoint and remove at will their respective clerks and employees.

The Supreme Court shall choose each year one of its members to act as Chief Justice, with the right of re-election.

Each Justice of the Supreme Court on assuming office shall make an affirmation before the Congress, or if it is in recess, before the Permanent Committee, as follows:—

The Presiding Officer shall say:—"Do you promise to perform faithfully and conscientiously the duties of Justice of the Supreme Court with which you have been charged, and to defend and enforce the Constitution of the United States of Mexico and the laws enacted thereunder, having ever in mind the welfare and prosperity of the Nation?" To which the Justice shall reply, "I do." On which the Presiding Officer shall answer; "If you fail to do so, may the Nation call you to account."

The Circuit and District Judges shall make the affirmation of office before the Supreme Court or before such other authority as the law may determine.

Article 98.—No vacancy arising from temporary disability of a Justice of the Supreme Court not exceeding one month shall be filled, provided there be otherwise a quorum. In the absence of a quorum the Congress, or in its recess the Permanent Committee, shall name a substitute selected from among the candidates submitted by the States for the election of the Justice in question and not chosen, to serve during such disability.

If the disability does not exceed two months, the Congress, or during its recess, the Permanent Committee, shall choose at will a temporary justice.

In the event of the death, resignation or disqualification of any Justice of the Supreme Court, a new election shall be held by the Congress to fill this vacancy as provided in Article 96.

If the Congress shall not be in session, the Permanent Committee shall make a temporary appointment until such time as the Congress shall convene and proceed to the corresponding election.

Article 99.—The resignation of a Justice of the Supreme Court shall only be accepted for grave cause, approved by the Congress, to whom the resignation shall be tendered. In the recesses of the Congress the power to act in this matter belongs to the Permanent Committee.

Article 100.—The Supreme Court shall grant all leaves of absence of its members, when they do not exceed one month; such as do exceed this period shall be granted by the House of Representatives, or during its recess by the Permanent Committee.

Article 101.—No Justice of the Supreme Court, Circuit or District Judge, nor Clerk of any of these Courts shall under any circumstances accept any State, Federal or private commission or office, excepting honorary titles from scientific, literary or

charitable associations. The violation of this provision shall result in forfeiture of office.

Article 102.—The office of the Public Attorney shall be organised in accordance with the law, and its officers shall be appointed and removed at will by the Executive. They shall be under the direction of an Attorney General who shall possess the same qualifications as are required for the office of Justice of the Supreme Court.

The Public Attorneys shall be charged with the judicial prosecution of all Federal offences; they shall accordingly sue out all orders of arrest, collect and present all evidence as to the responsibility of the accused, see that the trials are conducted in due order so that the administration of justice may be speedy, pray the imposition of sentence, and in general take part in all matters required by law.

The Attorney General of the Republic shall personally intervene in matters to which the Federal Government is a party, in cases affecting ministers, diplomatic agents and consuls general, and in all controversies between two or more States of the Union, between the Federal Government and a State or between the several powers of a State. The Attorney General may either personally or through one of the Public Attorneys take part in all other cases in which the Public Attorneys are called upon to act.

The Attorney General shall be the legal adviser of the Government, and both he and the Public Attorneys under his orders shall faithfully obey the law and shall be liable for all breaches or for any violation which they may incur in the discharge of their duties.

Article 103.—The Federal Tribunals shall take cognisance of:—

I.—All controversies arising out of laws or acts of the authorities which infringe guarantees of personal liberty.

II.—All controversies arising out of laws or acts of the Federal authorities which limit or encroach upon the sovereignty of the States.

III.—All controversies arising out of laws or acts of the State authorities which invade the sphere of the Federal authorities.

Article 104.—The Federal Tribunals shall have jurisdiction over:—

I.—All controversies of a civil or criminal nature arising out of the application and enforcement of the Federal laws, or

out of treaties concluded with foreign powers. Whenever such controversies affect only private rights, the regular local Courts of the States, the Federal District and Territories shall, at the election of the plaintiff, assume jurisdiction. Appeal may be had from all judgments of first instance to the next higher tribunal of the same court in which the case was first heard. Appeal may be taken from sentences of second instance to the Supreme Court of Justice, which appeal shall be prepared, submitted and prosecuted, in accordance with the procedure provided by law.

II.—All cases pertaining to admiralty law.

III.—All cases to which the Federation may be a party.

IV.—All cases arising between two or more States, or between any State and Federal Government, as well as those arising between the Courts of the Federal District and those of the Federal Government or of a State.

V.—All cases arising between a State and one or more citizens of another State.

VI.—All cases concerning diplomatic agents and consuls.

Article 105.—The Supreme Court of Justice shall have exclusive jurisdiction in all controversies arising between two or more States, between the powers of Government of any State as to the constitutionality of their acts, or between one or more States and the Federal Government, and in all cases to which the Federal Government may be a party.

Article 106.—The Supreme Court of Justice shall likewise have exclusive jurisdiction to determine all questions of jurisdiction between the Federal Tribunals, between these and those of the States, or between those of one State and those of another.

Article 107.—All controversies mentioned in Article 103 shall be prosecuted by the injured party in accordance with the judicial forms and procedure which the law shall establish, subject to the following conditions:—

I.—The judgment shall always be so drawn as to affect exclusively private individuals and shall confine itself to affording them redress 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 of the complaint.

II.—In civil or penal suits, excepting those mentioned in Clause XI hereof, the writ of "amparo"* shall issue only against

*Amparo.

This unique feature of Mexican jurisprudence combines the essential elements of the extraordinary writs of *habeas corpus, certiorari and manda-*

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 the first instance it shall have been invoked in the 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.

III.—In similar penal suits the writ of "amparo" shall issue 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.

IV.—In addition to the case mentioned in the foregoing paragraph, the writ of "amparo" shall issue only on a final judgment in a civil suit—provided the requirements set forth in Clause II hereof have been complied with,—when the 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 judgments which are not definitive in accordance with the provisions of the foregoing Clause, these rules shall be observed, as far as applicable.

V.—In penal suits, the authorities responsible 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 proceeding, accompanying it with two copies of the petition, one of which shall be delivered to the opposing party and the other filed.

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mus. It is a federal procedure designed to give immediate redress when any of the fundamental rights of man are infringed by any authority, irrespective of category, or to excuse the obedience of a law or decree which has invaded the federal or local sphere. Its use is most extensive, embracing minors, persons absent abroad acting through a "next friend," corporations, etc. An important feature is that it merely gives redress to a specific person or entity, and never makes any general statement of law. It could, hence, never declare a law unconstitutional, though it would give immediate relief, so soon as the law in question acted upon any person.

(Note to "The Mexican Constitution of 1917." Supplement to the Annals of the American Academy of Political and Social Science, May, 1917.)

VI.—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 shall 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 proceeding by "amparo" shall be communicated as provided in the foregoing Clause.

VII.—If a 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.

VIII.—When a writ of "amparo" is sought against a final judgment, the petition shall be brought before the Supreme Court; this petition, together with the 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.

IX.—When the acts of an authority other than the judicial are involved or the acts of the judiciary exercised outside of 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 protested was committed or attempted; the procedure in this case shall be confined to the report of the authority and to a hearing, the summons 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 given, which shall be pronounced 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 to 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 shall 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 authorised to suspend temporarily the execution of the act protested, in accordance with the terms established by law.

X.—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.

XI.—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 appropriate District Court.

XII.—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 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 handed 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 disposal of the Court within the next twenty-four hours shall himself be handed 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 IV.

OF THE RESPONSIBILITY OF OFFICIALS.

Article 108.—Senators and Representatives of Congress, Justices of the Supreme Court, Secretaries of Executive Departments, and the Attorney General of the Republic shall be liable

for all common offences committed during their term of office, as well as for all official offences or acts of commission or omission of which they may be guilty in the discharge of their duties.

Governors of States and members of State Legislatures shall be liable for violation of the Constitution and the Federal laws.

The President of the Republic may only be impeached during his term of office for high treason and common offences of a serious character.

Article 109.—If the offence belongs to the common order the House of Representatives, acting as a grand jury, shall determine by a majority vote of its total membership whether there is or is not any ground for proceeding against the accused.

If the finding be favourable to the accused, no further action shall be taken; but such findings shall not be a bar to the prosecution of the charge so soon as the constitutional privilege shall cease, since the finding of the House does not in any way determine the merits of the charge.

If the finding be adverse, the accused shall *ipso facto* be removed from office and be placed at the disposition of the ordinary Courts of justice, except in the case of the President of the Republic, who may only be impeached before the Senate, as in the case of an official offence.

Article 110.—No constitutional privilege shall be extended to any high Federal functionary when tried for official offences, misdemeanours, or omissions committed by him in the discharge of any public function or commission, during the time in which, according to law, the privilege is enjoyed. This provision shall be applicable to cases of common offences committed under the same circumstances. In order that the proceedings may be instituted when the functionary returns to the exercise of his own functions, the rules set forth in Article 109 of the Constitution shall be observed.

Article 111.—The Senate acting as a grand jury shall try all cases of impeachment; but it may not institute such proceedings without a previous accusation brought by the House of Representatives.

If the Senate should, after hearing the accused and conducting such proceedings as it may deem advisable, determine by a majority vote of two-thirds of its total membership that the accused is guilty, the latter shall be forthwith removed from office by virtue of such decision, or he may be disqualified from holding any other office for such time as the law may determine.

When the same offence is punishable with an additional penalty, the accused shall be placed at the disposition of the

regular authorities who shall judge and sentence him in accordance with the law.

In all cases embraced by this Article and in those included by the preceding, both the decisions of the Grand Jury and the findings of the House of Representatives shall be final.

Any person shall have the right to denounce before the House of Representatives offences of a common order or of an official character committed by high Federal functionaries; and whenever the said House of Representatives shall determine that there exists good ground for impeachment proceedings before the Senate, it shall name a committee from among its own members to sustain the charges brought.

The Congress shall as soon as possible enact a law as to the responsibility of all Federal officials and employees which shall fix as official offences all acts of commission or omission, which may prejudice the public interest and efficient administration, even though such acts may not heretofore have been considered offences. These officials shall be tried by a jury in the same manner as provided for trials by jury in Article 20.

Article 112.—No pardon shall be granted the offender in cases of impeachment.

Article 113.—The responsibility for official breaches and offences may only be enforced during such time as the functionary shall remain in office and for one year thereafter.

Article 114.—In civil cases no privilege or immunity in favour of any public functionary shall be recognised.

TITLE V.

OF THE STATES OF THE FEDERATION.

Article 115.—The States shall adopt for their internal government the popular, representative, republican form of government; they shall have as the basis of their territorial division and political and administrative organisation, the free municipality, in accordance with the following provisions:—

I.—Each municipality shall be administered by a town council chosen by direct vote of the people, and no authority shall intervene between the municipality and the State government.

II.—Municipalities shall freely administer their own revenues which shall be derived from the taxes fixed by the State Legislatures, which shall at all times be sufficient to meet their needs.

III.—The municipalities shall be regarded as enjoying corporate existence for all legal purposes.

The Federal Executive and the State Governors shall have command over all public forces of the municipalities wherein they may permanently or temporarily reside.

State Governors under the Constitution shall not be re-elected, nor shall their term of office exceed four years.

The prohibitions of Article 83 are applicable to substitute or *ad interim* Governors.

The number of Representatives in the State Legislatures shall be in proportion to the inhabitants of each State, but in no case shall the number of representatives in any State Legislature be less than fifteen.

Each electoral district of the States shall choose a Representative and a substitute to the State Legislature.

Every State Governor shall be a Mexican citizen by birth and a native of the State, or resident therein for not less than five years immediately prior to the date of election.

Article 116.—The States shall have the power to fix among themselves, by friendly agreements, their respective boundaries; but these agreements shall not be carried into effect without the approval of the Congress.

Article 117.—No State shall in any circumstances:—

I.—Enter into alliances, treaties, or coalitions with another State or with foreign powers.

II.—Grant letters of marque or reprisal.

III.—Coin money, issue paper money, stamps or stamped paper.

IV.—Levy taxes on persons or property passing through its territory.

V.—Prohibit or tax, directly or indirectly, the entry into its territory, or the withdrawal therefrom, of any merchandise, foreign or domestic.

VI.—Burden the circulation or consumption of domestic or foreign merchandise with taxes or duties to be collected by local custom houses or subject to inspection the said merchandise, or require it to be accompanied by documents.

VII.—Enact or maintain in force laws or fiscal regulations discriminating, by taxation or otherwise, between merchandise, foreign or domestic, on account of its origin, whether this discrimination be established with regard to similar products of the locality or between similar products of separate places of origin.

VIII.—Issue bonds of the public debt payable in foreign coin or outside the Federal territory; contract loans, directly

or indirectly, with any foreign government, or assume any obligation in favour of any foreign corporation or individual, requiring the issuance of certificates or bonds payable to bearer or negotiable by endorsement.

The Federal Congress and the State Legislatures shall forthwith enact laws against alcoholism.

Article 118.—No State shall, without the consent of the Congress:—

I.—Establish tonnage dues or other port charges, or impose taxes or other duties upon imports or exports; or

II.—Keep at any time permanent troops or vessels of war.

Article 119.—Every State shall be bound to deliver without delay to the demanding authorities the fugitives from justice from other States or from foreign nations.

In such cases the writ of the court granting the extradition shall operate as a sufficient warrant for the detention of the accused for one month, in the case of extradition from one State to another, and for two months in the case of international extradition.

Article 120.—The State Governors are bound to publish and enforce the Federal laws.

Article 121.—Full faith and credit shall be given in each State of the Federation to the public acts, records and judicial proceedings of all the other States. The Congress shall by general laws prescribe the manner of proving the said acts, records and proceedings and the effect thereof.

I.—The laws of a State shall only be binding within its own confines, and shall therefore have no extra-territorial force.

II.—Movable and immovable property shall be governed by the *lex sitae*.

III.—Judgments of a State Court as to property and property rights situated in another State shall only be binding when expressly so provided by the law of the latter State.

Judgments relating to personal rights shall only be binding in another State provided the person shall have expressly, or impliedly by reason of domicile, submitted to the jurisdiction of the court rendering such judgment, and provided further that personal service shall have been secured.

IV.—All acts of civil status performed in accordance with the laws of one State shall be binding in all other States.

V.—All professional licences issued by the authorities of one State in accordance with its laws shall be valid in all other States.

Article 122.—The powers of the Union are bound to protect the States against all invasion or external violence. In case of insurrection or internal disturbance they shall give them the same protection, provided the Legislature of the State, or the Executive thereof if the Legislature is not in session, shall so request.

TITLE VI.

OF LABOUR AND SOCIAL WELFARE.

Article 123.—The Congress and the State Legislature shall make laws relative to labour with due regard for the needs of each region, and in conformity with the following principles, and these principles and laws shall govern the labour of skilled and unskilled workmen, employees, domestic servants and artisans, and in general every contract of labour.

I.—Eight hours shall be the maximum limit of a day's work.

II.—The maximum limit of night work shall be seven hours. Unhealthy and dangerous occupations are forbidden to all women and to children under sixteen years of age. Night work in factories is likewise forbidden to women and to children under sixteen years of age; nor shall they be employed in commercial establishments after ten o'clock at night.

III.—The maximum limit of a day's work for children over twelve and under sixteen years of age shall be six hours. The work of children under twelve years of age shall not be made the subject of a contract.

IV.—Every workman shall enjoy at least one day's rest for every six days' work.

V.—Women shall not perform any physical work requiring considerable physical effort during the three months immediately preceding parturition; during the month following parturition they shall necessarily enjoy a period of rest and shall receive their salaries or wages in full and retain their employment and the rights they may have acquired under their contracts. During the period of lactation they shall enjoy two extraordinary periods of rest of one-half hour each, in order to nurse their children.

VI.—The minimum wage to be received by a workman shall be that considered sufficient, according to the conditions prevailing in the respective region of the country, to satisfy the normal needs of the life of the workman, his education and his lawful pleasures, considering him as the head of a family. In all agricultural, commercial, manufacturing or mining enterprises the workman shall have the right to participate in the profits in the manner fixed in Clause IX of this Article.

VII.—The same remuneration shall be paid for the same work, without regard to sex or nationality.

VIII.—The minimum wage shall be exempt from attachment, set off or discount.

IX.—The determination of the minimum wage and of the rate of profit-sharing described in Clause VI shall be made by special commissions to be appointed in each municipality and to be subordinated to the Central Board of Conciliation to be established in each State.

X.—All wages shall be paid in legal currency and shall not be paid in merchandise, orders, counters or any other representative token with which it is sought to substitute money.

XI.—When owing to special circumstances it becomes necessary to increase the working hours, there shall be paid as wages for the overtime one hundred per cent. more than those fixed for regular time. In no case shall the overtime exceed three hours nor continue for more than three consecutive days; and no women of whatever age nor boys under sixteen years of age may engage in overtime work.

XII.—In every agricultural, industrial, mining or other class of work employers are bound to furnish to their workmen comfortable and sanitary dwelling-places, for which they may charge rents not exceeding one-half of one per cent. per month of the assessed value of the properties. They shall likewise establish schools, dispensaries and other services necessary to the community. If the factories are located within inhabited places and more than one hundred persons are employed therein, the first of the above-mentioned conditions shall still be complied with.

XIII.—Furthermore, there shall be set aside in these labour centres, whenever their population exceeds two hundred inhabitants, a space of land not less than five thousand square meters for the establishment of public markets and the construction of buildings designed for municipal services and places of amusement. No saloons nor gambling houses shall be permitted in such labour centres.

XIV.—Employers shall be liable for labour accidents and occupational diseases arising from work; therefore, employers shall pay the proper compensation, according to whether death or merely temporary or permanent disability has ensued, in accordance with the provisions of law. This liability shall remain in force even though the employer contract for the work through an agent.

XV.—Employers shall be bound to observe in the installation of their establishments all the provisions of law regarding

hygiene and sanitation and to adopt adequate measures to prevent accidents due to the use of machinery, tools and working materials, as well as to organise work in such a manner as to assure the greatest guarantees possible for the health and lives of workmen, compatible with the nature of the work, under penalties which the law shall determine.

XVI.—Workmen and employers shall have the right to unite for the defence of their respective interests, by forming syndicates, unions, etc.

XVII.—The laws shall recognise the right of workmen and employers to strike and to lock-out.

XVIII.—Strikes shall be lawful when by the employment of peaceful means they shall aim to bring about a balance between the various factors of production, and to harmonise the rights of capital and labour. In the case of public services, the workmen shall be obliged to give notice ten days in advance to the Board of Conciliation and Arbitration of the date set for the suspension of work. Strikes shall only be considered unlawful when the majority of the strikers shall resort to acts of violence against persons or property, or in case of war when the strikers belong to establishments and services dependent on the Government. Employees of military manufacturing establishments of the Federal Government shall be included in the provisions of this clause, inasmuch as they are a dependency of the national army.

XIX.—Lock-outs shall only be lawful when the excess of production shall render it necessary to shut down in order to maintain prices reasonably above the cost of production, subject to the approval of the Board of Conciliation and Arbitration.

XX.—Differences or disputes between capital and labour shall be submitted for settlement to a Board of Conciliation and Arbitration to consist of an equal number of representatives of the workmen and of the employers and of one representative of the Government.

XXI.—If the employer shall refuse to submit his differences to arbitration or to accept the award rendered by the Board, the labour contract shall be considered as terminated, and the employer shall be bound to indemnify the workman by the payment to him of three months' wages, in addition to the liability which he may have incurred by reason of the dispute. If the workman reject the award, the contract will be held to have terminated.

XXII.—An employer who discharges a workman without proper cause or for having joined a union or syndicate or for having taken part in a lawful strike shall be bound, at the option of the workman, either to perform the contract or to indemnify him by the payment of three months' wages. He shall incur

the same liability if the workman shall leave his service on account of the lack of good faith on the part of the employer or of maltreatment either as to his own person or that of his wife, parents, children or brothers or sisters. The employer cannot evade this liability when the maltreatment is inflicted by subordinates or agents acting with his consent or knowledge.

XXIII.—Credits in favour of workmen for salary or other remuneration accrued during the past year shall be preferred over any other claims, in cases of bankruptcy or composition.

XXIV.—Debts contracted by workmen in favour of their employers or their employers' associates, subordinates or agents, may only be charged against the workmen themselves and cannot under any circumstances be collected from the members of his family. Nor shall such debts be paid by the taking of more than the entire wages of the workman for any one month.

XXV.—No fee shall be charged for finding work for workmen which is done by municipal offices, employment bureaus or other public or private agencies.

XXVI.—Every contract of labour between a Mexican citizen and a foreign principal shall be legalised before the competent municipal authority and *visé* by the consul of the nation to which the workman is undertaking to go, on the understanding that, in addition to the usual clauses, special and clear provisions shall be inserted for the payment of the cost of repatriation to the labourer by the foreign principal making the contract.

XXVII.—The following stipulations shall be null and void and shall not bind the contracting parties, even though embodied in the contract:

(*a*). Stipulations providing for inhuman day's work on account of its notorious excessiveness, in view of the nature of the work.

(*b*). Stipulations providing for a wage rate which in the judgment of the Board of Conciliation and Arbitration is not remunerative.

(*c*). Stipulations providing for a term of more than one week before the payment of wages.

(*d*). Stipulations providing for the assigning of places of amusement, eating places, cafes, taverns, saloons or shops for the payment of wages, when employees of such establishments are not involved.

(*e*). Stipulations involving a direct or indirect obligation to purchase articles of consumption in specified shops or places.

(*f*). Stipulations permitting the retention of wages by way of fines.

(*g*). Stipulations constituting a waiver on the part of the workman of the indemnities to which he may become entitled by reason of labour accidents or occupational diseases, damages for breach of contract or for discharge from work.

(*h*). All other stipulations implying the waiver of any right vested in the workman by labour laws.

XXVIII.—The law shall decide what property constitutes the family patrimony. These goods shall be inalienable and shall not be mortgaged, nor attached, and may be transmitted by a title of inheritance with simplified formalities in the succession proceedings.

XXIX.—Institutions of popular insurance established for old age, sickness, life, unemployment, and accident and others of a similar character, are considered of social utility; the Federal and State Governments shall therefore encourage the organisation of institutions of this character in order to instil and inculcate popular habits of thrift.

XXX.—Co-operative associations for the construction of cheap and sanitary dwelling houses for workmen shall likewise be considered of social utility whenever these properties are designed to be acquired in ownership by the workmen within specified periods.

TITLE VII.

GENERAL PROVISIONS.

Article 124.—All powers not expressly vested by this Constitution in the Federal authorities are understood to be reserved to the States.

Article 125.—No person shall hold at the same time two Federal offices or one Federal and one State elective office; if elected to two he shall choose between them.

Article 126.—No payment shall be made which is not included in the Budget or authorised by a law subsequent to the same.

Article 127.—The President of the Republic, the Justices of the Supreme Court, Representatives and Senators and other public officials of the Federation who are chosen by popular election shall receive a remuneration for their services, which shall be paid by the Federal Treasury and determined by law. This compensation may not be waived and any law increasing or decreasing it shall have no effect during the period for which the functionary holds office.

Article 128.—Every public official, without exception, shall, before entering on the discharge of his duties, make an affirmation to maintain this Constitution and the laws arising thereunder.

Article 129.—In time of peace no military authorities shall exercise other functions than those bearing direct relation to military discipline. No permanent military posts shall be established other than in castles, forts and arsenals depending directly upon the Federal Government, or in camps, barracks, or depots, established outside of inhabited places for the stationing of troops.

Article 130.—The Federal authorities shall have power to exercise in matters of religious worship and outward ecclesiastical forms such intervention as the laws prescribe. All other officials shall act as auxiliaries to the Federal authorities.

The Congress shall not enact any law establishing or forbidding any religion whatsoever.

Marriage is a civil contract. Marriage and all other acts relating to the civil status of individuals shall appertain to the exclusive jurisdiction of the civil authorities in the manner and form by law provided, and they shall have the force and validity given them by the said laws.

A simple promise to tell the truth and to comply with obligations contracted shall subject the promisor, in the event of a breach, to the penalties established therefor by law.

The law recognises no juridic personality in the religious institutions known as churches.

Ministers of religious creeds shall be considered as persons exercising a profession, and shall be directly subject to the laws enacted on the matter.

The State legislatures shall have the exclusive power of determining the maximum number of ministers of religious creeds, according to the needs of each locality. Only a Mexican by birth may be a minister of any religious creed in Mexico.

No ministers of religious creeds shall, either in public or private meetings, or in acts of worship or religious propaganda, criticise the fundamental laws of the country, the authorities in particular or the Government in general; they shall have no vote, nor be eligible to office, nor shall they be entitled to assemble for political purposes.

Before dedicating new places of worship for public use, permission shall be obtained from the Department of the Interior (Gobernacion); the opinion of the Governor of the respective State shall be previously heard on the subject. Every place of worship shall have a person charged with its care and maintenance, who shall be legally responsible for the faithful performance of the laws on religious observances within the said place of worship, and for all the objects used for purposes of worship.

The caretaker of each place of public worship, together with ten citizens of the place, shall promptly advise the municipal authorities as to the person charged with the care of the said place of worship. Every change shall be notified by the outgoing minister, together with the incoming minister and ten other citizens of the place. The municipal authorities, under penalty of dismissal and fine not exceeding 1,000 pesos for each breach, shall be responsible for the exact performance of this provision; they shall keep a register of the places of worship and another of the caretakers thereof, subject to the same penalty as above provided. The municipal authorities shall likewise give notice to the Department of the Interior, through the State Governor, of any permission to open to the public use a new place of worship, as well as of any change in the caretakers. Gifts of personality may be received in the interior of places of public worship.

Under no conditions shall studies carried on in institutions devoted to the professional training of ministers of religious creeds be given credit or granted any other dispensation of privilege which shall have for its purpose the accrediting of the said studies in official institutions. Any authority violating this provision shall be punished criminally, and all such dispensation of privilege be null and void, and shall invalidate wholly and entirely the professional degree toward the obtaining of which the infraction of this provision may in any way have contributed.

No periodical publication which either by reason of its programme, its title or merely by its general tendencies, is of a religious character, shall comment upon any political affairs of the nation, nor publish any information regarding the acts of the authorities of the country or of private individuals in so far as the latter have to do with public affairs.

Every kind of political association whose name shall bear any word or any indication relating to any religious belief is hereby forbidden. No assemblies of any political character shall be held within places of public worship.

No minister of any religious creed may inherit, either on his own behalf or by means of a trustee or otherwise, any real property occupied by any association for religious propaganda or religious or charitable purposes. Ministers of religious creeds are incapable legally of inheriting by will from ministers of the same religious creed or from any private individual to whom they are not related by blood within the fourth degree.

All real and personal property pertaining to the clergy or to religious institutions shall be governed, in so far as their

acquisition by private parties is concerned, by Article 27 of this Constitution.

No trial by jury shall ever be granted for the infraction of any of the preceding provisions.

Article 131.—The Federal Government shall have exclusive power to levy duties on merchandise imported, exported or passing in transit through the national territory, as well as to regulate at all times, and if necessary to forbid for the sake of public safety or good government, the circulation in the interior of the Republic of all kinds of goods, regardless of their origin; but the Federal Government shall have no power to establish or decree in the Federal District and Territories the taxes and laws to which Clauses VI and VII of Article 117 refer.

Article 132.—All forts, barracks, warehouses, and other real property destined by the Federal Government for public service or common use, shall be under the jurisdiction of the Federal authorities, in accordance with the law which the Congress shall issue on the subject; any of these establishments which may subsequently be acquired within the territory of any State shall likewise be subject to Federal jurisdiction, provided consent thereto shall have been obtained from the respective State Legislature.

Article 133.—This Constitution and the laws of the United States of Mexico which shall be made in pursuance hereof and all treaties made or which shall be made under the authority of the President of the Republic, with the approval of the Congress, shall be the supreme law of the land. And the Judges in every State shall be bound by this Constitution and by these laws and treaties, anything in the Constitution or laws of any State to the contrary notwithstanding.

Article 134.—Tenders shall be invited for all contracts which the Government may have occasion to enter into for the execution of any public works; these tenders shall be submitted under seal and shall only be opened publicly.

TITLE VIII.

OF THE AMENDMENTS TO THE CONSTITUTION.

Article 135.—The present Constitution may be added to or amended. No amendment or addition shall become part of the Constitution until agreed to by the Congress of the Union, by a two-thirds vote of the members present, and approved by a majority of the State Legislatures. The Congress shall count the votes of the Legislatures and make the declaration that the amendments or additions have been adopted.

TITLE IX.

OF THE INVIOLABILITY OF THE CONSTITUTION.

Article 136.—This Constitution shall not lose its force and vigour, even though its observance be interrupted by rebellion. In case that through any public disturbance a Government contrary to the principles which it sanctions be established, its force shall be restored so soon as the people shall regain their liberty, and those who have participated in the Government emanating from the rebellion or have co-operated with it shall be tried in accordance with its provisions and with the laws arising under it.

TRANSITORY ARTICLES.

Article 1.—This Constitution shall be published at once and a solemn affirmation made to defend and enforce it throughout the Republic; but its provisions, except those relating to the election of the supreme powers, Federal and State, shall not come into effect until the first day of May, 1917, at which time the Constitutional Congress shall be solemnly convened and the oath of office taken by the citizen chosen at the forthcoming elections to discharge the duties of President of the Republic.

The provisions of Clause V of Article 82 shall not be applicable to the elections to be held in accordance with Article 2 of the Transitory Articles, nor shall active service in the Army act as a disqualification for the office of Representative or Senator, provided the candidate shall not have active command of troops in the respective electoral district.

Nor shall the Secretaries nor Assistant Secretaries of Executive Departments be disqualified from election to the next Federal Congress, provided they shall definitively resign from office on or before the day on which the respective writ is issued.

Article 2.—The person charged with the executive power of the Nation shall immediately, upon the publication of this Constitution, issue writs for election to fill the Federal offices; he shall see that these elections be held so that Congress may be constituted within a reasonable time, in order that it may count the votes cast in the presidential elections and make known the name of the person who has been elected President of the Republic; this shall be done in order that the provisions of the foregoing Article may be complied with.

Article 3.—The next constitutional term shall be computed, in the case of Senators and Representatives, from the first of September last, and in the case of the President of the Republic, from the first of December, 1916.

Article 4.—Senators who in the coming election shall be classified as "even" shall serve only two years, in order that the Senate may be renewed by half every two years.

Article 5.—The Congress shall in the month of May next choose the Justices of the Supreme Court in order that this tribunal may be constituted on the first day of June, 1917.

In these elections, Article 96 shall not apply in so far as the candidates proposed by the State Legislatures are concerned; but those chosen shall be designated for the first term of two years prescribed by Article 94.

Article 6.—The Congress shall meet in extraordinary session on the fifteenth day of April, 1917, to act as an electoral college, for the computing of the ballots and the determination of the election of President of the Republic, at which time it shall make known the results; it shall likewise enact the organic law of the Circuit and District Courts, the organic law of the Tribunals of the Federal District and Territorites, in order that the Supreme Court of Justice may immediately appoint the Inferior and Superior District and Circuit Judges; at the same session the Congress shall choose the Superior Judges and Judges of First Instance of the Federal District and Territories, and shall also enact all laws submitted by the Executive. The Circuit and District Judges and the Superior and Inferior Judges of the Federal District and Territories shall take office not later than the first day of July, 1917, at which time such as shall have been temporarily appointed by the person now charged with the executive power of the nation shall cease to act.

Article 7.—For this occasion only, the votes for the office of Senator shall be counted by the Board of the First Electoral District of each State or of the Federal District which shall be instituted for the counting of the votes of Representatives. This Board shall issue the respective credentials to the Senators-elect.

Article 8.—The Supreme Court shall decide all pending petitions of "amparo," in accordance with the laws at present in force.

Article 9.—The First Chief of the Constitutional Army, charged with the executive power of the nation, is hereby authorised to issue the electoral law according to which, on this occasion, the elections to fill the various Federal offices shall be held.

Article 10.—All persons who shall have taken part in the Government emanating from the rebellion against the legitimate Government of the Republic, or who may have given aid to the said rebellion and later taken up arms or held any office or

commission of the factions which have opposed the Constitutional Government, shall be tried in accordance with the laws at present in force, unless they shall have been previously pardoned by the said Constitutional Government.

Article 11.—Until such time as the Congress of the Union and the State Legislatures shall legislate on the agrarian and labour problems, the bases established by this Constitution for the said laws shall be put into force throughout the Republic.

Article 12.—All Mexicans who shall have fought in the ranks of the Constitutional Army, and their children and widows and all other persons who shall have rendered service to the cause of the revolution, or to public instruction, shall be preferred in the acquisition of lots to which Article 27 refers, and shall be entitled to such rebates as the law shall determine.

Article 13.—All debts contracted by working men on account of work up to the date of this Constitution with masters, their subordinates and agents, are hereby declared wholly and entirely discharged.

Article 14.—The Departments of Justice and of Public Instruction and Fine Arts are hereby abolished.

Article 15.—The citizen at present charged with the executive power is hereby authorised to issue the law of civil responsibility applicable to all promoters, accomplices and abettors of the offences committed against the constitutional order in the month of February, 1913, and against the Constitutional Government.

Article 16.—The Constitutional Congress in the regular period of sessions, to begin on the first day of September of the present year, shall issue all the organic laws of the Constitution which may not have been already issued in the extraordinary session to which Transitory Article number 6 refers; and it shall give preference to the laws relating to personal guarantees and to Articles 30, 32, 33, 35, 36, 38, 107, and the later part of Article 111 of this Constitution.

Signed at Queretaro de Arteago, January 31, 1917.

X. THE KINGDOM OF DENMARK.

Area: 17,144 *sq. miles.* *Population*: 3,450,000.

The Danish Constitution in its present form dates from 1915, though certain revisions were made in 1920 as the result of the accession of territory in Schleswig under the Treaty of Versailles. The Constitution of 1915 was, however, based on the Constitution of 1849, which came into being after vexed controversy, national and international. Prior to 1849 Denmark had for nearly two centuries been ruled under an absolute monarchy.

Early constitutional traditions in Denmark had been of a democratic character. Prior to 1660 Denmark had been ruled by an elective ruler with a representative legislature consisting of nobles, clergy and representatives of the towns. After 1536 the nobles became virtual rulers of the country, steadily encroaching upon and setting aside the powers of the King, clergy and burgesses. In the Rigsdag of 1660 the King, clergy and burgesses united and deprived the nobles of their powers and special privileges. In the same Act the Crown was made hereditary, and thus it happened that the victory which had been achieved was undone. For in 1665 the King deprived the other Estates of all power, and established an absolute monarchy which remained in force until 1849.

After 1830 Denmark shared in the European liberal revival. In deference to this awakening, Assemblies were established for the four Provinces of Jutland, the Islands, Schleswig and Holstein by an Ordinance, dated 28th May, 1831; and a further Ordinance of May 15th, 1834, provided the regulations for these Provinces. These Assemblies, however, were merely consultative. Instead of satisfying the desire for a free Constitution they increased its strength. Moreover, they brought into relief certain difficulties standing in the way of a national unity, and therefore of a national Constitution, that till then had not been encountered. It was these that awakened grave international trouble.

The agitation for a free Constitution was, in Denmark as elsewhere in Europe, rooted in a strong national revival. It was, in fact, born largely of a desire to give the national consciousness a fixed form and outline. But Europe was still largely constituted on mediaeval lines of government, with roots in those older memories. Two of the four Danish Provinces, for example, were the Duchies of Schleswig and Holstein. Holstein had originally

been a Duchy of Germany. It was now part of the German Confederation, and was only joined to Denmark by the chance that the member of the House of Oldenberg who was King of Denmark, was also Duke of Holstein. As for Schleswig, only the northern part of this Duchy had a Danish population, the southern part having a predominantly German population. The troubled questions concerning ancient laws of succession also complicated the problem, for the Kings of Denmark could succeed through the female line, whereas under the Salic Law the Duke of Holstein could succeed only through the male line, and therefore at that moment it appeared that Holstein must automatically part from Denmark with the death of the then Duke of Holstein.

Thus the vexed Schleswig-Holstein question came in to trouble the international politics of Europe, and to bring them across the constitutional agitation of Denmark, based as that agitation was on a desire for national unity: for the Danish agitation desired to include Schleswig and Holstein in the one Constitution. The majority of the Schleswigers and Holsteiners, however, desired to be constituted in a State of their own, and incorporated in the German Confederation. This was one of the difficulties which the Danish desire for a Constitution had to face. The other was the strong opposition of the King to any diminution of his absolute power. He conducted a vigorous press prosecution and resorted to repressive measures to check the new agitation. Nevertheless the agitation spread and increased its strength, with the consequence that on January 28th, 1848, Christian VIII., issued a Constitutional Rescript establishing one legislature for the four Provinces of his Dominion, while preserving to each its particular autonomy. The first difficulty of the agitation having been encountered, the second had now to be met. For the Assemblies of the Duchies at once replied by demanding their incorporation, as one constitutional State, in the German Confederation. The German Parliament, which had been newly established at Frankfort, thereupon charged Prussia to proceed to the aid of the Duchies; and Prussia consequently intervened with her armies and occupied Holstein.

At the end of January Christian VIII. was succeeded by Frederick VII., who withdrew the Rescript of the 28th January, called a new popular Ministry to his aid in March, and charged it with the task of drawing up a Bill for a Constitution. He also established an Electoral Law for a National Assembly, to sit as a Constituent Assembly for the purpose of discussing and passing the Constitution. Under this Constitution Schleswig, while preserving its local autonomy, was to become an integral part of the

The Constituent Assembly, or Constituent Rigsdag, which thus came into existence, consisted of two Chambers, or *Tings*. The Upper Chamber.

Upper Chamber, the *Landsting,* was composed of thirty-eight members who were nominated by the King, and the Lower Chamber, the *Folketing,* consisted of one hundred and fourteen members, who were elected by a popular franchise, the electoral age being thirty years. The Peasant Party objected to a Dual Assembly, and particularly to nomination by the King, but they were defeated at the polls by the National Liberals, and the new Constituent Assembly, so formed, proceeded to discuss the Constitution Bill which had been drafted by the Ministry, and in the drafting of which one particular Minister had taken the chief part. The Constitution as amended by the Constituent Assembly received the Royal sanction on the 5th June, 1849. The Constituent Assembly, having completed the task for which it was appointed, did not continue as a Parliament but was dissolved on the same day that the Constitution received the Royal sanction.

Under the Constitution an Assembly was set up of two Houses (*Tings*), similar to the body which had formed the Constituent Assembly. As for that Assembly, so for subsequent Assemblies, the minimum age for voters for the *Folketing* was fixed at thirty years and the minimum age for members at twenty-five years. For the *Landsting* it was necessary that a member should have reached the age of forty years, that he should possess a certain income and be subject to a certain assessment for taxation. The result was that the *Folketing* was a very democratic House, whereas the *Landsting* was composed of the propertied elements of the country, and the field was thus arrayed for the sharp conflicts that were to occur in the future. The King had power at any time to dissolve both Houses.

The problem of Schleswig-Holstein, however, still remained the same. The problem was as to how far, and in what manner, the Constitution should be made applicable, first to Schleswig, where there was a large Danish population, and then to Holstein, which was almost wholly German and belonged to the German Confederation. In both Duchies language difficulties made the problem more acute.

These matters were, therefore, the subject of several Conventions between the German great Powers and Denmark, the other Powers acting as intermediaries. On October 2nd, 1855, the Constitution was made applicable to the Duchies without their consent, but the German Confederation in 1858 refused to recognise the Constitution as binding in the Duchies. Ultimately Holstein, which had been held by German armies, was restored to Denmark, and at a Conference in London it was decided that the succession to the Duchy should continue in the Danish Royal House. Thus Holstein was brought in under the one Constitution; but owing to continued difficulties with the German Powers a

Proclamation was issued in 1862 detaching the Duchy from the united State, while keeping it nevertheless in the Kingdom. In the same year a law was introduced into the Rigsdag for a common Constitution for Denmark and Schleswig. This was carried and confirmed on the 13th November, 1863, and led directly to the War of 1864 with Austria and Prussia, as a result of which the problem was drastically simplified by the loss of both the Duchies.

Following the loss of the Duchies Denmark returned to the original Constitution of 1849, which was somewhat revised and adopted in its revised form on 28th July, 1866. External difficulties having been dismissed, the field was now clear for internal difficulties; and the contest that had been set in the 1849 Constitution between the *Folketing* and the *Landsting* was begun. The problem need not have arisen but for the circumstance that it was not necessary under the Constitution for the Executive to possess the confidence of the popular House of Legislature, that is to say the *Folketing*. For twenty years the Government of Denmark was conducted by a Ministry, supported by the King and the *Landsting*, in defiance of the wishes of the *Folketing*. During these twenty years moneys were not voted by the *Folketing*, the King taking it upon himself, on the advice of his Ministers and of the *Landsting*, to issue financial decrees for the collection of moneys urgently required for military purposes. Save for one break, when the parties in the *Folketing* were divided, there was no compromise between the two Houses, and the *Landsting* practically conducted the government of the country in defiance of the *Folketing*. The Rigsdag was dissolved time and time again, but each time, however, the *Folketing* was returned with a stronger and stronger mandate from the people. As a result legislation was brought practically to a standstill. It was not until 1894 that the two Houses negotiated together for the first time. As a result the Government was changed and a Budget was passed. This Budget was made retrospective so as to authorise the expenditure of moneys irregularly levied by Royal Decrees.

In spite of these negotiations, however, the contest between the *Folketing* and the *Landsting* continued. The result of this contest was to increase the power of the extreme Radical Party in the *Folketing*. For another ten years this contest continued, and during this time the power of the *Folketing* steadily increased and the power of the *Landsting* as steadily diminished.

After the outbreak of the European War in 1914, the political difficulties had become so acute that a revision of the Constitution became necessary. This revision was resisted by the King, supported by the *Landsting*, but the issue was inevitable. According to the Constitution of 1849 any law for the revision of the Constitution had to be passed by two successive ordinary Rigs-

dags. If the revision then received the Royal sanction both Houses were dissolved, and a general election held. The revision had then to be passed for a third time by the new Rigsdag. In 1866 this provision had been slightly amended, with the effect that a revision required only once to be passed before the dissolution of the Rigsdag. This, therefore, was the procedure adopted in 1915 under the Constitution of 1849 as amended in 1866, with the result that the Constitution was amended as now printed in these pages.

Under the amended Constitution equal rights were granted to men and women. All citizens, irrespective of sex, are entitled to vote or to be elected to the *Folketing* when twenty-five years of age. The severe property qualifications for the *Landsting* under the Constitution of 1849 were removed. It was required, however, that each voter must have his or her permanent residence within the electoral area in which he or she votes, and the age entitling a person to vote for the *Landsting* was raised to thirty-five years. Of the seventy-eight members of the *Landsting* fifty-nine are elected by electoral colleges for large constituencies. The remaining nineteen are elected on the principles of Proportional Representation by all the members of the outgoing *Landsting*. The former class are renewed as to one-half every four years; the nineteen other members are completely renewed every eight years. Moreover, under the original Constitution the King had power to dissolve both houses. Under the present Constitution he may not exercise this power in regard to the *Landsting* save in the exceptional circumstances and according to the conditions provided for in Article 22.

Smaller changes were also introduced respecting amendments of the Constitution. It is now provided that any such amendment passed by both Houses of any one Rigsdag may, by resolution of the next succeeding Rigsdag, be referred to a referendum of the electors. If the majority of those voting in the Referendum, or at least forty-five per cent. of all the electors, are in favour of the proposed amendment, such amendment then only requires the Royal assent to be given the force of a constitutional law.

The final change in the Constitution occurred on the 10th September, 1920, as a result of the plebiscite in Schleswig. That part of Schleswig which, under the Treaty of Versailles voted itself out of the former German Empire, was then incorporated with Denmark by virtue of a special law of the Rigsdag. It therefore became necessary to make certain changes in the Constitution in order that the new population might be represented in the Rigsdag. And thus the Constitution achieved the form in which it is now printed.

CONSTITUTION

OF THE

KINGDOM OF DENMARK

Of the 5th JUNE, 1915,

With the Amendments of the 10th September, 1920.

I.

Article 1.—The form of government is a limited monarchy. Royal power is hereditary. The order of succession is that which has been established by the Law of Succession to the Throne of the 31st July, 1853, Articles 1 and 2.

Article 2.—The legislative power is exercised by the King and the Rigsdag concurrently. The executive power resides in the King. The judicial power is exercised by the courts.

Article 3.—The Evangelical Lutheran Church is the National Church of Denmark, and as such is maintained by the State.

II.

Article 4.—The King cannot without the consent of the Rigsdag become sovereign of other countries.

Article 5.—The King must be a member of the Evangelical Lutheran Church.

Article 6.—The King attains his majority on the completion of his eighteenth year. The same rule applies to the royal princes.

Article 7.—Before assuming office, the King makes in writing before the Council of State a solemn declaration faithfully to observe the Constitution. Two originals of the act of declaration identical in form are drawn up, of which one is sent to the Rigsdag to be kept amongst its records, and the other is preserved amongst the national records. If the King, by reason of being absent or otherwise, cannot make this declaration immediately after his accession, the Council of State carries on the government in the interval, unless legislation otherwise deter-

mines. If the King, as heir presumptive, has already made this declaration, he assumes the government immediately on his accession.

Article 8.—Provisions relating to the carrying on of government in the event of the minority, sickness, or absence of the King shall be determined by legislation. If the throne becomes vacant and there is no heir, the Rigsdag in joint session (Article 65) shall elect a King, and shall determine the new order of succession.

Article 9.—The emoluments paid by the State to the King shall be determined by law for the duration of his reign. At the same time this law shall specify the Castles and other State demesnes which shall be placed at the disposal of the King.

Such emoluments from the State must not be burthened with any debt.

Article 10.—Legislation may provide annual remuneration for members of the royal family. They may not receive such remuneration while outside the Kingdom without the consent of the Rigsdag.

III.

Article 11.—The supreme authority in all national affairs is vested in the King subject to the restrictions imposed by this Constitution, and he exercises it through his ministers.

Article 12.—The King's actions cannot be reviewed; his person is sacred. The ministers are responsible for the conduct of the government; special regulations dealing with their responsibility shall be determined by law.

Article 13.—The King appoints and recalls his ministers. He fixes their number and the distribution of work between them. Binding force is given to legislative or executive decisions by the signatures of the King together with one or several ministers. Each minister is responsible for decisions signed by him.

Article 14.—Ministers may be accused by the King or by the Folketing* on account of their administration. The Rigsret† adjudicates on the charges so made against ministers.

Article 15.—The meeting of ministers forms the Council of State in which the Heir to the Throne sits if he is of age. The King presides therein, save in the case provided in Article 7, and in cases in which the legislature, by virtue of the first paragraph of Article 8, shall have authorised the Council of State to take over the conduct of government.

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*See Part IV. †See Articles 66 and 67.

Article 16.—All laws and important governmental measures are considered in the Council of State. When the King is for any reason unable to hold the Council of State, he can cause business to be transacted by a Council of Ministers. This Council is composed of all the ministers under the Presidency of the one whom the King has appointed Prime Minister. Each minister expresses his vote therein, and it is recorded in the minutes, decisions being taken by a majority of votes. The Prime Minister forwards the minutes of the proceedings, signed by the ministers present, to the King, who decides whether he wishes immediately to approve of the suggestions of the Council of Ministers or to reintroduce the matter himself into the Council of State.

Article 17.—All appointments are made by the King in the same way as heretofore. This regulation may be modified by law. No person who is not a subject of the Kingdom may be appointed to any office. Every civil and military officer makes a solemn declaration to abide by the Constitution. The King has the power of recalling officers appointed by him. Their pensions are fixed in conformity with the Superannuation Law. The King may transfer officers without their consent, on condition that they do not suffer any reduction of salary, and that they be given the option between transfer and retirement with pension according to the general law. Exceptions of certain classes of officers, outside that mentioned in Article 71, may be prescribed by law.

Article 18.—The King cannot without the consent of the Rigsdag declare war, conclude peace, make or dissolve alliances or commercial treaties, cede any of the national territory, nor contract any obligation which varies the existing conditions of public law.

Article 19.—An ordinary session of the Rigsdag is annually convened by the King, who also fixes the date of its termination. The closing of the session may take place only when legal authority, in pursuance of Article 48, has been given for the collection of taxes and the payment of the State expenses.

Article 20.—The King may convene the Rigsdag in extraordinary sessions and fix their duration.

Article 21.—The King may prorogue the ordinary session of the Rigsdag to a prescribed date, but not beyond two months without the consent of the Rigsdag, nor more than once a year up to the next ordinary session.

Article 22.—The King may dissolve the Folketing.

The following rules apply to the dissolution of the Landsting:

When the Folketing has adopted a bill and has sent it to the Landsting at least three months before the end of a session, and when the Landsting has not adopted it, and if no acceptance of

any identical form of the bill can be secured in both Chambers, after a Committee composed of an equal number of members of the Chambers has presented its report, and when thereafter the Folketing, having been renewed by general election after the normal expiration of the legislature, shall have adopted the bill without alteration during an ordinary session and shall have sent it once more to the Landsting within the period above-mentioned, the King may, if agreement is not achieved between the two Chambers, dissolve the Landsting. With this exception the Landsting can be dissolved only in the event of an amendment of the Constitution. (See Article 94.)

In the event of dissolution of one of the Chambers during a session of the Rigsdag, the sitting of the other shall be suspended until the meeting of the new Rigsdag. This meeting shall take place within two months from the dissolution.

Article 23.—The King can originate bills and other resolutions in the Rigsdag.

Article 24.—The consent of the King is required to give force of law to resolution of the Rigsdag. Laws are promulgated by order of the King, and he is charged with giving them effect. When a resolution has been passed by the Rigsdag and is not sanctioned by the King before the following session, it is considered as being void. (See, however, Article 94.)

Article 25.—In particularly urgent cases, the King may in the interval between 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 the sanction of which the law shall not be considered as having force. Provisional laws shall be discussed firstly by the Folketing.

Article 26.—The prerogatives of mercy and of amnesty belong to the King. Pardon can be granted to ministers convicted by the Rigsret only with the consent of the Folketing.

Article 27.—The King grants, either directly or through the intermediary of the competent authorities, exemptions and dispensations from laws which are in force in accordance with the regulations adopted prior to the 5th June, 1849, or which are authorised by law passed since that date.

Article 28.—The King may coin money in accordance with law.

IV.

Article 29.—The Rigsdag comprises the Folketing and the Landsting.

Article 30.—All men and women natives of the Kingdom who have completed their 25th year, and have a fixed place of abode in the country are entitled to vote in elections for the Folketing, unless—

(*a*) they have been tried and found guilty of an act infamous in public opinion and are still under sentence;

(*b*) they are or have been in receipt of assistance from the public relief organization, and have neither repaid it nor been accorded remission of repayment;

(*c*) they have lost control of their property on account of bankruptcy or deprivation of civil rights.

Article 31.—Every person who satisfies the conditions required for the right to vote to the Folketing (see Article 30) is eligible for election to the Folketing.

Article 32.—The number of members of the Folketing shall be fixed by electoral law, but it shall not exceed 152.

In order to insure an equal representation of different parties amongst the electorate the procedure of elections and the special rules regulating the exercise of the right to vote shall be determined by electoral law which shall likewise determine whether proportional representation shall be introduced concurrently with or without the uninominal ballot.

When electoral areas are being arranged, account shall be taken not only of the number of inhabitants but also of the number of electors and of the density of the population.

Article 33.—Members of the Folketing are elected for four years. They receive a payment, the amount of which is prescribed by electoral law.

Article 34.—Every person qualified to vote in elections to the Folketing is also entitled to vote in elections to the Landsting, provided he has completed his 35th year, and has a permanent residence in the electoral area in question.

Article 35.—Every person qualified to vote in elections to the Landsting is eligible for election to this Chamber, provided that he resides in the electoral area in question.

The nineteen members elected by the Landsting (see Article 36) are not obliged to have a fixed residence in a particular electoral area, provided they possess the other qualifications for a vote for the Landsting.

Article 36.—The number of members of the Landsting should not exceed 78.

Of these ten are elected by Copenhagen and Fredericksberg, not more than forty-eight by large electoral areas comprising

rural and urban districts; one by the Island of Bornholm, and one by the Faröe Islands. Nineteen members are elected in accordance with the rules of proportional representation by an electoral college composed of persons who are members of the Landsting on the day of the publication of the decree ordering new elections to the Chamber (see Articles 22 and 39). The details of the provisions dealing with the matter are prescribed by electoral law.

Electoral law prescribes the number of members of the Landsting, and the detailed rules governing their election.

Article 37.—Members of the Landsting are elected, excepting the case of the Faröe Islands, by an electoral college in accordance with the rules of proportional representation. In the Faröe Islands the election is carried out by an Assembly of electors composed of members of the Lagting elected by the people.

The members of the electoral college are elected according to the rules of proportional representation. Electoral law will fix their number, and the detailed provisions dealing with elections.

Article 38.—The number of members of the Landsting for each electoral area excepting Copenhagen, Fredericksberg, Bornholm, and the Faröe Islands is prescribed by electoral law approximately in the proportion existing between the number of inhabitants in each particular electoral area and that of the total of all such areas.

Article 39.—Members of the Landsting are elected for eight years in such a way, however, that the members elected by the electoral college are renewed as nearly as possible as to one-half every four years.

The period of office of the nineteen members elected by the Landsting terminates at the end of eight years.

The members of the Landsting receive the same remuneration as members of the Folketing.

V.

Article 40.—The Rigsdag meets in ordinary session on the first Tuesday of October if the King has not previously convoked it.

Article 41.—The seat of government is the place where the Rigsdag meets. The King may at any time in extraordinary circumstances, convoke the Rigsdag in another part of the Kingdom.

Article 42.—The Rigsdag is inviolable. Any person who attacks its security and liberty, or issues or executes an order to this effect, is thereby guilty of high treason.

Article 43.—Each of the Chambers has the right of initiating laws and of adopting them in so far as their functions permit.

Article 44.—Each of the Chambers may present addresses to the King.

Article 45.—Each Chamber may appoint Commissions from amongst its members to examine matters of public importance. These Commissions have the right of requiring public officials and private citizens to give evidence, written or oral.

The Chambers elect members of Commissions on the principles of proportional representation. In cases where both Chambers should be represented the election is carried out according to the rules contained in Article 49 for the election of Auditors.

Article 46.—No tax may be imposed, altered or abolished, no troops may be raised, no loans may be contracted, and no land belonging to the State may be alienated save in pursuance of law.

Article 47.—A Bill for the Finance Law of the ensuing year, containing an estimate of the revenue and expenditure of the State, shall be introduced in each ordinary session of the Rigsdag immediately the session opens.

If it is anticipated that the discussion of the Finance Bill for the ensuing financial year will not be completed before the commencement of that year, the Government shall introduce a Provisional Credits Bill, authorising it to collect lawful taxes and other State revenues, and to provide the funds necessary for the uninterrupted carrying-on of the business of the State. But in any such case the ordinary expenditure authorised by the Finance Law of the past financial year and by supplementary credits may not be exceeded, and as regards undertakings outside the ordinary conduct of State business, no expenditure shall be incurred save such as may be necessary for carrying on works already commenced, and authorised in advance by allocation of fixed sums for the extraordinary undertakings in question, or by appropriation in the Finance Law for the current financial year or previous Finance Laws or Supplementary Credits for the purpose of such undertakings.

Bills for Finance Laws or Provisional Credits and Supplementary Credits shall be first discussed in the Folketing.

Article 48.—Taxes may be levied only in pursuance of the Finance Law or a law granting a Provisional Credit passed by the Rigsdag. No payment may be made unless authorised by the Finance Law passed by the Rigsdag or by a law granting Provisional or Supplementary Credits passed by the Rigsdag.

Article 49.—The Rigsdag appoints four salaried Auditors, who shall annually examine the State accounts and certify whether the entire revenue of the State has been brought into account,

and whether any payment not in accordance with the Finance Law or any other law granting credit has been made. They may call for all necessary explanations and the production of all relevant documents. The annual accounts of the State together with the observations of the Auditors are in due course submitted to the Rigsdag for its decision.

Legislation may modify these provisions.

When the election of the Auditors is about to take place both Chambers shall nominate fifteen members who shall sit jointly in committee and carry out this election under the rules of proportional representation.

Article 50.—No foreigner may obtain naturalisation save as prescribed by law.

Legislation shall prescribe the rules governing the acquisition by foreigners of property in the country.

Article 51.—No Bill can be definitely passed without having been discussed three times by the Chamber.

Article 52.—When a Bill has been passed by one Chamber it must be presented to the other Chamber in the form in which passed. If it is amended their it is sent back to the former Chamber. If this Chamber thereupon brings forward fresh amendments the Bill returns to the other Chamber. If agreement cannot be reached, there shall be appointed by each Chamber, when either so requests, an equal number of members who shall sit together in committee to report on the situation, and make suggestions to the Chambers. Each Chamber separately reaches a definite decision on these suggestions.

Article 53.—Each of the Chambers decides for itself on the validity of the election of its members.

Article 54.—Each new member, when his election has been duly established, makes a solemn declaration to observe the Constitution.

Article 55.—Members of the Rigsdag are bound by their own conscience alone, and may not receive any over-riding mandates from their constituents.

Public officials who are elected to the Rigsdag do not require the permission of the Government to take up their duties as members.

Article 56.—During the progress of the sessions no member of the Rigsdag may be in any way prosecuted or imprisoned save with the authority of the Chamber to which he belongs, excepting for flagrant crime. Members of the Rigsdag can incur no

responsibility outside of this assembly by reason of utterances made therein, save by the authority of the Chamber.

Article 57.—Any member duly elected who thereupon is found to be subject to any of the reasons for disqualification loses the rights which accrue by reason of his election.

Legislation shall prescribe the cases in which a member of the Rigsdag who takes up salaried office should submit himself to re-election.

Article 58.—Ministers have the right, ex-officio, to attend meetings of the Rigsdag, and to take part in its debates as often as they wish, provided they obey its Standing Orders; they may not vote unless they are members of the Rigsdag.

Article 59.—Each Chamber itself elects its Chairman and the person or persons who take his place when he is unable to act.

Article 60.—No vote may take place in either Chamber unless at least half its members are present and take part in the vote.

Article 61.—Every member of the Rigsdag may, by leave of the Chamber of which he is a member, originate a discussion on any aspect of public business and in connection therewith ask for explanatory statements from ministers.

Article 62.—Petitions may be presented to either Chamber only through one of its members.

Article 63.—Sessions of the Chambers are public. Nevertheless, the President, or the members to the number required by Standing Order, may demand that all strangers be excluded, whereupon the Chamber decides whether the discussion shall be in public or private.

Article 64.—Each Chamber frames its own Standing Orders, which regulate its debates and provide for the maintenance of order.

Article 65.—A joint session of the Rigsdag is formed by the general meeting of the Folketing and the Landsting. No decision may be taken in joint session unless at least one half of the members of each Chamber are present and take part in the voting. The joint body itself elects its President and frames its Standing Orders regulating debates.

VI.

Article 66.—The Rigsret is composed of the ordinary members of the Supreme Court of the Kingdom and an equal number of Judges elected for four years by the Landsting from amongst their members. If, in any particular case, all the ordinary mem-

bers of the Supreme Court are unable to participate in the proceedings and the judgment, an equal number of members elected by the Landsting retire, beginning with those last elected or with those who hold their seats by the least number of votes. The Rigsret itself from amongst its own number elects its own President.

When new elections to the Landsting are in process of being held and a suit is being tried before the Rigsret, the members elected by the Chamber nevertheless keep their seats in the Court and adjudicate on the suit.

The rules governing the Rigsret may be amended by law.

Article 67.—The Rigsret tries charges brought by the King or the Folketing against the ministers.

The King may with the consent of the Folketing also cause other persons to be tried before the Rigsret if he thinks their crimes are exceptionally dangerous to the State.

Article 68.—The law alone may regulate the exercise of the judicial power.

Article 69.—The administration of justice shall be distinct from the general administration in accordance with regulations to be prescribed by law.

Article 70.—The Courts take cognisance of all matters relating to the limitation of the functions of the authorities. Nevertheless, a person who brings a question of this kind before the Courts is not thereby exempt from provisionally submitting to the orders of the authority.

Article 71.—In the exercise of their functions Judges are bound only by law. They may be removed only in consequence of a judicial decision, nor can they be transferred without their consent, excepting in the event of a reorganisation of the Courts. Nevertheless, any Judge who has attained his 65th year may be retired preserving his emoluments.

Article 72.—A Court system that shall be public and oral shall be introduced as soon, and to as great an extent, as possible.

The jury system shall be introduced for crimes and political offences.

VII.

Article 73.—Legislation shall prescribe the Constitution of the National Church.

Article 74.—Citizens have the right of forming themselves into communions for the worship of God in accordance with their

convictions, provided that they teach or practise nothing opposed to morality or public order.

Article 75.—No person may be compelled to contribute personally to any religion other than his own.

Article 76.—Legislation shall deal with all matters relating to dissenting religious bodies.

Article 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.

Article 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, and, 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.

Article 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.

Article 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 been also passed by the new Rigsdag in joint session.

Article 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.

Article 82.—Any person unable to provide for his unkeep 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.

Article 83.—Children whose parents have not the means to ensure them education have the right to free instruction in the public schools. Parents or guardians who themselves undertake the instruction of children to the standard generally required by the public schools are not obliged to send their children to school.

Article 84.—Every person has the right to publish his opinions in the Press, but remains liable to legal proceedings in connection therewith. Censorship and other preventive measures may never be re-introduced.

Article 85.—Citizens have the right, without preliminary authority, of forming associations having a legal object. No association may be dissolved by governmental action. Nevertheless, an association may be temporarily forbidden, but proceedings to affect its dissolution should at once be taken against it.

Article 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.

Article 87.—In case of civil tumult the armed forces, if they are not attacked, may only intervene when the mob has been three times ineffectually summoned to disperse in the name of the King and of the Law.

Article 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.

Article 89.—The right of the Communes to the free administration of their affairs under State supervision shall be determined by law.

Article 90.—All privileges attaching by law to nobility, titles and rank are abolished.

Article 91.—No fee, manor inalienable or trust in reality 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.

Article 92.—The provisions of Articles 78, 85 and 86 only apply to the Army subject to the restrictions imposed by military laws.

IX.

Article 93.—By virtue of the law uniting Denmark and Iceland, subjects belonging to Iceland enjoy the rights which are mentioned in Articles 17, 30, 31, 34 and 35, and which are a consequence of Danish native status.

X.

Article 94.—All proposals for amendments or additions to the present Constitution may be presented to the Rigsdag in ordinary or extraordinary session.

When a proposal for a Constitutional provision shall have been passed by both Chambers and the Government wishes to give effect thereto, the Rigsdag shall be dissolved, and general elections shall take place simultaneously for the Folketing and the Landsting. If the resolution is passed by the new Rigsdag in ordinary or extraordinary session, it shall be presented before the lapse of six months to the constituents of the Folketing for approval or rejection by direct vote. The special regulations dealing with this direct vote shall be determined by law. If the majority of those taking part in the vote and at least 45 per cent. of all the electors have voted for the resolution of the Rigsdag, and it has received the Royal sanction, it shall have the force of Constitutional Law.

PROVISIONAL ARTICLES.

1. When the Landsting, for the first time after the Constitution as amended comes into force, shall proceed under Article 36 to the election of the members to be elected by the Landsting, this election shall be held for only eighteen members. The nineteenth member shall be elected immediately after the meeting of the new Rigsdag and after the confirmation of the election of the members of the Landsting dwelling in Northern Slesvig.

Members heretofore nominated by the King shall keep their seats in place of a corresponding number of the nineteen members to be elected by the Landsting, but in accordance with the following rules:—

Members nominated by the King are considered as being elected by the groups to which they have been admitted in the order of their nomination as members of the Landsting, and within the limits of the proportion of the nineteen members accruing to the groups.

2. Before the first election to the Rigsdag which shall take place after the completion of the union of the territories of Slesvig and Denmark, the Landsting may be dissolved without observing the rules of the second paragraph of Article 22.

3. With regard to proceedings before the Rigsret and the promulgation of a new law, the law of the 3rd March, 1852, remains in force with the amendments necessary under Article 66 of the present Constitution.

XI. THE UNION OF SOUTH AFRICA.

Area: 473,089 *sq. miles.* *Population*: 6,922,813.*

The South Africa Act, by which the Imperial Parliament prescribed the South African Constitution, was passed in 1909. Prior to that Act the territory included within this Constitution was held by four Colonies, each with a responsible government of its own.

These Colonies were Cape Colony, Natal, the Transvaal and the Orange River Colony. Each of these separate Colonies had had a distinct historical development. Indeed it might have seemed that no effective union could have been formed out of elements so disparate. It is therefore, necessary to note the earlier developments of each of these colonies.

Cape Colony was originally founded by Dutch colonists. In 1814 it was ceded by Holland to the British Crown. In 1854 a liberal Constitution was bestowed on the Colony. Until about 1874 its population remained predominantly Dutch, but after that time the English colonists began to increase in numbers, and the Colony became more fully industrialised.

Natal was originally formed by English colonists. Subsequently a number of Dutch farmers came across from Cape Colony, but Natal remained predominantly an English Colony. This fact coupled with the circumstance that Natal was cut off from the rest of South Africa by the Drakensberg, and had a sea front of its own with the important port of Durban, caused Natal to hold aloof from the other Colonies in South Africa. Natal received self-government in 1893.

Orange River Colony was a Boer Republic. It had originally been established as the Orange Free State by Dutch farmers who became dissatisfied with the government of Cape Colony and trekked north to establish a government of their own. After the South African War the Orange Free State was annexed by the British Government and given the name of the Orange River Colony. It secured responsible government as a British Colony in 1907.

The Transvaal was another Boer Republic established by Dutch farmers who trekked north. Like the Orange Free

* Including 5,399,889 coloured persons.

State, it also was annexed by England at the end of the South African War, and received responsible government as a British Colony in 1906.

Not only, however, were these four States of different and conflicting histories, but the very economic causes that subsequently led to the Union seemed at one time to be leading them farther and farther apart. The Transvaal developed its trade, including the important trade of the Witwatersrand, through Delagoa Bay; Natal through Durban; Cape Colony through Cape Town. The Railways being State possessions a rate war quickly developed. This was followed by tariff difficulties. Shortly after the South African War the four Colonies had created a Customs Union; but this Union broke down. It was denounced by the Transvaal which desired to develop in the direction of free trade, whereas Natal and Cape Colony were disposed to develop in the direction of protection with a view to creating industrial centres at the sea ports.

Finally, there were great discrepancies in the treatment accorded to natives in the four Colonies. When it is remembered that the white population in the four Colonies in 1904 was only about 1,000,000, whereas the native population was 4,000,000, it is apparent that a grave danger could quickly arise from divergent policies in respect to this question.

Out of the very circumstances that seemed to be driving the four Colonies asunder was born the recognition of the need for union. The policy of federation had indeed been initiated as early as 1856 by Sir George Grey. It had been raised again in 1872 by Sir H. Barkly in opening the Cape Parliament. Increasing conflicts between the Dutch and English colonists, however, made such a union impossible. These conflicts culminated in the South African War. And the circumstances which have been related brought the issue of union once again prominently to the front within ten years of the cessation of that war.

Therefore in May, 1908, after the failure of the Customs Union, an inter-colonial conference met at Pretoria and suggested to the Colonial Legislatures the sending of representatives to a National South African Convention charged with the duty "to consider and report on the most desirable form of South African Union and to prepare a draft Constitution." It was suggested that twelve delegates to the Convention should be appointed by Cape Colony, eight by the Transvaal, and five each by Natal and the Orange River Colony. Rhodesia was also invited to send three delegates, who would be entitled to speak but not to vote. These suggestions were approved by the Legislatures of the various Colonies, and Rhodesia also appointed delegates, though that territory did not eventually enter the Union.*

* A Referendum on the question of entry into the Union of South Africa is to be held in Southern Rhodesia in October, 1922.

Accordingly thirty-three delegates met in Durban on October 12th, 1908. One-third of these were farmers, but a large number of the delegates represented the farming interest to a greater or lesser extent. The chief figures in the Convention had during the late war been engaged in opposing armies. Moreover, the questions with which they dealt were matters of acute controversy in the various Colonies. It had therefore decided that the meetings of the Convention should be held in secret, and that the proceedings should be considered as private.

After sitting during the month of October in Durban the Convention then adjourned to Cape Town. It sat for four months with two interludes, one of a fortnight at the end of the Durban session, and one of nearly three weeks during the Cape Town session. During these intervals, however, committees of the Convention continued in session, and at the beginning of February, 1909, the Convention submitted a Draft Bill to the Colonial Parliaments.

The reception of the Draft Constitution was very different in the four Colonies. In the Transvaal the leaders of both parties, recognising the danger of re-opening the vexed questions that had been discussed in the Convention, decided that it would be unwise to attempt to disturb the balance of compromise achieved in the Draft. The Draft was therefore agreed to by the Transvaal Parliament without a single amendment. In the Orange River Colony a few important amendments were made with regard to the question of equal voting rights. In the Cape Colony more serious amendments were introduced, dealing with the same question of "equal rights," and pressing the abandonment of Proportional Representation. In this Parliament certain of the delegates voted against the very provisions which they had, a few weeks before, signed in the Convention. The chief difficulty, however, was in Natal. In this Colony a number of amendments were brought forward, some of which seemed to have no other purpose than to obstruct the proceedings of the Convention, and to bring the Draft Constitution to nought. The Natal Legislature also passed an Act enabling a Referendum to be held on the question of entry into the Union.

The Convention therefore met again at Bloemfontein to consider the amendments which had been proposed. At this meeting certain changes were made in the Draft, in deference to the amendments which had been proposed; and the revised draft was signed by all the delegates on May 11th. It was then submitted again to the four Parliaments. In its revised form the Draft was accepted by the Parliaments of the Cape Colony, the Orange River Colony and the Transvaal, but the Natal Parliament regarded the question of union with suspicion. In that Colony, comprised as it was mainly of British Colonists who had always stood apart from development in other parts of South Africa, a strong demand arose that the

Draft should be submitted to a Referendum. Almost the entire Natal Press was opposed to the Union, and it was feared that the Referendum would reject the Draft. The Referendum, however, was taken, and the result was an overwhelming majority for Union.

Thus by June, 1909, the South African Constitution was accepted by each of the four Colonies. It was then submitted to the Imperial Parliament in London. Delegates were appointed from each of the Colonies to proceed to England to watch over the passage of the Bill. And the Bill was enacted by the British Parliament on the 20th September, 1909.

Prior to the meeting of the Constituent Convention at Durban the Prime Minister of Natal had communicated with the Prime Minister of the Australian Commonwealth with a view to information respecting the working of the Australian Constitution. As a consequence of this request a valuable memorandum was furnished from the Australian Attorney-General's Department. It dealt with a number of important matters, such as the taking over by a Federation of powers hitherto exercised by the Federated States, the creation of a central Government, the creation of a Federal Judiciary, and the importance of brevity in the wording of constitutional articles. It had, however, particular value in the matter of the distribution of functions between a Federal Government and its Federated States.

The Memorandum pointed out that the Canadian Constitution had, in this critical matter, re-acted from certain developments of the American Constitution. Under the American Constitution specific powers had been assigned to Congress and residuary powers to the States. Vexed controversies had arisen respecting "State rights," which the Canadian authorities believed to be due to this arrangement, whereas the difficulties of the United States Congress had been due rather "to the fewness of its specific powers, and to the limitations with which some of them were hedged, than to the principle of distribution." The Canadian Constitution had therefore assigned specific powers to the States and left the residuary powers to the Dominion.

In the belief of the drafters of the Australian Constitution the principle of distribution adopted by Canada was unwise. Therefore the Australian Constitution, in its turn, had adopted the contrary procedure. The legislative power as to specified subjects had been granted to the Federal Parliament, and the general residue of legislative powers had been left to the States. Yet it was left open to any State to legislate on a subject reserved to the Federal Parliament, provided that the Federal Parliament had not already legislated thereon. That is to say, grants of legislative powers to the Federal Parliament were not exclusive of the powers

exercised by the States. Immediately, however, the Federal Parliament desired to legislate in respect of any such subject, its legislation immediately overrode any existing State legislation.

Thus, the Australian Constitution set aside the Canadian practice, and reverted to the practice of the American model. The general effect of the memorandum was to recommend such procedure. It was pointed out that, in the assignment of specific powers to the Federal Parliament, certain qualifying conditions, exceptions, and limitations had been imposed in the wording, and that such qualification had led to difficulty in the adjudication of the courts—a result which had seemed to question the wisdom of the procedure, but which, in effect, was merely to question the wisdom of the wording. While the memorandum, therefore, made no actual recommendation, its purport was to recommend a similar procedure, together with the exercise of more care and simplicity in the wording.

Inasmuch as the proceedings of the South Africa Convention were private, it is not possible to estimate the direct bearing this memorandum had on the draft Constitution. The effect, however, can clearly be traced. For the South African Constitution is remarkable among Confederate Constitutions. Every previous Confederate Constitution had been most careful to preserve the sovereign rights of the constituent States, while carefully delimiting the scope and functions of those rights. When the previous circumstances of the four constituent States in South Africa are considered it is remarkable to note that the South African Constitution submerges the sovereignties that had previously existed.

The four contracting States, under the Constitution, ceased to be States, and became self-governing Provinces. The four State Parliaments ceased to be State Parliaments and became Provincial Councils. In previous Confederations the Constitution had in fact been a treaty in which the recognition of State rights had been formally made. The present Constitution was also a treaty between different States, but it was a treaty under which the separate rights were to all intents and purposes annulled. Certain powers are, under the Constitution, reserved to the Provincial Councils which take the place of the State Parliaments. Certain of these powers, and chiefly those of education, aroused certain criticism at the time. Yet, wise or unwise, they do not now exist by reason of antecedent right, but because they are devolved from the South African Parliament in the Constitution by which that Parliament was created.

The South African Constitution, therefore, holds an interesting place in the Constitutions of the British Commonwealth. The Canadian Constitution in 1867 had granted specific powers to the States, and left the residuary powers to the Dominion. The

Australian Constitution in 1900 granted specific powers to the Dominion, and left the residuary powers to the States. The South African Constitution granted all powers, save in one or two small matters, to the Dominion, and so reduced the contracting States to the position of administrative provinces. In view of the earlier history of the four States, this was a very remarkable result.

*

SOUTH AFRICA ACT, 1909.

9 EDWARD VII.

AN ACT TO CONSTITUTE THE UNION OF SOUTH AFRICA.

[20th September, 1909.]

WHEREAS it is desirable for the welfare and future progress of South Africa that the several British Colonies therein should be united under one Government in a legislative union under the Crown of Great Britain and Ireland:

And whereas it is expedient to make provision for the union of the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony on terms and conditions to which they have agreed by resolution of their respective Parliaments, and to define the executive, legislative, and judicial powers to be exercised in the government of the Union:

And whereas it is expedient to make provision for the establishment of provinces with powers of legislation and administration in local matters and in such other matters as may be specially reserved for provincial legislation and administration:

And whereas it is expedient to provide for the eventual admission into the Union or transfer to the Union of such parts of South Africa as are not originally included therein:

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

PART I.

PRELIMINARY.

SOVEREIGNTY AND GUIDANCE OF ALMIGHTY GOD ACKNOWLEDGED.

*1. *The people of the Union acknowledge the sovereignty and guidance of Almighty God.*

DEFINITIONS.

2. In this Act, unless it is otherwise expressed or implied, the words "the Union" shall be taken to mean the Union of South Africa as constituted under this Act, and the words

*As substituted by section *one*, Act No. 9 of 1925.

"Houses of Parliament", "House of Parliament", or "Parliament", shall be taken to mean the Parliament of the Union.

APPLICATION OF ACT TO KING'S SUCCESSORS.

3. The provisions of this Act referring to the King shall extend to His Majesty's heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland.

PART II.

THE UNION.

PROCLAMATION OF UNION.

4. It shall be lawful for the King, with the advice of the Privy Council, to declare by proclamation that, on and after a date therein appointed, not being later than one year after the passing of this Act, the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony, hereinafter called the Colonies, shall be united in a legislative union under one Government under the name of the Union of South Africa. On and after the day appointed by such proclamation the Government and Parliament of the Union shall have full power and authority within the limits of the Colonies, but the King may at any time after the proclamation appoint a Governor-General for the Union.

COMMENCEMENT OF ACT.

5. The provisions of this Act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed.

INCORPORATION OF COLONIES INTO THE UNION.

6. The Colonies mentioned in section *four* shall become original provinces of the Union under the names of Cape of Good Hope, Natal, Transvaal, and Orange Free State, as the case may be. The original provinces shall have the same limits as the respective Colonies at the establishment of the Union.

APPLICATION OF 58 AND 59 VICT., C. 34, ETC.

7. Upon any Colony entering the Union, the Colonial Boundaries Act, 1895, and every other Act applying to any of the Colonies as being self-governing Colonies or Colonies with responsible government, shall cease to apply to that Colony, but as from the date when this Act takes effect every such Act of Parliament shall apply to the Union.

PART III.

EXECUTIVE GOVERNMENT.

Executive Power.

8. The Executive Government of the Union is vested in the King, and shall be administered by His Majesty in person or by a Governor-General as his representative.

Governor-General.

9. The Governor-General shall be appointed by the King, and shall have and may exercise in the Union during the King's pleasure, but subject to this Act, such powers and functions of the King as His Majesty may be pleased to assign to him.

Salary of Governor-General.

10. There shall be payable to the King out of the Consolidated Revenue Fund of the Union for the salary of the Governor-General an annual sum of ten thousand pounds. The salary of the Governor-General shall not be altered during his continuance in office.

Application of Act to Governor-General.

11. The provisions of this Act relating to the Governor-General extend and apply to the Governor-General for the time being or such person as the King may appoint to administer the government of the Union. The King may authorize the Governor-General to appoint any person to be his deputy within the Union during his temporary absence, and in that capacity to exercise for and on behalf of the Governor-General during such absence all such powers and authorities vested in the Governor-General as the Governor-General may assign to him, subject to any limitations expressed or directions given by the King; but the appointment of such deputy shall not affect the exercise by the Governor-General himself of any power or function.

Executive Council.

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

Meaning of Governor-General-in-Council.

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

APPOINTMENT OF MINISTERS.

*14. The Governor-General may appoint officers not exceeding *eleven* in number to administer such departments of State of the Union as the Governor-General-in-Council may establish; such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Executive Council and shall be the King's Ministers of State for the Union. After the first general election of members of the House of Assembly, as hereinafter provided, no Minister shall hold office for a longer period than three months unless he is or becomes a member of either House of Parliament.

APPOINTMENT AND REMOVAL OF OFFICERS.

†15. The appointment and removal of all officers of the public service of the Union shall be vested in the Governor-General-in-Council, unless the appointment is delegated by the Governor-General-in-Council or by this Act or by a law of Parliament to some other authority.

TRANSFER OF EXECUTIVE POWERS TO GOVERNOR-GENERAL-IN-COUNCIL.

16. All powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in the Governor or in the Governor-in-Council, or in any authority of the Colony, shall, as far as the same continue in existence and are capable of being exercised after the establishment of the Union, be vested in the Governor-General or in the Governor-General-in-Council, or in the authority exercising similar powers under the Union, as the case may be, except such powers and functions as are by this Act or may by a law of Parliament be vested in some other authority.

COMMAND OF NAVAL AND MILITARY FORCES.

17. The command-in-chief of the naval and military forces within the Union is vested in the King or in the Governor-General as his representative.

SEAT OF GOVERNMENT.

18. Save as in section *twenty-three* excepted, Pretoria shall be the seat of Government of the Union.

PART IV.

PARLIAMENT.

LEGISLATIVE POWER.

19. The legislative power of the Union shall be vested in the Parliament of the Union, herein called Parliament, which shall consist of the King, a Senate, and a House of Assembly.

* As amended by section *one*, Act No. 34 of 1925.
†See section *nineteen*, Act No. 27 of 1923.

Sessions of Parliament.

20. The Governor-General may appoint such times for holding the sessions of Parliament as he thinks fit, and may also from time to time, by proclamation or otherwise, prorogue Parliament, and may in like manner dissolve the Senate and the House of Assembly simultaneously, or the House of Assembly alone, provided that the Senate shall not be dissolved within a period of ten years after the establishment of the Union, and provided further that the dissolution of the Senate shall not affect any senators nominated by the Governor-General-in-Council.

Summoning of First Parliament.

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

Annual Session of Parliament.

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

Seat of Legislature.

23. Cape Town shall be the seat of the Legislature of the Union.

SENATE.

Original Constitution of Senate.

***24.** For ten years after the establishment of the Union the constitution of the Senate shall, in respect of the original provinces, be as follows:—

(*i*) Eight senators shall be nominated by the Governor-General-in-Council, and for each original province eight senators shall be elected in the manner hereinafter provided:

(*ii*) The senators to be nominated by the Governor-General-in-Council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their thorough acquaintance, by reason of their official experience, or otherwise, with the reasonable wants and wishes of the coloured races in South Africa. If the seat of a senator so nominated shall become vacant, the Governor-General-in-Council shall nominate another person to be a senator, who shall hold his seat for ten years.

(*iii*) After the passing of this Act, and before the day appointed for the establishment of the Union, the Governor of each of the Colonies shall summon a special sitting of both Houses of the Legislature, and the two Houses sitting together

*See section *one*, Act No. 54 of 1926 regarding dissolution of the Senate.

as one body and presided over by the Speaker of the Legislative Assembly shall elect eight persons to be senators for the province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant, the provincial council of the province for which such senator has been elected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

SUBSEQUENT CONSTITUTION OF SENATE.

*25. Parliament may provide for the manner in which the Senate shall be constituted after the expiration of ten years, and unless and until such provision shall have been made—

(*i*) the provisions of the last preceding section with regard to nominated senators shall continue to have effect;

(*ii*) eight senators for each province shall be elected by the members of the provincial council of such province together with the members of the House of Assembly elected for such province. Such senators shall hold their seats for ten years unless the Senate be sooner dissolved. If the seat of an elected senator shall become vacant, the members of the provincial council of the province, together with the members of the House of Assembly elected for such province, shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat. The Governor-General-in-Council shall make regulations for the joint election of senators prescribed in this section.

QUALIFICATIONS OF SENATORS.

26. The qualifications of a senator shall be as follows:—

He must—

(*a*) be not less than thirty years of age;

(*b*) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;

(*c*) have resided for five years within the limits of the Union as existing at the time when he is elected or nominated, as the case may be;

(*d*) be a British subject of European descent;

(*e*) in the case of an elected senator, be the registered owner of immovable property within the Union of the value of not less than five hundred pounds over and above any special mortgages thereon.

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*See section *one*, Act No. 54 of 1926 regarding dissolution of the Senate.

For the purposes of this section, residence in, and property situated within, a Colony before its incorporation in the Union shall be treated as residence in and property situated within the Union.

APPOINTMENT AND TENURE OF OFFICE OF PRESIDENT.

27. The Senate shall, before proceeding to the dispatch of any other business, choose a senator to be the President of the Senate, and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President. The President shall cease to hold office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office by writing under his hand addressed to the Governor-General.

DEPUTY PRESIDENT.

28. Prior to or during any absence of the President the Senate may choose a senator to perform his duties in his absence.

RESIGNATION OF SENATORS.

29. A senator may, by writing under his hand addressed to the Governor-General, resign his seat, which thereupon shall become vacant. The Governor-General shall as soon as practicable cause steps to be taken to have the vacancy filled.

QUORUM.

30. The presence of at least twelve senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

VOTING IN THE SENATE.

31. All questions in the Senate shall be determined by a majority of votes of senators present other than the President or the presiding senator, who shall, however, have and exercise a casting vote in the case of an equality of votes.

HOUSE OF ASSEMBLY.

CONSTITUTION OF HOUSE OF ASSEMBLY.

32. The House of Assembly shall be composed of members directly chosen by the voters of the Union in electoral divisions delimited as hereinafter provided.

ORIGINAL NUMBER OF MEMBERS.

33. The number of members to be elected in the original provinces at the first election and until the number is altered in accordance with the provisions of this Act shall be as follows:—

Cape of Good Hope	Fifty-one.
Natal	Seventeen.

Transvaal	Thirty-six.
Orange Free State	Seventeen.

These numbers may be increased as provided in the next succeeding section, but shall not, in the case of any original province, be diminished until the total number of members of the House of Assembly in respect of the provinces herein provided for reaches one hundred and fifty, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period.

INCREASE OF NUMBER OF MEMBERS.

34. The number of members to be elected in each province, as provided in section *thirty-three*, shall be increased from time to time as may be necessary in accordance with the following provisions:—

(i) The quota of the Union shall be obtained by dividing the total number of European male adults in the Union, as ascertained at the census of nineteen hundred and four, by the total number of members of the House of Assembsly as constituted at the establishment of the Union:

(ii) In nineteen hundred and eleven, and every five years thereafter, a census of the European population of the Union shall be taken for the purposes of this Act:

(iii) After any such census the number of European male adults in each province shall be compared with the number of European male adults as ascertained at the census of nineteen hundred and four, and, in the case of any province where an increase is shown, as compared with the census of nineteen hundred and four, equal to the quota of the Union or any multiple thereof, the number of members allotted to such province in the last preceding section shall be increased by an additional member or an additional number of members equal to such multiple, as the case may be:

(iv) Notwithstanding anything herein contained, no additional member shall be allotted to any province until the total number of European male adults in such province exceeds the quota of the Union multiplied by the number of members allotted to such province for the time being, and thereupon additional members shall be allotted to such province in respect only of such excess:

(v) As soon as the number of members of the House of Assembly to be elected in the original provinces in accordance with the preceding sub-sections reaches the total of one hundred and fifty, such total shall not be further increased unless and until

Parliament otherwise provides; and subject to the provisions of the last preceding section the distribution of members among the provinces shall be such that the proportion between the number of members to be elected at any time in each province and the number of European male adults in such province as ascertained at the last preceding census, shall as far as possible be identical throughout the Union:

(vi) "Male adults" in this Act shall be taken to mean males of twenty-one years of age or upwards not being members of His Majesty's regular forces on full pay:

(vii) For the purposes of this Act the number of European male adults, as ascertained at the census of nineteen hundred and four, shall be taken to be—

For the Cape of Good Hope	167.546
For Natal	34,784
For the Transvaal	106,493
For the Orange Free State	41,014

QUALIFICATIONS OF VOTERS.

*35. (1) Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the House of Assembly, but no such law shall disqualify any person in the province of the Cape of Good Hope who, under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union, is or may become capable of being registered as a voter from being so registered in the province of the Cape of Good Hope by reason of his race or colour only, unless the Bill be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

(2) No person who at the passing of any such law is registered as a voter in any province shall be removed from the register by reason only of any disqualification based on race or colour.

APPLICATION OF EXISTING QUALIFICATIONS.

36. Subject to the provisions of the last preceding section, the qualifications of parliamentary voters, as existing in the several Colonies at the establishment of the Union, shall be the qualifications necessary to entitle persons in the corresponding provinces to vote for the election of members of the House of Assembly: Provided that no member of His Majesty's regular forces on full pay shall be entitled to be registered as a voter.

Cf. paragraph VII of the Royal Instruments.

ELECTIONS.

*37. (1) Subject to the provisions of this Act, the laws in force in the Colonies at the establishment of the Union relating to elections for the more numerous Houses of Parliament in such Colonies respectively, the registration of voters, the oaths or declarations to be taken by voters, returning officers, the powers and duties of such officers, the proceedings in connection with elections, election expenses, corrupt and illegal practices, the hearing of election petitions and the proceedings incident thereto, the vacating of seats of members, and the proceedings necessary for filling such vacancies, shall, *mutatis mutandis,* apply to the elections in the respective provinces of members of the House of Assembly.

(2) Notwithstanding anything to the contrary in any of the said laws contained, at any general election of members of the House of Assembly, all polls shall be taken on one and the same day in all the electoral divisions throughout the Union, such day to be appointed by the Governor-General-in-Council.

COMMISSION FOR DELIMITATION OF ELECTORAL DIVISIONS.

38. Between the date of the passing of this Act and the date fixed for the establishment of the Union, the Governor-in-Council of each of the Colonies shall nominate a Judge of any of the Supreme or High Courts of the Colonies, and the Judges so nominated shall, upon acceptance by them respectively of such nomination, form a joint Commission, without any further appointment, for the purpose of the first division of the provinces into electoral divisions. The High Commissioner for South Africa shall forthwith convene a meeting of such Commission at such time and place in one of the Colonies as he shall fix and determine. At such meeting the Commissioners shall elect one of their number as chairman of such Commission. They shall thereupon proceed with the discharge of their duties under this Act, and may appoint persons in any province to assist them or to act as assessors to the Commission or with individual members thereof for the purpose of inquiring into matters connected with the duties of the Commission. The Commission may regulate their own procedure and may act by a majority of their number. All moneys required for the payment of the expenses of such Commission before the establishment of the Union in any of the Colonies shall be provided by the Governor-in-Council of such Colony. In case of the death, resignation, or other disability of any of the Commissioners before the establishment of the Union, the Governor-in-Council of the Colony in respect of which he was nominated shall forthwith nominate another Judge to fill the vacancy. After the establishment of the

*See Act No. 12 of 1918.

Union the expenses of the Commission shall be defrayed by the Governor-General-in-Council, and any vacancies shall be filled by him.

ELECTORAL DIVISIONS.

39. The Commission shall divide each province into electoral divisions, each returning one member.

METHOD OF DIVIDING PROVINCES INTO ELECTORAL DIVISIONS.

40. (1) For the purpose of such division as is in the last preceding section mentioned, the quota of each province shall be obtained by dividing the total number of voters in the province, as ascertained at the last registration of voters, by the number of members of the House of Assembly to be elected therein.

(2) Each province shall be divided into electoral divisions in such a manner that each such division shall, subject to the provisions of sub-section (3) of this section, contain a number of voters, as nearly as may be equal to the quota of the province.

(3) The Commissioners shall give due consideration to—

(*a*) community or diversity of interests;
(*b*) means of communication;
(*c*) physical features;
(*d*) existing electoral boundaries;
(*e*) sparsity or density of population;

in such manner that, while taking the quota of voters as the basis of division, the Commissioners may, whenever they deem it necessary, depart therefrom, but in no case to any greater extent than fifteen per centum more or fifteen per centum less than the quota.

ALTERATION OF ELECTORAL DIVISIONS.

41. As soon as may be after every quinquennial census, the Governor-General-in-Council shall appoint a Commission consisting of three Judges of the Supreme Court of South Africa to carry out any re-division which may have become necessary as between the different electoral divisions in each province, and to provide for the allocation of the number of members to which such province may have become entitled under the provisions of this Act. In carrying out such re-division and allocation the Commission shall have the same powers and proceed upon the same principles as are by this Act provided in regard to the original division.

POWERS AND DUTIES OF COMMISSION FOR DELIMITING ELECTORAL DIVISIONS.

42. (1) The joint Commission constituted under section *thirty-eight*, and any subsequent Commission appointed under the provisions of the last preceding section, shall submit to the Governor-General-in-Council—

(*a*) a list of electoral divisions, with the names given to them by the Commission and a description of the boundaries of every such division:

(*b*) a map or maps showing the electoral divisions into which the provinces have been divided:

(*c*) such further particulars as they consider necessary.

(2) The Governor-General-in-Council may refer to the Commission for its consideration any matter relating to such list or arising out of the powers or duties of the Commission.

(3) The Governor-General-in-Council shall proclaim the names and boundaries of the electoral divisions as finally settled and certified by the Commission, or a majority thereof, and thereafter, until there shall be a re-division, the electoral divisions as named and defined shall be the electoral divisions of the Union in the provinces.

(4) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps, the description shall prevail.

DATE FROM WHICH ALTERATION OF ELECTORAL DIVISIONS TO TAKE EFFECT.

43. Any alteration in the number of members of the House of Assembly to be elected in the several provinces, and any re-division of the provinces into electoral divisions, shall, in respect of the election of members of the House of Assembly, come into operation at the next general election held after the completion of the re-division or of any allocation consequent upon such alteration, and not earlier.

QUALIFICATIONS OF MEMBERS OF HOUSE OF ASSEMBLY.

44. The qualifications of a member of the House of Assembly shall be as follows:—

He must—

(*a*) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;

(*b*) have resided for five years within the limits of the Union as existing at the time when he is elected;

(*c*) be a British subject of European descent.

For the purposes of this section, residence in a Colony before its incorporation in the Union shall be treated as residence in the Union.

DURATION.

45. Every House of Assembly shall continue for five years from the first meeting thereof, and no longer, but may be sooner dissolved by the Governor-General.

APPOINTMENT AND TENURE OF OFFICE OF SPEAKER.

46. The House of Assembly shall, before proceeding to the dispatch of any other business, choose a member to be the Speaker of the House, and, as often as the office of Speaker becomes vacant, the House shall again choose a member to be the Speaker. The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing under his hand addressed to the Governor-General.

DEPUTY-SPEAKER.

47. Prior to or during the absence of the Speaker, the House of Assembly may choose a member to perform his duties in his absence.

48. *Repealed by section forty-nine* (1), *Act No.* 11 *of* 1926. *See sub-section* (2) *thereof.*

QUORUM.

49. The presence of at least thirty members of the House of Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers.

VOTING IN HOUSE OF ASSEMBLY.

50. All questions in the House of Assembly shall be determined by a majority of votes of members present other than the Speaker or the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

BOTH HOUSES OF PARLIAMENT.

OATH OR AFFIRMATION OF ALLEGIANCE.

51. Every senator and every member of the House of Assembly shall, before taking his seat, make and subscribe before the Governor-General, or some person authorized by him, an oath or affirmation of allegiance in the following form:—

Oath.

I, *A.B.*, do swear that I will be faithful and bear true allegiance to His Majesty [*here insert the name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being*] His [*or Her*] heirs and successors according to law. So help me God.

Affirmation.

I, *A.B.*, do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to his Majesty [*here insert the name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being*] His [*or Her*] heirs and successors according to law.

MEMBERS OF EITHER HOUSE DISQUALIFIED FOR BEING MEMBER OF THE OTHER HOUSE.

52. A member of either House of Parliament shall be incapable of being chosen or of sitting as a member of the other House: Provided that every Minister of State who is a member of either House of Parliament shall have the right to sit and speak in the Senate and the House of Assembly, but shall vote only in the House of which he is a member.

DISQUALIFICATIONS FOR BEING A MEMBER OF EITHER HOUSE.

53. No person shall be capable of being chosen or of sitting as a senator or as a member of the House of Assembly who—

(*a*) has been at any time convicted of any crime or offence for which he shall have been sentenced to imprisonment without the option of a fine for a term of not less than twelve months, unless he shall have received a grant of amnesty or a free pardon, or unless such imprisonment shall have expired at least five years before the date of his election; or

(*b*) is an unrehabilitated insolvent; or

(*c*) is of unsound mind, and has been so declared by a competent court; or

(*d*) holds any office of profit under the Crown within the Union: Provided that the following persons shall not be deemed to hold an office of profit under the Crown for the purposes of this sub-section:

(1) a Minister of State for the Union;

(2) a person in receipt of a pension from the Crown;

(3) an officer or member of His Majesty's naval or military forces on retired or half-pay, or an officer or member of the naval or military forces of the Union whose services are not wholly employed by the Union.

VACATION OF SEATS.

54. If a senator or member of the House of Assembly—

(*a*) becomes subject to any of the disabilities mentioned in the last preceding section; or

(*b*) ceases to be qualified as required by laws; or

(*c*) fails for a whole ordinary session to attend without the special leave of the Senate or the House of Assembly, as the case may be;

his seat shall thereupon become vacant.

PENALTY FOR SITTING OR VOTING WHEN DISQUALIFIED.

55. If any person who is by law incapable of sitting as a senator or member of the House of Assembly shall, while so disqualified and knowing or having reasonable grounds for knowing

that he is so disqualified, sit or vote as a member of the Senate or the House of Assembly, he shall be liable to a penalty of one hundred pounds for each day on which he shall so sit or vote, to be recovered on behalf of the Treasury of the Union by action in any Superior Court of the Union.

ALLOWANCES OF MEMBERS.

*56. (1) *Subject to the provisions of this section, every member of the Senate and the House of Assembly (excluding Ministers receiving a salary under the Crown, the President of the Senate and the Speaker of the House of Assembly) shall receive an allowance of seven hundred pounds per annum.*

(2) *For every day during which any such member fails to attend a meeting of the House of which he is a member there shall be deducted the sum of six pounds: Provided that such member shall be exempted from deductions on account of such failure—*

(a) for any day on which he attends a meeting of any Committee of the House of which he is a member; and

(b) when his absence is due to his illness or to the summons or subpoena of a competent Court (except a summons to answer a criminal charge upon which he is convicted); and

(c) when his absence is due to the death or serious illness of his wife and such absence is condoned by the Sessional Committee on Standing Orders of the Senate or the Committee on Standing Rules and Orders of the House of Assembly (as the case may be); and

(d) in respect of the further period of absence not exceeding fifteen days on which he so fails to attend during a session at which the estimates of expenditure for the ordinary administrative services of a financial year are considered.

(3) *Subject to the deductions incurred, if any, the Clerk of the House concerned shall pay to every such member of the House of which he is Clerk the allowance aforesaid in monthly instalments, the first month to be reckoned from the date notified in the Gazette as the date on which the member concerned was nominated or elected (as the case may be).*

(4) *The amount of the allowances paid under this section shall be charged annually to the Consolidated Revenue Fund and the provision of this sub-section shall be deemed to be an appropriation of every such amount.*

PRIVILEGES OF HOUSES OF PARLIAMENT.

†57. The powers, privileges, and immunities of the Senate and of the House of Assembly and of the members and committees

*As substituted by section *one*, Act No. 51 of 1926.

†But see now Powers and Privileges of Parliament Act, No. 19 of 1911.

of each House shall, subject to the provisions of this Act, be such as are declared by Parliament, and until declared shall be those of the House of Assembly of the Cape of Good Hope and of its members and committees at the establishment of the Union.

RULES OF PROCEDURE.

58. Each House of Parliament may make rules and orders with respect to the order and conduct of its business and proceedings. Until such rules and orders shall have been made the rules and orders of the Legislative Council and House of Assembly of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply to the Senate and House of Assembly respectively. If a joint sitting of both Houses of Parliament is required under the provisions of this Act, it shall be convened by the Governor-General by message to both Houses. At any such joint sitting the Speaker of the House of Assembly shall preside and the rules of the House of Assembly shall, as far as practicable, apply.

POWERS OF PARLIAMENT.

POWERS OF PARLIAMENT.

59. Parliament shall have full power to make laws for the peace, order, and good government of the Union.

MONEY BILLS.

60. (1) Bills appropriating revenue or moneys or imposing taxation shall originate only in the House of Assembly. But a Bill shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties.

(2) The Senate may not amend any Bills so far as they impose taxation or appropriate revenue or moneys for the services of the Government.

(3) The Senate may not amend any Bills so as to increase any proposed charges or burden on the people.

APPROPRIATION BILLS.

61. Any Bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

RECOMMENDATION OF MONEY VOTES.

62. The House of Assembly shall not originate or pass any vote, resolution, address, or Bill for the appropriation of any part of the public revenue or of any tax or impose to any purpose unless such appropriation has been recommended by message from

the Governor-General during the session in which such vote, resolution, address, or Bill is proposed.

DISAGREEMENTS BETWEEN THE TWO HOUSES.

63. If the House of Assembly passes any Bill and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, and if the House of Assembly in the next session again passes the Bill with or without any amendments which have been made or agreed to by the Senate and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, the Governor-General may during that session convene a joint sitting of the members of the Senate and House of Assembly. The members present at any such joint sitting may deliberate and shall vote together upon the Bill as last proposed by the House as Assembly and upon amendments, if any, which have been made therein by one House of ments, if any, which have been made therein by one House of Parliament and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of members of the Senate and House of Assembly present at such sitting shall be taken to have been carried, and if the Bill with the amendments, if any, is affirmed by a majority of the members of the Senate and House of Assembly present at such sitting, it shall be taken to have been duly passed by both Houses of Parliament: Provided that, if the Senate shall reject or fail to pass any Bill dealing with the appropriation of revenue or moneys for the public service, such joint sitting may be convened during the same session in which the Senate so rejects or fails to pass such Bill.

ROYAL ASSENT TO BILLS.

64. When a Bill is presented to the Governor-General for the King's assent, he shall declare according to his discretion, but subject to the provisions of this Act, and to such instructions as may from time to time be given in that behalf by the King, that he assents in the King's name, or that he withholds assent, or that he reserves the Bill for the signification of the King's pleasure. All Bills repealing or amending this section or any of the provisions of Chapter IV under the heading "House of Assembly", and all Bills abolishing provincial councils or abridging the powers conferred on provincial councils under section *eighty-five,* otherwise than in accordance with the provisions of that section, shall be so reserved. The Governor-General may return to the House in which it originated any Bill so presented to him, and may transmit therewith any amendments which he may recommend, and the House may deal with the recommendation.

DISALLOWANCE OF BILLS.

65. The King may disallow any law within one year after it has been assented to by the Governor-General, and such dis-

allowance, on being made known by the Governor-General by speech or message to each of the Houses of Parliament or by proclamation, shall annul the law from the day when the disallowance is so made known.

RESERVATION OF BILLS.

*66. A Bill reserved for the King's pleasure shall not have any force unless and until, within one year from the day on which it was presented to the Governor-General for the King's assent, the Governor-General makes known by speech or message to each of the Houses of Parliament or by proclamation that it has received the King's assent.

SIGNATURE AND ENROLMENT OF ACTS.

67. As soon as may be after any law shall have been assented to in the King's name by the Governor-General, or having been reserved for the King's pleasure shall have received his assent, the Clerk of the House of Assembly shall cause two fair copies of such law, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Governor-General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

PART V.

THE PROVINCES.

Administrators.

APPOINTMENT AND TENURE OF OFFICE OF PROVINCIAL ADMINISTRATORS.

68. (1) In each province there shall be a chief executive officer appointed by the Governor-General-in-Council, who shall be styled the administrator of the province, and in whose name all executive acts relating to provincial affairs therein shall be done.

(2) In the appointment of the administrator of any province, the Governor-General-in-Council shall, as far as practicable, give preference to persons resident in such province.

(3) Such administrator shall hold office for a term of five years and shall not be removed before the expiration thereof except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if

*Cf. paragraph VII of the Royal Instructions to the Governor-General.

Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(4) The Governor-General-in-Council may from time to time appoint a deputy-administrator to execute the office and functions of the administrator during his absence, illness, or other inability.

SALARIES OF ADMINISTRATORS.

69. The salaries of the administrators shall be fixed and provided by Parliament, and shall not be reduced during their respective terms of office.

Provincial Councils.

CONSTITUTION OF PROVINCIAL COUNCILS.

70. (1) There shall be a provincial council in each province consisting of the same number of members as are elected in the province for the House of Assembly: Provided that, in any province whose representatives in the House of Assembly shall be less than twenty-five in number, the provincial council shall consist of twenty-five members.

(2) Any person qualified to vote for the election of members of the provincial council shall be qualified to be a member of such council.

QUALIFICATION OF PROVINCIAL COUNCILLORS.

71. (1) The members of the provincial council shall be elected by the persons qualified to vote for the election of members of the House of Assembly in the province voting in the same electoral divisions as are delimited for the election of members of the House of Assembly: Provided that, in any province in which less than twenty-five members are elected to the House of Assembly, the delimitation of the electoral divisions, and any necessary re-allocation of members or adjustment of electoral divisions, shall be effected by the same Commission and on the same principles as are prescribed in regard to the electoral divisions for the House of Assembly.

(2) Any alteration in the number of members of the provincial council, and any re-division of the province into electoral divisions, shall come into operation at the next general election for such council held after the completion of such re-division, or of any allocation consequent upon such alteration, and not earlier.

(3) The election shall take place at such times as the administrator shall by proclamation direct, and the provisions of section *thirty-seven* applicable to the election of members of the House of Assembly shall *mutatis mutandis* apply to such elections.

APPLICATION OF SECTIONS FIFTY-THREE TO FIFTY-FIVE TO PROVINCIAL COUNCILS.

72. The provisions of sections *fifty-three, fifty-four,* and *fifty-five,* relative to members of the House of Assembly shall *mutatis*

mutandis apply to members of the provincial councils: Provided that any member of a provincial council who shall become a member of either House of Parliament shall thereupon cease to be a member of such provincial council.

TENURE OF OFFICE BY PROVINCIAL COUNCILLORS.

73. Each provincial council shall continue for three years from the date of its first meeting, and shall not be subject to dissolution save by effluxion of time.

SESSIONS OF PROVINCIAL COUNCILS.

74. The administrator of each province shall by proclamation fix such times for holding the sessions of the provincial council as he may think fit, and may from time to time prorogue such council: Provided that there shall be a session of every provincial council once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the council in one session and its first sitting in the next session.

CHAIRMAN OF PROVINCIAL COUNCILS.

75. The provincial council shall elect from among its members a chairman, and may make rules for the conduct of its proceedings. Such rules shall be transmitted by the administrator to the Governor-General, and shall have full force and effect unless and until the Governor-General-in-Council shall express his disapproval thereof in writing addressed to the administrator.

ALLOWANCES OF PROVINCIAL COUNCILLORS.

76. The members of the provincial council shall receive such allowances as shall be determined by the Governor-General-in-Council.

FREEDOM OF SPEECH IN PROVINCIAL COUNCILS.

77. There shall be freedom of speech in the provincial council, and no member shall be liable to any action or proceeding in any court by reason of his speech or vote in such council.

EXECUTIVE COMMITTEES.

PROVINCIAL EXECUTIVE COMMITTEES.

78. (1) Each provincial council shall at its first meeting after any general election elect from among its members, or otherwise, four persons to form with the administrator, who shall be chairman, an executive committee for the province. The members of the executive committee other than the administrator shall hold office until the election of their successors in the same manner.

(2) Such members shall receive such remuneration as the provincial council, with the approval of the Governor-General-in-Council, shall determine.

(3) A member of the provincial council shall not be disqualified from sitting as a member by reason of his having been elected as a member of the executive committee.

(4) Any casual vacancy arising in the executive committee shall be filled by election by the provincial council if then in session, or, if the council is not in session, by a person appointed by the executive committee to hold office temporarily pending an election by the council.

Right of Administrator, etc., to take part in Proceedings of Provincial Council.

79. The administrator and any other member of the executive committee of a province, not being a member of the provincial council, shall have the right to take part in the proceedings of the council, but shall not have the right to vote.

Powers of Provincial Executive Committees.

80. The executive committee shall on behalf of the provincial council carry on the administration of provincial affairs. Until the first election of members to serve on the executive committee, such administration shall be carried on by the administrator. Whenever there are not sufficient members of the executive committee to form a quorum according to the rules of the committee, the administrator shall, as soon as practicable, convene a meeting of the provincial council for the purpose of electing members to fill the vacancies, and until such election the administrator shall carry on the administration of provincial affairs.

Transfer of Powers to Provincial Executive Committees.

81. Subject to the provisions of this Act, all powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in or exercised by the Governor or the Governor-in-Council, or any Minister of the Colony, shall after such establishment be vested in the executive committee of the province so far as such powers, authorities, and functions relate to matters in respect of which the provincial council is competent to make ordinances.

Voting in Executive Committees.

82. Questions arising in the executive committee shall be determined by a majority of votes of the members present, and, in case of an equality of votes, the administrator shall have also a casting vote. Subject to the approval of the Governor-General-in-Council, the executive committee may make rules for the conduct of its proceedings.

TENURE OF OFFICE OF MEMBERS OF EXECUTIVE COMMITTEES.

*83. Subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of public officers, the executive committee shall have power to appoint such officers as may be necessary, in addition to officers assigned to the province by the Governor-General-in-Council under the provisions of this Act, to carry out the services entrusted to them and to make and enforce regulations for the organization and discipline of such officers.

POWER OF ADMINISTRATOR TO ACT ON BEHALF OF GOVERNOR-GENERAL-IN-COUNCIL.

84. In regard to all matters in respect of which no powers are reserved or delegated to the provincial council, the administrator shall act on behalf of the Governor-General-in-Council when required to do so, and in such matters the administrator may act without reference to the other members of the executive committee.

POWERS OF PROVINCIAL COUNCILS.

85. Subject to the provisions of this Act and the assent of the Governor-General-in-Council as hereinafter provided, the provincial council may make ordinances in relation to matters coming within the following classes of subjects (that is to say) :—

(*i*) Direct taxation within the province in order to raise a revenue for provincial purposes:

(*ii*) The borrowing of money on the sole credit of the province with the consent of the Governor-General-in-Council and in accordance with regulations to be framed by Parliament:

†(*iii*) Education, other than higher education, for a period of five years and thereafter until Parliament otherwise provides:

(*iv*) Agriculture to the extent and subject to the conditions to be defined by Parliament:

(*v*) The establishment, maintenance, and management of hospitals and charitable institutions:

‡(*vi*) Municipal institutions, divisional councils, and other local institutions *having authority and functions in any area in respect of the local government of, or the preservation of public health in, that area, including any such body as is referred to in section seven of the Public Health Act,* 1919 (*Act No.* 36 *of* 1919).

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*See Act No. 27 of 1923.

†"Higher education" defined in section *eleven*, Act No. 5 of 1922.

‡As amended by section *one* (1), Act No. 1 of 1926; in operation since 1 January, 1920, but not with reference to the Natal Ordinances referred to in section *two* of that Act.

(*vii*) Local works and undertakings within the province, other than railways and harbours and other than such works as extend beyond the borders of the province, and subject to the power of Parliament to declare any work a national work and to provide for its construction by arrangement with the provincial council or otherwise:

(*viii*) Roads, outspans, ponts, and bridges, other than bridges connecting two provinces:

(*ix*) Markets and pounds:

(*x*) Fish and game preservation:

(*xi*) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law or any ordinance of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section:

(*xii*) Generally all matters which, in the opinion of the Governor-General-in-Council, are of a merely local or private nature in the province:

(*xiii*) All other subjects in respect of which Parliament shall by any law delegate the power of making ordinances to the provincial council.

EFFECT OF PROVINCIAL ORDINANCES.

86. Any ordinance made by a provincial council shall have effect in and for the province as long and as far only as it is not repugnant to any Act of Parliament.

RECOMMENDATIONS TO PARLIAMENT.

87. A provincial council may recommend to Parliament the passing of any law relating to any matter in respect of which such council is not competent to make ordinances.

POWER TO DEAL WITH MATTERS PROPER TO BE DEALT WITH BY PRIVATE BILL LEGISLATION.

88. In regard to any matter which requires to be dealt with by means of a private Act of Parliament, the provincial council of the province to which the matter relates may, subject to such procedure as shall be laid down by Parliament, take evidence by means of a Select Committee or otherwise for and against the passing of such law, and, upon receipt of a report from such council, together with the evidence upon which it is founded, Parliament may pass such Act without further evidence being taken in support thereof.

CONSTITUTION OF PROVINCIAL REVENUE FUND

***89.** A provincial revenue fund shall be formed in every province, into which shall be paid all revenues raised by or

*See section *seventeen*, Act No. 10 of 1913 for Administrator's powers in regard to unforeseen expenditure.

accruing to the provincial council and all moneys paid over by the Governor-General-in-Council to the provincial council. Such fund shall be appropriated by the provincial council by ordinance for the purposes of the provincial administration generally, or, in the case of moneys paid over by the Governor-General-in-Council for particular purposes, then for such purposes; but no such ordinance shall be passed by the provincial council unless the administrator shall have first recommended to the council to make provision for the specific service for which the appropriation is to be made. No money shall be issued from the provincial revenue fund except in accordance with such appropriation and under warrant signed by the administrator: Provided that, until the expiration of one month after the first meeting of the provincial council, the administrator may expend such moneys as may be necessary for the services of the province.

ASSENT TO PROVINCIAL ORDINANCES.

90. When a proposed ordinance has been passed by a provincial council it shall be presented by the administrator to the Governor-General-in-Council for his assent. The Governor-General-in-Council shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until, within one year from the day on which it was presented to the Governor-General-in-Council, he makes known by proclamation that it has received his assent.

EFFECT AND ENROLMENT OF ORDINANCES.

91. An ordinance assented to by the Governor-General-in-Council and promulgated by the administrator shall, subject to the provisions of this Act, have the force of law within the province. The administrator shall cause two fair copies of every such ordinance, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Governor-General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of such ordinance, and, in case of conflict between the two copies thus deposited, that signed by the Governor-General shall prevail.

Miscellaneous.

AUDIT OF PROVINCIAL ACCOUNTS.

92. (1) In each province there shall be an auditor of accounts to be appointed by the Governor-General-in-Council.

(2) No such auditor shall be removed from office except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal if Parliament be then sitting, and, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(3) Each such auditor shall receive out of the Consolidated Revenue Fund such salary as the Governor-General-in-Council, with the approval of Parliament, shall determine.

(4) Each such auditor shall examine and audit the accounts of the province to which he is assigned subject to such regulations and orders as may be framed by the Governor-General-in-Council and approved by Parliament, and no warrant signed by the administrator authorizing the issuing of money shall have effect unless countersigned by such auditor.

CONSTITUTION OF POWERS OF DIVISIONAL AND MUNICIPAL COUNCILS.

93. Notwithstanding anything in this Act contained, all powers, authorities, and functions lawfully exercised at the establishment of the Union by divisional or municipal councils, or any other duly constituted local authority, shall be and remain in force until varied or withdrawn by Parliament or by a provincial council having power in that behalf.

SEATS OF PROVINCIAL GOVERNMENT.

94. The seats of provincial government shall be—

For the Cape of Good Hope ..	Cape Town.
For Natal	Pietermaritzburg.
For the Transvaal	Pretoria.
For the Orange Free State ..	Bloemfontein.

*PART VI.

THE SUPREME COURT OF SOUTH AFRICA.

CONSTITUTION OF SUPREME COURT.

†**95.** There shall be a Supreme Court of South Africa consisting of a Chief Justice of South Africa, the Judges of Appeal, and the other Judges of the several divisions of the Supreme Court of South Africa in the provinces.

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*See section *two*, Act No. 11 of 1927.
†As amended by section *two* (1) (*a*), Act No. 12 of 1920.

APPELLATE DIVISION OF SUPREME COURT.

*96. *There shall be an appellate division of the Supreme Court of South Africa consisting of the Chief Justice of South Africa and four Judges of Appeal.*

FILLING OF TEMPORARY VACANCIES IN APPELLATE DIVISION.

†97. The Governor-General-in-Council may, during the absence, illness, or other incapacity of the Chief Justice of South Africa, or of any Judge of Appeal, appoint any other Judge of the Supreme Court of South Africa to act temporarily as such Chief Justice, or Judge of Appeal, as the case may be.

CONSTITUTION OF PROVINCIAL AND LOCAL DIVISIONS OF SUPREME COURT.

98. (1) The several Supreme Courts of the Cape of Good Hope, Natal, and the Transvaal, and the High Court of the Orange River Colony shall, on the establishment of the Union, become provincial divisions of the Supreme Court of South Africa within their respective provinces, and shall each be presided over by a Judge-President.

(2) The Court of the eastern districts of the Cape of Good Hope, the High Court of Griqualand, the High Court of Witwatersrand, and the several Circuit Courts, shall become local divisions of the Supreme Court of South Africa within the respective areas of their jurisdiction as existing at the establishment of the Union.

(3) The said provincial and local divisions, referred to in this Act as Superior Courts, shall, in addition to any original jurisdiction exercised by the corresponding Courts of the Colonies at the establishment of the Union, have jurisdiction in all matters—

(*a*) in which the Government of the Union or a person suing or being sued on behalf of such Government is a party:

(*b*) in which the validity of any provincial ordinance shall come into question.

‡(4) Unless and until Parliament shall otherwise provide, the said Superior Courts shall *mutatis mutandis* have the same jurisdiction in matters affecting the validity of elections of members of the House of Assembly and provincial councils as the corresponding Courts of the Colonies have at the establishment of the Union in regard to parliamentary elections in such Colonies respectively.

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*As substituted by section *one*, Act No. 12 of 1920.

†As amended by section *two* (1) (*b*) of Act No. 12 of 1920.

‡See sections *one hundred and six to one hundred and thirty-three* Act No. 12 of 1918.

CONTINUATION IN OFFICE OF EXISTING JUDGES.

99. All Judges of the Supreme Courts of the Colonies, including the High Court of the Orange River Colony, holding office at the establishment of the Union shall on such establishment become Judges of the Supreme Court of South Africa, assigned to the divisions of the Supreme Court in the respective provinces, and shall retain all such rights in regard to salaries and pensions as they may possess at the establishment of the Union. The Chief Justices of the Colonies holding office at the establishment of the Union shall on such establishment become the Judges-President of the divisions of the Supreme Court in the respective provinces, but shall so long as they hold that office retain the title of Chief Justice of their respective provinces.

APPOINTMENT AND REMUNERATION OF JUDGES.

*100. The Chief Justice of South Africa, the Judges of appeal, and all other Judges of the Supreme Court of South Africa to be appointed after the establishment of the Union, shall be appointed by the Governor-General-in-Council, and shall receive such remuneration as Parliament shall prescribe, and their remuneration shall not be diminished during their continuance in office.

TENURE OF OFFICE BY JUDGES.

101. The Chief Justice of South Africa and other Judges of the Supreme Court of South Africa shall not be removed from office except by the Governor-General-in-Council on an address from both Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

REDUCTION IN NUMBER OF JUDGES.

102. Upon any vacancy occurring in any division of the Supreme Court of South Africa, other than the Appellate Division, the Governor-General-in-Council may, in case he shall consider that the number of Judges of such Court may with advantage to the public interests be reduced, postpone filling the vacancy until Parliament shall have determined whether such reduction shall take place.

APPEALS TO APPELLATE DIVISION.

†**103.** In every civil case in which, according to the law in force at the establishment of the Union, an appeal might have been made to the Supreme Court of any of the Colonies from a superior Court in any of the Colonies, or from the High Court of Southern

*As amended by *section two* (1) (*c*) of Act No. 12 of 1920.

†See Appellate Division Further Jurisdiction Act, 1911 (Act No. 1 of 1911). See section *three*, Act No. 12 of 1920 regarding appeals from S.W.A.

Rhodesia, the appeal shall be made only to the Appellate Division, except in cases of orders or judgments given by a single Judge, upon applications by way of motion or petition or on summons for provisional sentence or judgments as to costs only, which by law are left to the discretion of the Court. The appeal from any such orders or judgments, as well as any appeal in criminal cases from any such superior Court, or the special reference by any such Court of any point of law in a criminal case, shall be made to the provincial division corresponding to the Court which before the establishment of the Union would have had jurisdiction in the matter. There shall be no further appeal against any judgment given on appeal by such provincial division except to the Appellate Division, and then only if the Appellate Division shall have given special leave to appeal.

EXISTING APPEALS.

104. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from the Supreme Court of any of the Colonies or from the High Court of the Orange River Colony to the King-in-Council, the appeal shall be made only to the Appellate Division: Provided that the right of appeal in any civil suit shall not be limited by reason only of the value of the matter in dispute or the amount claimed or awarded in such suit.

APPEALS FROM INFERIOR COURTS TO PROVINCIAL DIVISIONS.

105. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from a Court of resident magistrate or other inferior Court to a superior Court in any of the Colonies, the appeal shall be made to the corresponding division of the Supreme Court of South Africa; but there shall be no further appeal against any judgment given on appeal by such division except to the Appellate Division, and then only if the Appellate Division shall have given special leave to appeal.

PROVISIONS AS TO APPEALS TO THE KING-IN-COUNCIL.

106. There shall be no appeal from the Supreme Court of South Africa or from any division thereof to the King-in-Council, but nothing herein contained shall be construed to impair any right which the King-in-Council may be pleased to exercise to grant special leave to appeal from the Appellate Division to the King-in-Council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but Bills containing any such limitation shall be reserved by the Governor-General for the signification of His Majesty's pleasure:* Provided

*Cf. Paragraph VII of the Royal Instructions.

that nothing in this section shall affect any right of appeal to His Majesty-in-Council from any judgment given by the Appellate Division of the Supreme Court under or in virtue of the Colonial Courts of Admiralty Act, 1890.

RULES OF PROCEDURE IN APPELLATE DIVISION.

*107. The Chief Justice of South Africa and the Judges of appeal may, subject to the approval of the Governor-General-in-Council, make rules for the conduct of the proceedings of the Appellate Division and prescribing the time and manner of making appeals thereto. Until such rules shall have been promulgated, the rules in force in the Supreme Court of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply.

RULES OF PROCEDURE IN PROVINCIAL AND LOCAL DIVISIONS.

108. The Chief Justice and other Judges of the Supreme Court of South Africa may, subject to the approval of the Governor-General-in-Council, frame rules for the conduct of the proceedings of the several provincial and local divisions. Until such rules shall have been promulgated, the rules in force at the establishment of the Union in the respective Courts which become divisions of the Supreme Court of South Africa shall continue to apply therein.

PLACE OF SITTINGS OF APPELLATE DIVISION.

†109. The Appellate Division shall sit in Bloemfontein, but may from time to time for the convenience of suitors hold its sittings at other places within the Union.

QUORUM FOR HEARING APPEALS.

‡110. (1) *On the hearing of an appeal from a Court consisting of a single Judge, three Judges of the Appellate Division shall form a quorum; and on the hearing of an appeal from a Court consisting of two or more Judges, four Judges of the Appellate Division shall form a quorum*:

Provided that if four Judges of the Appellate Division sit to hear an appeal and are equally divided as to any judgment or order, or part thereof, to be given on appeal, any part of the judgment or order of the Court from which the appeal is made, in respect whereof such Judges are so divided, shall stand and shall be deemed to be the judgment or order of the Appellate Division:

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*As amended by section *two* (1) (*d*) of Act No. 12 of 1920.

†See section *sixteen*, Act No. 27 of 1912 for interpretation hereof.

‡As substituted by section *one*, Act No. 11 of 1927.

Provided, further, that the costs arising out of any matter in respect whereof such Judges are so divided shall be awarded to the party in whose favour such matter was decided by the Court from which the appeal is made, subject to the power of such Judges, or three of them, to make any other order as to the costs which they may deem equitable.

(2) *If after argument on an appeal has been heard a Judge who sat at the hearing dies or retires, or becomes otherwise incapable of acting before judgment has been given on the appeal, then—*

(*a*) *if the argument was heard before three Judges, the judgments of the two remaining Judges if in agreement; or*

(*b*) *if the argument was heard before four Judges, the judgments of the three remaining Judges if in agreement; or*

(*c*) *if the argument was heard before five Judges, the judgments of the four remaining Judges if in agreement, or of any three of them which are in agreement,*
shall be the judgment of the Court.

(3) *No Judge shall sit in the hearing of an appeal against a judgment or order given in a case which was heard before him.*

JURISDICTION OF APPELLATE DIVISION.

111. The process of the Appellate Division shall run throughout the Union, and all its judgments or orders shall have full force and effect in every province and shall be executed in like manner as if they were original judgments or orders of the provincial division of the Supreme Court of South Africa in such province.

EXECUTION OF PROCESSES OF PROVINCIAL DIVISIONS.

***112.** The registrar of every provincial division of the Supreme Court of South Africa, if thereto requested by any party in whose favour any judgment or order has been given or made by any other division, shall, upon the deposit with him of an authenticated copy of such judgment or order and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the division of which he is registrar.

TRANSFER OF SUITS FROM ONE PROVINCIAL OR LOCAL DIVISION TO ANOTHER.

†113. Any provincial or local division of the Supreme Court of South Africa to which it may be made to appear that any civil

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*See section *five* (1), Act No. 24 of 1922 for application of this section to mandated territory of S.W.A.

†See section *fourteen*, Act No. 27 of 1912 in civil and section *one hundred and forty-one*, Act No. 31 of 1917 in criminal matters.

suit pending therein may be more conveniently or fitly heard or determined in another division, may order the same to be removed to such other division, and thereupon such last-mentioned division may proceed with such suit in like manner as if it had been originally commenced therein.

REGISTRAR AND OFFICERS OF APPELLATE DIVISION.

114. The Governor-General-in-Council may appoint a registrar of the Appellate Division and such other officers thereof as shall be required for the proper dispatch of the business thereof.

ADVOCATES AND ATTORNEYS.

115. (1) The laws regulating the admission of advocates and attorneys to practise before any superior Court of any of the Colonies shall *mutatis mutandis* apply to the admission of advocates and attorneys to practise in the corresponding division of the Supreme Court of South Africa.

(2) All advocates and attorneys entitled at the establishment of the Union to practise in any superior Court of any of the Colonies shall be entitled to practise as such in the corresponding division of the Supreme Court of South Africa.

(3) All advocates and attorneys entitled to practise before any provincial division of the Supreme Court of South Africa shall be entitled to practise before the Appellate Division.

PENDING SUITS.

116. All suits, civil or criminal, pending in any superior Court of any of the Colonies at the establishment of the Union shall stand removed to the corresponding division of the Supreme Court of South Africa, which shall have jurisdiction to hear and determine the same, and all judgments and orders of any superior Court of any of the Colonies given or made before the establishment of the Union shall have the same force and effect as if they had been given or made by the corresponding division of the Supreme Court of South Africa. All appeals to the King-in-Council which shall be pending at the establishment of the Union shall be proceeded with, as if this Act had not been passed.

PART VII.

FINANCE AND RAILWAYS.

CONSTITUTION OF CONSOLIDATED REVENUE FUND AND RAILWAY AND HARBOUR FUND.

***117.** All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power

*See section *four* (3), Act No. 33 of 1922 about Defence Endowment Account.

of appropriation, shall vest in the Governor-General-in-Council. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues raised or received by the Governor-General-in-Council from the administration of the railways, ports, and harbours, and such fund shall be appropriated by Parliament to the purposes of the railways, ports, and harbours in the manner prescribed by this Act. There shall also be formed a Consolidated Revenue Fund, into which shall be paid all other revenues raised or received by the Governor-General-in-Council, and such fund shall be appropriated by Parliament for the purposes of the Union in the manner prescribed by this Act, and subject to the charges imposed thereby.

COMMISSION OF INQUIRY INTO FINANCIAL RELATIONS BETWEEN UNION AND PROVINCES.

118. The Governor-General-in-Council shall, as soon as may be after the establishment of the Union, appoint a Commission, consisting of one representative from each province, and presided over by an officer from the Imperial Service, to institute an inquiry into the financial relations which should exist between the Union and the provinces. Pending the completion of that inquiry and until Parliament otherwise provides, there shall be paid annually out of the Consolidated Revenue Fund to the administrator of each province—

(*a*) an amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year, 1908-09, as voted by the Legislature of the corresponding colony during the year nineteen hundred and eight;

(*b*) such further sums as the Governor-General-in-Council may consider necessary for the due performance of the services and duties assigned to the provinces respectively.

Until such inquiry shall be completed and Parliament shall have made other provisions, the executive committees in the several provinces shall annually submit estimates of their expenditure for the approval of the Governor-General-in-Council, and no expenditure shall be incurred by any executive committee which is not provided for in such approved estimates.

SECURITY FOR EXISTING PUBLIC DEBTS.

119. The annual interest of the public debts of the Colonies and any sinking funds constituted by law at the establishment of the Union shall form a first charge on the Consolidated Revenue Fund.

REQUIREMENTS FOR WITHDRAWAL OF MONEY FROM FUNDS.

120. No money shall be withdrawn from the Consolidated Revenue Fund or the Railway and Harbour Fund except under

appropriation made by law. But until the expiration of two months after the first meeting of Parliament the Governor-General-in-Council may draw therefrom and expend such moneys as may be necessary for the public service, and for railway and harbour administration respectively.

TRANSFER OF COLONIAL PROPERTY TO THE UNION.

121. All stocks, cash, bankers' balances, and securities for money belonging to each of the Colonies at the establishment of the Union shall be the property of the Union: Provided that the balances of any funds raised at the establishment of the Union by law for any special purposes in any of the Colonies shall be deemed to have been appropriated by Parliament for the special purposes for which they have been provided.

CROWN LANDS, ETC.

122. Crown lands, public works, and all property throughout the Union, movable or immovable, and all rights of whatever description belonging to the several Colonies at the establishment of the Union, shall vest in the Governor-General-in-Council subject to any debt or liability specifically charged thereon.

MINES AND MINERALS.

***123.** All rights in and to mines and minerals, and all rights in connection with the searching for, working for, or disposing of, minerals (or precious stones), which at the establishment of the Union are vested in the Government of any of the Colonies, shall on such establishment vest in the Governor-General-in-Council.

ASSUMPTION BY UNION OF COLONIAL DEBTS.

124. The Union shall assume all debts and liabilities of the Colonies existing at its establishment, subject, notwithstanding any other provision contained in this Act, to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund, and other charges conferred on the creditors of any of the Colonies, and may, subject to such conditions and rights, convert, renew, or consolidate such debts.

PORTS, HARBOURS, AND RAILWAYS.

125. All ports, harbours, and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General-in-Council. No railway for the conveyance of public traffic, and no port, harbour, or similar work, shall be constructed without the sanction of Parliament.

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*See section *one*, Act No. 44 of 1927 regarding precious stones.

CONSTITUTION OF HARBOUR AND RAILWAY BOARD.

*126. Subject to the authority of the Governor-General-in-Council, the control and management of the railways, ports, and harbours of the Union shall be exercised through a Board consisting of not more than three commissioners, who shall be appointed by the Governor-General-in-Council, and a minister of State, who shall be chairman. Each commissioner shall hold office for a period of five years, but may be re-appointed. He shall not be removed before the expiration of his period of appointment, except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session. The salaries of the commissioners shall be fixed by Parliament and shall not be reduced during their respective terms of office.

ADMINISTRATION OF RAILWAYS, PORTS, AND HARBOURS.

†127. The railways, ports, and harbours of the Union shall be administered on business principles, due regard being had to agricultural and industrial development within the Union and promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of all provinces of the Union. So far as may be, the total earnings shall be not more than are sufficient to meet the necessary outlays for working maintenance, betterment, depreciation, and the payment of interest due on capital, not being capital contributed out of railway or harbour revenue, and not including any sums payable out of the Consolidated Revenue Fund in accordance with the provisions of sections *one hundred and thirty* and *one hundred and thirty-one*. The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund. The Governor-General-in-Council shall give effect to the provisions of this section as soon as and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union. During such period, if the revenues accruing to the Consolidated Revenue Fund are insufficient to provide for the general service of the Union, and if the earnings accruing to the Railway and Harbour Fund are in excess of the outlays specified herein, Parliament may by law appropriate such excess or any part thereof towards the general expenditure of the Union, and all sums so appropriated shall be paid over to the Consolidated Revenue Fund.

*See Act No. 17 of 1916.

†Administration now governed by Act No. 22 of 1916, as amended.

ESTABLISHMENT OF FUND FOR MAINTAINING UNIFORMITY OF RAILWAY RATES.

*128. Notwithstanding anything to the contrary in the last preceding section, the Board may establish a fund out of railway and harbour revenue to be used for maintaining, as far as may be, uniformity of rates notwithstanding fluctuations in traffic.

MANAGEMENT OF RAILWAY AND HARBOUR BALANCES.

129. All balances standing to the credit of any fund established in any of the Colonies for railway or harbour purposes at the establishment of the Union shall be under the sole control and management of the Board, and shall be deemed to have been appropriated by Parliament for the respective purposes for which they have been provided.

CONSTRUCTION OF HARBOUR AND RAILWAY WORKS.

*130. Every proposal for the construction of any port or harbour works or of any line of railway, before being submitted to Parliament, shall be considered by the Board, which shall report thereon, and shall advise whether the proposed works or line of railway should or should not be contructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board is of opinion that the revenue derived from the operation of such works or line will be insufficient to meet the costs of working and maintenance, and of interest on the capital invested therein, it shall frame an estimate of the annual loss which, in its opinion, will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and when approved by him the amount thereof shall be paid over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund: Provided that, if in any year the actual loss incurred, as calculated by the Board and certified by the Controller and Auditor-General, is less than the estimate framed by the Board, the amount paid over in respect of that year shall be reduced accordingly so as not to exceed the actual loss incurred. In calculating the loss arising from the operation of any such work or line, the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

MAKING GOOD OF DEFICIENCIES IN RAILWAY FUND IN CERTAIN CASES.

131. If the Board shall be required by the Governor-General-in-Council or under any Act of Parliament or resolution of both

*See section *three*, Act No. 17 of 1916 for requirements of report.

Houses of Parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General, showing, as nearly as can be ascertained, the amount of the loss incurred by reason of the provision of such services and facilities, and such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

132. *Repealed by section one, Act No. 21 of* 1911.

COMPENSATION OF COLONIAL CAPITALS FOR DIMINUTION OF PROSPERITY.

133. In order to compensate Pietermaritzburg and Bloemfontein for any loss sustained by them in the form or diminution of prosperity or decreased rateable value by reason of their ceasing to be seats of government of their respective Colonies, there shall be paid from the Consolidated Revenue Fund for a period not exceeding twenty-five years to the municipal councils of such towns a grant of two per centum per annum on their municipal debts, as existing on the thirty-first day of January nineteen hundred and nine and as ascertained by the Controller and Auditor-General. The Commission appointed under section *one hundred and eighteen* shall, after due inquiry, report to the Governor-General-in-Council what compensation should be paid to the municipal councils of Cape Town and Pretoria for the losses, if any, similarly sustained by them. Such compensation shall be paid out of the Consolidated Revenue Fund for a period not exceeding twenty-five years, and shall not exceed one per centum per annum on the respective municipal debts of such towns existing on the thirty-first January nineteen hundred and nine, and as ascertained by the Controller and Auditor-General. For the purposes of this section Cape Town shall be deemed to include the municipalities of Cape Town, Green Point and Sea Point, Woodstock, Mowbray and Rondebosch, Claremont and Wynberg, and any grant made to Cape Town shall be payable to the councils of such municipalities in proportion to their respective debts. One half of any such grants shall be applied to the redemption of the municipal debts of such towns respectively. At any time after the tenth annual grant has been paid to any of such towns the Governor-General-in-Council, with the approval of Parliament, may after due inquiry withdraw or reduce the grant to such town.

PART VIII.

GENERAL.

Method of Voting for Senators, etc.

134. The election of senators and of members of the executive committees of the provincial council as provided in this Act shall, whenever such election is contested, be according to the principle of proportional representation, each voter having one transferable vote. The Governor-General-in-Council, or, in the case of the first election of the Senate, the Governor-in-Council of each of the Colonies, shall frame regulations prescribing the method of voting and of transferring and counting votes and the duties of returning officers in connection therewith, and such regulations or any amendments thereof after being duly promulgated shall have full force and effect unless and until Parliament shall otherwise provide.

Continuation of Existing Colonial Laws.

135. Subject to the provisions of this Act, all laws in force in the several Colonies at the establishment of the Union shall continue in force in the respective provinces, until repealed or amended by Parliament, or by the provincial councils in matters in respect of which the power to make ordinances is reserved or delegated to them. All legal commissions in the several Colonies at the establishment of the Union shall continue as if the Union had not been established.

Free Trade throughout the Union.

136. There shall be free trade throughout the Union, but until Parliament otherwise provides the duties of custom and of excise leviable under the laws existing in any of the Colonies at the establishment of the Union shall remain in force.

Equality of English and Dutch Languages.

***137.** Both the English and Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights, and privileges; all records, journals, and proceedings of Parliament shall be kept in both languages, and all Bills, Acts, and notices of general public importance or interest issued by the Government of the Union shall be in both languages.

Naturalization.

138. All persons who have been naturalized in any of the Colonies shall be deemed to be naturalized throughout the Union.

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*See section *one*, Act No. 8 of 1925 regarding Afrikaans.

ADMINISTRATION OF JUSTICE.

*139. The administration of justice throughout the Union shall be under the control of the Minister of State, in whom shall be vested all powers, authorities, and functions which shall at the establishment of the Union be vested in the Attorneys-General of the Colonies.

EXISTING OFFICERS.

140. Subject to the provisions of the next succeeding section all officers of the public service of the Colonies shall at the establishment of the Union become officers of the Union.

REORGANIZATION OF PUBLIC DEPARTMENTS.

141. (1) As soon as possible after the establishment of the Union, the Governor-General-in-Council shall appoint a Public Service Commission to make recommendations for such reorganization and readjustment of the departments of the public service as may be necessary. The Commission shall also make recommendations in regard to the assignment of officers to the several provinces.

(2) The Governor-General-in-Council may after such Commission has reported assign from time to time to each province such officers as may be necessary for the proper discharge of the services reserved or delegated to it, and such officers on being so assigned shall become officers of the province. Pending the assignment of such officers, the Governor-General-in-Council may place at the disposal of the provinces the services of such officers of the Union as may be necessary.

(3) The provisions of this section shall not apply to any service or department under the control of the Railway and Harbour Board, or to any person holding office under the Board.

PUBLIC SERVICE COMMISSION.

†142. After the establishment of the Union the Governor-General-in-Council shall appoint a permanent Public Service Commission with such powers and duties relating to the appointment, discipline, retirement, and superannuation of public officers as Parliament shall determine.

PENSIONS OF EXISTING OFFICERS.

143. Any officer of the public service of any of the Colonies at the establishment of the Union who is not retained in the service of the Union or assigned to that of a province shall be entitled to receive such pension, gratuity, or other compensation as he would have received in like circumstances if the Union had not been established.

*As amended by section *one* (1), Act No. 39 of 1926.

†See Act No. 27 of 1923.

TENURE OF OFFICE OF EXISTING OFFICERS.

144. Any officer of the public service of any of the Colonies at the establishment of the Union who is retained in the service of the Union or assigned to that of a province shall retain all his existing and accruing rights, and shall be entitled to retire from the service at the time at which he would have been entitled by law to retire, and on the pension or retiring allowance to which he would have been entitled by law in like circumstances if the Union had not been established.

EXISTING OFFICERS NOT TO BE DISMISSED FOR IGNORANCE OF ENGLISH OR DUTCH.

145. The services of officers in the public service of any of the Colonies at the establishment of the Union shall not be dispensed with by reason of their want of knowledge of either the English or Dutch language.

COMPENSATION TO EXISTING OFFICERS WHO ARE NOT RETAINED.

146. Any permanent officer of the Legislature of any of the Colonies who is not retained in the service of the Union, or assigned to that of any province, and for whom no provision shall have been made by such Legislature, shall be entitled to such pension, gratuity, or compensation as Parliament may determine.

ADMINISTRATION OF NATIVE AFFAIRS, ETC.

***147.** The control and administration of Native affairs and of matters specially or differentially affecting Asiatics throughout the Union shall vest in the Governor-General-in-Council, who shall exercise all special powers in regard to Native administration hitherto vested in the Governors of the Colonies or exercised by them as supreme chiefs, and any lands vested in the Governor or Governor and Executive Council of any Colony for the purpose of reserves for Native locations shall vest in the Governor-General-in-Council, who shall exercise all special powers in relation to such reserves as may hitherto have been exercisable by any such Governor or Governor and Executive Council, and no lands set aside for the occupation of Natives which cannot at the establishment of the Union be alienated except by an Act of the Colonial Legislature shall be alienated or in any way diverted from the purposes for which they are set apart except under the authority of an Act of Parliament.

DEVOLUTION ON UNION OF RIGHTS AND OBLIGATIONS UNDER CONVENTIONS.

148. (1) All rights and obligations under any conventions or agreements which are binding on any of the Colonies shall devolve upon the Union at its establishment.

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*Added by article *two* of Act No. 9 of 1925.

(2) The provisions of the railway agreement between the Governments of the Transvaal, the Cape of Good Hope, and Natal, dated the second of February nineteen hundred and nine, shall, as far as practicable, be given effect to by the Government of the Union.

PART IX.

NEW PROVINCES AND TERRITORIES.

Alteration of Boundaries of Provinces.

149. Parliament may alter the boundaries of any province, divide a province into two or more provinces, or form a new province out of provinces within the Union, on the petition of the provincial council of every province whose boundaries are affected thereby.

Power to Admit into Union Territories Administered by British South Africa Company.

150. The King, with the advice of the Privy Council, may on addresses from the Houses of Parliament of the Union admit into the Union the territories administered by the British South Africa Company on such terms and conditions as to representation and otherwise in each case as are expressed in the addresses and approved by the King, and the provisions of any Order-in-Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

Power to Transfer to Union Government of Native Territories.

151. The King, with the advice of the Privy Council, may, on addresses from the Houses of Parliament of the Union, transfer to the Union the Government of any territories, other than the territories administered by the British South Africa Company, belonging to or under the protection of His Majesty, and inhabited wholly or in part by Natives, and upon such transfer the Governor-General-in-Council may undertake the government of such territory upon the terms and conditions embodied in the Schedule to this Act.

PART X.

AMENDMENT OF ACT.

Amendment of Act.

152. Parliament may by law repeal or alter any of the provisions of this Act: Provided that no provision thereof, for the operation of which a definite period of time is prescribed, shall during such period be repealed or altered: And provided further

that no repeal or alteration of the provisions contained in this section, or in sections *thirty-three* and *thirty-four* (until the number of members of the House of Assembly has reached the limit therein prescribed, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period), or in sections *thirty-five* and *one hundred* and *thirty-seven,* shall be valid unless the Bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

*PART XI.

SUPPLEMENTARY.

SHORT TITLE.

153. *This Act may be cited as the South Africa Act,* **1909.**

SCHEDULE.

1. After the transfer of the government of any territory belonging to or under the protection of His Majesty, the Governor-General-in-Council shall be the legislative authority, and may by proclamation make laws for the peace, order, and good government of such territory: Provided that all such laws shall be laid before both Houses of Parliament within seven days after the issue of the proclamation or, if Parliament be not then sitting, within seven days after the beginning of the next session, and shall be effectual unless and until both Houses of Parliament shall by resolutions passed in the same session request the Governor-General-in-Council to repeal the same, in which case they shall be repealed by proclamation.

2. The Prime Minister shall be charged with the administration of any territory thus transferred, and he shall be advised in the general conduct of such administration by a Commission consisting of not fewer than three members with a secretary, to be appointed by the Governor-General-in-Council, who shall take the instructions of the Prime Minister in conducting all correspondence relating to the territories, and shall also under the like control have custody of all official papers relating to the territories.

3. The members of the Commission shall be appointed by the Governor-General-in-Council, and shall be entitled to hold office for a period of ten years, but such period may be extended to successive further terms of five years. They shall each be entitled

*See Act No. 38 of 1927.

to a fixed annual salary, which shall not be reduced during the continuance of their term of office, and they shall not be removed from office except upon addresses from both Houses of Parliament passed in the same session praying for such removal. They shall not be qualified to become, or to be, members of either House of Parliament. One of the members of the Commission shall be appointed by the Governor-General-in-Council as vice-chairman thereof. In case of the absence, illness, or other incapacity of any member of the Commission, the Governor-General-in-Council may appoint some other fit and proper person to act during such absence, illness, or other incapacity.

4. It shall be the duty of the members of the Commission to advise the Prime Minister upon all matters relating to the general conduct of the administration of, or the legislation for, the said territories. The Prime Minister, or other Minister of State nominated by the Prime Minister to be his deputy for a fixed period, or, failing such nomination, the vice-chairman shall preside at all meetings of the Commission, and in case of an equality of votes shall have a casting vote. Two members of the Commission shall form a quorum. In case the Commission shall consist of four or more members, three of them shall form a quorum.

5. Any member of the Commission who dissents from the decision of a majority shall be entitled to have the reasons for his dissent recorded in the minutes of the Commission.

6. The members of the Commission shall have access to all official papers concerning the territories, and they may deliberate on any matter relating thereto and tender their advice thereon to the Prime Minister.

7. Before coming to a decision on any matter relating either to the administration, other than routine, of the territories or to legislation therefor, the Prime Minister shall cause the papers relating to such matter to be deposited with the secretary to the Commission, and shall convene a meeting of the Commission for the purpose of obtaining its opinion on such matter.

8. Where it appears to the Prime Minister that the despatch of any communication or the making of any order is urgently required, the communication may be sent or order made, although it has not been submitted to a meeting of the Commission or deposited for the perusal of the members thereof. In any such case the Prime Minister shall record the reasons for sending the communication or making the order and give notice thereof to every member.

9. If the Prime Minister does not accept a recommendation of the Commission or proposes to take some action contrary to their advice, he shall state his views to the Commission, who shall be at

liberty to place on record the reasons in support of their recommendation or advice. This record shall be laid by the Prime Minister before the Governor-General-in-Council, whose decision in the matter shall be final.

10. When the recommendations of the Commission have not been accepted by the Governor-General-in-Council, or action not in accordance with their advice has been taken by the Governor-General-in-Council, the Prime Minister, if thereto requested by the Commission, shall lay the record of their dissent from the decision or action taken and of the reasons therefor before both Houses of Parliament, unless in any case the Governor-General-in-Council shall transmit to the Commission a minute recording his opinion that the publication of such record and reasons would be gravely detrimental to the public interest.

11. The Governor-General-in-Council shall appoint a Resident Commissioner for each territory, who shall, in addition to such other duties as shall be imposed on him, prepare the annual estimates of revenue and expenditure for such territory, and forward the same to the Secretary to the Commission for the consideration of the Commission and of the Prime Minister. A proclamation shall be issued by the Governor-General-in-Council, giving to the provisions for revenue and expenditure made in the estimates as finally approved by the Governor-General-in-Council the force of law.

12. There shall be paid into the Treasury of the Union all duties of customs levied on dutiable articles imported into and consumed in the territories, and there shall be paid out of the Treasury annually towards the cost of administration of each territory a sum in respect of such duties which shall bear to the total customs revenue of the Union in respect of each financial year the same proportion as the average amount of the customs revenue of such territory for the three completed financial years last preceding the taking effect of this Act bore to the average amount of the whole customs revenue for all the Colonies and territories included in the Union received during the same period.

13. If the revenue of any territory for any financial year shall be insufficient to meet the expenditure thereof, any amount required to make good the deficiency may, with the approval of the Governor-General-in-Council, and on such terms and conditions and in such manner as with the like approval may be directed or prescribed, be advanced from the funds of any other territory. In default of any such arrangement, the amount required to make good any such deficiency shall be advanced by the Government of the Union. In case there shall be a surplus for any territory, such surplus shall in the first instance be devoted to the repayment of any sums previously advanced by

any other territory or by the Union Government to make good any deficiency in the revenue of such territory.

14. It shall not be lawful to alienate any land in Basutoland or any land forming part of the Native reserves in the Bechuanaland Protectorate and Swaziland from the Native tribes inhabiting those territories.

15. The sale of intoxicating liquor to Natives shall be prohibited in the territories, and no provision giving facilities for introducing, obtaining, or possessing such liquor in any parts of the territories less stringent than those existing at the time of transfer shall be allowed.

16. The custom, where it exists, of holding pitsos or other recognized forms of Native assembly shall be maintained in the territories.

17. No differential duties or imposts on the produce of the territories shall be levied. The laws of the Union relating to customs and excise shall be made to apply to the territories.

18. There shall be free intercourse for the inhabitants of the territories with the rest of South Africa subject to the laws, including the pass laws, of the Union.

19. Subject to the provisions of this Schedule, all revenues derived from any territory shall be expended for and on behalf of such territory: Provided that the Governor-General-in-Council may make special provision for the appropriation of a portion of such revenue as a contribution towards the cost of defence and other services performed by the Union for the benefit of the whole of South Africa, so, however, that that contribution shall not bear a higher proportion to the total cost of such services than that which the amount payable under paragraph 12 of this Schedule from the Treasury of the Union towards the cost of administration of the territory bears to the total customs revenue of the Union on the average of the three years immediately preceding the year for which the contribution is made.

20. The King may disallow any law made by the Governor-General-in-Council by proclamation for any territory within one year from the date of the proclamation, and such disallowance on being made known by the Governor-General by proclamation shall annul the law from the day when the disallowance is so made known.

21. The members of the Commission shall be entitled to such pensions or superannuation allowances as the Governor-General-in-Council shall by proclamation provide, and the salaries and pensions of such members and all other expenses of the Commission shall be borne by the territories in the proportion of their respective revenues.

22. The rights as existing at the date of transfer of officers of the public service employed in any territory shall remain in force.

23. Where any appeal may by law be made to the King-in-Council from any Court of the territories, such appeal shall, subject to the provisions of this Act, be made to the Appellate Division of the Supreme Court of South Africa.

24. The Commission shall prepare an annual report on the territories, which shall, when approved by the Governor-General-in-Council, be laid before both Houses of Parliament.

25. All Bills to amend or alter the provisions of this Schedule shall be reserved for the signification of His Majesty's pleasure.

UNION OF SOUTH AFRICA.

LETTERS PATENT.

PASSED UNDER THE GREAT SEAL OF THE UNITED KINGDOM, CONSTITUTING THE OFFICE OF GOVERNOR-GENERAL AND COMMANDER-IN-CHIEF OF THE UNION OF SOUTH AFRICA.

Edward the Seventh, by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

To all to whom these presents shall come.

GREETING.

WHEREAS by an Act of Parliament passed on the Twentieth day of September, 1909, in the ninth year of Our reign, entitled "An Act to constitute the Union of South Africa", it was acted that it should be lawful for Us, with the advice of Our Privy Council, to declare by proclamation that, on and after a day therein appointed, not later than one year after the passing of that Act, Our Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony (hereinafter called the Colonies), should be united in a legislative union under one Government under the name of the Union of South Africa, and that on and after the day appointed by such proclamation the Government and Parliament of the Union should have full power and authority within the limits of the Colonies, but that We might at any time after the proclamation appoint a Governor-General for the Union:

And whereas We did on the Second day of December, 1909, by and with the advice of Our Privy Council, declare by Proclamation that on and after the Thirty-first day of May, 1910, the Colonies should be united into a legislative union under one Government under the name of the Union of South Africa:

And whereas by the said recited Act it was further enacted that the Governor-General shall be appointed by Us, and shall have and may exercise in the Union during Our pleasure, but subject to that Act, such of Our powers and functions as We may be pleased to assign to him, and that the provisions of that Act relating to the Governor-General shall extend and apply to the Governor-General for the time being, or such person as We may appoint to administer the Government of the Union:

And whereas We are desirous of making effectual and permanent provision for the office of Governor-General and Commander-in-Chief in and over the Union:

Now know ye that We do by these presents declare Our Will and pleasure as follows:

I. There shall be a Governor-General and Commander-in-Chief in and over Our Union of South Africa (hereinafter called the Union), and appointments to the said office shall be made by Commission under Our Sign Manual and Signet.

And We do hereby authorize and command Our said Governor-General and Commander-in-Chief (hereinafter called the Governor-General) to do and execute, in due manner, all things that shall belong to his said office, and to the trust We have reposed in him, according to the several powers and authorities granted or appointed him by virtue of the South Africa Act, 1909, and of these present Letters Patent and of such Commission as may be issued to him under Our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him, under Our Sign Manual and Signet, or by Our Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and to such laws as are or shall hereafter be in force in the Union.

*II. There shall be a Great Seal of and for the Union, which the Governor-General shall keep and use for sealing all things whatsoever that shall pass the said Great Seal. Provided that, until a Great Seal shall be provided, the private seal of the Governor-General may be used as the Great Seal of the Union.

III. The Governor-General may on Our behalf exercise all powers under the South Africa Act, 1909, or otherwise in respect of the summoning, proroguing, or dissolving the Parliament of the Union.

IV. And We do hereby declare Our pleasure to be that, in the event of the death, incapacity, removal, or absence from the Union of the Governor-General, all and every the powers and authorities

*For Warrant authorizing the use of a Great Seal for the Union, see Government Notice No. 422 of 1911.

herein granted to him shall, until Our further pleasure is signified therein, be vested in such person as may be appointed by Us under Our Sign Manual and Signet to be Our Lieutenant-Governor of the Union; or if there shall be no such Lieutenant-Governor in the Union, then in such person or persons as may be appointed by Us under Our Sign Manual and Signet to administer the Government of the same; and in case there shall be no person or persons within the Union so appointed by Us, then in the Chief Justice of South Africa for the time being, or in case of the death, incapacity, removal, or absence from the Union of the said Chief Justice for the time being, then in the Senior Judge for the time being of the Supreme Court of South Africa then residing in the Union, and not being under incapacity. Provided always that the said Senior Judge shall act in the administration of the Government only if, and when the said Chief Justice shall not be present within the Union and capable of administering the Government.

Provided further that no such powers or authorities shall vest in such Lieutenant-Governor, or such other person or persons, until he or they shall have taken the Oaths appointed to be taken by the Governor-General of the Union, and in the manner provided by the Instructions accompanying these Our Letters Patent.

V. Whenever and so often as the Governor-General shall be temporarily absent from the Union in pursuance of any instructions from Us through one of our Principal Secretaries of State, or in the execution of any Letters Patent or any Commission under Our Sign Manual and Signet appointing him to be Our High Commissioner or Special Commissioner for any territories in South Africa with which We may have relations, or appointing him to be Governor or to administer the Government of any Colony, province, or territory adjacent or near to the Union, or shall be absent from the Union for the purpose of visiting some neighbouring Colony, territory, or State, for a period not exceeding one month, then and in every such case the Governor-General may continue to exercise all and every the powers vested in him as fully as if he were residing within the Union.

VI. In the event of the Governor-General having occasion to be temporarily absent for a short period from the seat of Government or from the Union, he may, in every such case, by an instrument under the Public Seal of the Union, constitute and appoint any person to be his Deputy within the Union during such temporary absence, and in that capacity to exercise, perform, and execute for and on behalf of the Governor-General during such absence, but no longer, all such powers and authorities vested in the Governor-General, as shall in and by such instrument be specified and limited, but no others. Every such Deputy shall conform to and observe all such instructions as the Governor-

General shall from time to time address to him for his guidance. Provided, nevertheless, that by the appointment of a Deputy, as aforesaid, the power and authority of the Governor-General shall not be abridged, altered, or in any way affected, otherwise than We may at any time hereafter think proper to direct.

Provided further that, if any such Deputy shall have been duly appointed, it shall not be necessary during the continuance in office of such Deputy for any person to assume the Government of the Union as Administrator thereof.

VII. And We do hereby require and command all Our Officers and Ministers, Civil and Military, and all the other inhabitants of the Union, to be obedient, aiding, and assisting unto the Governor-General, or, in the event of his death, incapacity, or absence, to such person or persons as may from time to time, under the provisions of these Our Letters Patent, administer the Government of the Union.

VIII. And We do hereby reserve to Ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter, or amend these Our Letters Patent as to Us or them shall seem meet.

IX. These Our Letters Patent shall be proclaimed at such place or places within the Union as the Governor-General shall think fit, and shall commence and come into operation on the day fixed by Our Proclamation for the establishment of the Union, whereupon the Letters Patent and Instructions described in the schedule hereto, to the extent therein specified shall, without prejudice to anything lawfully done thereunder, be revoked.

In witness whereof We have caused these Our Letters to be made Patent. Witness Ourself at Westminster this Twenty-ninth day of December, in the Ninth Year of Our Reign.

By Warrant under the King's Sign Manual.

MUIR MACKENZIE.

SCHEDULE.

Nature of Instrument.	Date.	Extent of Revocation.
Letters Patent constituting the office of Governor and Commander-in-Chief of the Colony of the Cape of Good Hope and its Dependencies	26th Feb., 1877	The whole.
Letters Patent amending Letters Patent of the 26th February, 1877, constituting the office of Governor and Commander-in-Chief of the Colony of the Cape of Good Hope and its Dependencies	12th May, 1904	The whole.
Letters Patent further amending Letters Patent of the 26th February, 1877, constituting the office of Governor and Commander-in-Chief of the Colony of the Cape of Good Hope and its Dependencies	1st Nov., 1906	The whole.
Royal Instructions to the Governor and Commander-in-Chief of the Colony of the Cape of Good Hope and its Dependencies	26th Feb., 1877	The whole.
Additional Royal Instructions to the Governor and Commander-in-Chief of the Colony of the Cape of Good Hope and its Dependencies	12th May, 1904	The whole.
Letters Patent constituting the office of Governor and Commander-in-Chief of the Colony of Natal	20th July, 1893	The whole.
Royal Instructions to the Governor and Commander-in-Chief of the Colony of Natal	20th July, 1893	The whole.
Letters Patent making further provision for the appointment of a Deputy-Governor in the Colony of Natal in certain events	24th Dec., 1903	The whole.
Letters Patent in regard to the absence of the Governor of Natal from the Colony	18th Aug., 1905	The whole.
Additional Royal Instructions to the Governor and Commander-in-Chief of the Colony of Natal making fresh provision as to the absence of the Governor from the Colony	18th Aug., 1905	The whole.
Letters Patent constituting the office of Governor and Commander-in-Chief of the Colony of the Transvaal	6th Dec., 1906	All except Section II.
Royal Instructions to the Governor and Commander-in-Chief of the Colony of the Transvaal	6th Dec., 1906	The whole.
Letters Patent constituting the office of Governor and Commander-in-Chief of the Orange River Colony	5th June, 1907	All except Section II.
Royal Instructions to the Governor and Commander-in-Chief of the Orange River Colony	5th June, 1907	The whole.

UNION OF SOUTH AFRICA.

INSTRUCTIONS.

PASSED UNDER THE ROYAL SIGN MANUAL AND SIGNET TO THE GOVERNOR-GENERAL AND COMMANDER-IN-CHIEF OF THE UNION OF SOUTH AFRICA.

EDWARD R. & I.

Instructions to our Governor-General and Commander-in-Chief in and over Our Union of South Africa, or in his absence, to Our Lieutenant-Governor or the Officer for the time being administering the government of the Union.

WHEREAS by certain Letters Patent bearing even date herewith, We have constituted, ordered, and declared that there shall be a Governor-General and Commander-in-Chief (therein and hereinafter called the Governor-General) in and over Our Union of South Africa (therein and hereinafter called the Union);

And whereas We have thereby authorised and commanded the Governor-General to do and execute in due manner all things that shall belong to his said office, and to the trust We have reposed in him, according to the several powers and authorities granted or appointed him by virtue of the said Letters Patent and of such Commission as may be issued to him under Our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him, under Our Sign Manual and Signet, or by Our Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and to such laws as shall hereafter be in force in the Union;

Now, therefore, We do, by these Our Instructions under Our Sign Manual and Signet, declare Our pleasure to be as follows:—

I. Our first appointed Governor-General shall, with all due solemnity, cause Our Commission under Our Sign Manual and Signet appointing him to be read and published in the presence of the Senior Military Officer for the time being in command of Our Regular Forces in South Africa, and of such persons as are able to attend.

II. The said first appointed Governor-General shall take the Oath of Allegiance and the Oath of Office in the forms provided by an Act passed in the Session holden in the thirty-first and thirty-second years of the Reign of Her late Majesty Queen Victoria, intituled "An Act to amend the Law relating to Promissory Oaths"; which Oaths the senior Chief Justice or Judge of the Supreme Courts of the Cape of Good Hope, Natal, and the Transvaal, and the High Court of the Orange River Colony then present is hereby required to tender and administer unto him.

III. Every Governor-General of the Union after the said first appointed Governor-General shall, with all due solemnity, cause Our Commission, under Our Sign Manual and Signet, appointing him to be Governor-General to be read and published in the presence of the Chief Justice of South Africa, or some other Judge of the Supreme Court of South Africa.

IV. Every Governor-General, and every other officer appointed to administer the government of the Union after the first appointed Governor-General, shall take the Oath of Allegiance and the Oath of Office in the forms provided by an Act passed in the Session holden in the thirty-first and thirty-second years of the Reign of Her late Majesty Queen Victoria, intituled "An Act to amend the Law relating to Promissory Oaths"; which Oaths the Chief Justice of South Africa, or some other Judge of the Supreme Court of South Africa, shall and he is hereby required to tender and administer unto him or them.

V. And We do authorize and require the Governor-General from time to time, by himself or by any other person to be authorized by him in that behalf, to administer to all and to every person or persons, as he shall think fit, who shall hold any office or place of trust or profit in the Union, the said Oath of Allegiance, together with such other oath or oaths as may from time to time be prescribed by any laws or statutes in that behalf made and provided.

VI. And We do require the Governor-General to communicate forthwith to the Members of the Executive Council for the Union these Our Instructions, and likewise all such others, from time to time, as he shall find convenient for Our service to be imparted to them.

VII. The Governor-General shall not assent in Our name to any bill which We have specially instructed him through one of Our Principal Secretaries of State to reserve; and he shall take special care that he does not assent to any bill which he may be required under the South Africa Act, 1909, to reserve,* and in particular he shall reserve any bill which disqualifies any person in the Province of the Cape of Good Hope, who, under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union, is, or may become, capable of being registered as a voter, from being so registered in the Province of the Cape of Good Hope by reason of his race or colour only.†

VIII. The Governor-General is to take care that all laws assented to by him in Our name, or reserved for the signification

*Cf. sections *sixty-six* and *one hundred and six* of the South Africa Act, 1909.

†Cf. section *thirty-five* (1) of the South Africa Act, 1909.

of Our pleasure thereon, shall, when transmitted by him, be fairly abstracted in the margins, and be accompanied, in such cases as may seem to him necessary, with such explanatory observations as may be required to exhibit the reasons and occasions for proposing such laws; and he shall also transmit fair copies of the journals and minutes of the proceedings of the Parliament of the Union, which he is to require from the clerks or other proper officers in that behalf, of the said Parliament.

IX. And We do further authorize and empower the Governor-General, as he shall see occasion, in Our name and on Our behalf, when any crime or offence against the laws of the Union has been committed for which the offender may be tried within the Union, to grant a pardon to any accomplice* in such crime or offence who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders if more than one; and, further, to grant to any offender convicted of any such crime or offence in any Court, or before any Judge, Justice, or Magistrate, within the Union, a pardon,† either free or subject to lawful conditions, or any remission of the sentence passed on such offender, or any respite of the execution of such sentence, for such period as to the Governor-General may seem fit, and to remit any fines, penalties, or forfeitures which may become due and payable to Us.‡ Provided always, that if the offender be a natural-born British subject or a British subject by naturalization in any part of Our Dominions, the Governor-General shall in no case, except where the offence has been of a political nature, make it a condition of any pardon or remission of sentence that the offender shall be banished from or shall absent himself from the Union.

And We do hereby direct and enjoin that the Governor-General shall not pardon, grant remission to, or reprieve any such offender without first receiving in cases other than capital cases the advice of one, at least, of his Ministers. Whenever any offender shall have been condemned to suffer death by the sentence of any Court, the Governor-General shall consult the Executive Council upon the case of such offender, submitting to the Council any report that may have been made by the Judge who tried the case, and, whenever it appears advisable to do so, taking measures to invite the attendance of such Judge at the Council. The Governor-General shall not pardon or reprieve any such offender unless it shall appear to him expedient so to do, upon receiving the advice of the Executive Council thereon; but in all cases he is to decide either to extend or to withhold a pardon or reprieve, according to

*See section *two hundred and eighty-two*, Act No. 31 of 1917.
†See section *three hundred and seventy-six et seq.*, Act No. 31 of 1917.
‡Cf. sections *forty-seven*, *forty-eight*, *forty-nine* and *fifty-one* of the Prisons and Reformatories Act, 1911 (Act No. 13 of 1911).

his own deliberate judgment, whether the members of the Executive Council concur therein or otherwise; entering nevertheless, on the minutes of the Executive Council, a minute of his reasons at length in case he should decide any such question in opposition to the judgment of the majority of the Members thereof.

X. Except in accordance with the provisions of any Letters Patent or of any Commission under Our Sign Manual and Signet, the Governor-General shall not, upon any pretence whatever, quit the Union without having first obtained leave from Us for so doing under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State, unless for the purpose of visiting some neighbouring Colony, Territory, or State, for periods not exceeding one month at any one time, nor exceeding in the aggregate one month for every year's service in the Union.

The temporary absence of the Governor-General for any period not exceeding one month shall not, if he have previously informed the Executive Council, in writing, of his intended absence, and if he have duly appointed a Deputy in accordance with the above-recited Letters Patent, nor shall any extension of such period sanctioned by one of Our Principal Secretaries of State and not exceeding fourteen days, be deemed absence from the Union within the meaning of the said Letters Patent.

Given at Our Court at Saint James's, this Twenty-ninth day of December, 1909, in the Ninth Year of Our Reign.

GOVERNMENT NOTICE No. 422 OF 1911.

WARRANT AUTHORIZING THE USE OF A GREAT SEAL FOR THE UNION OF SOUTH AFRICA.

[28*th February*, 1911.

IT is notified that His Excellency the Governor-General has received a Royal Warrant, as printed below, authorizing the use of the Great Seal of the Union.

GEORGE R. I.

To our Governor-General and Commander-in-Chief of Our Union of South Africa or Officer for the time being administering the Government of Our said Union.

With this you will receive a Great Seal prepared by Our Order for the use of the Government of Our Union of South Africa.

Our Will and Pleasure is and We do hereby authorize and direct that the said Seal be used in Sealing all Public Instruments which shall be made and passed in Our Name and for Our Service in Our said Union of South Africa.

And for so doing this shall be your Warrant.

Given at Our Court at Saint James's, this Thirtieth day of December, 1910, in the First year of Our Reign.

By His Majesty's Command.

CREWE.

Warrant Authorizing the
Use of a Great Seal prepared for the
Union of South Africa.

XII. THE COMMONWEALTH OF AUSTRALIA.

Area: 2,974,581 *sq. miles.* *Population**: 5,436,794.

The Commonwealth of Australia was created by a Constitution passed by the Imperial Parliament, in the theory and practice of the time the sole Constituent Assembly of the British Empire, in 1900. Prior to the passing of that Act British Australia consisted of the British provinces of New South Wales, Tasmania, Victoria, Western Australia, South Australia and Queensland. Each of these had its separate Legislature, derived from Acts of the Imperial Parliament; and in order to appreciate the elements of the present Australian Constitution, it is necessary to note the earlier Constitution of these separate Colonies.

New South Wales: By an Act of 1823 legislative power was vested in a nominated Council. By an Act of 1842 (5 & 6 Vic., c. 76) representative government was introduced in an unusual form by the creation of a Council two-thirds of which was elected and one-third nominated. In 1850 (13 and 14 Vic., c. 59) this Legislature was allowed to alter its constitution by substituting two Houses for one. Responsible government was then created.

Tasmania: A nominated Legislature was created in 1825 under the authority of the Imperial Act of 1923. In 1851 a Council was set up, two-thirds of which was elected and one-third nominated. Responsible government was created in 1855 with a Legislature of two Houses with an executive responsible to it.

Victoria: Until 1850 Victoria was part of the one administrative area with New South Wales. When in that year responsible government was set up in New South Wales, a similar government was set up in Victoria with a two Chamber Parliament.

Queensland: This Colony was also part of New South Wales, and so remained until 1859, when, by Imperial Act, it undertook the responsibility of its own government under a two Chamber Constitution.

*Excluding full-blood aboriginals, estimated to number about 60,000.

South Australia: This Colony originated in 1834 as an experiment in free settlement by a Joint Stock Company. It was governed by a nominated Council from 1836 to 1851. Under an Act of 1850 the government was entrusted to a Council of 24 members, two-thirds of which was elected and one-third of which was nominated. In 1855 it undertook its own government with a Parliament of two Chambers.

Western Australia: This Colony was governed by a nominated Council until 1868. In 1870 (under the Act of 1850) two-thirds of this Council was elected, the remaining one-third continuing to be nominated. In 1889 this Council passed an Act establishing a Constitution of two Chambers with responsible government. This Act was confirmed by an Imperial Act of 1890.

During the latter half of the 19th century, therefore, each of these separate Colonies continued to develop its own policy in regard to political and economic matters. There being no danger of invasion, one of the strongest motives towards Federation was lacking. Nevertheless, the absence of a common fiscal policy led to grave inconveniences, and a strong movement came into being for the creation of a Central Federal Government and a united Federal Constitution. Stubborn trade jealousies that had developed between the Colonies had, however, first to be overcome.

As early as 1846 Mr. E. Deas Thomson, Colonial Secretary, New South Wales, recognised the need for some general control for inter-colonial legislation. The following year Lord Grey proposed a scheme for a Federal Constitution. It was also proposed, apart from this, that a Governor-General for Australia should be appointed, who should call an Australian General Assembly to consist of the Governor-General and a House of Delegates elected by the different Colonial Legislatures. There was, however, considerable opposition to these proposals; and the consequence was, as has been seen, that the *Australian Government Act* of 1850, under the authority of which the several Legislatures had been created, made no provision for a Central Legislature.

Influences from without having failed to secure union, it remained for a movement towards union to arise from the needs of the different Legislatures themselves. The first move came when, under an Imperial Act of 1885, a Federal Council was set up to which any Colony could, if they so wished, send delegates. The proceedings of this Council were mainly deliberative and advisory. As New South Wales and New Zealand declined to take any interest in the Council, these proceedings carried ry

little authority in the country. But in 1889 an occasion arose on, significantly enough, a question of defence, that first brought the question of union to the forefront.

In that year a report was presented to the Council by a Major-General Edwards on the defences of Australia. With this report before him, Sir Henry Parkes, the Premier of New South Wales, addressed the Premiers of the other Colonies, urging the necessity of a Federal Union in matters of defence, with the result that a Conference was held at Melbourne of representatives from each of the Colonies; and at this Conference it was unanimously decided by the delegates to recommend to their respective Legislatures that representatives be appointed to a National Australian Convention empowered to draft a Federal Constitution.

When this Constituent Convention met at Sydney in March, 1891, it sat with open doors, and committees were appointed for the drafting of the Constitution. Sir Henry Parkes was elected President, and he moved a series of resolutions, which were finally adopted in the following form:—

(*a*) The powers and rights of existing Colonies to remain intact, excepting as regards any such powers as it may be necessary to hand over to the Federal Government.

(*b*) No alterations to be made in the States without the consent of the Legislatures of such States as well as of the Federal Parliament.

(*c*) Trade between the federated Colonies to be absolutely free.

(*d*) Power to impose Customs and Excise duties to be vested in the Federal Government and Parliament.

(*e*) Military and Naval defence forces to be under one command.

(*f*) The Federal Constitution to make provision to enable each State to make amendments in its Constitution if necessary for the purposes of federation.

All these resolutions were referred to the Committee on constitutional machinery, of which Sir Samuel Griffith, the Premier of Queensland, was Chairman. When the Committee reported to the Convention, the draft Bill was debated, and, with a few alterations, adopted in its entirety on the 9th April. The Convention, having then completed the work for which it had been called, was formally dissolved.

The Constitution, on adoption by the Convention, was returned to the Legislatures of the different Colonies. There it was received with very little interest, and indeed was received with

very little interest by the people at large. The impulse, however, had been given; and an Australian Federal Union was formed with numerous branches in the Colonies to bring the matter before the public attention. It was felt, apparently, that unless the question of union could be pressed forward by the people themselves, it would be unlikely to receive any cordial support in the several Legislatures; and accordingly a public Convention was held in 1894 in the Colony of Victoria, at which the cause of the Federation was strongly argued. Yet it was not until 1895 that a meeting of Premiers was called by Mr. Reid, Premier of New South Wales. At this meeting it was agreed that each of the six Colonies should be invited to pass a Bill enabling the people of each Colony to elect ten persons to represent them on a Constituent Convention, the Constitution adopted by such a Convention to be submitted directly to the people for approval by means of a referendum.

During the following year enabling Acts were passed by New South Wales, Victoria, Tasmania, and South Australia, but the delegates for Western Australia were chosen by the Colonial Legislature. Queensland, however, took no part in these proceedings.

The Constituent Convention so elected met in Adelaide on the 23rd March, 1897. It drafted a Constitution Bill for the consideration of the respective Legislatures, and adjourned until the 2nd December in order to be able to receive suggestions from these Legislatures. The Convention then re-assembled at Sydney, and re-debated the Bill in the light of these suggestions. On this occasion it was announced that Queensland now desired to enter the suggested union, and, in order to give Queensland an opportunity of considering the Bill, the Convention again adjourned.

The Convention re-assembled for its third and final session in Melbourne, on the 20th January, 1898. Queensland was still unrepresented; but, in spite of this, the draft Bill was again debated, and was finally adopted on the 16th March. It was then sent back to the various Colonies for submission to the people by referendum.

In Victoria, South Australia and Tasmania the proposed Constitution was readily accepted. Western Australia, however, refrained from taking action. The enabling Act of that Colony had provided for joining a Federation only in the event of New South Wales doing so, and in New South Wales considerable difficulties had arisen. Strong exception was taken there to several provisions of the Constitution as drafted, and though, when it was put to a referendum, 71,595 voted for it and 66,228 against, the majority in favour fell far short of that fixed by the Act of 1897, under which the referendum was held. This referendum was followed a few weeks later by a general election, at which the

question of federation was again the issue. In the Parliament which was convened as a result of this election, the matter was again discussed, and the Premier was empowered to convene another Conference with a request to the other Colonies to consent to a re-consideration of the objectionable provisions.

This course was agreed to by the other Colonies, with the result that a Conference of Premiers met in Melbourne in January, 1899. At this Conference Queensland was now for the first time represented. A compromise was arranged. The main principles of the Constitution remained as before, but certain changes were made to suit the case of New South Wales.

The Constitution was thereupon once again referred to the people in each of the Colonies. Victoria, South Australia and Tasmania accepted as before; and, after some opposition, New South Wales and Queensland also accepted.

None of the Colonial Legislatures being sovereign, they had not the power themselves to adopt the Constitution so agreed and accepted by the people. The Constitution had, therefore, to be referred to the Imperial Parliament, and a delegation was appointed to proceed to London to explain its provisions. The result was that a Bill was presented in the British Parliament, which became law on the 9th July, 1900. Western Australia had by this time decided, by a referendum held on April 27th, to enter the Federation. Under a Royal Proclamation of the 17th September, the Constitution came into operation on the 1st January, 1901, creating a Federation under the name of the Commonwealth of Australia.

As in all Federal Constitutions, the chief problem was to define the exact relation between the Federal Parliament and the State Parliaments. In coming to a decision upon this question the Constituent Convention had before it the example of Canada, and this example led inevitably to the Constitution of the United States, from which the Canadian Constitution builders had to some extent reacted. Under the Canadian Constitution specific powers had been assigned to the Provinces and the residuary powers left to the Federal Parliament, and this had been a reaction in Canada from the provisions in the Constitution of the United States, where specific powers had been assigned to Congress and residuary powers left to the States. In Canada it had been thought that the many controversies which had arisen respecting "State rights" had come into being because of this, and therefore in the Canadian Constitution this procedure had been reversed.

The Australian Constituent Convention had, therefore, re-examined the entire question, with both examples before it. As a

result of that examination it had come to the conclusion that the difficulties which had arisen respecting "State rights" in the United States were the result, not of the principle of distribution, but of the fewness of the specific powers assigned and of the limitations with which these powers had been beset. It was felt, accordingly, that were these difficulties removed, the United States example would lead to a greater simplicity and efficiency than the Canadian example. Consequently, the principle of the United States Constitution as to this matter was adopted. In the Australian Constitution, therefore, specific powers were assigned to the Federal Parliament and residuary powers left to the Constituent States.

In spite of this example, however, experience proved that the Australian Constitution fell into the same errors as the United States Constitution, not so much in respect of the fewness of the specific powers assigned, but rather in respect of the limitations with which they were beset. Generally speaking, this proved to be the case mainly as a matter of wording. For it has been proved in Australian experience that the simplest of intentions in constitutional writing will prove frustrate if embodied in complicated and qualified wording. Especially did this prove to be the case in the matter of the fiscal and economic subjection, intended by the Constitution, of the subordinate States to the Federal authority. Based upon qualified and elaborate wordings that gave them colour, judgments were given in State Courts claiming certain "State rights" in commercial and trade matters which it was the general feeling that the Constitution had not intended to confer.

These difficulties increased as time proceeded, and it was felt increasingly that it had become necessary to revise the Constitution so as to increase the power of the Federal authority. Therefore, as a result of some controversy, it was decided finally that a new Constituent Convention should be called for the purpose of reconsidering, and if necessary recasting, the Constitution.

COMMONWEALTH

OF

AUSTRALIA CONSTITUTION ACT.

[63 & 64 VICT.] [CH. 12.]

AN ACT TO CONSTITUTE THE COMMONWEALTH OF AUSTRALIA.

[9th July 1900.]

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

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

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

1. This Act may be cited as the Commonwealth of Australia Constitution Act.

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

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

4. The Commonwealth shall be established, and the Constitution of the Commonwealth shall take effect, on and after the

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

5. This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the Courts, Judges, and people of every State and of every part of the Commonwealth, notwithstanding anything in the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth.

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

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

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

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

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

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

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

THE CONSTITUTION.

This Constitution is divided as follows:—

Chapter I.—The Parliament:

Part I.—General:

Part II.—The Senate:

Part III.—The House of Representatives:

Part IV.—Both Houses of the Parliament:
Part V.—Powers of the Parliament:
Chapter II.—The Executive Government:
Chapter III.—The Judicature:
Chapter IV.—Finance and Trade:
Chapter V.—The States:
Chapter VI.—New States:
Chapter VII.—Miscellaneous:
Chapter VIII.—Alteration of the Constitution:
The Schedule.

CHAPTER I.

THE PARLIAMENT.

PART I.—GENERAL.

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

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

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

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

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

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

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

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

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

PART II.—THE SENATE.

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

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

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

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

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

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

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

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

Parliament of the State shall, as nearly as practicable, apply to elections of senators for the State.

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

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

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

The election to fill vacant places shall be made in the year at the expiration of which the places are to become vacant.

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

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

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

At the next general election of members of the House of Representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term.

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

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

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

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

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

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

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

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

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

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

PART III.—THE HOUSE OF REPRESENTATIVES.

24. The House of Representatives shall be composed of members directly chosen by the people of the Commonwealth,

and the number of such members shall be, as nearly as practicable, twice the number of the senators.

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

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

(*ii*) The number of members to be chosen in each State shall be determined by dividing the number of the people of the State, as shown by the latest statistics of the Commonwealth, by the quota; and if on such division there is a remainder greater than one-half of the quota, one more member shall be chosen in the State.

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

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

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

New South Wales	twenty-three;
Victoria	twenty;
Queensland	eight;
South Australia	six;
Tasmania	five;

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

New South Wales	twenty-six;
Victoria	twenty-three;
Queensland	nine;
South Australia	seven;
Western Australia	five;
Tasmania	five;

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

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

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

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

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

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

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

After the first general election, the writs shall be issued within ten days from the expiry of a House of Representatives or from the proclamation of a dissolution thereof.

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

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

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

(*ii*) He must be a subject of the Queen, either natural-born or for at least five years naturalized under a

law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth, or of a State.

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

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

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

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

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

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

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

PART IV.—BOTH HOUSES OF THE PARLIAMENT.

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

42. Every senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the form set forth in the Schedule to this Constitution.

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

44. Any person who—

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

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

(*iii*) Is an undischarged bankrupt or insolvent: or

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

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

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

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

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

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

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

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

his place shall thereupon become vacant.

46. Until the Parliament otherwise provides, any person declared by this Constitution to be incapable of sitting as a senator or as a member of the House of Representatives shall,

for every day on which he so sits, be liable to pay the sum of one hundred pounds to any person who sues for it in any court of competent jurisdiction.

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

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

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

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

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

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

PART V.—POWERS OF THE PARLIAMENT.

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

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

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

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

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

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

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

(*vii*) Lighthouses, lightships, beacons and buoys:

(*viii*) Astronomical and meteorological observations:

(*ix*) Quarantine:

(*x*) Fisheries in Australian waters beyond territorial limits:

(*xi*) Census and statistics:

(*xii*) Currency, coinage, and legal tender:

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

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

(*xv*) Weights and measures:

(*xvi*) Bills of exchange and promissory notes:

(*xvii*) Bankruptcy and insolvency:

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

(*xix*) Naturalization and aliens:

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

(*xxi*) Marriage:

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

(*xxiii*) Invalid and old-age pensions:

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

(*xxv*) The recognition throughout the Commonwealth of the laws, the public acts and records, and the judicial proceedings of the States:

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

(*xxvii*) Immigration and emigration:

(*xxviii*) The influx of criminals:

(*xxix*) External affairs:

(*xxx*) The relations of the Commonwealth with the islands of the Pacific:

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

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

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

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

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

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

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

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

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

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

(*i*) The seat of government of the Commonwealth, and all places acquired by the Commonwealth for public purposes:

(*ii*) Matters relating to any department of the public service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth:

(*iii*) Other matters declared by this Constitution to be within the exclusive power of the Parliament.

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

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

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

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

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

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

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

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

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

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

and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

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

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

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

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

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

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

CHAPTER II.

THE EXECUTIVE GOVERNMENT.

61. The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.

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

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

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

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

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

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

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

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

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*By the Ministers of State Acts, 1915 and 1917, the Ministers of State may exceed seven, but shall not exceed nine. £15,300 annually was allotted by these Acts for their salaries; and £800 per annum each was added by the Parliamentary Allowances Act of 1920.

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

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

Posts, telegraphs, and telephones:
Naval and military defence:
Lighthouses, lightships, beacons, and buoys:
Quarantine.

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

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

CHAPTER III.

THE JUDICATURE.

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

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

(*i*) Shall be appointed by the Governor-General in Council:

(*ii*) Shall not be removed except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity:

(*iii*) Shall receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during their continuance in office.

73. The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament prescribes,

to hear and determine appeals from all judgments, decrees, orders, and sentences—

(*i*) Of any Justice or Justices exercising the original jurisdiction of the High Court:

(*ii*) Of any other Federal Court, or Court exercising federal jurisdiction; or of the Supreme Court of any State, or of any other Court of any State from which at the establishment of the Commonwealth an appeal lies to the Queen in Council:

(*iii*) Of the Inter-State Commission, but as to questions of law only:

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

But no exception or regulation prescribed by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter in which at the establishment of the Commonwealth an appeal lies from such Supreme Court to the Queen in Council.

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

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

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

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

75. In all matters—

(*i*) Arising under any treaty:

(*ii*) Affecting consuls or other representatives of other countries:

(*iii*) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party:

(*iv*) Between States, or between residents of different States, or between a State and a resident of another State:

(*v*) In which a writ of mandamus or prohibition or an injunction is sought against an officer of the Commonwealth: the High Court shall have original jurisdiction.

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

(*i*) Arising under this Constitution, or involving its interpretation:

(*ii*) Arising under any laws made by the Parliament:

(*iii*) Of Admiralty and maritime jurisdiction:

(*iv*) Relating to the same subject-matter claimed under the laws of different States.

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

(*i*) Defining the jurisdiction of any Federal Court other than the High Court:

(*ii*) Defining the extent to which the jurisdiction of any Federal Court shall be exclusive of that which belongs to or is invested in the Courts of the States:

(*iii*) Investing any Court of a State with federal jurisdiction.

78. The Parliament may make laws conferring rights to proceed against the Commonwealth or a State in respect of matters within the limits of the judicial power.

79. The federal jurisdiction of any Court may be exercised by such number of Judges as the Parliament prescribes.

80. The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes.

CHAPTER IV.

FINANCE AND TRADE.

81. All revenues or moneys raised or received by the Executive Government of the Commonwealth shall form one Consolidated Revenue Fund, to be appropriated for the purposes of the Commonwealth in the manner and subject to the charges and liabilities imposed by this Constitution.

82. The costs, charges, and expenses incident to the collection, management, and receipt of the Consolidated Revenue Fund shall form the first charge thereon; and the revenue of the Commonwealth shall, in the first instance, be applied to the payment of the expenditure of the Commonwealth.

83. No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law.

But until the expiration of one month after the first meeting of the Parliament, the Governor-General in Council may draw from the Treasury and expend such moneys as may be necessary for the maintenance of any department transferred to the Commonwealth and for the holding of the first elections for the Parliament.

84. When any department of the public service of a State becomes transferred to the Commonwealth, all officers of the department shall become subject to the control of the Executive Government of the Commonwealth.

Any such officer who is not retained in the service of the Commonwealth shall, unless he is appointed to some other office of equal emolument in the public service of the State, be entitled to receive from the State any pension, gratuity, or other compensation, payable under the law of the State on the abolition of his office.

Any such officer who is retained in the service of the Commonwealth shall preserve all his existing and accruing rights, and shall be entitled to retire from office at the time, and on the pension or retiring allowance, which would be permitted by the law of the State if his service with the Commonwealth were a continuation of his service with the State. Such pension or retiring allowance shall be paid to him by the Commonwealth; but the State shall pay to the Commonwealth a part thereof, to be calculated on the proportion which his terms of service with the State bears to his whole term of service, and for the purpose of the calculation his salary shall be taken to be that paid to him by the State at the time of the transfer.

Any officer who is, at the establishment of the Commonwealth, in the public service of a State, and who is by consent of the Governor of the State, with the advice of the Executive Council thereof, transferred to the public service of the Commonwealth, shall have the same rights as if he had been an officer of a department transferred to the Commonwealth and were retained in the service of the Commonwealth.

85. When any department of the public service of a State is transferred to the Commonwealth—

(*i*) All property of the State of any kind, used exclusively in connexion with the department, shall become

vested in the Commonwealth; but, in the case of the departments controlling custom, excise and bounties, for such time only as the Governor-General in Council may declare to be necessary:

(*ii*) The Commonwealth may acquire any property of the State, of any kind used, but not exclusively used in connexion with the department; the value thereof shall, if no agreement can be made, be ascertained in, as nearly as may be, the manner in which the value of land, or of an interest in land, taken by the State for public purposes is ascertained under the law of the State in force at the establishment of the Commonwealth:

(*iii*) The Commonwealth shall compensate the State for the value of any property passing to the Commonwealth under this section; if no agreement can be made as to the mode of compensation, it shall be determined under laws to be made by the Parliament:

(*iv*) The Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred.

86. On the establishment of the Commonwealth, the collection and control of duties of customs and of excise, and the control of the payment of bounties, shall pass to the Executive Government of the Commonwealth.

87. During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, of the net revenue of the Commonwealth from duties of customs and of excise not more than one-fourth shall be applied annually by the Commonwealth towards its expenditure.

The balance shall, in accordance with this Constitution, be paid to the several States, or applied towards the payment of interest on debts of the several States taken over by the Commonwealth.

88. Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth.

89. Until the imposition of uniform duties of customs—

(*i*) The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth.

(*ii*) The Commonwealth shall debit to each State—

(*a*) The expenditure therein of the Commonwealth incurred solely for the maintenance or continuance, as at the time of transfer, of any department transferred from the State to the Commonwealth;

(*b*) The proportion of the State, according to the number of its people, in the other expenditure of the Commonwealth:

(*iii*) The Commonwealth shall pay to each State month by month the balance (if any) in favour of the State.

90. On the imposition of uniform duties of customs the power of the Parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods, shall become exclusive.

On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or of excise, or offering bounties on the production or export of goods, shall cease to have effect but any grant of or agreement for any such bounty lawfully made by or under the authority of the Government of any State shall be taken to be good if made before the thirtieth day of June, one thousand eight hundred and ninety-eight, and not otherwise.

91. Nothing in this Constitution prohibits a State from granting any aid to or bounty on mining for gold, silver or other metals, nor from granting, with the consent of both Houses of the Parliament of the Commonwealth expressed by resolution, any aid to or bounty on the production or export of goods.

92. On the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.

But notwithstanding anything in this Constitution, goods imported before the imposition of uniform duties of customs into any State, or into any Colony which, whilst the goods remain therein, becomes a State, shall, on their passing into another State within two years after the imposition of such duties, be liable to any duty chargeable on the importation of such goods into the Commonwealth, less any duty paid in respect of the goods on their importation.

93. During the first five years after the imposition of uniform duties of customs, and thereafter until the Parliament otherwise provides—

(*i*) The duties of customs chargeable on goods imported into a State and afterwards passing into another State for consumption, and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption, shall be taken to have been collected not in the former but in the latter State:

(*ii*) Subject to the last sub-section, the Commonwealth shall credit revenue, debit expenditure, and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs.

94. After five years from the imposition of uniform duties of customs, the Parliament may provide, on such basis as it deems fair, for the monthly payment to the several States of all surplus revenue of the Commonwealth.

95. Notwithstanding anything in this Constitution, the Parliament of the State of Western Australia, if that State be an Original State, may, during the first five years after the imposition of uniform duties of customs, impose duties of customs on goods passing into that State and not originally imported from beyond the limits of the Commonwealth; and such duties shall be collected by the Commonwealth.

But any duty so imposed on any goods shall not exceed during the first of such years the duty chargeable on the goods under the law of Western Australia in force at the imposition of uniform duties, and shall not exceed during the second, third, fourth, and fifth of such years respectively, four-fifths, three-fifths, two-fifths, and one-fifth of such latter duty, and all duties imposed under this section shall cease at the expiration of the fifth year after the imposition of uniform duties.

If at any time during the five years the duty on any goods under this section is higher than the duty imposed by the Commonwealth on the importation of the like goods, then such higher duty shall be collected on the goods when imported into Western Australia from beyond the limits of the Commonwealth.

96. During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit.

97. Until the Parliament otherwise provides, the laws in force in any Colony which has become or becomes a State with respect to the receipt of revenue and the expenditure of money on account of the Government of the Colony, and the review and audit of such receipt and expenditure, shall apply to the receipt of revenue and the expenditure of money on account of the Commonwealth in the State in the same manner as if the Commonwealth, or the Government or an officer of the Commonwealth, were mentioned whenever the Colony, or the Government or an officer of the Colony, is mentioned.

98. The power of the Parliament to make laws with respect to trade and commerce extends to navigation and shipping, and to railways the property of any State.

99. The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.

100. The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

101. There shall be an Inter-State Commission, with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this Constitution relating to trade and commerce, and of all laws made thereunder.*

102. The Parliament may by any law with respect to trade or commerce forbid, as to railways, any preference or discrimination by any State, or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable, or unjust to any State; due regard being had to the financial responsibilities incurred by any State in connexion with the construction and maintenance of its railways. But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the Inter-State Commission.

103. The members of the Inter-State Commission—

(*i*) Shall be appointed by the Governor-General in Council:

(*ii*) Shall hold office for seven years, but may be removed within that time by the Governor-General in Council, on an address from both Houses of the Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity:

(*iii*) Shall receive such remuneration as the Parliament may fix; but such remuneration shall not be diminished during their continuance in office.

104. Nothing in this Constitution shall render unlawful any rate for the carriage of goods upon a railway, the property of a State, if the rate is deemed by the Inter-State Commission to be necessary for the development of the territory of the State, and if the rate applies equally to goods within the State and to goods passing into the State from other States.

105. The Parliament may take over from the States their public debts [as existing at the establishment of the Commonwealth]† or a proportion thereof according to the respective num-

*The Commission was brought into existence in 1913, under Act No. 3 of 1912, by the appointment of Commissions for seven years. When this Act expired no fresh appointments were made.

†Under section 2 of the Constitution Alteration (State Debts) 1909, the words in square brackets are omitted.

bers of their people as shown by the latest statistics of the Commonwealth, and may convert, renew, or consolidate such debts, or any part thereof; and the States shall indemnify the Commonwealth in respect of the debts taken over, and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States.

CHAPTER V.

THE STATES.

106. The Constitution of each State of the Commonwealth shall, subject to this Constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of the State.

107. Every power of the Parliament of a Colony which has become or becomes a State shall, unless it is by this Constitution exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be.

108. Every law in force in a Colony which has become or becomes a State, and relating to any matter within the powers of the Parliament of the Commonwealth, shall, subject to this Constitution, continue in force in the State; and, until provision is made in that behalf by the Parliament of the Commonwealth, the Parliament of the State shall have such powers of alteration and of repeal in respect of any such law as the Parliament of the Colony had until the Colony became a State.

109. When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

110. The provisions of this Constitution relating to the Governor of a State extend and apply to the Governor for the time being of the State, or other chief executive officer or administrator of the government of the State.

111. The Parliament of a State may surrender any part of the State to the Commonwealth; and upon such surrender, and the acceptance thereof by the Commonwealth, such part of the State shall become subject to the exclusive jurisdiction of the Commonwealth.

112. After uniform duties of customs have been imposed, a State may levy on imports or exports, or on goods passing into or out of the State, such charges as may be necessary for executing the inspection laws of the State; but the net produce of all charges so levied shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

113. All fermented, distilled, or other intoxicating liquids passing into any State or remaining therein for use, consumption, sale, or storage, shall be subject to the laws of the State as if such liquids had been produced in the State.

114. A State shall not, without the consent of the Parliament of the Commonwealth, raise or maintain any naval or military force, or impose any tax on property of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property of any kind belonging to a State.

115. A State shall not coin money, nor make anything but gold and silver coin a legal tender in payment of debts.

116. The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

117. A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen, resident in such other State.

118. Full faith and credit shall be given, throughout the Commonwealth, to the laws, the public Acts and records, and the judicial proceedings of every State.

119. The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

120. Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences, and the Parliament of the Commonwealth may make laws to give effect to this provision.

CHAPTER VI.

NEW STATES.

121. The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establish-

ment make or impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit.

122. The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

123. The Parliament of the Commonwealth may, with the consent of the Parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed on, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.

124. A new State may be formed by separation of territory from a State, but only with the consent of the Parliament thereof, and a new State may be formed by the union of two or more States or parts of States, but only with the consent of the Parliaments of the States affected.

CHAPTER VII.

MISCELLANEOUS.

125. The seat of Government of the Commonwealth shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and shall be in the State of New South Wales, and be distant not less than one hundred miles from Sydney.

Such territory shall contain an area of not less than one hundred square miles, and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor.

The Parliament shall sit at Melbourne until it meet at the seat of Government.

126. The Queen may authorise the Governor-General to appoint any person, or any persons jointly or severally, to be deputy or deputies within any part of the Commonwealth, and in that capacity to exercise during the pleasure of the Governor-General such powers and functions of the Governor-General as he thinks fit to assign to such deputy or deputies, subject to any limitations expressed or directions given by the Queen; but the appointment of such deputy or deputies shall not affect the

exercise by the Governor-General himself of any power or function.

127. In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal Natives shall not be counted.

CHAPTER VIII.

ALTERATION OF THE CONSTITUTION.

128. This Constitution shall not be altered except in the following manner:—

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives.

But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State qualified to vote for the election of the House of Representatives.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails.

And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent.

No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise, altering the

limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.

SCHEDULE.

OATH.

I, *A.B.*, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law. So HELP ME GOD!

AFFIRMATION.

I, *A.B.*, do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law.

NOTE.—*The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time.*

XIII. THE FRENCH REPUBLIC.

Area: *212,659 *sq. miles.* *Population*: *39,209,766.

During the course of eighty years, from 1791 to 1870, France devised for herself no less than eleven complete Constitutions none of which was destined to remain in force for any length of time. At the end of that time, in 1875, as the end of many political difficulties, she came by a series of Constitutional Laws of no logical or orderly completeness, to which, therefore, the title of a Constitution can hardly be given. They have now endured for over half a century.

These Constitutional Laws, grouped and interpreted together, with the Organic Laws to which they give rise, to-day form the French Constitution. Yet, even when they are interpreted together, they are still a series of very incomplete instruments. Many important matters, such as that of the organisation of a Judiciary, are omitted from mention in them. Matters such as these are taken as having survived from the state of affairs before 1875. Moreover, these Constitutional Laws refer to other matters, such as electoral methods, which are accepted as having been derived from earlier legislation and earlier practice.

The Constitutional Laws of 1875, therefore, cannot be called a Constitution in the sense of comprising a Fundamental Law of the State. They merely constitute a Fundamental Law in respect of the new organisations which they created. In all matters outside their immediate purview, instead of giving strength and authority to the organisations of the State, they actually rather depend on them. In their scattered and fragmentary condition they are like the equipment of an army gathered hastily while on the march, while all other Constitutions present the appearance of a complete equipment laid down ready prior to an army setting forth upon the road.

For this reason it is necessary briefly to pass in review the earlier constitutional history of France. Prior to 1789 the King was himself the Constitution, or, as Louis XIV. stated, "L'Etat, c'est moi." Then, after the French Revolution, the following Constitutions were adopted in the following order:—

(1) The Constitution of September 3rd, 1791. This was a limited Monarchy, and it fell with the King.

*Excluding Colonies and Dependencies. The population given also excludes 192,973 members of military and naval forces and crews of the commercial navy serving abroad.

(2) The Constitution of June 24th, 1793. This was a Republic, the Constitution of which was framed by the Jacobins.

(3) The Constitution of August 22nd, 1795. This was a conservative reaction from the Jacobin Constitution. It reposed the executive power in a Directory of Five, and the legislative power in a Council of Five Hundred and a Council of Ancients.

(4) The Constitution of December 13th, 1799. Under this Constitution the Directory of Five assumed autocratic powers. In this Directory Napoleon ultimately obtained the supreme executive authority, being appointed First Consul, and in August, 1802, the office was conferred on him for life, with extended powers.

(5) The Constitution of May 18th, 1804. Under this Constitution the Consulate was replaced by the Empire, and Napoleon assumed the title of Emperor. The Constitution was revised by certain other acts between the dates of 1804 and 1814.

(6) The Constitutional Bourbon Charter of June 4th, 1814, when the Bourbons were restored with Louis XVIII. as King. Under this Constitutional Charter a Parliamentary system was established, with Ministerial responsibility to follow it, the Legislature consisting of two Houses, one nominative and the other elective on a very limited franchise. The Charter, however, maintained the principle of legitimacy, and this led to a revival of Imperialistic ideas, giving Napoleon the opportunity for the Hundred Days. During these Hundred Days Napoleon promulgated the *Acte Additionel* in order to counter the Bourbon Charter.

(7) The Constitution of August 14th, 1830. The revolution of July was utilised by Thiers to put the House of Bourbon-Orleans in power. Louis Phillippe undertook to support the Charter of 1814, to recognise the supremacy of the people, to abolish hereditary peerage, to lower the property qualification for voters and for eligibility for election. Constitutional Monarchy was thus re-established in France, and the Organic Laws of 1831 followed as a result.

(8) The Constitution of November 4th, 1848. Under this Constitution the Republic was restored. It conferred universal suffrage, created a single chamber Government, forced the separation of powers, and appointed a President elected by universal suffrage for periods of four years, each President being ineligible to succeed himself. Nevertheless, when Louis Napoleon was elected President on January 14th, 1852, his period of office was extended for 10 years.

(9) The Constitution of November 7th, 1852. Under this Constitution the Empire was re-established, and Louis Napoleon assumed the title of Emperor, this Act being ratified by a plebiscite of the country held on November 21st and 22nd, 1852.

(10) The Constitution of May 1st, 1870. Certain constitutional changes had occurred since 1860, and these changes were now codified, forming what was actually a new Imperial Constitution, which was submitted as such to a vote of the people and confirmed by that vote.

(11) The Constitution of September 4th, 1870. This was the date when the news reached Paris of the French disaster at Sedan, which brought the Empire to ruin. A Provisional Government of National Defence was thereupon created, which gave way in February, 1871, to the National Assembly.

Such, therefore, was the state of affairs in France in 1871. All earlier Constitutions had been overthrown. France was neither Monarchy nor Republic. The National Assembly formed a single Chamber, but there was no Constitutional Law to say whether it should continue as one Chamber, or how it should be replaced. Nevertheless, many remnants remained intact in the country from earlier Constitutions. There was still an electoral system, and there was still a Judiciary. There was still a financial system, economic and political. It remained with the National Assembly elected in February to reconstitute the whole as part of its task of establishing order in the country. Yet there was nothing to show that this Assembly had the power to act as Constituent Assembly, and, in fact, there was considerable diver of opinion upon this point both in the country and in Assembly.

In the words of Adolphe Thiers, the actual situatior tuted "a vacancy of power"; and this vacancy the Asse itself to fill during the interregnum, and to constitute of Government that would be able to fill it thereafter. doubt as to whether the Assembly had or had not p a Constituent Assembly, this duty was in fact ur the doubt was carefully fostered to the end by Rep

During the days of the Empire a strong Re existed, which refused all compromise with declared its intention to overthrow it. This pa considerable strength; but, in spite of the disaste befallen the Empire, only about two hundred Republica had been returned for the National Assembly out of seven hundred and sixty-eight. A series of bye-elections i their numbers to about two hundred and fifty; yet the pa not strong enough of itself to carry a Republican Const much less such a Constitution as some of its members desi create. The party was led by Léon Gambetta, to whose sagac and foresight the ultimate result was mainly due.

Time was on the side of the Republicans. The Monarchis though strong in number, constituted a weak combination of

parties. The Legitimists supported the claim of the Bourbons; the Orleanists those of the House of Orleans; and the Bonapartists espoused the cause of the captive Emperor. And none of these showed any disposition to forego its claim. It was Gambetta's policy to detach the more moderate of the Orleanists from the party by offering them security in a Republican form of government. Moreover, the condition of the country, after the disasters of the recent war, was, as the bye-elections showed, creating popular support for the Republicans. Indeed, it was becoming slowly evident to the more thoughtful observers that a Republican form of government was inevitable. Everything, therefore, was in favour of the waiting game played by Gambetta.

This was evident early in the life of the Assembly, but the policy of delay, in fact, committed the country to a Republican form of government from the beginning. When the Assembly met, the Provisional Government surrendered the reins of power, and it was decided to elect a Chief of Executive. The Assembly being what it was, it was inevitable that a Constitutional Monarchist would be elected, and the obvious man for this position was Adolphe Thiers. But, after his election, the Republicans resisted he proposal to proceed with the framing of a Constitution. They ged that the Assembly had no mandate for this purpose. They d that the function of the Assembly was restricted to the g of peace and to the reconstruction of the country after astation of the war. They succeeded in getting the of a Constitution postponed, and the effect, therefore, was , although a Parliamentary Chief, acted also as Presi- State.

t long before this arrangem[illegible] crystallised itself as ation. Peace was si[illegible] ued on May 10th, 1871, and, ust 12th [illegible] of the Paris Commune was sup- [illegible], Charles Rivet, a friend of Thiers, intro- subsequently known as the Rivet Law. It gust 31st by a vote of 491 to 94. Under this en the title of President, with power to appoint ponsible to the Assembly, and with a term of office s with that of the Assembly. Already, therefore, the ad come into being, and this was recognised by Thiers thanked an anti-Republican Assembly "for the honour e done me in appointing me the first Magistrate of the c." Later in the year, in a message dated November e stated: "The Republic exists; it is the legal government he country. To wish for anything else would be a new revolu- the most formidable of all."

Thiers' defection was the first indication that the moderate rleanists were inclined towards a conservative Republic as the

simplest way out of difficulty. Their thoughts were with the July Monarchy of 1830. The immediate result of his defection, however, was to anger and alarm the Monarchist Party. Hitherto that party had not succeeded in acting together to any effect; but on receipt of Thiers' message of November 13th, the Assembly, led by the Monarchists, proceeded to the appointment of a Constitutional Committee of Thirty, charged to submit to the Assembly constitutional Bills dealing with the organisation of the public powers and the definition of Ministerial responsibility. For, though it had been resolved that Ministers should be responsible to the Assembly, Thiers' position, as both leader of the Assembly and first Magistrate of the State, brought that responsibility to a nullity. He overpowered his Ministers to such an extent that their responsibility was in effect no more than nominal. The Assembly had, therefore, either to allow him to exercise unrestrained authority, to define his powers, or to compel the resignation of the Chief Magistrate.

When the Committee reported in February, 1873, an attempt was made to secure constitutional propriety by excluding Thiers from active participation in the proceedings of the Assembly; but, owing to his resolute opposition, this proposal was not pressed. It was finally decided, as by way of compromise, that the President should communicate with the Assembly by messages to be read by his Ministers; that he might speak himself from the Tribune if he gave previous notice by message; but that the sitting be suspended after he had finished speaking, the discussion to be resumed only in his absence.

[illegible] the Assembly found itself, by the pressure of circumstances, engaged in the practical business of settling constitutional issues of the first importance. The Republicans still insisted that the task of drafting a Constitution should be entrusted to an Assembly elected specially for that purpose; but the Assembly finally resolved that it would not separate until it had passed, first, a law regulating the organisation and [illegible] renewal of the legislative and executive powers; second, a law on the Senate; and third, an electoral law. The Committee of Thirty was therefore, charged to draft Bills dealing with these matters and to bring them before the Assembly.

On May 19th and 20th, Bills dealing with the legislative and executive powers and the creation of a Second Chamber were laid before the Assembly. They provided, briefly, that there should be a President of the Republic, elected for five years by the Chamber of Deputies, the Senate, and three representatives from the General Council of each "Department" sitting in Congress together, a Senate of 265 members chosen for 10 years and renewable as to one-fifth every two years, and a Chamber of Deputies [illegible]

537 members elected for five years. But a few days afterwards Thiers was overthrown, and consideration of the draft proposals was postponed until they could be examined by a new Committee appointed for that purpose.

Marshal MacMahon in the meantime had been elected President. His term of office was finally fixed at 7 years. The Republicans objected to so long a term, and insisted, further, that so important an aspect of the Government should not be treated apart from the Constitutional proposals before the Assembly. But it was the turn of the Monarchists to play for time. Each party was now seeking to gain as much as it could in the final result; and this accounts for the circumstance that that final result came largely in the form of compromises, these compromises being registered in Constitutional laws dealing with separate issues as and when they were achieved, without relation to other parts of a Constitutional entity.

It had been decided that Marshal MacMahon should continue to exercise the powers attached to his office until those powers should be modified or changed by subsequent Constitutional legislation. This meant, in effect, that the title of his office might be changed by such legislation, and, therefore, that the issue between the Republicans and the Monarchists still remained undecided. Unless this issue was first decided it would still be possible to reopen the issue in 1880, and it was for this that the Monarchists were now playing. Consequently there was keen rivalry when the Assembly proceeded, in November of that year, 1873, to ballot for the election of a new Committee charged to draft the necessary Constitutional legislation.

The proposals which Thiers' Administration had brought before the Assembly in May were now referred to this Committee, as many other proposals laid before it by members of the

It is, perhaps, significant that nearly all these proposed a Republican form of Government.

Committee on Constitutional Laws reported to the July 15th of the following year, 1874, on the proposals that had been submitted to it, and laid before it a Bill on Organization of the Public Powers. This Bill formed the basis of the Law of February 25, 1875. The draft, however, having been prepared by a Committee mainly composed of Monarchists, was of a transitional nature. It made no permanent provision for the Republic, but postponed a decision on the subject until MacMahon's term of office expired in 1880.

Léon Gambetta had now become the dominating factor. He was to the end of the whole controversy. When it was now proposed to prorogue the Assembly for four months Gambetta protested, declaring: "The Republic is bound to come, and you will

have to accept it, not as party men or as men swayed by mere sentiment, but as true statesmen." He had opened negotiations with the Orleanists, and it became his endeavour to create a majority from them, from other moderate Monarchists, and from all but the most extreme of the Republican Party. His strategy was to produce a Republic from a Monarchist Assembly by conceding a Senate from the Republican Party, which desired but a single Chamber. The two vexed matters in all Constitutions being the creation of a second Chamber and the nature of the responsibilities of an Executive to the Legislature, he bent his labours to winning a majority by creating a Centre Party, each side of which would be prepared to compromise for the sake of unity.

THE ORGANISATION OF THE PUBLIC POWERS.

Constitutional Law of February 25, 1875.

The Assembly was convened again after the prorogation, on November 30th, for the session that was to decide the future of France. During the recess by elections had been held, all of which had resulted in the return of Republican candidates; and it was in the light of this fact that the Assembly of January 21, 1875, took up the Bill on the Organisation of the Public Powers for its first reading.

Within a few days, on the second reading, the Republicans came forward with an amendment, to be inserted in the body of the Bill, to the effect that "the Government of the Republic is composed of two Chambers, and of a President."

Though this amendment was defeated by a vote of 359 to 336, the voting showed that the Republicans had made a considerable gain. Thereupon Wallon brought forward a further amendment, which read: "The President of the Republic is elected by an absolute majority of votes by the Senate and the Chamber of Deputies united as a National Assembly. He is appointed for seven years, and may be re-elected." This amendment was carried by the narrow margin of one vote, the voting being 353 to 352. The Wallon amendment was thus inserted as Article 2 of the Bill, and by so narrow a margin was the Republic adopted. Certain other minor additions were made to the Bill, and on February 25 the entire Bill was passed by a vote of 425 to 254.

It will be noted that this amendment embodies the compromise towards which Gambetta had worked. On the one hand it decided that France was to receive a Republican form of government, and on the other hand it decided that that form of government should include both a Chamber of Deputies and a Senate. In actual precedence of dates, however, the question as to the

Senate had been decided on February 24, the day before the Bill on the Organisation of the Public Powers was to receive the final vote of the Assembly.

THE ORGANISATION OF THE SENATE.

Constitutional Law of February 24, 1875.

On May 15, 1874, the Committee on Constitutional Laws had laid a Bill respecting the organisation of the Senate before the Assembly. This Bill, however, had been referred back to the Committee. The Committee introduced certain changes, and laid its revised Bill before the Assembly again on August 3rd. This Bill, together with the Bill on the Organisation of the Public Powers, stood over when the Assembly was prorogued, and both Bills came before the Assembly again early in the following year.

It has been noted that this concession of the Senate was the price paid for the consolidation of the Republic. Therefore, the negotiations concerning the Bill were of great moment to the final result, and Gambetta's most skill as a negotiator was required during the weeks while the Bill was before the Assembly.

In its original form the Bill drafted by the Committee provided for three classes of Senators. The total number of Senators was not to exceed 300. About half of these were to be appointed by the President, and these were to sit for life. About half were to be elected by the Departments for nine years, one-third of these retiring every three years. Five members were to be chosen by the Institute. Others, such as Cardinals, Marshals, Admirals, and certain kinds of Judges, were to sit of right. To this scheme there was very strong opposition, and on February 11 an amendment was finally carried by a vote of 322 to 310 that the Senate should be entirely elected. Marshal MacMahon intimated, however, that his Government could not accept the proposal, and the Assembly bowing to this decision, rejected the Bill by a vote of 368 to 345.

In the meantime negotiations continued between Gambetta and the Monarchists. On February 19 Wallon once again stepped in. He laid before the Assembly a clause which read: "The Senate shall consist of 300 members, 225 elected by the Departments and Colonies and 75 elected by the National Assembly. . . . The Senators elected by the Assembly are irremovable." This was carried by a vote of 422 to 261. The clause was referred to the Committee, and thus became Article 1 and part of Article 7. The Bill was thereupon re-submitted by the Committee, so completing the compromise between the Monarchists and the Republicans. The rest of the Bill raised very little discussion, and was agreed to by a vote of 435 to 234 on February 24.

The way was now cleared for the passage of the Bill on the Organisation of the Public Powers, the constitution of the Senate being the price paid for the confirmation of the Republic. But, obviously, though this law was passed before the other, the law on the organisation of public powers was anterior to it in sequence of matter. A final clause was, therefore, introduced in the law enacting that it should not be promulgated until after the passage of the Law on the Public Powers.

The Relations of the Public Powers.

Constitutional Law of July 16, 1875.

It has been clear that the two laws already passed were by their nature fragmentary. They dealt with two essential matters, compromises on which were necessary before either could be accepted. There was, however, much matter lying between them with which it was necessary to deal before the relations of each to each should be finally determined.

To this problem the Assembly, therefore, turned in the third of the Constitutional Laws of the year 1875. It dealt with the relations of the public powers.

On May 18 the Minister of Justice, on behalf of the Government, introduced a Bill dealing with this matter. It was proposed that this Bill should be referred to the Committee on Constitutional Laws, but the Republicans objected that this Committee had opposed the laws of February 24 and 25, and that it did not, therefore, represent the Assembly. The proposal to refer the Bill to the old Committee was lost, and a new Committee more favourable to the Republicans was elected.

There was not, indeed, much contentious matter in this subject. The Committee, therefore, had no need to introduce many changes. Most of the changes which it introduced were accepted by the Assembly, and the Bill was passed by a vote of 520 to 84 on the 16th of July.

The Revisory Constitutional Laws.

1879 *and* 1884.

Thus were completed the three Constitutional Laws of the year 1875, which form the foundation of the present French Constitution. Strictly speaking, these are the only Constitutional Laws, on which depend a series of Organic Laws, the purpose of which is to implement the Constitution. Between these three Constitutional Laws and the Organic Laws, however, lie two laws of the years 1879 and 1884, by which the Constitutional Laws are revised, and in the light of which, therefore, they are to-day interpreted.

The matter contained in these two laws is of deep interest historically. From a constitutional standpoint they are of not less interest, in the first place because they complete the work begun in the laws made in 1875, and in the second place because they put into practice for the first time the provisions of Article 8 of the First Constitutional Law (on the Organisation of the Public Powers) for amendment of Constitutional Laws.

The first of these Revisory Constitutional Laws was passed on June 18, 1879. It consisted of one simple clause, repealing Article 9 of the Constitutional Law of February 25, 1875. That Article had read that "the seat of the Executive power and of the two Chambers is at Versailles." The Republican Party desired to return to Paris, whereas the Conservative members held that a Government established at Paris would be liable to be thrown out at any moment, Paris having been the centre of all revolution and unrest. In spite of the opposition of the Conservatives, however, a resolution to this effect was passed by the Chamber and sent forward to the Senate.

The Committee appointed by the Senate to consider the matter reported against the resolution. The Senate as a whole was strongly against the change. Certain members of the Senate opposed the resolution on the ground that it argued instability to suggest an amendment of the Constitution. In accordance with the provisions of Article 8 of the First Constitutional Law, the two Chambers sat and voted together as a National Assembly on June 19, 1879, when the amendment was agreed to by a vote of 526 to 249.

In 1879 several efforts were made to secure other constitutional arrangements, but none of these was successful, until finally, in 1884, when the question of revision arose again, certain changes were made. The procedure adopted was the same as before. The two branches of the Legislature met as a single National Assembly on August 4th, and sat and continued in session until the 13th of the same month, when the law revising the Constitutional Laws was adopted.

In this case, however, the procedure by which a constitutional amendment may be adopted was defined in practice, and the definition caused a considerable amount of discussion. The matters requiring revision were first debated in the Chamber and then sent forward to the Senate. Certain matters were accepted by the Senate as matters proper for revision, but the Senate objected to certain other matters, and would not agree to sit in National Assembly until the subjects to be discussed had first been decided as between the two Houses sitting apart.

The Senators argued that the National Assembly was the creation of the Senate and the Chamber of Deputies, and until both

branches of the Legislature were agreed as to the matters to be scheduled for discussion the National Assembly could not be convened. They took this line because of the desire of the Chamber to curtail the financial authority of the Senate and to limit the appointment of life-Senators, and, according to the constitutional provision for amendment, they held the power to enforce their will. The Chamber of Deputies had, therefore, no alternative but to agree to the provision that the two branches of the Legislature had the right and power to limit in advance the matters to be discussed and consequently the articles to be revised, by the National Assembly.

This result was remarkable, inasmuch as full sovereignty was, by Article 8 of the First Constitutional Law, reposed in the National Assembly, but that full sovereignty in practice was limited by the previous decision of the non-sovereign branches of the Legislature.

The Organic Laws.

Closely attached to the Constitutional Laws, initial or revisory, are the Organic Laws. It is unnecessary to deal with these in any detail. It is sufficient to repeat that their purpose was to implement the Constitutional Laws, both as passed in 1875 and as revised in 1879 and 1884.

These Organic Laws rank higher than ordinary legislation and lower than the Constitutional Laws. They differ from the Constitutional Laws inasmuch as they may be amended or repealed in the ordinary course of legislation, whereas the Constitutional Laws, as has been seen, require a special procedure.

Non-Constitutional Matters.

It has already been noted that, coming into existence as they did in a series of compromises, registered as they were attained, these Constitutional Laws omitted to deal with many matters usually included in the purview of a Fundamental Law. The chief of these concern the organisation of a Judiciary and the organisation of Finance. In order to complete the review of the French Constitutional system it is, therefore, necessary to deal briefly with these, as they have been carried forward from earlier systems.

Judiciary.

The French Courts are divided into two classes, dealing with the ordinary law and administrative law (*droit administratif*). These two sets of Courts are practically independent of one another.

Dealing with the ordinary Courts, the organisation, beginning from the lowest, is as follows:—

(*a*) Each Canton has a Court presided over by a Justice of the Peace. His endeavour is to effect a friendly settlement between litigants. These Courts settle cases where the amount does not involve more than 600 francs and petty criminal offences punishable by a fine not greater than 15 francs, or by imprisonment not exceeding 5 days. Where the case involves more than 300 francs or the crime entails a penalty of at least 5 francs, an appeal may be taken to the next higher Court.

(*b*) The Court of First Instance or *Tribunal d'arrondissement*. The President and not less than two other Judges constitute the Court. All kinds of civil cases are dealt with. In appeals from the Justices' Courts, actions dealing with personalty where the value is 1,500 francs, or realty where the value is 60 francs per annum, and in all cases of registration, there is no appeal from its decisions. On the criminal side it takes cognizance of misdemeanours in cases where the penalties are greater than those attaching to the petty wrongful acts adjudicated on by the Justice, and not less than those attaching to the more criminal charges reserved for the higher Courts. This Court in its criminal capacity is known as the "Correctional Court." The ambit of the jurisdiction of the Court is the Department.

(*c*) The next Court in order is the Court of Appeal. The total number of such Courts of Appeal is about 25, and their ambit includes regions that roughly correspond to the old provinces and embrace from one to five Departments. These Courts have a very limited jurisdiction, their business being almost wholly confined to the hearing of appeals. They are constituted of five Judges; and each Court is divided into three Chambers: (1) a Civil Chamber, (2) a Criminal Chamber, and (3) an Accusation or Indictment Chamber. It is the function of the Accusation Chamber to decide whether persons charged with misdemeanours shall be brought to trial.

(*d*) The Court of Assize. This Court is set up periodically in the chief provincial towns. It is not permanent. It is the great Criminal Court of France, and is always constituted of three Judges. The President is appointed by the Minister of Justice on the recommendation of the Prosecutor-General, and the two assistant Judges are drawn from either the Court of First Instance or the Court of Appeal. The only Court in the French judiciary system in which the jury appears is this Court of Assize. The President does not charge the jury nor does he give any exposition of the law. The jury merely decide the fact of guilt.

(*e*) The Supreme Appellate Tribunal, in all matters of ordinary private law, is the Court of Cassation. Its function is to suspend or reverse the decision of the Lower Courts. If the

result is reversal, such a reversal is not considered as an adjudication, but the case is sent back to the former Court for fresh trial. The decisions of this Court are not legally binding on Lower Courts. The Court of Cassation is divided into three sections, each with a President and fifteen Judges: (1) the Chamber of Petitions, which gives civil cases a priority hearing, (2) the Civil Chamber, which gives them a final consideration, and (3) the Criminal Chamber, which deals with all business on criminal matters.

In addition to the ordinary Courts there are the Administrative Courts dealing with the Administrative Law (*droit administratif*). In France an attempt is made to cover the responsibility of the servant of the State with the liability of the State itself. Each servant of the State is thus protected against, and saved from, penalties enforceable in the ordinary Courts for faults committed in such service. A position of privilege is thus created for officials as against other citizens, and this privilege is embodied in a special branch of law known as the Administrative Law.

Where, for example, complaints are made by private citizens that they have been taxed inequitably by a Government official, and that a Government official has wrongly or inequitably administered the regulations of the State, the rule governing the status and liability of such officials may only be tried according to the Administrative Law and in the Administrative Courts.

These Courts are controlled by the Administrative Law. They comprise one Prefectoral Council in each Department and a Council of State for the entire country.

The Prefectoral Council acts as a Court of First Instance. Its procedure is, however, simple. The facts of each case are determined by an official inquiry before the case is heard. The members of the Court are appointed by presidential decree, but as they have neither long tenure nor large remuneration they do not contain men of any outstanding ability. It is necessary, however, that they should have legal training or an experience of ten years in some Government office.

On the other hand, the Council of State enjoys a high prestige. Great care has been taken to render the Council independent of the Executive power in the exercise of its judicial functions. For example, the Minister of Justice, and representatives of the different Ministries, are members of the Council, but when cases come for decision these official members are excluded. The Councillors of State are appointed by presidential decree, but half of them must have spent a considerable time in important positions connected with the Council, whereas the remainder are members engaged in the practice of law or in the higher ranges of the administrative service.

The Council of State exercises original jurisdiction in the annulment of administrative acts in certain cases and it hears appeals from the Prefectoral Council. In addition to its judicial functions, the Council of State may also be called upon to advise the Ministry.

Naturally, with two independent Judicial Chambers functioning side by side, cases of doubt as to jurisdiction arise. In such cases there would be danger that the Executive would seek to force them into the Administrative Courts. In France this danger is avoided by the creation of a Court of Conflicts composed in such a manner as to secure impartiality. The Minister of Justice acts as President; three members are chosen by their colleagues from among the Councillors of State and hold their appointment for three years at a time; three others are chosen from the Court of Cassation in the same way, and two members are chosen by the other seven also for three years. These members are capable of re-election, and in fact few changes occur.

Finance.

In the matter of financial legislation there are certain notable peculiarities in the constitutional usage of France. As elsewhere, the Legislature exercises real control over the Executive by means of its sole authority to grant supplies. The Budget is prepared in the ordinary way by the Minister of Finance based upon departmental estimates received from his colleagues. The estimates are classified into chapters that deal with each service separately, and in this form they are presented to the Legislature. A law of 1871 enacts that an Executive may not alter the designation of authorised credits by transferring them from chapter to chapter.

Similarly, the Budget deals with the Government scheme for raising revenue, and all existing taxes lapse unless provision is made for their maintenance. The Budget is then referred to the Committee of the French Chamber known as the Budget Committee. This Committee examines the Budget in the closest detail in order to detect and expose possible administrative abuses.

The Committee acts independently of the Minister of Finance. It does not merely scrutinize proposals made by the Ministry. It possesses a considerable degree of initiative, being empowered of itself to propose alternatives. Since private members have also the power to initiate money Bills it is plain that this procedure differs considerably from the usage adopted in certain other countries. It is fair to state that this right has not been regarded very favourably by some French experts on Finance. Gambetta, for example, wished to carry a constitutional amendment to deprive members of this power, but he failed to carry the consent of his Cabinet. So far as the Budget Committee is concerned, the Budget, as passed by it, together with its own proposals, is then

introduced into the Chamber for legislation according to the ordinary course.

The auditing of State Accounts is trusted to a special Court known as the Court of Accounts. This Court scrutinises the State Accounts at the end of the financial year. It has jurisdiction over all officials who collect or expend public moneys. It may not of itself initiate criminal prosecutions for irregularity or malversation. It makes its report to the President, who by decree appoints a Committee to examine the report; and this report may be used as the basis of legal proceedings. The Committee appointed by the President is drawn from two Chambers, the Council of State and the Court of Accounts, and it finally presents a full and elaborate Report to the Legislature in order that the annual accounts may be closed.

Latter Amendments.

It is only necessary to draw attention to the Law of October 19, 1919, by which the number of Senators was increased. This law was adopted as the result of the accession of Alsace and Lorraine under the Treaty of Versailles. Alsace-Lorraine was divided into the departments of the Upper Rhine, the Lower Rhine, and the Moselle, and these departments were assigned, respectively, 4, 5, and 5 seats in the Senate. The Senate was thus increased by 14 members and consists at the present time of 314 members.

THE CONSTITUTIONAL AND ORGANIC LAWS OF FRANCE, 1875-1919.

[NOTE.—*Where an Article or part of an Article has been repealed or substantially amended by subsequent legislation, or has become obsolete by efflux of time, it is printed in italic type. Minor amendments and later laws on the same subject are referred to in the foot-notes.*]

CONSTITUTIONAL LAWS.

I.

CONSTITUTIONAL LAW ON THE ORGANIZATION OF THE PUBLIC POWERS.

(*February* 25, 1875.)

Article 1.—The legislative power shall be exercised by two assemblies: the Chamber of Deputies and the Senate.

The Chamber of Deputies shall be elected by universal suffrage under the conditions determined by the electoral law.*

The composition, the method of election, and the powers of the Senate shall be regulated by a special law.†

Article 2.—The President of the Republic is chosen by an absolute majority of votes of the Senate and Chamber of Deputies united in National Assembly.

He shall be elected for seven years. He shall be eligible for re-election.

Article 3.—The President of the Republic shall have the initiative of laws concurrently with the members of the two Chambers. He shall promulgate the laws when they have been voted by the two Chambers; he shall look after and secure their execution.

He shall have the right of pardon; amnesty may only be granted by law.

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*See laws November 30, 1875; June 16, 1885, and July 12, 1919.

†See constitutional law of February 24, 1875, and laws of August 2, 1875, and December 9, 1884.

He shall dispose of the armed forces.

He shall appoint to all civil and military positions.

He shall preside over State functions; Envoys and Ambassadors of Foreign Powers shall be accredited to him.

Every act of the President of the Republic must be countersigned by a Minister.

Article 4.—As vacancies occur on and after the promulgation of the present law, the President of the Republic shall appoint, in the Council of Ministers, the Councillors of State in ordinary service.

The Councillors of State thus chosen may be dismissed only by decree rendered in the Council of Ministers.

*The Councillors of State chosen by virtue of the law of May 24, 1872, shall not, before the expiration of their powers, be dismissed except in the manner provided by that law. After the dissolution of the National Assembly, they may be dismissed only by resolution of the Senate.**

Article 5.—The President of the Republic may, with the assent of the Senate, dissolve the Chamber of Deputies before the legal expiration of its term.

In that case the electoral colleges are summoned for new elections within three months.†

Article 6.—The Ministers shall be collectively responsible to the Chambers for the general policy of the Government, and individually for their personal acts.

The President of the Republic shall be responsible only in case of high treason.‡

Article 7.—In case of vacancy by death or for any other reason, the two Chambers assembled together shall proceed at once to the election of a new President.

In the meantime the Council of Ministers shall be invested with the executive power.§

Article 8.—The Chambers shall have the right by separate resolutions, taken in each by an absolute majority of votes, either upon their own initiative or upon the request of the President of

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*By the law of May 24, 1872, Councillors of State were elected by the National Assembly for a term of nine years. This clause therefore ceased to have any application after 1881.

†Amended by Article 1 of the constitutional law of August 14, 1884.

‡See Article 12 of the constitutional law of July 16, 1875.

§See Article 3 of the constitutional law of July 16, 1875.

the Republic, to declare that occasion has arisen for a revision of the constitutional laws.

After each of the two Chambers shall have come to this decision, they shall meet together in National Assembly to proceed with the revision.

The acts effecting revision of the constitutional laws, in whole or in part, shall be passed by an absolute majority of the members composing the National Assembly.*

During the continuance, however, of the powers conferred by the law of November 29, 1873, upon Marshal MacMahon, this revision shall take place only upon the initiative of the President of the Republic.

Article 9.—*The seat of the executive power and of the two Chambers is at Versailles.*†

II.

CONSTITUTIONAL LAW ON THE ORGANIZATION OF THE SENATE.‡

(February 24, 1875.)

Article 1.—*The Senate shall consist of three hundred members: two hundred and twenty-five elected by the departments and colonies and seventy-five elected by the National Assembly.*

Article 2.—*The departments of the Seine and of the Nord shall each elect five senators.*

The following departments shall elect four senators each—Seine-Inférieure, Pas-de-Calais, Gironde, Rhone, Finistere, Cotes-du-Nord.

The following departments shall elect three senators each—Loire-Inférieure, Saone-et-Loire, Ille-et-Vilaine, Seine-et-Oise, Isere, Puy-de-Dome, Somme, Bouches-du-Rhone, Aisne, Loire, Manche, Maine-et-Loire, Morbihan, Dordogne, Haute-Garonne, Charente-Inférieure, Calvados, Sarthe, Herault, Basses-Pyrenees, Gard, Aveyron, Vendee, Orne, Oise, Vosges, Allier.

All the other departments shall elect two senators each.

The following shall elect one senator each:—the territory of Belfort, the three departments of Algeria, the four colonies of Martinique, Guadeloupe, Réunion, and the French Indies.

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*Two paragraphs were added to this Article by Article 2 of the constitutional law of August 14, 1884.

†Repealed by constitutional law of June 21, 1879. See law of July 22, 1879.

‡Articles 1 to 7 of this Law were deprived of their constitutional character by the constitutional law of August 14, 1884, and were repealed by the law of December 9, 1884, which enacted provisions in substitution for them.

Article 3.—*No one shall be a senator unless he is a French citizen, at least forty years of age, and in the enjoyment of civil and political rights.*

Article 4.—*The senators of the departments and of the colonies shall be elected by an absolute majority and by* scrutin de liste, *by a college, meeting at the capital of the department or colony and composed:*

(1) *of the deputies;*

(2) *of the general councillors;*

(3) *of the arrondissement councillors;*

(4) *of delegates elected, one by each municipal council, from among the voters of the commune.*

In the French Indies the members of the colonial council or of the local councils are substituted for the general councillors, arrondissement councillors, and delegates from the municipal councils.

They shall vote at the seat of government of each district.

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

Article 6.—*The senators of the departments and of the colonies shall be elected for nine years and renewable by thirds every three years.*

At the beginning of the first session the departments shall be divided into three series containing each an equal number of senators. It shall be determined by lot which series shall be renewed at the expiration of the first and second triennial periods.

Article 7.—*The senators elected by the Assembly are irremovable. Vacancies by death, resignation, or any other cause, shall, within the space of two months, be filled by the Senate itself.*

Article 8.—The Senate shall have, concurrently with the Chamber of Deputies, the power to initiate and to pass laws. Finance laws, however, shall first be introduced in and passed by the Chamber of Deputies.

Article 9.—The Senate may be constituted a Court of Justice to try either the President of the Republic or the Ministers and to take cognizance of attacks made upon the safety of the State.

Article 10.—*Elections to the Senate shall take place one month before the time fixed by the National Assembly for its own dissolution. The Senate shall be constituted and enter upon its duties the same day that the National Assembly is dissolved.*

Article 11.—*The present law shall be promulgated only after the passage of the law on the Public Powers.*

III.

CONSTITUTIONAL LAW ON THE RELATIONS OF THE PUBLIC POWERS.

(July 16, 1875.)

Article 1.—The Senate and the Chamber of Deputies shall assemble each year on the second Tuesday in January, unless convened earlier by the President of the Republic.

The two Chambers shall continue in session at least five months each year. The sessions of the two Chambers shall begin and end at the same time.

*On the Sunday following the opening of the session, public prayers shall be addressed to God in the churches and temples, to invoke His aid in the labours of the Chambers.**

Article 2.—The President of the Republic pronounces the closing of the session. He may convene the Chambers in extraordinary session. He shall convene them if, during the recess, an absolute majority of the members of each Chamber request it.

The President may adjourn the Chambers. The adjournment, however, shall not exceed one month, nor take place more than twice in the same session.

Article 3.—One month at least before the legal expiration of the powers of the President of the Republic, the Chambers shall be called together in National Assembly to proceed to the election of a new President.

In default of a summons, this meeting shall take place, as of right, the fifteenth day before the expiration of the term of the President.

In case of the death or resignation of the President of the Republic, the two Chambers shall assemble immediately, as of right.

In case the Chamber of Deputies, in consequence of Article 5 of the law of February 25, 1875, is dissolved at the time when the presidency of the Republic becomes vacant, the electoral colleges shall be convened at once, and the Senate shall assemble as of right.

Article 4.—Every meeting of either of the two Chambers which shall be held at a time when the other is not in session is illegal and void, except in the case provided for in the preceding article, and when the Senate meets as a Court of Justice; in the latter case, judicial functions alone shall be exercised.

*This third paragraph was repealed by the constitutional law of August 14, 1884.

Article 5.—The sittings of the Senate and the Chamber of Deputies shall be public.

Nevertheless either Chamber may meet in secret session, upon the request of a fixed number of its members, determined by its rules.

It shall then decide by absolute majority whether the sitting shall be resumed in public upon the same subject.

Article 6.—The President of the Republic communicates with the Chambers by messages, which shall be read from the tribune by a Minister.

The Ministers shall have entrance to both Chambers, and shall be heard when they request it. They may be assisted, for the discussion of a specific bill, by commissioners named by decree of the President of the Republic.

Article 7.—The President of the Republic shall promulgate the laws within the month following the transmission to the Government of the law as finally passed. He shall promulgate, within three days, laws the promulgation of which shall have been declared urgent by an express vote of each Chamber.

Within the time fixed for promulgation the President of the Republic may, by a message with reasons assigned, request of the two Chambers a new discussion, which cannot be refused.

Article 8.—The President of the Republic shall negotiate and ratify treaties. He shall acquaint the Chambers of them as soon as the interests and safety of the State permit.

Treaties of peace and of commerce, treaties which involve the finances of the State, those relating to the person and property of French citizens in foreign countries, shall be ratified only after having been voted by the two Chambers. No cession, exchange, or annexation of territory shall take place except by virtue of a law.

Article 9.—The President of the Republic shall not declare war without the previous consent of the two Chambers.

Article 10.—Each Chamber shall be the judge of the eligibility of its members, and of the regularity of their election; it alone may receive their resignation.

Article 11.—The *Bureau** of each Chamber shall be elected each year for the duration of the entire session and of every extra-

*The bureau of the Senate consists of a president, four vice-presidents, eight secretaries, and three questors; the bureau of the Chamber of Deputies has the same composition. "The questors have the business management of the Chamber in their hands. They look after the funds of the Chamber, paying the Deputies and employees and supervising other expenditures; they have charge of the archives, the library, and the buildings generally." (SAIT. "Government and Politics of France.")

ordinary session which may be held before the regular session of the following year.

When the two Chambers meet together as a National Assembly, their *Bureau* shall be composed of the President, Vice-Presidents, and Secretaries of the Senate.

Article 12.—The President of the Republic may be impeached by the Chamber of Deputies only, and may be tried only by the Senate.

The Ministers may be impeached by the Chamber of Deputies for offences committed in the performance of their duties. In this case they shall be tried by the Senate.

The Senate may be constituted into a Court of Justice by a decree of the President of the Republic, issued in the Council of Ministers, to try all persons accused of attempts upon the safety of the State.

If proceedings should have been begun in the regular Courts, the decree convening the Senate may be issued at any time before the granting of a discharge.

A law shall determine the method of procedure for the accusation, trial, and judgment.

Article 13.—No member of either Chamber shall be prosecuted or held responsible on account of any opinion expressed or votes cast by him in the performance of his duties.

Article 14.—No member of either Chamber shall, during the session, be prosecuted or arrested for any offence or misdemeanour, except upon the authority of the Chamber of which he is a member, unless he be taken in the very act.

The detention or prosecution of a member of either Chamber shall be suspended for the session, and for the entire term of the Chamber, if the Chamber requires it.

REVISORY CONSTITUTIONAL LAWS.

IV.

CONSTITUTIONAL LAW REVISING ARTICLE 9 OF THE CONSTITUTIONAL LAW OF FEBRUARY 25, 1875.

(June 21, 1879.)

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

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*This article fixed the seat of government at Versailles. The seat of government was removed from Versailles to Paris by a law of July 22, 1879.

V.

CONSTITUTIONAL LAW PARTIALLY REVISING THE CONSTITUTIONAL LAWS.

(August 14, 1884.)

Article 1.—Paragraph 2 of Article 5 of the constitutional law of February 25, 1875, on the Organization of the Public Powers, is amended as follows:

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

Article 2.—To paragraph 3 of Article 8 of the same law of February 25, 1875, is added the following:

"The Republican form of government shall not be made the subject of a proposed revision.

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

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

Article 4.—Paragraph 3 of Article 1 of the constitutional law of July 16, 1875, on the Relations of the Public Powers, is repealed.

ORGANIC LAWS.

VI.

ORGANIC LAW ON THE ELECTION OF SENATORS.

(August 2, 1875.)

Article 1.—A decree of the President of the Republic, issued at least six weeks in advance, shall fix the day for the elections to the Senate, and at the same time that for the choice of delegates of the municipal councils. There shall be an interval of at least one month between the choice of delegates and the election of senators.

Article 2.—*Each municipal council shall elect one delegate. The election shall be without debate, by secret ballot, and by an absolute majority of votes. After two ballots a simple majority shall be sufficient, and in case of an equality of votes, the eldest is elected. If the Mayor is not a member of the municipal council, he shall preside, but shall not vote.*

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*These articles were repealed by the law of December 9, 1884.

*On the same day and in the same manner an alternate shall be elected, who shall take the place of the delegate in case of refusal or inability to serve.**

The choice of the municipal councils shall not extend to a deputy, a general councillor, or an arrondissement councillor.

All communal electors, including the municipal councillors, shall be eligible without distinction.

Article 3.—*In the communes where a municipal committee exists, the delegate and alternate shall be chosen by the former council.*†

Article 4.—If the delegate were not present at the election, notice shall be given to him by the Mayor within twenty-four hours. He shall, within five days, notify the Prefect of his acceptance. In case of refusal or silence, he shall be replaced by the alternate, who shall then be placed upon the list as the delegate of the commune.†

Article 5.—The official report of the election of the delegate and alternate shall be transmitted at once to the Prefect; it shall indicate the acceptance or refusal of the delegates and alternates, as well as any objections raised, by one or more members of the municipal council, as to the legality of the election. A copy of this official report shall be posted on the door of the town hall.†

Article 6.—A statement of the results of the election of delegates and alternates shall be drawn up within a week by the Prefect; this statement shall be given to all requesting it; it may be copied and published.

Every elector may at the bureaux of the prefecture, obtain information and a copy of the list, by communes, of the municipal councillors of the department, and, at the bureaux of the subprefectures, a copy of the list, by communes, of the municipal councillors of the arrondissement.

Article 7.—Every communal elector may, within the next three days, address directly to the Prefect an objection as to the legality of the election.

If the Prefect deems the proceedings illegal, he may request that they be set aside.

Article 8.—Protests concerning the election of the delegate or alternate shall be decided, subject to an appeal to the Council of State, by the Council of the Prefecture, and, in the colonies, by the Privy Council.

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*Amended by Article 8 of law of December, 1884.

†Amended by Article 8 of law of December 9, 1884. The municipal committee referred to is an interim body set up in the event of the dissolution of a municipal council. The amendments of Articles 4 and 5 merely substitute "delegates" and "alternates" for "delegate" and "alternate".

A delegate whose election is annulled because he does not fulfil the conditions required by law, or because of informality, shall be replaced by the alternate.

In case the elections of the delegate and alternate are annulled or in the case of the refusal or death or both of them after their acceptance, new elections shall be held by the municipal council on a day fixed by an order of the Prefect.*

Article 9.—One week, at the latest, before the election of senators, the Prefect, and, in the colonies, the Director of the Interior, shall arrange the list of the electors of the department in alphabetical order. The list shall be communicated to all who request it, and may be copied and published. No elector shall have more than one vote.

Article 10.—The deputies, the members of the general council, or of the arrondissement councils whose elections have been announced by the returning committees, but whose powers have not been verified, shall be enrolled upon the list of electors and shall be allowed to vote.

Article 11.—In each of the three departments of Algeria the electoral college shall be composed:

(1) of the deputies;

(2) of the members of the general councils, who are French citizens;

(3) of delegates elected by the French members of each municipal council from among the communal electors who are French citizens.

Article 12.—The electoral college shall be presided over by the president of the civil tribunal of the seat of government of the department or colony. (In the department of Ardennes it shall be presided over by the President of the tribunal of Charleville.†) The president shall be assisted by the two eldest and the two youngest electors present at the opening of the meeting. The bureau thus constituted shall choose a secretary from among the electors.

If the president is prevented from presiding his place shall be taken by the vice-president of the civil tribunal, and, in his absence, by the eldest judge.

Article 13.—The bureau shall divide the electors in alphabetical order into sections of at least one hundred voters each. It shall appoint the president and scrutineers for each of these sections. It shall decide all questions and disputes which may

*Amended by Article 8 of the law of December 9, 1884. The amendment to this Article merely substitutes "delegates" and "alternates" for "delegate" and "alternate".

†This clause was inserted by the law of February 1, 1898.

arise in the course of the election, without power, however, to depart from the decisions rendered by virtue of Art. 8 of the present law.

Article 14.—The first ballot shall begin at eight o'clock in the morning and close at noon. The second shall begin at two o'clock and close at four o'clock. The third, if it takes place, shall begin at six o'clock and close at eight o'clock. The results of the ballotings shall be ascertained by the bureau and announced on the same day by the president of the electoral college.*

Article 15.—No one shall be elected senator on either of the first two ballots unless he receives:

(1) an absolute majority of the votes cast; and

(2) a number of votes equal to one-fourth of the total number of electors registered. On the third ballot a majority shall be sufficient, and, in case of an equality of votes, the eldest is elected.

Article 16.—*Meetings of electors for the nomination of senators may take place conformably to the rules laid down by the law of June* 6, 1868, *subject to the following conditions:—*

(1) *These meetings may be held from the date of the election of delegates up to the day of the election of senators, inclusive;*

(2) *They shall be preceded by a declaration made, at the latest, the evening before, by seven senatorial electors of the arrondissement, indicating the place, the day, and the hour of the meeting and the names, occupation, and residence of the candidates who will present themselves to it;*

(3) *The municipal authorities shall see to it that no one is admitted to the meeting unless he is a deputy, general councillor, arrondissement councillor, delegate, or candidate.*

The delegate shall present, as a means of identification, a certificate from the Mayor of his commune, the candidate a certificate from the official who shall have received the declaration mentioned in the preceding paragraph.†

Article 17.—Delegates who take part in all the ballotings shall, if they demand it, receive from the State, upon the presentation of their letter of summons, countersigned by the President of the electoral college, an allowance for travelling expenses, which shall be paid to them upon the same basis and in the same manner as that given to jurors by Arts. 35, 90 and following Articles of the decree of June 18, 1811.

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*Amended by Article 8, law of December 9, 1884.

†The law of June 6, 1868, was superseded by a law of June 30, 1881, and the whole Article was amended by Article 8, law of December 9, 1884.

A public administrative regulation shall determine the manner of fixing the amount and the method of payment of this allowance.

Article 18.—Every delegate who, without lawful reason, shall not take part in all the ballotings, or having been hindered, shall not have given notice to the alternate in sufficient time, shall, upon the demand of the public prosecutor, be fined fifty francs by the civil tribunal of the seat of government.

The same penalty may be imposed upon the alternate who, after having been notified by letter, telegram, or notice personally delivered in due time, shall not have taken part in the election.

Article 19.—Every attempt at corruption by the employment of means enumerated in Article 177 and following Articles of the Penal Code, in order to influence the vote of an elector, or to induce him to abstain from voting, shall be punished by imprisonment of from three months to two years, and by a fine of from fifty to five hundred francs, or by either of these penalties.

Article 463 of the Penal Code shall apply to the penalties imposed by the present Articles.*

Article 20.—A senator may not at the same time be—

A Councillor of State, Maitre des Requêtes, Prefect, or Sub-Prefect, unless Prefect of the Seine or Prefect of Police;

A member of the Court of Appeal† or of the tribunals of first instance, unless Procurator-General at the Court of Paris;

Paymaster-General, Special Receiver, official or employee of the central administration of the ministeries.‡

Article 21.—No one of the following officers may be elected by the department or the colony included wholly or partially in his jurisdiction, during the exercise of his duties or during the six months following the cessation of his duties by resignation, dismissal, change of residence, or other cause:—

(1) The First Presidents, Presidents, and members of the Courts of Appeal;

(2) The Presidents, Vice-Presidents, Examining Magistrates, and members of the tribunals of first instance;

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*Amended by Article 8, law of December 9, 1884.

†France is divided into twenty-five judicial districts, in each of which there is a Court of Appeal. There are similar Courts in Corsica, Algeria and Tunis. The Court of Cassation is the supreme Court of appeal for all France, Algeria, and the colonies.

‡See law of December 26, 1887. By Article 3 of the law of November 16, 1897, the director and under-director of the Bank of France are ineligible as deputies or senators.

(3) The Prefect of Police; Prefects and Sub-Prefects, and Secretaries-General of Prefectures; the Governors, Directors of the Interior, and Secretaries-General of the Colonies;

(4) The Engineers-in-Chief and of the arrondissement, and Road-Surveyors-in-Chief and of the arrondissement;

(5) The Rectors and Inspectors of Academies;

(6) The Inspectors of Primary Schools;

(7) The Archbishops, Bishops, and Vicars-General;

(8) The Officers of all grades of the Land and Naval Forces;

(9) The Division Commissaries and the Military Deputy Commissaries;

(10) The Paymasters-General and Special Receivers of Money;

(11) The Superintendents of Direct and Indirect Taxes, of Registration and of Public Property, and of Posts;

(12) The Commissioners and Inspectors of Forests.

Article 22.—A senator elected in several departments shall make known his choice to the President of the Senate within ten days following the declaration of the validity of the elections. If a choice is not made in this time, the question shall be settled by lot in open session.

The vacancy shall be filled within one month and by the same electoral body.

The same applies in case of an invalidated election.

Article 23.—*If by death or resignation the number of senators of a department is reduced by one-half, the vacancies shall be filled within the space of three months, unless the vacancies occur within twelve months preceding the triennial elections.*

*At the time fixed for the triennial elections, all vacancies which have occurred shall be filled, whatever their number or date.**

Article 24.—*The election of senators chosen by the National Assembly shall take place in public sitting, by* scrutin de liste *and by an absolute majority of votes, whatever the number of ballotings.*†

Article 25.—*When it is necessary to elect successors of senators chosen by virtue of Article 7 of the law of February* 24, 1875, *the Senate shall proceed in the manner indicated in the preceding Article.*†

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*Amended by Article 8, law of December 9, 1884.

†Articles 24 and 25 were repealed by Article 9, law of December, 1884.

Article 26.—Members of the Senate shall receive the same allowances as members of the Chamber of Deputies.*

Article 27.—All provisions of the electoral law relating to the following matters are applicable to elections of senators:

(1) to cases of unworthiness and incapacity;

(2) to offences, prosecutions, and penalties;

(3) to election proceedings in all matters not contrary to the provisions of the present law.

Article 28.—†

Article 29.—†

VII.

ORGANIC LAW ON THE ELECTION OF DEPUTIES.†

(November 30, 1875.)

Article 1.—The deputies shall be chosen by the voters registered:

(1) upon the lists drawn up in accordance with the law of July 7, 1874;

(2) upon the supplementary list including those who have lived in the commune six months.

Registration upon the supplementary list shall take place conformably to the laws and regulations now governing the political electoral lists, by the committees and according to the forms established by Articles 1, 2, and 3 of the law of July 7, 1874.

Appeals relating to the formation and revision of either list shall be brought directly before the Civil Chamber of the Court of Cassation.

The electoral lists drawn up on March 31, 1875, *shall serve until March* 31, 1876.

Article 2.—The soldiers of all ranks and grades, of both land and naval forces, shall not vote when they are with their unit, at their post, or on duty. Those who, on election day, are in private residence, in non-activity or in possession of a regular leave of absence, may vote in the commune on the lists of which they are duly registered. This last provision shall apply equally to officers on the unattached list or on the reserve list.

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*See Article 17, law of November 30, 1875.

†Articles 28 and 29 of this law were of a temporary character, relating only to the first Senate, and are therefore omitted.

‡This law was amended by laws of June 16, 1885, and later electoral laws up to the law of 1919. Only the first and last of these amending laws are printed.

Article 3.—During the electoral period, circulars and election addresses, signed by the candidates, electoral placards and manifestoes signed by one or more voters, may, *after being deposited with the Procurator of the Republic,* be posted up and distributed without previous authorisation.

The distribution of voting cards shall not be subject to this formality of deposit.

Every public or municipal officer is forbidden to distribute voting cards, election addresses, or circulars of candidates.

The provisions of Article 19 of the organic law of August 2, 1875, on the election of senators, shall apply to the election of deputies.

Article 4.—The balloting shall last one day only. The voting shall take place at the municipal building of the commune; each commune may nevertheless be divided, by order of the Prefect, into as many sections as local circumstances and the number of voters may require. The second ballot shall take place on the second Sunday following the announcement of the first ballot, in accordance with the provisions of Article 65 of the law of March 15, 1849.

Article 5.—The method of voting shall be in accordance with the provisions of the organic and regulating decrees of February 2, 1852.

The ballot shall be secret.

The voting lists used at the elections in each section, signed by the President and Secretary, shall remain deposited for one week at the Secretary's office at the town hall, where they shall be communicated to every voter requesting them.

Article 6.—Every voter shall be eligible for election, without any property qualification, after having completed his twenty-fifth year.*

Article 7.—No soldier or sailor in active service may, whatever his rank or position, be elected a member of the Chamber of Deputies.

This provision applies to soldiers and sailors on the unattached list or in non-activity, but does not extend to officers of the second section of the list of the general staff, nor to those who, kept in the first section for having been commander-in-chief in the field, have ceased to be actively employed, nor to officers who, having gained the right to retire, are sent to or maintained at their homes while awaiting the settlement of their pension.

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*By law of July 20, 1895, no one may become a deputy unless he has complied with the law regarding military service.

The decision by which the officer shall have been permitted to establish his rights on the retired list shall become, in this case, irrevocable.

The rule laid down in the first paragraph of the present Article shall not apply to the reserve of the active army or to the territorial army.

Article 8.—The exercise of public duties paid out of State funds is incompatible with the office of deputy.*

Consequently every official elected, shall be superseded in his duties if, within one week following the verification of his powers, he has not signified that he does not accept the office of deputy.

There are excepted from the preceding provisions the duties of Minister, Under-Secretary of State, Ambassador, Minister Plenipotentiary, Prefect of the Seine, Prefect of Police, First President of the Court of Cassation, First President of the Court of Accounts, First President of the Court of Appeal of Paris, Procurator-General of the Court of Cassation, Procurator-General of the Court of Accounts, Procurator-General of the Court of Appeal of Paris, Archbishop and Bishop, Consistorial Presiding Pastor in consistorial districts the seat of government of which has two or more pastors, Chief Rabbi of the Central Consistory, Chief Rabbi of the Consistory of Paris.

Article 9.—There are also excepted from the provisions of Article 8:†

(1) titular professors of chairs which are filled by competition or upon the nomination of the bodies where the vacancy occurs;

(2) persons who have been charged with a temporary mission. All missions continuing more than six months cease to be temporary and are governed by Article 8.

Article 10.—An official preserves the rights which he has acquired to a retiring pension, and may, after the expiration of his term of office, be restored to active service.

A civil officer who, having had twenty years of service at the date of the acceptance of the office of deputy, shall be fifty years of age at the time of the expiration of his term of office, may establish his rights to an exceptional retiring pension.

This pension shall be regulated according to the third paragraph of Article 12 of the law of June 9, 1853.†

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*By Article 3 of the law of November 16, 1897, the director and under-director of the Bank of France are ineligible as deputies or senators.

†More detailed provisions were made by the law of March 29, 1897.

If the official is restored to active service after the expiration of his term of office, the provisions of Article 3, paragraph 2, and Article 28 of the law of June 9, 1853, shall apply to him.

In duties where the rank is distinct from the employment, the official by the acceptance of the office of deputy loses the employment and preserves the rank only.

Article 11.—Every deputy appointed or promoted to a salaried public position shall cease to belong to the Chamber by the very fact of his acceptance; but he may be re-elected, if the office which he occupies is compatible with the office of deputy.

Deputies who become Ministers or Under-Secretaries of State shall not be required to seek re-election.

Article 12.—The following officials may not be elected by the arrondissement or the colony included wholly or partially in their jurisdiction, during the exercise of their duties or for six months following the cessation of their duties as a result of resignation, dismissal, change of residence, or any other cause:—

(1) The First Presidents, Presidents, and members of the Courts of Appeal;

(2) The Presidents, Vice-Presidents, Titular Judges, Examining Magistrates, members of the tribunals of first instance (and Justices of the Peace in active service);*

(3) The Prefect of Police; the Prefects and Secretaries-General of the Prefectures; the Governors, Directors of the Interior, and Secretaries-General of the Interior, and Secretaries-General of the Colonies;

(4) The Engineers in Chief and Engineers of the Arrondissement, and Road Surveyors in Chief and Road Surveyors of the Arrondissement;

(5) The Rectors and Inspectors of Academies;

(6) The Inspectors of Primary Schools;

(7) The Archbishops, Bishops, and Vicars-General;

(8) The Paymasters-General and Special Receivers of Money;

(9) The Superintendents of Direct and Indirect Taxes, of Registration, and of Public Property, and of Posts;

(10) The Commissioners and Inspectors of Forests.

The Sub-Prefects (and Councillors of the Prefecture)* shall not be elected in any of the arrondissements of the department in which they perform their duties.

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*Justices of the Peace and Councillors of the Prefecture are made ineligible by law of March 30, 1902.

Article 13.—Every attempt to bind deputies by instructions is null and void.

Article 14.—*Members of the Chamber of Deputies shall be elected by single districts. Each administrative arrondissement shall elect one deputy. Arrondissements having more than* 100,000 *inhabitants shall elect one deputy in addition for every additional* 100,000 *inhabitants or fraction of* 100,000. *Arrondissements, in such cases, shall be divided into districts whose boundaries shall be established by law and may be changed only by law.**

Article 15.—Deputies shall be chosen for four years. The Chamber shall be renewed integrally.

Article 16.—In case of vacancy by death, resignation, or otherwise, a new election shall be held within three months of the date when the vacancy occurred.

In the case of option,† the vacancy shall be filled within one month.

Article 17.—Deputies shall receive an allowance.

The allowance shall be governed by Articles 96 *and* 97 *of the law of March* 15, 1849, *and by the provisions of the law of February* 16, 1872.‡

Article 18.—No one shall be elected on the first ballot unless he receives:

(1) an absolute majority of the votes cast;

(2) a number of votes equal to one-fourth of the number of voters registered.

On the second ballot a majority is sufficient. In case of an equality of votes, the eldest is elected.

Article 19.—*Each department of Algeria shall elect one deputy.*§

Article 20.—The voters living in Algeria in a place not yet made a commune, shall be registered on the electoral list of the nearest commune.

When it is necessary to establish electoral districts, either for the purpose of grouping mixed communes in each of which the number of voters is insufficient, or to bring together voters

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*This Article was modified by the laws of December 24, 1875 and July 28, 1881, and repealed by the law of June 16, 1885.

†*I.e.*, When a deputy has been elected from two or more districts, and decides which one he will serve. This was rendered impossible by the law of July 17, 1889.

‡Deputies and Senators now receive an allowance of 27,000 francs (£1,080) a year and travel free on all railways by means of a small annual payment.

§Amended by the law of February 13, 1889, and later laws.

living in places not formed into communes, the decrees for fixing the voting-places of these districts shall be issued by the Governor-General, upon the report of the Prefect or of the General commanding the division.

Article 21.—*The four colonies to which senators have been assigned by the law of February 24, 1875, on the organisation of the Senate, shall choose one deputy each.**

Article 22.—Every violation of the prohibitive provisions of Article 3, paragraph 3, of the present law shall be punished by a fine of from sixteen francs to three hundred francs. Nevertheless the Criminal Courts may apply Article 463 of the Penal Code.

The provisions of Article 6 of the law of July 7, 1874, shall apply to the political electoral lists.

The decree of January 29, 1871, and the laws of April 10, 1871, May 2, 1871, and of February 18, 1873, are repealed.

Paragraph 11 of Article 15 of the organic decree of February 2, 1852, is also repealed, in so far as it refers to the law of May 21, 1836, on lotteries, reserving, however, to the Courts the right to apply Article 42 of the Penal Code to convicted persons.

The provisions of the laws and decrees now in force, not in conflict with the present law, shall continue to be applied.

Article 23.—*The provision of Article* 12 *of the present law by which an interval of six months must elapse between the cessation of duties and election, shall not apply to officials other than Prefects and Sub-Prefects, whose duties shall have ceased either before the promulgation of the present law or within twenty days thereafter.*

VIII.

LAW RELATING TO THE SEAT OF THE EXECUTIVE POWER AND OF THE TWO CHAMBERS AT PARIS.

(July 22, 1879.)

Article 1.—The seat of the executive power and of the two Chambers is at Paris.

Article 2.—The palace of the Luxemburg and the Palais-Bourbon are assigned, the first to the use of the Senate, and the second to that of the Chamber of Deputies.

Nevertheless each of the Chambers is authorised to choose in the city of Paris the palace which it wishes to occupy.

Article 3.—The various parts of the palace of Versailles now occupied by the Senate and the Chamber of Deputies shall preserve their arrangements.

*Amended by the law of February 13, 1889, and later laws.

Whenever, according to Articles 7 and 8 of the law of February 25, 1875, on the organisation of the public powers, a meeting of the National Assembly takes place, it shall sit at Versailles, in the present hall of the Chamber of Deputies.

Whenever, according to Article 9 of the law of February 24, 1875, on the organisation of the Senate, and Article 12 of the constitutional law of July 16, 1875, on the relations of the public powers, the Senate shall be called upon to constitute itself a Court of Justice, it shall indicate the town and place where it proposes to sit.

Article 4.—*The Senate and the Chamber of Deputies shall sit at Paris on and after November 3 next.*

Article 5.—The Presidents of the Senate and the Chamber of Deputies are charged with the duty of securing the external and internal safety of the Chambers over which they preside.

For this purpose they shall have the right to call upon the armed forces and upon all authorities whose assistance they consider necessary.

Such requisitions may be addressed directly to all officers, commanders, or officials, who are bound to obey immediately under the penalties established by the laws.

The Presidents of the Senate and of the Chamber of Deputies may delegate to the questors or to one of them their right of demanding aid.

Article 6.—Petitions to either of the Chambers shall be made and presented only in writing. It is forbidden to present them in person or at the bar.

Article 7.—Every violation of the preceding article, every provocation, by public speeches, by writings, or by printed matter, posted or distributed, to a crowd upon the public ways, having for its object the discussion, drawing up or carrying to the Chambers or to either of them, of petitions, declarations, or addresses, shall be punished by the penalties enumerated in paragraph 1 of Article 5 of the law of June 7, 1848, whether or not any results follow from such actions.

Article 8.—The preceding provisions do not diminish the force of the law of June 7, 1848, on riotous assemblies.

Article 9.—Article 463 of the Penal Code is applicable to the offences mentioned in the present law.

IX.

LAW AMENDING THE ORGANIC LAWS ON THE ORGANIZATION OF THE SENATE AND THE ELECTION OF SENATORS.

(December 9, 1884.)

Article 1.—The Senate shall be composed of three hundred members, elected by the departments and the Colonies.

The present members, without any distinction between senators elected by the National Assembly or by the Senate and those elected by the departments and colonies, shall retain their offices during the time for which they have been chosen.

Article 2.—The department of the Seine shall elect ten senators.

The department of the Nord shall elect eight senators.

The following departments shall elect five senators each:

Cotes-du-Nord, Finistère, Gironde, Ille-et-Vilaine, Loire, Loire-Inférieure, Pas-de-Calais, Rhone, Saone-et-Loire, Seine Inférieure.

The following departments shall elect four senators each:

Aisne, Bouches-du-Rhone, Charante-Inférieure, Dordogne, Haute-Garonne, Isere, Maine-et-Loire, Manche, Morbihan, Puy-de-Dome, Seine-et-Oise, Somme.

The following departments shall elect three senators each:

Ain, Allier, Ardèche, Ardennes, Aube, Aude, Aveyron, Calvados, Charante, Cher, Correze, Corse, Cote-d'Or, Creuse, Doubs, Drome, Eure, Eure-et-Loir, Gard, Gers, Hérault, Indre, Indre-et-Loire, Jura, Landes, Loir-et-Cher, Haute-Loire, Loiret, Lot, Lot-et-Garonne, Marne, Haute-Marne, Mayenne, Meurthe-et-Moselle, Meuse, Nièvre, Oise, Orne, Basses-Pyrénées, Haute-Saone, Sarthe, Savoie, Haute-Savoie, Seine-et-Marne, Deux-Sevres, Tarn, Var, Vendée, Vienne, Haute-Vienne, Vosges, Yonne.

The following departments shall elect two senators each:

Basses-Alpes, Hautes-Alpes, Alpes-Maritimes, Ariège, Cantal, Lozère, Hautes-Pyrénées, Pyrenees-Orientales, Tarn-et-Garonne, Vaucluse.

The following shall elect one senator each: The territory of Belfort, the three departments of Algeria, the four Colonies: Martinique, Guadeloupe, Réunion, and French Indies.

Article 3.—*In the departments where the number of senators is increased by the present law, the increase shall take effect as vacancies occur among the life senators.*

For this purpose, within a week after the vacancy occurs, it shall be determined by lot in public session what department shall be called upon to elect a senator.

This election shall take place within three months of the determination by lot. However, if the vacancy occurs within six months preceding the triennial election, the vacancy shall not be filled until that election.

The term of office in case of a special election shall expire at the same time as that of the other senators belonging to the same department.

Article 4.—No one shall be senator unless he is a French citizen at least forty years of age and in the enjoyment of civil and political rights.*

Members of families that have reigned in France are ineligible for the Senate.

Article 5.—Members of the land and naval forces may not be elected senators.

There are excepted from this provision:

(1) The Marshals of France and Admirals;

(2) The general officers maintained without limit of age in the first section of the list of the general staff and not provided with a command;

(3) The general officers placed in the second section of the list of the general staff.

(4) Members of the land and naval forces who belong either to the reserve of the active army or to the territorial army.

Article 6.—Senators shall be elected, by *scrutin de liste* where necessary, by a college meeting at the capital of the department or of the colony, and composed:

(1) of the Deputies;

(2) of the General Councillors;

(3) of the Councillors of the Arrondissements;

(4) of delegates elected from among the voters of the commune, by each municipal council.

Councils composed of ten members shall elect one delegate.

Councils composed of twelve members shall elect two delegates.

Councils composed of sixteen members shall elect three delegates.

Councils composed of twenty-one members shall elect six delegates.

Councils composed of twenty-three members shall elect nine delegates.

Councils composed of twenty-seven members shall elect twelve delegates.

Councils composed of thirty members shall elect fifteen delegates.

Councils composed of thirty-two members shall elect eighteen delegates.

Councils composed of thirty-four members shall elect twenty-one delegates.

Councils composed of thirty-six members or more shall elect twenty-four delegates.

*By law of July 20, 1895, no one may become a senator unless he has complied with the law regarding military service.

The municipal council of Paris shall elect thirty delegates.

In the French Indies the members of the local councils shall take the place of Councillors of the Arrondissements. The municipal council of Pondicherry shall elect five delegates. The municipal council of Karikal shall elect three delegates. All of the other communes shall elect two delegates each.

*The balloting takes place at the seat of government of each district.**

Article 7.—Members of the Senate shall be elected for nine years.

The Senate shall be renewed every three years according to the order of the present series of departments and colonies.

Article 8.—Articles 2 (Paragraphs 1 and 2), 3, 4, 5, 8, 14, 16, 19, and 23 of the organic law of August 2, 1875, on the elections of senators, are amended as follows:

Article 2 (*paragraphs* 1 *and* 2). In each municipal council the election of delegates shall take place without debate and by secret ballot, and, where necessary, by *scrutin de liste* and by an absolute majority of votes cast. After two ballots a majority shall be sufficient, and in case of an equality of votes the eldest is elected.

The procedure and method shall be the same for the election of alternates.

Councils having one, two, or three delegates to choose shall elect one alternate.

Those choosing six or nine delegates shall elect two alternates.

Those choosing twelve or fifteen delegates shall elect three alternates.

Those choosing eighteen or twenty-one delegates shall elect four alternates.

Those choosing twenty-four delegates shall elect five alternates.

The municipal council of Paris shall elect eight alternates.

The alternates shall take the place of delegates in case of refusal or inability to serve, in the order determined by the number of votes received by each of them.

Article 3.—In communes where the duties of the municipal council are performed by a special delegation organised by virtue of Article 44 of the law of April 5, 1884, the senatorial delegates and alternates shall be chosen by the former council.

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*The last paragraph was repealed by the law of December 17, 1908.

Article 4.—If the delegates were not present at the election, notice shall be given them by the Mayor within twenty-four hours. They shall within five days notify the Prefect of their acceptance. In case of refusal or silence they shall be replaced by the alternates, who shall then be placed upon the list as the delegates of the commune.

Article 5.—The official report of the election of delegates and alternates shall be transmitted at once to the Prefect; it shall indicate the acceptance or refusal by the delegates and alternates, as well as the objections raised by one or more members of the municipal council as to the legality of the election. A copy of this official report shall be posted on the door of the town hall.

Article 8.—Protests concerning the election of delegates or of alternates shall be decided, subject to an appeal to the Council of State, by the Council of the Prefecture, and, in the colonies, by the Privy Council.

Delegates whose elections are annulled because they do not fulfil the conditions required by law, or because of informality, shall be replaced by the alternates.

In case the elections of a delegate and of an alternate are annulled, or in the case of the refusal or death of both of them after their acceptance, new elections shall be held by the municipal council on a day fixed by an order of the Prefect.

Article 14.—The first ballot shall begin at eight o'clock in the morning and close at noon. The second shall begin at two o'clock and close at five o'clock. The third shall begin at seven o'clock and close at ten o'clock. The results of the balloting shall be ascertained by the bureau and announced immediately by the president of the electoral college.

Article 16.—Meetings of electors for the nomination of senators may be held from the date of the promulgation of the decree summoning the electors up to the day of the election, inclusive.

The declaration prescribed by Article 2 of the law of June 30, 1881, shall be made by two electors at least.*

The forms and regulations of that Article, as well as those of Article 3, shall be observed.

The members of Parliament who have been elected or are electors in the department, the senatorial electors, delegates and alternates, and the candidates, or their representatives, may alone be present at these meetings.

The municipal authorities shall see to it that no other person is admitted.

*The law of June 30, 1881, relates to notice which must be given to the authorities before any public meeting can be held. The restriction as to prior notice was annulled by the law of March 28, 1907.

Delegates and alternates shall present as a means of identification a certificate from the Mayor of the commune; candidates or their representatives, a certificate from the official who shall have received the declaration mentioned in paragraph 2.

Article 19.—Every attempt at corruption or constraint by the employment of means enumerated in Articles 177 and following articles of the Penal Code, in order to influence the vote of an elector or to induce him to abstain from voting, shall be punished by imprisonment of from three months to two years, and by a fine of from fifty francs to five hundred francs, or by either of these penalties.

Article 463 of the Penal Code shall apply to the penalties provided by the present article.

Article 23.—Vacancies caused by the death or resignation of senators shall be filled within three months; however, if the vacancy occurs within six months preceding the triennial elections, it shall not be filled until those elections.

Article 9.—There are repealed:

(1) Articles 1 to 7 of the law of February 24, 1875, on the organisation of the Senate.

(2) Articles 24 and 25 of the law of August 2, 1875, on the elections of senators.

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X.

LAW AMENDING THE ELECTORAL LAW.†

(June 16, 1885.)

Article 1.—*The members of the Chamber of Deputies shall be elected* by scrutin de liste.‡

Article 2.—*Each department shall elect the number of deputies assigned to it in the table annexed to the present law,§ on the basis of one deputy for seventy thousand inhabitants, foreign residents not included. Account shall be taken, nevertheless, of every fraction smaller than seventy thousand.*

Each department shall elect at least three deputies.

Two deputies are assigned to the territory of Belfort, six to Algeria, and ten to the colonies, as is indicated by the table.

This table shall only be changed by law.‡

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*This law was completed by temporary provisions which were practically identical with the provisions of the law of December 26, 1887, on parliamentary incompatibilities and are not here translated.

†See also the law of July 12, 1919.

‡Articles 1, 2, and 3 of this law were repealed by the law of February 13, 1889.

§The table is not here printed.

Article 3.—*The department shall form a single electoral district.**

Article 4.—Members of families that have reigned in France are ineligible to the Chamber of Deputies.†

Article 5.—No one shall be elected on the first ballot unless he receives:

(1) an absolute majority of the votes cast;

(2) a number of votes equal to one-fourth of the number of voters registered.

On the second ballot a majority shall be sufficient.

In case of an equality of votes, the eldest of the candidates is elected.

Article 6.—Subject to the case of a dissolution provided for and regulated by the Constitution, the general elections shall take place within the sixty days preceding the expiration of the powers of the Chamber of Deputies.

Article 7.—Vacancies which occur in the six months preceding the renewal of the Chamber shall not be filled.

XI.

LAW ON PARLIAMENTARY INCOMPATIBILITIES

(December 26, 1887).

Until the passage of a special law on parliamentary incompatibilities, Articles 8 and 9 of the law of November 30, 1875, shall apply to senatorial elections.‡

Every officer affected by this provision who has had twenty years of service and is fifty years of age at the time of his acceptance of the office of senator, may establish his rights to a proportional retiring pension which shall be governed by the third paragraph of Article 12 of the law of June 9, 1853.

XII.

LAW ON MULTIPLE CANDIDATURES.

(July 17, 1889).

Article 1.—No one shall be a candidate in more than one district.

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*Articles 1, 2 and 3 of this law were repealed by the law of February 13, 1889.

†For similar provisions regarding the presidency of the Republic and the Senate, see Article 2 of the constitutional law of August 14, 1884, and Article 4 of the law of December 9, 1884.

‡See also Article 20 of the law of August 2, 1875.

Article 2.—Every citizen who offers himself or is offered at the general or bye-elections shall, by a declaration signed or countersigned by himself and duly legalized, make known in what district he intends to be a candidate. This declaration shall be deposited, and a provisional receipt obtained therefor, at the Prefecture of the department concerned at least five days before the day of election. A definite receipt shall be delivered within twenty-four hours.

Article 3.—Every declaration made in violation of Article 1 of the present law is void and shall not be received.

If declarations are deposited by the same citizen in more than one district the earliest in date alone is valid. If they bear the same date all are void.

Article 4.—It is forbidden to sign or post placards, to carry or distribute ballots, circulars, or platforms in the interest of a candidate who has not conformed to the requirements of the present law.

Article 5.—Ballots bearing the name of a citizen whose candidature is put forward in violation of the present law shall not be included in the return of votes. Posters, placards, platforms, and ballots posted or distributed in support of a candidature in a district where such candidature is contrary to the law, shall be removed or seized.

Article 6.—A fine of ten thousand francs shall be imposed upon the candidate violating the provisions of the present law, and a fine of from one to five thousand francs on all persons acting in violation of Article 4 of the present law.

XIII.

LAW TO AMEND THE ORGANIC LAWS ON ELECTION OF DEPUTIES AND TO ESTABLISH *"SCRUTIN DE LISTE"* WITH PROPORTIONAL REPRESENTATION.*

(July 12, 1919).

Article 1.—Members of the Chamber of Deputies shall be elected by departmental list.

Article 2.—Each department shall elect one deputy for every 75,000 inhabitants of French nationality, a remainder exceeding 37,500 giving the right to an additional deputy.

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*The electoral laws passed between June 16, 1885, and July 12, 1919, are not here printed. The system of election by *scrutin de liste* established by the law of June 16, 1885, was abolished and the system of election by single member constituencies restored by a law of February 13, 1889, and remained in force, subject to modification of the schedule of constituencies at various times, until the coming into operation of the law of July 12, 1919.

Each department shall elect at least three deputies.

Provisionally and until a new census has been taken each department shall have the same number of seats (in the Chamber of Deputies) as at present.

Article 3.—Each department shall form a single electoral area: Provided that when the number of deputies to be elected by a department is greater than six the department may be divided into electoral areas each of which shall be entitled to elect at least three deputies. Such division shall be enacted by law.*

Notwithstanding the foregoing provision the departments of the Nord, the Pas-de-Calais, the Aisne, the Somme, the Marne, the Ardennes, the Meurthe-et-Moselle and the Vosges shall not be divided for the next election.

Article 4.—No person can be a candidate in more than one electoral area, and the law of July 17, 1889, relating to multiple candidatures shall remain in force; declarations of candidature may nevertheless be either individual or collective.

Article 5.—Lists are constituted for any particular electoral area by groups of candidates who sign a legally authenticated declaration.

Declarations of candidature shall indicate the order in which candidates are presented.

If the declarations of candidature are presented on separate sheets they must specify the candidates in conjunction with whom the signatory or signatories stand and who agree by joint and duly authenticated declaration to put the names of the signatories on the same list as their own.

A list shall not include a number of candidates greater than the number of deputies to be elected in the electoral area.

An individual candidature shall be considered as forming a separate list. In such case the declaration of candidature shall be supported by one hundred electors of the electoral area, whose signatures shall be authenticated and shall not be used in support of more than one candidature.

Article 6.—The lists shall be deposited at the prefecture after the commencement of the electoral period and at latest five days before the day of the election.

The list and the title of the list shall be registered by the prefecture.

Registration shall be refused to any list bearing more names than there are deputies to elect or bearing the name of any candidate belonging to another list already registered in the electoral

*A law for this purpose was passed on October 14, 1919.

area unless such candidate has previously withdrawn his name in accordance with the procedure laid down in Article 7.

Registration shall be accorded only to the names of candidates who have made a declaration in conformity with the terms of Articles 4 and 5.

A provisional acknowledgment of the deposit of a list shall be given to each of the candidates who compose it.

The definite receipt shall be delivered within the next twenty-four hours.

Article 7.—A candidate inscribed upon a list cannot be struck off unless he notifies the prefecture of his desire to withdraw by statutory declaration ("par exploit d'huissier") five days before the day of the election.

Article 8.—Vacancies on any list may be filled at latest five days before the day of election by the names of new candidates who make the declaration of candidature required by Article 5.

Article 9.—Two days before the commencement of the poll the prefectoral authorities shall cause the registered candidatures to be posted on the doors of the polling-places.

Article 10.—Any candidate who obtains an absolute majority shall be declared elected provided that the number of seats to be filled is not exceeded.*

Any seats that remain to be filled shall be allotted in accordance with the following procedure:

The electoral quota shall be determined by dividing the number of votes (excluding blank or spoiled ballot papers) by the number of deputies to be elected.

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*The proviso contained in the last words of this paragraph becomes necessary owing to the fact that each voter has as many votes as there are deputies to be elected, and that cross-voting ("panachage") is permitted. Thus the following might be the result of an election of five deputies by 10,000 voters. The absolute majority is 5,001. Two lists are presented with candidates A, B, C, D, E and P, Q, R, S, T, respectively; and the voting is shown:—

	Votes received by candidates.									
10,000 voters (by groups)	A.	B.	C.	D.	E.	P.	Q.	R	S.	T.
Group of 4,900..	4,900	4,900	4,900	4,900	4,900	—	—	—	—	—
„ „ 100 ..	100	100	100	100	—	40	30	20	10	—
„ „ 4,600..	—	—	—	—	—	4,600	4,600	4,600	4,600	4,600
„ „ 400 ..	100	80	60	40	120	400	400	400	400	—
Totals 10,000 ..	5,100	5,080	5,060	5,040	5,020	5,040	5,030	5,020	5,010	4,600

Thus nine candidates out of ten can, if there is cross-voting, receive an "absolute majority," even though there are only five seats to distribute. (Sait. "Government and Politics of France.")

The average for each list shall be determined by dividing by the number of its candidates the total number of votes which they have obtained.

To each list shall be allotted a number of seats equal to the number of times which its average contains the electoral quota.

The remaining seats, if any, shall be allotted to the list with the highest average.

Within each list the seats obtained shall be allotted to the candidates who have received most votes.

Article 11.—An independent candidate, provided that he has not obtained an absolute majority of the votes, shall not be eligible for allotment of a seat until the candidates belonging to other lists who have obtained more votes than he has obtained shall have been declared elected.

Article 12.—In case of equality of votes the eldest candidate shall be elected.

If more lists than one have an equal title to a seat, the seat is allotted to that one of the candidates eligible who has received most votes or, in case of equality of votes, to the eldest candidate.

A candidate shall not be declared elected unless the number of votes obtained by him exceeds half the average of the votes of the list to which he belongs.

Article 13.—When the number of voters is not greater than half the number of registered electors or if no list has obtained the electoral quota, no candidate shall be declared elected.

The electors of the area shall be summoned to a new election two weeks later.

If at this new election no list obtains the electoral quota, the seats shall be allotted to the candidates who have received most votes.

Article 14.—The reports on the proceedings at the election in each commune shall be prepared in duplicate. One copy shall be deposited at the secretariat of the town hall; the other shall be at once posted under sealed cover addressed to the prefect for transmission to the board of scrutineers.

Article 15.—The votes shall be counted for each electoral area at the seat of government of the department in public session at latest on the Wednesday following the day of the poll.

The operation shall be performed by a board composed of the president of the district court (as chairman) and the four members of the general council, not being candidates at the election, who have longest held office. In case of equal length of office the eldest shall be appointed.

if the president of the district court is unable to serve, his place shall be filled by the vice-president and failing him by the senior Judge. In case of inability to serve the places of the members of the general council shall be filled by other members of the same body in order of seniority.

The operations of the count shall be recorded in a report.

Article 16.—In case of a vacancy through death, resignation, or otherwise an election shall take place within a period of three months counting from the day on which the vacancy occurred.

Article 17.—Vacancies occurring within the six months preceding the next general election for the Chamber shall not be filled.

Article 18.—The present Act shall apply to the departments of Algeria and to the colonies, which shall retain their present number of deputies.

Further legislation shall make provision for the application of the present Act to the territory of Belfort and for the organisation of Alsace and Lorraine.

Article 19.—The provisions of previous laws, in so far as they are in conflict with the present law, are repealed.

XIV. THE SWISS CONFEDERATION.

Area: 15,976 *sq. miles.* *Population*: 3,880,320.

The present Constitution dates, in its present written form, from the year 1874, but it is the result of a long period of evolution. That evolution has always tendered towards increasing centralisation.

Originally, Switzerland consisted of a number of sovereign States without either a Federal Constitution or a Central Authority. These States were, in fact, comprised of residents among the mountains of the different populations lying around the Alps. The inhabitants of these mountain valleys, therefore, did not speak a common language or possess a common history, though they shared a common manner of life. They soon came to share a common danger, however, and the need of combining their separate strengths against powerful enemies gave birth to a Confederation for the purposes of common action. Thus was created the Federal Diet, which met annually, and in which each separate State was equally represented. It is an indication of the local suspicion with which this Diet was regarded, and of the strong and distinct local habits that had been formed, that the decisions of this Federal Diet were not regarded as legally binding unless they were unanimous.

It seems inevitable that this tendency should have developed with the practice and experience of association, but in the 16th century a powerful new element of disassociation along religious lines was brought about by the Reformation. A number of States adhered to the old faith, whereas a number espoused the new. The consequence was that, though the Federal tie still remained, it was largely inoperative for some centuries. Then the danger, which the Confederation had earlier intended to avert, came to pass at the end of the 18th century. For the Swiss were still divided when, in the Revolutionary Wars, the French invaded the country; and the consequence was that the French had little difficulty in making themselves masters of a country that might have seemed impregnable.

The first act of the French was to sweep away all the local institutions in which the life of the people of the mountains had been contained. They ignored historical tradition; they ignored the sovereign States, known as Cantons; they ignored the ancient frontiers; they ignored sovereign local prejudice and sentiment; but they abolished the servitude of conquered Cantons or common

bailiwicks, and they made a new division of the entire country into 18 prefectures, with new scientific frontiers to each. They provided a representative National Government endowed with power to demand obligatory military service and created a central government in neglect of the local autonomy to which the people had been accustomed. The Constitution in which this government was contained was known as the Constitution of the Helvetic Republic, which was given to the peoples of Switzerland on the 12th April, 1798. Needless to say, the Constitution was inoperative from the first day.

When Bonaparte found that the new Constitution was a failure, he attempted its revision. After much political controversy a new Constitution was substituted on the 20th May, 1802. It is in connection with this Constitution that the popular veto appears for the first time in federal law. All citizens of and over the age of 20 years were required to ratify this Constitution. The result was that of those entitled to vote 72,453 voted for, 92,423 against, while 167,172 abstained from voting. It was then declared that those who had abstained from voting had thereby tacitly assented, and the Constitution was accordingly declared adopted.

The revised Constitution, passed in this way, met with little better success than the original. Therefore Bonaparte again intervened. Once again he acted out of his own hand, but this time he conferred separate Constitutions on each of the different Cantons. This Constitution was embodied in an Act known as the Act of Mediation, and was proclaimed on the 19th February, 1803. It lasted as long as the fortunes of Napoleon, and fell when these fortunes fell.

The only permanent result was that the habit of united action was renewed. Consequently, when the Act of Mediation was suspended on 7th August, 1815, the Diet was restored and twenty-two Cantons took an oath to observe a "Federal Agreement". Under this agreement the inviolability of the Constitutions of the contracting Cantons was guaranteed, and each Canton was left free to devise its own Constitution. The Cantons, however, united for purposes of common safety, for the preservation of liberty and independence against foreign aggression, and for the maintenance of internal peace and order.

This Federal Agreement lasted till the year 1848. During this time the Federal Diet was not composed of representatives of the Swiss Nation, but of representatives of the Cantons, who acted as ambassadors of sovereign States. This is a distinction important to remember, for its effect may be traced in the formation of the Executive in the Constitutions of later years. For the Executive in this Constitution, while elected by the Assembly, to which it is responsible, is representative, not of them, but of

certain Cantons and cities that in former days established prerogatives that are jealously guarded.

These prerogatives were at this time being guarded by the Federalists, who were strongly represented in the more conservative Cantons. A Radical Party had, however, arisen that desired to dissolve the sovereignty of the contracting States, to abolish the Diet, and to establish a unified democratic State. These two influences created a controversy that lasted during three decades—a controversy that was marked by several attempts on the part of the more powerful conservative Cantons to break away from the Confederation. The issue so created culminated in the war of the Sonderbund in 1846, when 7 Catholic Cantons seceded. Civil War followed—if a short and bloodless campaign may be so described—and the Cantons of the Sonderbund were defeated and compelled to rejoin the Confederation. This meant the triumph of National unity; and consequently a unified Constitution could no longer be delayed. Therefore, in 1848, the Diet set to work on the creation of this Constitution, which resulted in a compromise.

Being a compromise, the Constitution of 1848 reflects the growth of the new ideas with an attempt to retain the ancient practices. A legislature was created, consisting of two Chambers known, respectively, as the National Council and the Council of States. After the manner of the United States of America, the National Council represented the people directly, whereas the Council of States represented the Cantons. All citizens of the age of 20 years and upwards possessed a vote for the representative to the National Council. The two Councils in joint session elected a National Executive of 7 members, known as the Federal Council. But this Executive was chosen, not from the two bodies of the Legislature, but from all citizens eligible to the National Council. Certain powerful Cantons maintained a prerogative right to a member of this Executive; but it was ordained that not more than one member of the Federal Council should be chosen from the same Canton. The members of this Executive were appointed for the same length of time as the National Council, three years.

In view of the circumstance that the Swiss Executive is unique in the constitutional practice of the world, it is important to note the causes that brought it into existence and maintained it in being. For the Constitution was, in effect, still in great measure a treaty of alliance between twenty-two sovereign States, who agreed to take certain Executive action in common. Moreover, the Federal Council (which acts as an Executive) is entrusted with certain functions for which it is not responsible directly to the Assembly, and concerning which it need not consult the Assembly unless it so choose. It is, for example, entrusted with the supervision of the Constitutions of the sovereign Cantons. In this matter, therefore, it acts directly as the trustee of the twenty-two Constituent

Sovereign Cantons, and need not report on its actions to the Federal Chamber unless it elect to do so.

In this connection it is interesting to note that it is provided in the Constitution that the Federal Council should be "chosen from all Swiss citizens eligible to the National Council". But in practice the more powerful of the Cantons exercise a prescriptive right to the appointment of members of the Council. Thus an Executive came into existence which, while answerable for most of its acts to the legislature, was in effect created in no small part from the prescriptive rights of the sovereign Cantons. Lest, however, it might be said that a member of the Executive, so created, was acting for his Canton, his religion or his locality, rather than for the whole people, it was decided in practice that the entire Executive should always act in a collegiate capacity. And so by a series of balances, legislative and executive, a compromise was effected between the Radicals, who desired to liquidate the ancient sovereignty of the Cantons and to create a single authority derived from the whole people, and those who wished to retain the older Federal practice with a Diet of somewhat greater powers than had previously been the case.

The powers of the Federal Government, however, were still extremely limited. They were, in fact, conferred on it as a result of a bargain struck between twenty-two Cantons, all of which still retained their sovereignty. These powers existed only in diplomatic and military affairs, together with certain economic matters, such as posts, customs, and weights and measures, in respect of which concerted action could not be neglected if the people were to retain any sort of unity.

The Constitution of 1848 continued without change for twenty-six years. In the meantime the tendency towards greater centralisation had increased. From the first the Federalists had consisted of those who desired to retain certain social and municipal privileges, whereas the Radical had consisted mainly of those who desired the abolition of such privileges. During these years the desire for such abolition had increased; and the movement had developed, on the one hand to declare certain inalienable individual rights and liberties for all the people alike, and on the other hand, to place these under the protection of a unified and centralised law. For it was particularly desired to abolish the separate judicial systems of the Cantons, to unify and codify the law and to create a permanent Federal Tribunal. It was also desired to nationalise the railways under Federal ownership, and to cause legislation to be referred to the entire Swiss people, not as inhabitants of certain Cantons, but as a single and unified Court of Appeal.

To embody these objects, therefore, the two Chambers of the Legislature in 1874 caused the Constitution of 1848 to be revised. A new draft Constitution was, therefore, placed before them and

passed by them for submission to the rererendum of the people. Under this Constitution a permanent Federal Tribunal was set up and the greater part of the law unified. The general administration of the Army was entrusted to the Confederation. The rights of the individual, and in particular liberty of conscience, were guaranteed by the Confederation, and placed under the protection of the Federal Council and the Federal Tribunal—that is to say, the Executive and the Judicature, for being in the Fundamental Law of the Constitution these rights had thereby become removed from the power of the Legislature. Power to legislate on the working and organisation of railways and the referendum on legislation were introduced in the Constitution.

The change was great. Nevertheless the Constitution of 1874 (which is the Constitution printed here) declares the Cantons to be sovereign where they have not specifically delegated their powers to the Confederation. Thus it appears from the Constitution that although the sovereignty of the Cantons had steadily diminished in favour of the Confederation, it is from the Cantons that the Confederation draws its authority and derives its constitutional usages. The old machinery was still maintained. As in the United States so in the Constitution of 1874, one House of the Legislature is created directly from the suffrages of the people, whereas the other Houses is created by the nomination of the Cantons.

Similarly, the Executive is formed in recognition of the same principle. The actual provisions of the Constitution read: "Members of the Federal Council are appointed for three years by the two Councils in joint session and are chosen from among all Swiss citizens eligible to the National Council. Not more than one person from each Canton may be chosen for the Federal Council." (Art. 96.) Such is the provision of the Constitution, which takes no note of the details of actual practice. In this actual practice, however, certain Cantons maintain their title to special representation in the Executive.

Such being the case, it naturally follows that the President of the Council has no special powers. He is appointed for periods of 12 months, and is himself in charge of one of the 7 Departments of State. As President he acts simply as the annual Chairman of the College of Ministers.

The Constitution of 1874 allowed for amendment by the referendum, a majority of the votes and a majority of the Cantons being necessary for any such amendment to pass. In 1891 a provision was added enabling changes to be demanded on the initiative of the people. In this way certain additions have been made to the Constitution since 1874. These are all noted in their due place.

FEDERAL CONSTITUTION

OF THE

SWISS CONFEDERATION

Of the 29th MAY, 1874,

As Revised up to the end of June, 1921.

In the Name of Almighty God:

THE SWISS CONFEDERATION, resolved to consolidate the alliance of the confederated members and to maintain and increase the unity, strength and honour of the Swiss nation, has adopted the following Federal Constitution:—

CHAPTER I.

GENERAL PROVISIONS.

Article 1.—The peoples of the twenty-two sovereign Cantons of Switzerland united in the present alliance, namely: *Zurich, Bern, Lucerne, Uri, Schwyz, Unterwalden* (Upper and Lower), *Glaris, Zug, Freiburg, Solothurn, Basel* (City and Country), *Schaffhausen, Appenzell* (the two Rhodes), *St. Gall, Grisons, Aargau, Thurgaw, Ticino, Vaud, Valais, Neuchatel,* and *Geneva* form together the Swiss Confederation.

Article 2.—The object of the Confederation is to ensure the independence of the country against the foreigner, to maintain peace and order within its borders, to protect the liberties and rights of its members, and to promote their common prosperity.

Article 3.—The Cantons are sovereign so far as their sovereignty is not limited by the Federal Constitution, and as such they exercise all rights which are not delegated to the Federal Power.

Article 4.—All Swiss people are equal before the law. In Switzerland there are no subjects nor any privileges of rank, birth, person or family.

Article 5.—The Confederation guarantees to the Cantons their territory, their sovereignty within the limits fixed by Article 3, their Constitutions, the liberty and rights of their people, the constitutional rights of the citizens, and the rights and powers conferred by the people on the authorities.

Article 6.—The Cantons are required to demand from the Confederation its guarantee of their Constitutions.

This guarantee must be accorded, provided:

(*a*) that the Constitutions contain nothing contrary to the provisions of the Federal Constitution;

(*b*) that they ensure the exercise of political rights according to republican forms—representative or democratic;

(*c*) that they have been accepted by the people and can be revised when an absolute majority of citizens so demand.

Article 7.—All separate alliances and treaties of a political character between Cantons are forbidden.

The Cantons, however, have the right to make agreements with one another on matters of legislation, administration and justice; but such agreements must be communicated to the Federal authority, which may prohibit their execution if they contain anything prejudicial to the Confederation or the rights of other Cantons. In the absence of such prohibition, the Cantons making the agreement are authorized to require the co-operation of the Federal authorities in their execution.

Article 8.—The Confederation has the sole right to declare war and conclude peace, and to make alliances and treaties, particularly customs and commercial treaties, with foreign States.

Article 9.—Exceptionally, the Cantons retain the right to conclude treaties with foreign States in respect of matters of public economy and police and border relations; but such treaties must not contain anything prejudicial to the Confederation or the rights of other Cantons.

Article 10.—Official intercourse between the Cantons and foreign governments or their representatives shall take place through the Federal Council.

But in regard to matters mentioned in the preceding article the Cantons may correspond directly with the subordinate authorities and officers of a foreign State.

Article 11.—Military "capitulations"* are prohibited.

Article 12.—Members of the Federal authorities, civil and military officials of the Confederation, and Federal representatives and commissioners may not accept from any foreign government any pension, salary, title, gift or decoration.

If they already possess such pensions, titles, or decorations they must renounce them for the term of their office.

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*Agreements for the supply of mercenary troops to foreign countries.

Subordinate officials may, however, be authorised by the Federal Council to continue to receive their pensions.

In the Federal army, decorations and titles awarded by any foreign government are prohibited.

No officer, non-commissioned officer, or soldier may accept any such distinction.

Article 13.—The Confederation may not maintain a standing army.

No Canton or half-Canton may maintain more than 300 men as a permanent military force (excluding police) without permission of the Federal authority.

Article 14.—The Cantons must abstain, in the event of differences arising between them, from any attack or resort to arms. They must submit to the settlement of such differences in the manner prescribed by the Confederation.

Article 15.—In case of sudden danger from without, the government of the Canton threatened must invoke the assistance of the confederated States and immediately notify the Federal Authority the measures which may subsequently be taken by the latter not being prejudiced thereby. The Cantons so called upon are bound to give their assistance. The cost shall be borne by the Confederation.

Article 16.—In case of internal disorder or of danger being threatened from another Canton, the Government of the Canton threatened must immediately notify the Federal Council, in order that that body may take the necessary measures within the limits of its competence (Article 102, Nos. 3, 10 and 11) or convene the Federal Assembly. In case of urgency the Cantonal Government, while immediately notifying the Federal Council, may call for the assistance of the other confederated States, which the latter are bound to render.

When the Cantonal Government is not in a position to summon assistance, the competent Federal Authority may intervene on its own initiative, and is bound to do so if the disorders endanger the safety of Switzerland.

When the Federal Authorities intervene, they must ensure the observance of the provisions of Article 5.

The costs shall be borne by the Canton by which assistance was invoked or intervention necessitated, unless the Federal Assembly on consideration of the special circumstances should otherwise decide.

Article 17.—Every Canton must give free passage to troops in the cases mentioned in Articles 15 and 16.

The troops are placed immediately under Federal command.

Article 18.—Every Swiss male is liable for military service.

Soldiers who lose their lives or suffer permanent injury to their health in the Federal service are entitled to assistance from the Confederation for themselves or their families, if in need.

Every soldier shall be supplied, free of charge, with his first outfit of arms, equipment and clothing. Arms remain in the possession of the soldier upon conditions to be determined by Federal legislation.

The Confederation will prescribe uniform regulations as to the tax on exemption from military service.

Article 19.—The Federal army consists of—

(*a*) the Cantonal corps;

(*b*) all Swiss who, not being members of these corps, are nevertheless liable for military service.

The control of the Federal army and of war material provided in accordance with the law is vested in the Confederation.

In case of danger, the Confederation has also the right of exclusive and immediate control over all men not incorporated in the Federal army and of all other military resources of the Cantons.

The Cantons exercise control over the military forces of their territory save in so far as this right is limited by the Constitution or by Federal legislation.

Article 20.—Laws as to the organization of the army are enacted by the Confederation. The execution of military laws within the Cantons is undertaken by the Cantonal authorities within the limits prescribed by Federal legislation and under the supervision of the Confederation.

Military instruction and the arming of troops are under the exclusive control of the Confederation.

The supply and renewal of clothing and equipment are within the competence of the Cantons, but the cost thereof shall be reimbursed to the Cantons in manner to be prescribed by Federal law.

Article 21.—So far as military considerations permit, each corps shall consist of troops from the same Canton.

The composition of such corps, the obligation of maintaining their strength, and the appointment and promotion of their officers rest with the Cantons, subject to general regulations communicated to them by the Confederation.

Article 22.—In return for reasonable compensation, the Confederation has the right to make use of or to acquire drill grounds and buildings used for military purposes, together with all accessories, in the Cantons.

The conditions governing compensation shall be regulated by Federal legislation.

Article 23.—The Confederation may construct at its own expense, or encourage by subsidies the construction of, public works of utility to Switzerland as a whole, or to any considerable part of the country.

For this purpose it may order expropriations on payment of just compensation. Federal legislation will make the necessary provision in this respect.

The Federal Assembly may prohibit public works which endanger the military interests of the Confederation.

Article 24*.—The Confederation has the right of supreme control of the policing of embankments and forests.

It will assist in the control and embanking of rivers and the reafforestation of the districts in which they rise, and will decree the measures necessary for the maintenance of such works and the preservation of the existing forests.

Article 24a†.—The utilisation of water-power is under the supreme control of the Confederation.

Federal legislation will make the necessary provision for safeguarding the public interest and ensuring the rational utilisation of water-power, taking into account, as far as possible, the interests of internal navigation.

Subject to such Federal legislation, the Cantons regulate the utilisation of water-power.

Concessions shall, notwithstanding, be granted by the Confederation in any case where the utilisation of a watercourse under the jurisdiction of more than one Canton is sought for the production of hydraulic power and the Cantons have failed to come to any agreement as to the granting of a concession. The Confederation shall likewise have power to grant concessions, after hearing the views of the Cantons concerned, in respect of watercourses forming the frontier of the country.

Fees and royalties payable in respect of the utilisation of water-power are the property of the Cantons or of those entitled to them under Cantonal law.

Fees and royalties payable in respect of concessions made by the Confederation shall be determined by the Confederation, after

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*The first paragraph of this Article is a modification of the original Article 24, and was adopted by referendum on July 11, 1897. The voting was:—For the amendment, 156,102 votes, 16 Cantons; against, 89,561 votes, 6 Cantons.

†This Article was added by referendum on October 25, 1908. The voting was:—For, 304,923 votes, 21½ Cantons; against, 56,237 votes, ½ Canton.

consideration of the views of the Cantons concerned and having due regard to their legislation. Fees and royalties payable in respect of other concessions shall be determined by the Cantons, subject to the limitations imposed by Federal legislation.

The diversion abroad of energy produced from water-power may not take place without authority from the Confederation.

Upon the coming into force of this Article, all new water-power concessions shall be subject to future Federal legislation.

The Confederation has the right to legislate upon the transmission and distribution of electrical energy.

Article 24b.*—Legislation affecting navigation is within the province of the Confederation.

Article 25.—The Confederation may make laws for the regulating of fishing and hunting, particularly with a view to the preservation of forest animals in the mountains and the protection of birds useful to agriculture and sylviculture.

Article 25a.†—The bleeding of animals for slaughter which have not been previously stunned is expressly forbidden. This provision applies to all methods of slaughter and to all kinds of animals.

Article 26.—Legislation on the construction and working of railways is within the province of the Confederation.

Article 27.—The Confederation may establish, in addition to the existing Federal Polytechnic, a Federal University and other institutions for higher education, or may subsidise establishments of this kind.

The Cantons provide for primary education, which must be adequate, and exclusively under the control of the civil authorities. Primary education is compulsory and, in the public schools, free.

Public schools must be open for the attendance of members of all religious faiths without prejudice to them in any way in respect of their conscience or belief.

The Confederation will take any necessary measures against Cantons which fail to fulfil these obligations.

Article 27a‡.—Subventions shall be granted to the Cantons to aid them in carrying out their obligations in respect of primary

*This Article was added by referendum on May 4, 1919. The voting was:—For, 399,131 votes, 22 Cantons; against, 78,260 votes, no Canton.

†This Article was added by referendum on August 20, 1893. The voting was:—For, 191,527 votes 11½ Cantons; against, 127,101 votes, 10½ Cantons.

‡This Article was added by referendum on November 23, 1902. The voting was:—For, 258,567 votes, 21½ Cantons; against, 80,429 votes, ½ Canton.

education. Effect will be given to this provision by legislation. The organisation, direction and supervision of primary schools remains within the competence of the Cantons, subject to the provisions of Article 27.

Article 28.—Customs duties are within the province of the Confederation, which may impose import and export taxes.

Article 29.—The collection of Federal customs must be regulated in accordance with the following principles:—

1. Import taxes.

   (*a*) Materials necessary to the industry and agriculture of the country must be taxed as lightly as possible.

   (*b*) The same principle applies to commodities necessary for the maintenance of life.

   (*c*) Articles of luxury must be subject to the heaviest taxes.

   Except where circumstances render it impossible, these principles must be observed in the conclusion of commercial treaties with foreign countries.

2. Export taxes must be as moderate as possible.

3. Legislation on customs will contain suitable provisions for the continuance of commercial and market intercourse across the frontier.

The foregoing provisions do not preclude the Confederation from taking exceptional measures temporarily to meet abnormal circumstances.

Article 30.—Revenue from customs duties belongs to the Confederation.

The indemnities hitherto paid to the Cantons in respect of redemption of customs, road and bridge tolls, market fees and similar revenues are abolished.

The Cantons of Uri, Grisons, Ticino and Valais shall nevertheless receive, on account of their international Alpine highways, a yearly indemnity fixed, having regard to all the circumstances, at the following rates:—

	Francs.
Uri	80,000
Grisons	200,000
Ticino	200,000
Valais	50,000

In addition, the Cantons of Uri and Ticino shall receive, for clearing the snow from the St. Gothard route, a total annual indemnity of 40,000 francs until such time as this route is replaced by a railway.

Article 31.*—Freedom of commerce and industry is guaranteed throughout the Confederation, with the following exceptions:—

(*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 expressly recognized by the Confederation in accordance with Article 32;†

(*b*) the manufacture and sale of distilled liquors, as provided by Articles 32a and 32b;

(*c*) all matters affecting drinking places and the sale by retail of spirituous liquors, in the sense that the Cantons may by legislation impose restrictions required by the public welfare upon the keeping of drinking places and on the sale by retail of spirituous liquors;

(*d*) sanitary measures against diseases which are infectious, widespread or exceptionally dangerous to human beings or animals;

(*e*) regulations as to the exercise of commercial and industrial occupations, and taxes in connection therewith, and the control of roads. Such regulations must not contravene the principle of freedom of commerce and industry.

Article 32.†—The Cantons are authorized to collect the import duties on wines and other spirituous liquors referred to in Article 31, Clause (*a*), subject in all cases to the following restrictions:—

(*a*) The collection of these duties must not impede the free transit of goods; commerce must be hindered as little as possible and may not be subjected to any other tax.

(*b*) If commodities imported for consumption are re-exported from the Canton, the duty paid on import must be refunded without further charge.

(*c*) Commodities produced in Switzerland must be taxed at a lower rate than those of foreign origin.

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*This Article was amended, as to the manufacture and sale of spirituous liquors, Clause (*b*), by referendum on October 25, 1885. The voting was:—For the amendment, 230,250 votes, 15 Cantons; against, 157,463 votes, 7 Cantons.

. The Article was further amended, as to measures against disease, Clause (*d*), by referendum on May 4, 1913. The voting was:—For, 169,012 votes, 16½ Cantons; against, 111,163 votes, 4½ Cantons.

†The provisions of these Articles are obsolete in so far as they relate to import duties levied by the Cantons and Communes on wines and spirituous liquors.

(*d*) The import duties on wines and other spirituous liquors produced in Switzerland may not be increased in Cantons where such duties now exist, nor may such duties be imposed by Cantons which do not collect them at the present time.

(*e*) Cantonal laws and decrees in regard to the collection of import duties must, before being put into operation, be submitted for approval to the Federal authorities, for them to ensure, if necessary, that the foregoing provisions are observed.

All import duties at present collected by the Cantons, together with similar duties collected by Communes, must be abolished, without compensation, by the end of the year 1890.

Article 32a.*—The Confederation may by legislation impose restrictions upon the manufacture and sale of distilled beverages, but such restrictions may not impose taxation on products which are exported or have been rendered unfit for use as beverages. The distillation of wine, stone and kernel fruits and the waste products thereof, gentian roots, juniper berries and similar materials, is exempted from Federal restrictions as to manufacture and taxation.

After the abolition of the import duties on spirituous liquors mentioned in Article 32 of the Federal Constitution, the trade in alcoholic beverages not distilled may not be subjected by the Cantons to any special tax nor to any other restriction save such as may be necessary to protect the consumer against adulterated or unwholesome beverages. But the powers of the Cantons under Article 31, in respect of the control of drinking places and the sale by retail of quantities of less than two litres, remain unaffected.

The net receipts accruing from duties upon the sale of distilled beverages remain the property of the Cantons in which they are collected.

The net receipts of the Confederation accruing from distillation within the country and the corresponding increase in duties on distilled beverages imported from abroad are distributed among all the Cantons in proportion to their populations as ascertained at the last preceding Federal census. The Cantons must expend at least ten per cent. of the receipts in combating the causes and effects of alcoholism.

Article 32b.†—The manufacture, importation, transport and sale, or keeping for sale, of the liquor called absinthe are pro-

*This Article was added by referendum on October 25, 1885. The voting was:—For, 230,250 votes, 15 Cantons; against, 157,463 votes, 7 Cantons.

†This Article was added by referendum on July 5, 1908. The voting was:—For, 241,078 votes, 20 Cantons; against, 138,669 votes, 2 Cantons.

hibited throughout the Confederation. This prohibition extends to all beverages, by whatever name called, which are imitations of absinthe. The through transport of absinthe and the use of absinthe in pharmacy are excepted from this prohibition.

The foregoing prohibition will come into operation two years after its adoption. Federal legislation will make the necessary provision for giving effect to this prohibition.

The Confederation may by law impose the same prohibition on all other beverages containing absinthe which may be deemed dangerous to the public welfare.

Article 33.—The Cantons may require evidence of capacity from persons desiring to practise the liberal professions.

Federal legislation will make provision that such persons may be able to obtain certificates of qualification valid throughout the Confederation.

Article 34.—The Confederation may make uniform regulations concerning child labour in factories, the hours of work of adults in factories, and the protection of workers in unhealthy or dangerous trades.

The operations of emigration agencies and insurance undertakings not established by the State are subject to Federal supervision and legislation.

Article 34a.*—The Confederation will introduce legislation to provide for sickness and accident insurance, regard being had to existing institutions.

Such insurance may be made compulsory on all or on specified categories of citizens.

Article 34b.†—The Confederation may make uniform regulations concerning arts and industries.

Article 35.‡—The establishment of gaming houses is prohibited.

All enterprises exploiting games of chance shall be deemed to be gaming houses.

All such enterprises at present in existence shall be closed within a period of five years from the adoption of this Article.

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*This Article was added by referendum on October 26, 1890. The voting was:—For, 283,228 votes, 20½ Cantons; against, 92,000 votes, 1½ Cantons.

†This Article was added by referendum on July 5, 1908. The voting was:—For, 232,457 votes, 21½ Cantons; against, 92,561 votes, ½ Canton.

‡This Article was amended by referendum on March 21, 1920. The voting was:—For, 269,740 votes, 13½ Cantons; against, 221,996 votes, 8½ Cantons. The revision thus adopted was that proposed on an Initiative demand. A counter-proposal by the Federal Assembly was rejected, the voting being:—For, 107,230 votes, ½ Canton; against, 344,915 votes, 21½ Cantons.

The Confederation may also take any necessary measures against lotteries.

Article 36.—Throughout Switzerland posts and telegraphs are within the province of the Confederation.

Revenues from posts and telegraphs belong to the Federal Treasury.

Postal and telegraphic charges must be fixed on the same principles and as equitably as possible in every part of Switzerland.

The inviolable secrecy of letters and telegrams is guaranteed.

Article 37.—The Confederation exercises supreme control over all roads and bridges in the maintenance of which it is concerned.

The sums due to the Cantons specified in Article 30 on account of their international Alpine highways may be withheld by the Federal authorities if these highways are not properly maintained.

Article 37a.*—The Confederation may make regulations concerning automobiles and cycles.

The Cantons retain the right to restrict or prohibit automobile and cycle traffic, but the Confederation may nevertheless declare open or partially open to traffic highways necessary for through traffic. The use of highways upon the business of the Confederation may not be restricted.

Article 37b.†—Legislation concerning aerial navigation is within the province of the Confederation.

Article 38.—The Confederation exercises exclusive rights in regard to coinage.

It has the sole right of coining money.

It determines the monetary system, and may, if necessary, regulate the rate of exchange of foreign moneys.

Article 39.‡—The right of issuing bank-notes and other fiduciary money is vested exclusively in the Confederation.

The Confederation may exercise its monopoly of note issue through a State Bank placed under a special administration, or may concede its monopoly, subject to the right of redemption, to

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*This Article was added by referendum on May 22, 1921. The voting was:—For, 206,297 votes, 15½ Cantons; against, 138,876 votes, 6½ Cantons.

†This Article was added by referendum on May 22, 1921. The voting was:—For, 210,447 votes, 20½ Cantons; against, 127,943 votes, 1½ Cantons.

‡This Article was substituted for the original by referendum on October 18, 1891. The voting was:—For, 231,578 votes, 14 Cantons; against, 158,615 votes, 8 Cantons.

a central joint stock bank, which shall be administered with the assistance and under the control of the Confederation.

The principal function of the Bank invested with the monopoly shall be to regulate the money market in Switzerland and to facilitate payments.

At least two-thirds of the net profits of the Bank, after payment of interest or reasonable dividend on the endowment or share capital, and after allocations to the reserve funds, must be distributed among the Cantons.

The Bank and its branches shall be exempt from all Cantonal taxation.

Forced circulation of bank-notes or any other form of fiduciary money may be decreed by the Confederation only in case of necessity in time of war.

Federal legislation shall make provision as to the seat of the Bank, its basis and organisation, and generally as to the carrying into effect of this Article.

Article 40.—The system of weights and measures is determined by the Confederation.

The laws relating thereto are administered by the Cantons under Federal supervision.

Article 41.—The Confederation has the monopoly of the manufacture and sale of gunpowder throughout Switzerland.

Blasting materials not usable for firearms are not included in this monopoly.

Article 41a.*—The Confederation may impose stamp duties upon title-deeds, receipts for insurance premiums, bills of exchange, and similar instruments, documents in use in transport and other documents concerning commercial operations; but such duties may not be imposed on documents concerning landed property and mortgages.

The Cantons may not subject to any stamp duty or registration duty documents which are liable to Federal stamp duty or which have been exempted therefrom.

One-fifth of the net product of the stamp duties shall be payable to the Cantons.

The carrying into effect of this Article will be provided for by legislation.

Article 42.*—The expenses of the Confederation are met by—

(*a*) the revenue from Federal property;

*Article 41a, together with Clause (*g*) of Article 42, was added by referendum on May 13, 1917. The voting was:—For, 190,288 votes, 14½ Cantons; against, 167,689 votes, 7½ Cantons.

(*b*) the revenue from Federal customs collected on the Swiss frontiers;

(*c*) the revenues from posts and telegraphs;

(*d*) the revenue from the gunpowder monopoly;

(*e*) half the gross product of the military exemption taxes collected by the Cantons;

(*f*) contributions by the Cantons determined by Federal legislation, having special regard to their wealth and taxable resources;

(*g*) the revenue from stamp duties.

Article 43.—Every citizen of a Canton is a Swiss citizen.

As such he is entitled, after having duly proved his qualification as a voter, to take part at his place of domicile in all Federal elections and pollings.

No person may exercise political rights in more than one Canton.

A Swiss citizen by settlement enjoys at his place of domicile all the rights of a citizen of the Canton together with the rights of a citizen of the Commune. Participation in the property of communes of citizens and of corporations, and the right to vote in matters exclusively connected therewith, are excluded from these rights, unless otherwise provided by Cantonal legislation.

In Cantonal and Communal matters a Swiss citizen by settlement acquires the rights of an elector after settlement for a period of three months.

Cantonal laws concerning settlement and electoral rights in communal affairs possessed by citizens by settlement shall be submitted to the Federal Council for approval.

Article 44.—No Canton may expel from its territory any citizen of the Canton nor deprive him of his rights as a native or burgher.

Federal legislation shall determine the conditions upon which foreigners may be naturalized and those upon which Swiss citizens may renounce their nationality in order to obtain naturalization in a foreign country.

Article 45.—Every Swiss citizen has the right to settle in any part of Switzerland, subject to the production of a certificate of origin or similar document. The right of settlement may, by way of exception, be *refused* to or *withdrawn* from persons who have been deprived of their civic rights as a result of a penal conviction.

The right of settlement may also be withdrawn from persons who have been repeatedly sentenced for grave misdemeanours, and from persons who become a permanent burden upon public

charity, and whose Commune or Canton of origin refuses to provide adequate assistance for them after having been officially requested to provide it.

In Cantons in which domiciliary relief is provided permission for settlement may be made conditional, in the case of citizens of the Canton, upon the person being capable of work and not having been a permanent charge upon public charity in their former domicile in the Canton of origin.

Every expulsion on account of poverty must be confirmed by the government of the Canton of domicile and notified in advance to the Canton of origin.

The Canton in which a Swiss citizen settles may not require from him any security or impose any special charge upon him in respect of such settlement. Similarly, Communes may not impose on Swiss citizens domiciled within their area any charges other than those imposed upon their own citizens.

The maximum chancellery fee chargeable in respect of permits for settlement shall be determined by Federal law.

Article 46.—Persons settled in Switzerland shall normally be subject in all matters of civil law to the jurisdiction and legislation of their place of domicile.

Federal legislation will make the necessary provisions for the application of this principle and for preventing double taxation of a citizen.

Article 47.—Federal legislation shall define the difference between settlement and temporary residence, and at the same time prescribe the regulations governing the political and civil rights of Swiss citizens during temporary residence.

Article 48.—A Federal law shall make provision as to the expenses of the illness and burial of poor citizens of one Canton who fall ill or die in another Canton.

Article 49.—Liberty of conscience and creed is inviolable.

No person may be compelled to become a member of any religious association, submit to any religious instruction, perform any act of religion, or incur any penalties, of any kind whatsoever, by reason of his religious opinions.

Persons exercising the authority of parent or guardian are entitled, in conformity with the foregoing principles, to determine the religious education of children up to the age of sixteen years.

The exercise of civil or political rights may not be limited by any ecclesiastical or religious requirements or conditions of any kind whatsoever.

No person may refuse, on the ground of religious opinion, to fulfil any obligation of citizenship.

No person may be compelled to pay taxes the proceeds of which are specifically appropriated in payment of the purely religious expenses of any religious community of which he is not a member. The application of this principle will be determined by Federal legislation.

Article 50.—The free exercise of religion is guaranteed within limits compatible with public order and morality.

The Cantons and the Confederation may take measures necessary to maintain public order and peace between the members of different religious communities and to prevent encroachments by ecclesiastical authorities upon the rights of citizens and of the State.

Legal proceedings, under public or private law, arising out of the formation of religious communities, or the division of existing religious communities, may be brought by way of petition before the competent Federal authorities.

No bishopric may be created within Swiss territory without the approval of the Confederation.

Article 51.—The Order of Jesuits, and societies affiliated with it, may not be admitted into any part of Switzerland, and all activities in church and school are forbidden to their members.

This prohibition may be extended by Federal decree to other religious orders whose activity is inimical to the State or disturbs the peace between different religions.

Article 52.—The founding of new religious houses or religious orders, and the re-establishment of those which have been suppressed, are forbidden.

Article 53.—Civil condition and registration in connection therewith are subject to the civil authorities. Federal legislation will make the necessary provision for the application of this Article.

The control of burial-places is subject to the civil authorities, which must provide that every deceased person may receive decent burial.

Article 54.—The right to marry is under the protection of the Confederation.

No impediment to marriage may be based upon grounds of religious belief, the poverty of either party, their conduct, or any other considerations of a police nature.

Marriages concluded in any Canton or abroad in accordance with the law there prevailing shall be recognised as valid throughout the Confederation.

A wife acquires on marriage the citizenship of the commune of her husband.

Children born before the marriage are legitimised by the subsequent marriage of their parents.

No marriage fee or similar impost may be levied on either husband or wife.

Article 55.*—Liberty of the press is guaranteed, but the Cantons may by legislation take measures necessary for the prevention of abuses. Such laws must be submitted to the Federal Council for approval. The Confederation may also prescribe penalties in order to suppress abuses of the liberty of the press directed against the Confederation or Federal authorities.

Article 56.—Citizens have the right to form associations provided that the objects and methods of such associations are not unlawful or dangerous to the State. Cantonal legislation will make the necessary provision for the prevention of abuses.

Article 57.—The right of petition is guaranteed.

Article 58.—No person may be withdrawn from his proper Judge. Accordingly, extraordinary tribunals may not be established.

Ecclesiastical jurisdiction is abolished.

Article 59.—Suits for personal claims against a solvent debtor domiciled in Switzerland must be brought before a Judge of his place of domicile; and the property of such a person may not be seized or sequestrated outside the Canton in which he is domiciled in satisfaction of personal claims.

These provisions are, in respect of foreigners, without prejudice to the provisions of international treaties.

Imprisonment for debt is abolished.

Article 60.—Every Canton is bound to accord to citizens of the other Confederated States the same treatment as to its own citizens in regard to legislation and judicial proceedings.

Article 61.—Final civil judgments delivered in any Canton may be executed throughout Switzerland.

Article 62.—Internal taxes on property leaving one Canton for another ("la traite foraine") are abolished throughout

*See also Article 64a.

Switzerland, together with all rights of first purchase ("le droit de retrait") by citizens of one Canton as against those of another Canton.*

Article 63.—Taxes on the transfer of property to foreign countries are abolished, subject to reciprocity.

Article 64.†—The Confederation has power to legislate in regard to—

civil capacity;

all legal questions relating to commerce and transactions affecting movable property (law of obligations, including commercial law and the law of exchange);

literary and artistic copyright;

the protection of industrial inventions, including designs and models;

and suits for debt and bankruptcy.

The Confederation has power also to legislate upon other matters of civil law.

The organization of the judiciary, legal procedure and the administration of justice remain vested in the Cantons to the same extent as hitherto.

Article 64a.‡—The Confederation has power to legislate in regard to the penal law.

The organization of the judiciary, legal procedure and the administration of justice remain vested in the Cantons to the same extent as hitherto.

The Confederation may grant subventions to the Cantons for the construction of penitentiaries, workhouses and houses of correction and for the carrying out of reforms in the penal system. It

*It was customary formerly to deduct from 5 to 10 per cent. from all property passing out of the Canton by inheritance or marriage ("la traite foraine"). It was also usual when a person wished to sell land, to recognize a right in his relatives, or even neighbours or fellow-citizens of the Canton, to take the property at an arbitrated value ("le droit de retrait").

†This Article was amended as to the protection of inventions by referendum on July 10, 1887. The voting was:—For, 203,506 votes, 20½ Cantons; against, 57,862 votes, 1½ Cantons, and was again amended to its present form by referendum on March 19, 1905. The voting was:—For, 199,187 votes, 21½ Cantons; against, 83,935 votes, ½ Canton.

The last two paragraphs of this Article were added by referendum on November 13, 1898. The voting was:—For, 264,914 votes, 16½ Cantons; against 101,762 votes, 5½ Cantons.

‡This Article was added by referendum on November 13, 1898. The voting was:—For, 266,610 votes, 16½ Cantons; against, 101,780 votes, 5½ Cantons.

may likewise give assistance to institutions for the care of deserted children.

Article 65.*—Sentence of death may not be pronounced for any political offence.

Corporal punishment is forbidden.

Article 66.—Federal legislation will prescribe the limits within which a Swiss citizen may be deprived of his political rights.

Article 67.—Extradition from one Canton to another will be dealt with by Federal legislation, but extradition may not be made obligatory for political or press offences.

Article 68.—The measures to be taken for dealing with persons without nationality (Heimatlosen), and for preventing the occurrence of such cases in future, will be prescribed by Federal legislation.

Article 69.†—The Confederation may take legislative measures to deal with infectious, epidemic and exceptionally dangerous diseases of men and animals.

Article 69a.‡—The Confederation has the right to legislate upon trade in (*a*) foodstuffs, and (*b*) other household commodities and articles of general use, in so far as they may be prejudicial to health or life.

Such laws will be executed by the Cantons under the supervision of and with financial assistance from the Confederation.

The Confederation controls importation over the national frontier.

Article 70.—The Confederation may expel from its territory foreigners who compromise the internal or external security of Switzerland.

CHAPTER II.

THE FEDERAL AUTHORITIES.

I.—The Federal Assembly.

Article 71.—Subject to the rights reserved to the people and to the Cantons (Articles 89 and 121), the supreme power of the

*This Article was amended, as to the death penalty, by referendum on May 18, 1879. The voting was:—For, 200,485 votes, 15 Cantons; against, 181,588 votes, 7 Cantons.

†This Article was amended by referendum on May 4, 1913. The voting was:—For, 169,012 votes, 16½ Cantons; against, 111,163 votes, 4½ Cantons.

‡This Article was added by referendum on July 11, 1897. The voting was:—For, 162,250 votes, 18½ Cantons; against, 86,955 votes, 3½ Cantons.

Confederation is exercised by the Federal Assembly, composed of two divisions or Councils, *viz.*:—

A. The National Council.
B. The Council of States.

A.—The National Council.

Article 72.—The National Council is composed of deputies elected by the Swiss people in the proportion of one member to each 20,000 of the total population. Fractions greater than 10,000 are reckoned as 20,000.

Each Canton, and in the divided Cantons, each half-Canton, elects at least one deputy.

Article 73.*—Elections to the National Council are direct, and are conducted on the principle of proportional representation. Each Canton or half-Canton forms an electoral constituency. Federal legislation shall make the necessary detailed provision to give effect to this principle.

Article 74.—Every Swiss person who has reached the age of twenty years, and who is not excluded from the rights of active citizenship by the laws of the Canton in which he is domiciled, has the right to take part in elections and pollings.

Article 75.—Every lay Swiss citizen entitled to vote is eligible for membership of the National Council.

Article 76.—The National Council is elected for a period of three years, and is completely renewed at each election.

Article 77.—Deputies to the Council of States, members of the Federal Council, and officers appointed by that Council, cannot be at the same time members of the National Council.

Article 78.—The National Council selects a Chairman and Vice-Chairman from amongst its members for each ordinary and extraordinary session. A member who has been Chairman during one ordinary session is not eligible, in the next ordinary session, either as Chairman or as Vice-Chairman. The same member cannot be Vice-Chairman during two consecutive ordinary sessions.

In case of an equality of votes, the Chairman has a casting vote; in elections, he votes in the same way as other members.

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*This Article was amended, to provide for election by Proportional Representation, by referendum on October 13, 1918. The voting was:—For, 299,550 votes, 19½ Cantons; against, 149,037 votes, 2½ Cantons.

Certain temporary provisions in connection with this Article, as to the holding of elections for the National Council and for the Federal Council, in 1919, were adopted by referendum on August 10, 1919. These are not translated.

Article 79.—The members of the National Council receive an allowance from Federal Funds.

B.—The Council of States.

Article 80.—The Council of States is composed of forty-four deputies from the Cantons. Each Canton appoints two deputies; in divided Cantons each half-Canton elects one.

Article 81.—Members of the National Council and those of the Federal Council may not be deputies to the Council of States.

Article 82.—The Council of States selects a Chairman and Vice-Chairman from among its members for each ordinary and extraordinary session.

Neither the Chairman nor the Vice-Chairman may be elected from among the deputies of the Canton from whose representatives the Chairman was chosen for the ordinary session immediately preceding.

Deputies from the same Canton cannot occupy the office of Vice-Chairman during two consecutive ordinary sessions.

In case of an equality of votes, the Chairman has a casting vote; in elections, he votes in the same way as other members.

Article 83.—The deputies to the Council of States receive an allowance from the Cantons.

C.—Powers of the Federal Assembly.

Article 84.—The National Council and the Council of States deliberate on all matters which this Constitution places within the competence of the Confederation, and which are not assigned to any other Federal authority.

Article 85.—The following matters in particular are within the competence of the two Councils:—

1. Laws dealing with the organisation and mode of election of the Federal authorities.

2. Laws and decrees dealing with matters which the Constitution assigns to the Federal authorities.

3. Salaries and allowances of members of the Federal Departments and of the Federal Chancellery; the establishment of permanent Federal offices, and the determination of salaries in connection therewith.

4. The election of the Federal Council, the Federal Tribunal, the Chancellor, and the Commander-in-Chief of the Federal Army. The right of election or confirmation in respect of

other offices may be vested in the Federal Assembly by Federal legislation.

5. Alliances and Treaties with foreign States, confirmation of Treaties made by the Cantons between themselves or with foreign States; provided always that such Cantonal Treaties may be submitted to the Federal Assembly only on appeal by the Federal Council or another Canton.

6. Measures dealing with the external safety and the preservation of the independence and of the neutrality of Switzerland; the declaration of war and the conclusion of peace.

7. Guarantee of the Constitutions and territorial integrity of the Cantons; intervention following upon this guarantee; the internal safety of Switzerland; the maintenance of peace and good order; amnesties and pardons.

8. Measures necessary to ensure the due observance of the Federal Constitution, the guarantee of Cantonal Constitutions, and the fulfilment of Federal obligations.

9. The control of the Federal army.

10. The enactment of the annual budget, the approval of State accounts and decrees authorising loans.

11. General supervision of Federal administration and the Federal Courts.

12. Appeals against decisions of the Federal Council relating to administrative disputes.

13. Conflicts of jurisdiction between the Federal authorities.

14. Revision of the Federal Constitution.

Article 86.—Both Councils meet once a year in ordinary session on a day fixed by Standing Orders.

Extraordinary meetings are summoned by the Federal Council, or on the request of one-quarter of the members, or of five Cantons.

Article 87.—The attendance of an absolute majority of the total number of its members is necessary for the valid transaction of business by either Council.

Article 88.—In both the National Council and the Council of States questions are decided by an absolute majority of those voting.

Article 89.*—Federal laws, decrees and ordinances can be made only by agreement between the two Councils.

*The third paragraph of this Article (as to international treaties) was added by referendum on January 30, 1921. The voting was:—For, 398,538 votes, 20 Cantons; against, 160,004 votes, 2 Cantons.

Federal laws are submitted for acceptance or rejection by the people if a demand be made by 30,000 active citizens or by eight Cantons. Federal decrees which are of general effect and are not urgent are likewise submitted on demand.

International Treaties concluded for a period of indeterminate duration or of more than fifteen years must also be submitted for acceptance or rejection by the people upon the demand of 30,000 active citizens or eight Cantons.

Article 90.—Federal legislation shall determine the forms and suspensory intervals to be observed in popular votings.

Article 91.—Members of both Councils vote without instructions.

Article 92.—The two Councils meet separately. Nevertheless, for the purpose of the elections mentioned in Article 85, Section 4, of exercising the right of pardon, or of pronouncing on conflicts of jurisdiction (Article 85, Section 13), the two Councils meet in joint session under the presidency of the Chairman of the National Council, decisions being reached by a majority of all the members of the two Councils voting.

Article 93.—Each of the two Councils and each of their members has the right of initiating laws, decrees, and amendments of the Constitution.

The Cantons can exercise the same right by correspondence.

Article 94.—Meetings of the Council shall normally be public.

II.—The Federal Council.

Article 95.—The supreme directing and executive power of the Confederation is exercised by a Federal Council composed of seven members.

Article 96.—Members of the Federal Council are appointed for three years by the two Councils in joint session, and are chosen from among all Swiss citizens eligible to the National Council. Not more than one person from each Canton may be chosen for the Federal Council.

The Federal Council is completely renewed after every general election of the National Council.

Vacancies arising within the normal period of three years are filled at the next meeting of the Assembly for the remainder of the period of office.

The entry of Switzerland into the League of Nations was decided by referendum on May 16, 1920. The voting was:—For, 416,870 votes, 11½ Cantons; against, 323,719 votes, 10½ Cantons.

Article 97.—The members of the Federal Council may not, during their term of office, occupy any other position, whether in the service of the Confederation or of a Canton, or engage in any other calling or profession.

Article 98.—The President of the Confederation presides over the Federal Council. A Vice-President of the Council shall also be appointed.

The President of the Confederation and Vice-President of the Federal Council are nominated by the Assembly for one year from amongst members of the Federal Council.

An outgoing President cannot be elected President or Vice-President for the following year.

The same member cannot act as Vice-President for two consecutive years.

Article 99.—The President and other members of the Federal Council receive an annual salary paid from Federal funds.

Article 100.—At least four members of the Federal Council must be present for the valid transaction of business.

Article 101.—Members of the Council have the right to speak, but not to vote, in both divisions of the Assembly, as well as the right of proposing motions on subjects under discussion.

Article 102.—The powers and duties of the Federal Council, within the limits of the Constitution, are more particularly the following:—

1. It directs all Federal business in accordance with the laws and decrees of the Confederation.

2. It ensures the observance of the Constitution and the laws and decrees of the Confederation and of Federal concordats. It takes the necessary measures to this end, upon its own initiative or upon complaint made, in such cases as are not required to be dealt with by the Federal Tribunal in accordance with Article 113.

3. It enforces the guarantee of the Cantonal Constitutions.

4. It drafts laws and decrees for presentation to the Federal Assembly and reports upon proposals submitted by the Councils or by the Cantons.

5. It provides for the execution of the laws and decrees of the Confederation, of the judgments of the Federal Tribunal, and of agreements and arbitration awards upon disputes between Cantons.

6. It makes such appointments as are not entrusted to the Federal Assembly, Federal Tribunal, or other authority.

7. It examines treaties made between the Cantons with one another or with foreign countries, and gives its approval thereto if it think fit (Article 85, Section 5).

8. It watches over the external interests of the Confederation, particularly in regard to the observance of international agreements, and has general charge of foreign affairs.

9. It ensures the external safety of Switzerland and the maintenance of its independence and neutrality.

10. It ensures the internal safety of Switzerland and the maintenance of peace and order.

11. In case of urgency arising when the Federal Assembly is not in session, the Federal Council has authority to call out troops and employ them as it may think necessary, provided that it must convene the Councils immediately if the number of troops called out exceeds two thousand or if they remain mobilized for more than three weeks.

12. It has charge of the Federal military forces and of all branches of the administration thereof which are vested in the Confederation.

13. It examines the laws and ordinances of the Cantons which are required to be submitted to it and supervises the branches of Cantonal administration which are placed under its control.

14. It administers the finances of the Confederation, prepares the budget and submits accounts of receipts and expenditure.

15. It supervises the conduct of business by all officials and employees of the Federal administration.

16. It gives an account of its work to the Federal Assembly in each ordinary session, presents to it a report upon the internal condition and foreign relations of the Confederation, and recommends for consideration such measures as it thinks useful for promoting the general welfare.

It makes special reports whenever the Federal Assembly or either division thereof so demands.

Article 103.*—The business of the Federal Council is distributed among its members by departments. All decisions emanate from the Federal Council as a single authority.

Federal legislation may authorise departments, or services in connection therewith, themselves to control certain affairs, subject to a right of appeal.

*This Article was amended by referendum on October 25, 1914. The voting was:—For, 204,394 votes, 18 Cantons; against, 123,431 votes, 4 Cantons.

The cases in which such appeal may be made to a Federal Administrative Court shall be determined by Federal legislation.

Article 104.—The Federal Council and its departments are authorised to call in experts for special purposes.

III.—The Federal Chancellery.

Article 105.—The Federal Chancellery, under the Chancellor of the Confederation, acts as the Secretariat of the Federal Assembly and the Federal Council.

The Chancellor is elected for three years by the Federal Assembly and holds office concurrently with it.

The Chancellery is under the special supervision of the Federal Council.

The organization of the Chancellery is determined by Federal legislation.

IV.—The Federal Tribunal.

Article 106.—A Federal Tribunal is established for the administration of justice in Federal matters.

In penal cases trial is by jury.

Article 107.—Judges of the Federal Tribunal and their substitutes are appointed by the Federal Assembly, who shall have regard to the representation of the three national languages. The organisation of the Court, its divisions, number of Judges, and substitutes, their term of office and emoluments, are determined by law.

Article 108.—Any citizen eligible for the National Council may be appointed to the Federal Tribunal, but members of the Federal Council or of the Federal Assembly, or officials appointed by them, cannot simultaneously be members of the Federal Tribunal. Judges of this Court may not, during their term of office, occupy any other position, either in the service of the Confederation or in that of a Canton, nor follow any other calling or profession.

Article 109.—The organization of the Secretariat of the Tribunal and the appointment of the staff thereof are in the hands of the Federal Tribunals.

Article 110.—The judicial power of the Federal Tribunal extends to civil cases—

1. between the Confederation and the Cantons;
2. between the Confederation of the one part, and corporations or individuals of the other part, when the latter are plaintiffs and the matter in dispute reaches the degree of importance to be prescribed by Federal legislation;

3. between Cantons;
4. between Cantons of the one part, and corporations or individuals of the other part, where either party so demands and the matter in dispute reaches the degree of importance to be prescribed by Federal legislation.

The Federal Tribunal also has jurisdiction in regard to loss of nationality ("Heimatlosat") and disputes between Cantons concerning the right of citizenship of a commune.

Article 111.—The Federal Court is bound to judge other cases when the parties lodge security and the matter in dispute is of the degree of importance to be prescribed by Federal legislation.

Article 112.—The Federal Tribunal, with the assistance of a jury to try the facts, has penal jurisdiction as to—

1. cases of high treason against the Confederation and of revolt and violence against the Federal authorities;
2. crimes and offences against the Law of Nations;
3. crimes and political offences which are the cause of, or are consequent upon, disorders necessitating the intervention of the Federal army;
4. charges against officials appointed by a Federal authority when brought before the Tribunal by that authority.

Article 113.—The Federal Tribunal also has jurisdiction in regard to—

1. conflicts of jurisdiction between Federal authorities of the one part and Cantonal authorities of the other part;
2. disputes between Cantons in matters of public law;
3. complaints of violation of the constitutional rights of citizens and complaints by individuals of violation of concordats and treaties.

Administrative disputes are excluded from its jurisdiction, subject to the provisions of Federal legislation.

In all the cases above mentioned, the Federal Tribunal shall administer the laws passed by the Federal Assembly, and such decrees of that Assembly as are of general application. It shall likewise act in accordance with treaties ratified by the Federal Assembly.

Article 114.—In addition to the matters mentioned in Articles 110, 112 and 113, other matters may be placed by Federal legislation under the jurisdiction of the Federal Tribunal; in particular, powers may be conferred on the Tribunal for the purpose of ensuring the uniform application of the provisions of Article 64.

IV A.—Federal Administrative and Disciplinary Jurisdiction.

Article 114a.*—The Federal Administrative Court has jurisdiction in regard to administrative disputes in Federal matters referred to it by Federal legislation.

It also has jurisdiction in disciplinary cases in Federal administration referred to it by Federal legislation, in so far as such cases are not reserved to a special jurisdiction.

The administrative Court shall administer the Federal laws and treaties approved by the Federal Assembly.

Subject to the approval of the Federal Assembly, the Cantons have the right to give the Federal Administrative Court jurisdiction in administrative cases in Cantonal affairs.

The organization and procedure of the Federal Administrative and Disciplinary Judiciary are regulated by law.

V.—Miscellaneous Provisions.

Article 115.—The seat of government of the Confederation and all matters in relation thereto shall be determined by Federal legislation.

Article 116.—The three principal languages spoken in Switzerland, German, French and Italian, are the national languages of the Confederation.

Article 117.—Officials of the Confederation are held responsible for their conduct in office. Their responsibility shall be determined by Federal legislation.

CHAPTER III.†

REVISION OF THE FEDERAL CONSTITUTION.

Article 118.—The Federal Constitution may at any time be wholly or partially amended.

Article 119.—A total revision is effected through the forms required for passing Federal laws.

Article 120.—When either division of the Federal Assembly passes a resolution for the total revision of the Constitution, and the other division does not agree, or when 50,000 Swiss voters

*This Article was added by referendum on October 25, 1914. The voting was:—For, 204,394 votes, 18 Cantons; against, 123,431 votes, 4 Cantons.

†This Chapter was amended by referendum on July 5, 1891. The voting was:—For, 183,029 votes, 18 Cantons; against 120,599 votes, 4 Cantons. Referendum on May 13, 1917. The voting was:—For, 190,288 votes, 14½ Cantons.

demand a total revision, the question whether the Constitution ought to be revised is in either case submitted to the people, who vote Yes or No.

If in either case a majority of the Swiss citizens who vote pronounce in the affirmative, there shall be a new election of both Councils for the purpose of undertaking the revision.

Article 121.—A partial revision may take place by means of the popular initiative, or through the forms prescribed for passing Federal laws.

The popular initiative consists in a demand by 50,000 Swiss voters for the addition of a new Article to the Constitution, or for the repeal or modification of certain Articles of the Constitution already in force.

If by means of the popular initiative several different provisions are presented for revision or for addition to the Federal Constitution, each must form the subject of a separate initiative demand. The initiative demand may take the form of a proposal in general terms or of a Bill complete in all details.

When a demand is couched in general terms the Federal Assembly, if it approve thereof, will proceed to undertake the partial revision in the sense indicated in the demand, and will submit it for adoption or rejection by the people and the Cantons. If, on the contrary, it does not approve, the question whether there shall be a partial revision or not must be submitted to the vote of the people; if a majority of the Swiss citizens taking part in the vote pronounce in the affirmative, the Federal Assembly will proceed to undertake the revision in conformity with the decision of the people.

When a demand is presented in the form of a Bill complete in all details, and the Federal Assembly approves thereof, the Bill shall be submitted for adoption or rejection by the people and the Cantons. If the Federal Assembly does not approve, it may frame a Bill of its own or recommend to the people the rejection of the Bill proposed, and submit to the people its own Bill or proposal for rejection at the same time as the Bill presented by popular initiative.

Article 122.—Federal legislation shall determine the formalities to be observed in regard to popular initiative demands and to voting concerning the revision of the Federal Constitution.

Article 123.—The revised Federal Constitution, or the revised part thereof, shall come into force when it has been accepted by a majority of the Swiss citizens taking part in the voting thereon and by a majority of the States.

In reckoning a majority of the States the vote of a half-Canton is counted as half a vote. The result of the popular vote in each Canton is to be regarded as the vote of the State.

Transitory Provisions.

(These Articles have not been translated. They consisted of temporary provisions relating to financial adjustments, nullification of laws, etc., in conflict with the Constitution, the establishment of the Federal Tribunal, the postponement of the introduction of free elementary education, and the general validity of Cantonal professional diplomas.)

Temporary Articles.

An Article was temporarily added to the Constitution in 1915 to provide for the imposition of taxes on capital and income for the purpose of meeting the expenses incurred by the Confederation in the mobilization of troops as a result of the European War. A similar Article was added in 1919, providing for the imposition of capital and income-taxes for a period of four years, renewable for periods of the same duration until the war expenditure had been met. Both these Articles were submitted to and approved by the people on Referendum.

The voting was:—Referendum of June 6, 1915: For, 452,117 votes, 22 Cantons; against, 27,461 votes, no Canton. Referendum of May 4, 1919: For, 307,528 votes, 20 Cantons; against, 165,119 votes, 2 Cantons.

(These Articles have not been translated.)

*Referenda on Amendments of the Constitution of the Swiss Confederation adopted up to the end of June, 1921.

No. of Article	Subject	Date of Referendum	Number of Electors	Ratio of Votes recorded to Number of Electors (per cent.)	Votes for	Votes against	Cantons for	Cantons against
65	Death Penalty	1879, May 18	633,138	60·4	200,485	181,588	14	8
31, 32*a* 6(Transitory Provisions).	Manufacture and Sale of Spirits, Drinking-places	1885, Oct. 25	641,689	60 4	230,250	157,463	15	7
64	Inventions	1887, July 10	647,077	40·4	203,506	57,862	20½	1½
34*a*	Insurance--Accident and Sickness	1890, Oct. 26	663,531	56·6	283,228	92,200	20½	1½
118to121	Initiative	1891, July 5	653,890	46·4	183,029	120,599	18	4
39	Bank Note Monopoly	1891, Oct. 18	654,372	59·6	231,578	158,615	14	8
25*a*	Slaughter of Animals	1893, Aug. 20	668,913 (83,159)*	47·6	191,527	127,101	11½	10½
24	Control of Waters and Forests..	1897, July 11	716,883	34·3	156,102	89,561	16	6
69*a*	Legislation *re* Foodstuffs, etc. ..	1897, July 11	716,883	34·8	162,250	16,955	18½	3½
64	Unification of Law (Civil) ..	1898, Nov. 13	723,803	50·6	264,914	101,762	16½	5½
64*a*	Unification of Law (Penal) ..	1898, Nov. 13	723,803	50·9	266,610	101,780	16½	5½
27*a*	Public Elementary Schools ..	1902, Nov. 23	757,320	44·7	258,567	80,429	21½	½
64	Inventions	1905, Mar. 19	776,394	36·5	199,187	83,935	21½	½
31*b*, 32*b*	Absinthe	1908, July 5	809,545 (167,814)*	47	241,078	138,669	20	2
34*b*	Arts and Crafts	1908, July 5	809,545	40·2	232,457	92,561	21½	½

* These amendments were proposed by the exercise of the Initiative; the figures in parentheses show the number of signatures to the Initiative Demand.

*Referenda on Amendments of the Constitution of the Swiss Confederation adopted up to the end of June, 1921—*Continued.*

No. of Article	Subject	Date of Referendum	Number of Electors	Ratio of Votes recorded to Number of Electors (per cent.)	Votes for	Votes against	Cantons for	Cantons against
24*a*	Water Power	1908, Oct. 25	809,406	44·6	304,923	56,237	21½	½
31, 69	Diseases—Human and Animal ..	1913, May 4	844,175	33·2	169,012	111,163	16½	4½
					One Canton	Canton equally	equally	divided.
103, 114*a*	Federal Administrative Court ..	1914, Oct. 25	851,082	38·5	204,394	123,431	18	4
—	War Tax	1915, June 6	871,476	55	452,117	27,461	22	*Nil*
41*a*, 41*g*	Stamp Duties	1917, May 13	894,177	40	190,288	167,689	14½	7½
73	Proportional Representation in Elections for National Council.	1918, Oct. 13	936,336 (122,631)*	47·9	299,550	149,037	79½	2½
24*b*	Navigation	1919, May 4	937,257	50·9	399,131	78,260	22	*Nil*
—	War Tax	1919, May 4	937,257	50·4	307,528	165,119	20	2
35	Gaming Houses:							
	(*a*) Initiative Demand ..	1920, Mar. 21	957,389	55·2	269,740	221,996	13½	8½
	(*b*) Counter Proposal of Federal Assembly ..		(117,494)*	47·6	107,230	344,915	½	21½
89	International Treaties	1921, Jan. 30	967,289 (64,391)*	57·9	398,538	160,004	20	2
37*a*	Automobiles and Bicycles ..	1921, May 22	969,522	35·6	206,297	138,876	15½	6½
37*b*	Aerial Navigation	1921, May 22	969,522	34·9	210,447	127,943	20½	1½
	Entry of Switzerland into League of Nations (*See Article* 89).	1920, May 16	968,327	77·5	416,870	323,719	11½	10½

*These amendments were proposed by the exercise of the Initiative; the figures in parentheses show the number of signatures to the Initiative Demand.

XV. THE DOMINION OF CANADA.

Area: 3,729,665 *sq. miles.* *Population*: 8,772,000.

The geographical entity now known as Canada was created by an Act of the Imperial Parliament in 1867. Prior to that Act the name Canada was only applied to two Provinces of the Dominion of Canada. These Provinces are now known as Ontario and Quebec, but prior to 1867 they were known respectively as Upper and Lower Canada. The Dominion of Canada is now formed of the nine Provinces of Ontario, Quebec, Nova Scotia, New Brunswick, British Columbia, Prince Edward Island, Manitoba, Saskatchewan, and Alberta, together with the Yukon and North-West Territories. Inasmuch as the last three of these Provinces were formed since 1867, at the time of the passing of the Constitution the two Canadas formed the greater part of the territory of the Federation, and much the more important part of the population.

Indeed the historical origins of the Constitution are to be found in the history of the two Canadas. Originally, Canada had been founded as a French colony in 1608. This colony passed by conquest under British rule in 1760, as the result of the capitulation of Quebec on September 18th, 1759, and the capitulation of Montreal, September 8th, 1760. Under the Treaty of Paris, 1763, Canada passed formally under British rule, and became the Province of Quebec, His Britannic Majesty undertaking "that His new Roman Catholic subjects may profess the worship of their religion according to the rites of the Roman Church so far as the laws of Great Britain permitted."

The new Province was thereupon ruled by a succession of English Governors, the first of whom was instructed to appoint a Council and to summon a general Assembly of the freeholders of the Province. Certain difficulties were encountered by the growth of a small minority of British settlers, who believed that they alone should be entitled to advise the Governor and to control the administration of public affairs, and particularly the administration of law. The contest between the two languages and the two peoples produced an anomalous state of affairs. The consequence was that, as the result of the influence of a succession of Governors, a Constitutional Act, known as the Quebec Act, 1774, was passed. Under this Act all the territory now held by the Provinces of Quebec and Ontario was included in the Province

of Quebec. The main provisions of the Act were, however, legal and religious, provision being made for the "free exercise of the religion of the Church of Rome," for the right of the clergy to collect their tithes, and for release from the oath of abjuration, with an altered oath of allegiance. The Governor was instructed to constitute and appoint a Council, but the ordinances of this Council had to be referred to England, and the Council was given no power to levy taxes. This Act was the first stage in a succession of enactments by which the present Constitution was brought to pass.

After the American War of Independence the religious and racial difficulties were increased by the incursion of a number of "Unity Empire Loyalists," who left the United States rather than forego their allegiance. Yet, though they had sacrificed their homes and fortunes they were not prepared to sacrifice the political rights which they had hitherto exercised. They had been accustomed to representative institutions and to a considerable degree of control over the instruments of government. Moreover, the agitation for control over the Executive, and particularly the right to control taxation, which had led to the War of Independence, had influenced them deeply; and they were strong to press for similar rights in their new home. On the other hand, the original French colonists, owing to the circumstances under which they had previously been governed, were unaccustomed to representative institutions. To them a representative Assembly was simply "une machine anglaise pour nous taxer". Nor, under the circumstances, were they wholly wrong in their estimate, for the English minority never imagined that their claim would imply political equality with the French majority. Their thoughts were running on lines of ascendancy.

These two elements, therefore, contended in the Province. In 1788 the controversy was removed to London by the arrival there of a representative of the British minority, to press for the repeal of the Quebec Act and for the creation of representative institutions with control over taxation. As a result of these representations, together with more sagacious advice given by the Governor of the time, another Constitutional Act was passed, known as the Canada Act, 1791. This Act was the second stage in constitutional development. It divided the territory of Quebec into two Provinces, under the titles of Upper and Lower Canada. In each Province an elective House of Assembly was created with power to make laws. In order to guard against the democratic tendencies of the new Republic to the South, in each Province a nominative Upper House, to be known as the Legislative Council, was created; and power was granted to the King to attach to hereditary titles the right of being summoned to the Legislative Council. A small

property qualification was required for the exercise of the franchise, and freedom for the Catholic faith was ensured.

Under the new Constitution, however, in each Province all effective administrative power and control were in the hands of an independent Executive. This Executive was appointed by the Governor, and, though no laws could be made without the consent of the Assembly, the Executive was, both financially and constitutionally, independent of the Assembly. The Executive, for example, had at its disposal considerable Crown revenues, and it could also draw on the military chest furnished by the Home Government. It could, therefore, dispense with appropriations by the House of Assembly. Being constitutionally independent, the House of Assembly inconveniently exercised its right of legislation; and though the Governor repeatedly dissolved the House, in each Province, this right was stubbornly maintained. Constant collision, therefore, occurred in each Province between the House of Assembly and the Executive Government. The result was that the Government of Upper Canada fell into the hands of small family cliques and in Lower Canada the Opposition moved from deadlock to deadlock.

For forty-six years this state of affairs survived, with continued exasperation on each side. In Upper Canada the population was almost wholly of English settlers, who were continually in revolt against "the family compact". In Lower Canada, where the original French settlers were in the majority, the constitutional contest took another complexion. For there the House of Assembly was predominantly French, whereas the Legislative Council and the Executive Council were almost wholly British. In both Provinces the demands were for a control over the Executive, control of the purse, an elective Legislative Council and the independence of Judges. Finally, the situation culminated in a concerted insurrection in both Provinces, led in Upper Canada by Mackenzie and in Lower Canada by Papineau.

During this period three of the coastal provinces had been passing through somewhat the same experiences. These three Provinces were Nova Scotia, New Brunswick and Prince Edward Island. In each of these Provinces the words "the family compact" had acquired the same evil significance that they had acquired in Upper Canada. In these Provinces the demands were precisely the same as were being formulated in the two Canadas. These demands had not led to insurrection, but at the time that insurrection had broken out in the larger Provinces, the causes that had led to insurrection there were matters of acute controversy in these three Provinces.

It was to such a situation that Lord Durham came as Governor-General in the summer of 1838. He came with almost autocratic

powers in May, and was recalled in November for having exceeded those powers. The fruit of his visit was his "Report on the affairs of British North America." After a full examination of the causes that had led to disorder, Lord Durham recommended, first, that the two Provinces of Upper and Lower Canada should be united; and, second, that responsible government should be established, with an Executive in which the Legislature should have confidence, and a Governor who would act in accordance with the advice given by such a Ministry. This latter recommendation he made not only for the two Canadas, but also for the maritime Provinces. His further recommendations were that provision should be made for the voluntary admission of the maritime Provinces in one union; that the principle of representation according to population should be followed; and that no money votes should be proposed, except on the advice of responsible ministers.

This Report led to the Union Act of 1840, which marks the third stage of constitutional development in Canada. By this Act the two Canadas were united with one House of Assembly and one Legislative Council. The event proved, however, that the Union was an error. It resulted in a majority of the British influence over the French influence of so considerable an extent as to place the French in a perpetual but powerful minority. The result was that both sides desired that the Union should be dissolved.

In the meantime, on September 1st, 1864, delegates from the three maritime Provinces met in Charlottetown to consider the question of a Maritime Union. To this Convention the Government of Canada sent a delegation with proposals for a larger union, with the result that, on October 10th, a larger Conference met at Quebec. This Conference continued until October 28th, sitting, in fact, as a Constituent Convention. It embodied its decisions, however, not in a draft Constitution, but in a series of 72 resolutions. In these resolutions the principle of federation was accepted, the two Canadas and the maritime Provinces each to have its own local Parliament with a central Federal Parliament. Provision was also made for the admission into the suggested Union of the North-West territory, British Columbia, and Vancouver.

The Quebec Resolutions were laid before the Canadian Parliament in 1865, which dealt with them as the terms of a Treaty which could not be amended, but must either be accepted or rejected as a whole. They passed the House of Assembly by a majority of 58, and the Legislative Council with small opposition. The Legislature of New Brunswick voted against the Confederation, but it was replaced in 1866 by a House of Assembly which accepted the Quebec Resolutions. The Parliament of Nova Scotia also passed the Resolutions, but only after strenuous opposition.

Accordingly, delegates were appointed to proceed to England to lay the Resolutions before the Imperial Parliament. There the delegates, the Secretary of State, and the Law Officers of the Crown drafted a Bill on the basis of the Quebec Resolutions. This Bill was entitled "The British North America Act". It was passed into law in March, and July 1st, 1867, was fixed as the day on which it was to come into operation.

The four Provinces of Ontario, Quebec, Nova Scotia and New Brunswick were thus federated as the Dominion of Canada. In 1869 the North-West Territories were purchased by the Dominion from the Hudson Bay Company, and in 1870 Manitoba was created out of part of these and admitted as a Province of the Dominion. British Columbia and Prince Edward Island joined the Dominion in 1871. Alberta and Saskatchewan became Provinces of the Dominion in 1905.

The British North America Act is the Canadian Constitution. It provided not only a Federal Constitution for the Dominion of Canada, but made constitutional provision for the government of the Provinces which came into the Federation. Under the Constitution specific legislative powers were given to the Constituent States, and the residuary powers left to the Federal Parliament. In many matters Canada had reacted from the procedure of the United States. This was one of them. In the United States Constitution specific powers had been given to Congress and the residuary powers left to the States. It was felt in Canada that this had led to vexed questions concerning "State rights". It was, therefore, decided to reverse the process, with the consequence, that on July 1st, the Canadian Constitution came into being with a Legislature having full powers in all matters where powers had not been already specifically delegated to the constituent Provinces.

This Constitution embodies most of the developments that had occurred in the constitutional experience of the two Canadas since the Quebec Act of 1774. Yet, in practical experience constitutional usage soon outstripped the legal right. For the development that had occurred between 1774 and 1867 continued, and did not stand still because in 1867 the development that till then had occurred was summarised in a written Fundamental Law. The consequence is that the written articles of the Constitution of 1867 are, in many matters, no sort of a guide to the constitutional practice of the present day.

The practical effect of these changes may be generally summarised in the statement that in 1867 Canada was given the constitutional status of a colony, whereas at the present time she exercises the constitutional usage of sovereign nationhood.

The Canadian Constitution has, therefore, become encrusted with a number of constitutional conventions which have

considerably modified and expanded it in many of its most vital relations. The strict letter of the Constitution consequently is not a reliable guide to the ordinary practice under it. This has led to an important distinction embodied in the phrase "legal authority and constitutional right." In the strict letter the "legal authority" remains the same, but in practice the "constitutional right" has abrogated that authority. These changes extend in every direction, including issues of peace and war, treaty making, and international relations.

CONSTITUTION

OF THE

DOMINION OF CANADA.

Anno Tricesimo Victoriæ Reginæ,
Cap. III.

An Act for the Union of *Canada, Nova Scotia,* and *New Brunswick,* and the Government thereof; and for Purposes connected therewith.

[29*th March,* 1867.]

Whereas the Provinces of *Canada, Nova Scotia,* and *New Brunswick* have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of *Great Britain* and *Ireland,* with a Constitution similar in Principle to that of the United Kingdom:

And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the *British* Empire:

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

And whereas it is expedient that Provision be made for the eventual Admission into the Union of other Parts of *British North America*:

Be it therefore enacted and declared by the Queen's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:—

I.—PRELIMINARY.

1. This Act may be cited as The *British North America* Act, 1867.

2. The Provisions of this Act referring to Her Majesty the Queen extend also to the Heirs and Successors of Her Majesty,

Kings and Queens of the United Kingdom of *Great Britain* and *Ireland.*

II.—UNION.

3. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a Day therein appointed not being more than Six Months after the passing of this Act, the Provinces of *Canada, Nova Scotia,* and *New Brunswick* shall form and be One Dominion under the Name of Canada; and on and after that Day those Three Provinces shall form and be One Dominion under that Name accordingly.

4. The subsequent Provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the Day appointed for the Union taking effect in the Queen's Proclamation; and in the same Provisions, unless it is otherwise expressed or implied, the Name *Canada* shall be taken to mean *Canada* as constituted under this Act.

5. *Canada* shall be divided into Four Provinces, named *Ontario, Quebec, Nova Scotia,* and *New Brunswick.*

6. The Parts of the Province of *Canada* (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of *Upper Canada* and *Lower Canada* shall be deemed to be severed, and shall form Two separate Provinces. The Part which formerly constituted the Province of *Upper Canada* shall constitute the Province of *Ontario*; and the Part which formerly constituted the Province of *Lower Canada* shall constitute the Province of *Quebec.*

7. The Provinces of *Nova Scotia* and *New Brunswick* shall have the same Limits as at the passing of this Act.

8. In the general Census of the Population of *Canada* which is hereby required to be taken in the Year One thousand eight hundred and seventy-one, and in every Tenth Year thereafter, the respective Populations of the Four Provinces shall be distinguished.

III.—EXECUTIVE POWER.

9. The Executive Government and Authority of and over *Canada* is hereby declared to continue and be vested in the Queen.

10. The Provisions of this Act referring to the Governor General extend and apply to the Governor General for the Time being of *Canada,* or other the Chief Executive Officer or Admini-

strator for the Time being carrying on the Government of *Canada* on behalf and in the Name of the Queen, by whatever Title he is designated.

11. There shall be a Council to aid and advise in the Government of *Canada*, to be styled the Queen's Privy Council for *Canada;* and the Persons who are to be Members of that Council shall be from Time to Time chosen and summoned by the Governor General and sworn in as Privy Councillors, and Members thereof may be from Time to Time removed by the Governor General.

12. All Powers, Authorities, and Functions which under any Act of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*, or of the Legislature of *Upper Canada*, *Lower Canada*, *Canada*, *Nova Scotia*, or *New Brunswick* are at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of *Canada*, be vested in and exercisable by the Governor General with the Advice or with the Advice and Consent of or in conjunction with the Queen's Privy Council for *Canada*, or any Members thereof, or by the Governor General individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of *Great Britain* or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*) to be abolished or altered by the Parliament of *Canada*.

13. The Provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor General acting by and with the Advice of the Queen's Privy Council for *Canada*.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor General from Time to Time to appoint any Person or any Persons jointly or severally to be his Deputy or Deputies within any Part or Parts of *Canada*, and in that Capacity to exercise during the Pleasure of the Governor General such of the Powers, Authorities, and Functions of the Governor General as the Governor General deems it necessary or expedient to assign to him or them, subject to any Limitations or Directions expressed or given by the Queen; but the Appointment of such a Deputy or Deputies shall not affect the Exercise by the Governor General himself of any Power, Authority, or Function.

15. The Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in *Canada,* is hereby declared to continue and be vested in the Queen.

16. Until the Queen otherwise directs, the Seat of Government of *Canada* shall be *Ottawa.*

IV.—LEGISLATIVE POWER.

17. There shall be One Parliament for *Canada,* consisting of the Queen, and Upper House styled the Senate, and the House of Commons.

18. The Privileges, Immunities, and Powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the Members thereof respectively shall be such as are from Time to Time defined by Act of the Parliament of *Canada,* but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of *Great Britain* and *Ireland* and by the Members thereof.

19. The Parliament of *Canada* shall be called together not later than Six Months after the Union.

20. There shall be a Session of the Parliament of *Canada* one at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Parliament in one Session and its first Sitting in the next Session.

The Senate.

21. The Senate shall, subject to the Provisions of this Act, consist of Seventy-two Members, who shall be styled Senators.

*22. In relation to the Constitution of the Senate *Canada* shall be deemed to consist of Three Divisions:

1. *Ontario;*

2. *Quebec;*

3. The Maritime Provinces, *Nova Scotia* and *New Brunswick;* which Three Divisions shall (subject to the Provisions of this Act) be equally represented in the Senate as follows: *Ontario* by Twenty-four Senators; *Quebec* by Twenty-four Senators; and the Maritime Provinces by Twenty-four Senators, Twelve thereof representing *Nova Scotia,* and Twelve thereof representing *New Brunswick.*

In the Case of *Quebec* each of the Twenty-four Senators representing that Province shall be appointed for One of the Twenty-four Electoral Divisions of *Lower Canada* specified in

*See Amending Act of 1915.

Schedule A to Chapter One of the Consolidated Statutes of Canada.

23. The Qualifications of a Senator shall be as follows:—

(1) He shall be of the full Age of Thirty Years:

(2) He shall be either a natural-born Subject of the Queen, or a Subject of the Queen naturalized by an Act of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*, or of the Legislature of One of the Provinces of *Upper Canada, Lower Canada, Canada, Nova Scotia*, or *New Brunswick*, before the Union, or of the Parliament of *Canada* after the Union:

(3) He shall be legally or equitably seised as of Freehold for his own Use and Benefit of Lands or Tenements held in Free and Common Socage, or seised or possessed for his own Use and Benefit of Lands or Tenements held in Francalleu or in Roture, within the Province for which he is appointed, of the Value of Four thousand Dollars, over and above all Rents, Dues, Debts, Charges, Mortgages, and Incumbrances due or payable out of or charged on or affecting the same:

(4) His Real and Personal Property shall be together worth Four thousand Dollars over and above his Debts and Liabilities:

(5) He shall be resident in the Province for which he is appointed:

(6) In the case of *Quebec* he shall have his Real Property Qualification in the Electoral Division for which he is appointed, or shall be resident in that Division.

24. The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of *Canada*, summon qualified Persons to the Senate; and, subject to the Provisions of this Act, every Person so summoned shall become and be a Member of the Senate and a Senator.

25. Such Persons shall be first summoned to the Senate as the Queen by Warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their Names shall be inserted in the Queen's Proclamation of Union.

26. If at any Time on the Recommendation of the Governor General the Queen thinks fit to direct that Three or Six Members be added to the Senate, the Governor General may by Summons to Three or Six qualified Persons (as the Case may be), representing equally the Three Divisions of *Canada*, add to the Senate accordingly.

27. In case of such Addition being at any Time made, the Governor General shall not summon any Person to the Senate, except on a further like Direction by the Queen on the like Recommendation, until each of the Three Divisions of *Canada* is represented by Twenty-four Senators and no more.

28. The Number of Senators shall not at any Time exceed Seventy-eight.

29. A Senator shall, subject to the Provisions of this Act, hold his Place in the Senate for Life.

30. A Senator may by Writing under his Hand addressed to the Governor General resign his Place in the Senate, and thereupon the same shall be vacant.

31. The Place of a Senator shall become vacant in any of the following Cases:—

(1) If for Two consecutive Sessions of the Parliament he fails to give his Attendance in the Senate:

(2) If he takes an Oath or makes a Declaration or Acknowledgment of Allegiance, Obedience, or Adherence to a Foreign Power, or does an Act whereby he becomes a Subject or Citizen, or entitled to the Rights or Privileges of a Subject or Citizen, of a Foreign Power:

(3) If he is adjudged Bankrupt or insolvent, or applies for the Benefit of any Law relating to Insolvent Debtors, or becomes a public Defaulter:

(4) If he is attained of Treason or convicted of Felony or of any infamous Crime:

(5) If he ceases to be qualified in respect of Property or of Residence; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of Residence by reason only of his residing at the Seat of the Government of *Canada* while holding an Office under that Government requiring his Presence there.

32. When a Vacancy happens in the Senate by Resignation, Death, or otherwise, the Governor General shall by Summons to a fit and qualified Person fill the Vacancy.

33. If any Question arises respecting the Qualification of a Senator or a Vacancy in the Senate the same shall be heard and determined by the Senate.

34. The Governor General may from Time to Time, by Instrument under the Great Seal of *Canada*, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his Stead.

35. Until the Parliament of *Canada* otherwise provides, the Presence of at least Fifteen Senators, including the Speaker,

shall be necessary to constitute a Meeting of the ... for the Exercise of its Powers.

36. Questions arising in the Senate shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the Negative.

THE HOUSE OF COMMONS.

37. The House of Commons shall, subject to the Provisions of this Act, consist of One hundred and eighty-one Members, of whom Eighty-two shall be elected for *Ontario*, Sixty-five for *Quebec*, Nineteen for *Nova Scotia*, and Fifteen for *New Brunswick*.

38. The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of *Canada*, Summon and call together the House of Commons.

39. A Senator shall not be capable of being elected or of sitting or voting as a Member of the House of Commons.

40. Until the Parliament of *Canada* otherwise provides, *Ontario*, *Quebec*, *Nova Scotia*, and *New Brunswick* shall, for the Purposes of the Election of Members to serve in the House of Commons, be divided into Electoral Districts as follows:

1.—ONTARIO.

Ontario shall be divided into the Counties, Ridings of Counties, Cities, Parts of Cities, and Towns enumerated in the First Schedule to this Act, each whereof shall be an Electoral District, each such District as numbered in that Schedule being entitled to return One Member.

2.—QUEBEC.

Quebec shall be divided into Sixty-five Electoral Districts, composed of the Sixty-five Electoral Divisions into which *Lower Canada* is at the passing of this Act divided under Chapter Two of the Consolidated Statutes of *Canada*, Chapter Seventy-five of the Consolidated Statutes for *Lower Canada*, and the Act of the Province of *Canada* of the Twenty-Third Year of the Queen, Chapter One, or any other Act amending the same in force at the Union, so that each such Electoral Division shall be for the Purposes of this Act an Electoral District entitled to return One Member.

3.—NOVA SCOTIA.

Eight of the Eighteen Counties of *Nova Scotia* shall be an Electoral District. The County of *Halifax* shall be entitled to

return Two Members, and each of the other Counties One Member.

4.—New Brunswick.

Each of the Fourteen Counties into which *New Brunswick* is divided, including the City and County of *St. John*, shall be an Electoral District. The City of *St. John* shall also be a separate Electoral District. Each of those Fifteen Electoral Districts shall be entitled to return One Member.

41. Until the Parliament of *Canada* otherwise provides, all Laws in force in the several Provinces at the Union relative to the following Matters or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the House of Assembly or Legislative Assembly in the several Provinces, the Voters at Elections of such Members, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which Elections may be continued, the Trial of controverted Elections, and Proceedings incident thereto, the vacating of Seats of Members, and the Execution of new Writs in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the House of Commons for the same several Provinces.

Provided that, until the Parliament of *Canada* otherwise provides, at any Election for a Member of the House of Commons for the District of *Algoma*, in addition to Persons qualified by the Law of the Province of *Canada* to vote, every Male *British* Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.

42. For the First Election of Members to serve in the House of Commons the Governor General shall cause Writs to be issued by such Person, in such Form, and addressed to such Returning Officer as he thinks fit.

The Person issuing Writs under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the issuing of Writs for the Election of Members to serve in the respective House of Assembly or Legislative Assembly of the Province of *Canada*, *Nova Scotia*, or *New Brunswick*; and the Returning Officers to whom Writs are directed under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the returning of Writs for the Election of Members to serve in the same respective House of Assembly or Legislative Assembly.

43. In case a Vacancy in the Representation in the House of Commons of any Electoral District happens before the Meeting of the Parliament, or after the Meeting of the Parliament before

Provision is made by the Parliament in this Behalf, the Provisions of the last foregoing Section of this Act shall extend and apply to the issuing and returning of a Writ in respect of such vacant District.

44. The House of Commons on its first assembling after a General Election shall proceed with all practicable Speed to elect One of its Members to be Speaker.

45. In case of a Vacancy happening in the Office of Speaker by Death, Resignation, or otherwise, the House of Commons shall with all practicable Speed proceed to elect another of its Members to be Speaker.

46. The Speaker shall preside at all Meetings of the House of Commons.

47. Until the Parliament of *Canada* otherwise provides, in case of the Absence for any Reason of the Speaker from the Chair of the House of Commons for a Period of Forty-eight consecutive Hours, the House may elect another of its Members to act as Speaker, and the Member so elected shall during the Continuance of such Absence of the Speaker have and execute all the Powers, Privileges, and Duties of Speaker.

48. The Presence of at least Twenty Members of the House of Commons shall be necessary to constitute a Meeting of the House for the Exercise of its Powers, and for that Purpose the Speaker shall be reckoned as a Member.

49. Questions arising in the House of Commons shall be decided by a Majority of Voices other than that of the Speaker, and when the Voices are equal, but not otherwise, the Speaker shall have a Vote.

50. Every House of Commons shall continue for Five Years from the Day of the Return of the Writs for choosing the House (subject to be sooner dissolved by the Governor General), and no longer.

51. On the Completion of the Census in the Year One thousand eight hundred and seventy-one, and of each subsequent decennial Census, the Representation of the Four Provinces shall be re-adjusted by such Authority, in such Manner, and from such Time, as the Parliament of *Canada* from Time to Time provides, subject and according to the following Rules:

(1) *Quebec* shall have the fixed Number of Sixty-five Members:

(2) There shall be assigned to each of the other Provinces such a Number of Members as will bear the same Proportion to the Number of its Population (ascertained at

such Census) as the Number Sixty-five bears to the Number of the Population of *Quebec* (so ascertained):

(3) In the computation of the Number of Members for a Province a fractional Part not exceeding One Half of the whole Number requisite for entitling the Province to a Member shall be disregarded; but a fractional Part exceeding One Half of that Number shall be equivalent to the whole Number:

(4) On any such Re-adjustment the Number of Members for a Province shall not be reduced unless the Proportion which the Number of the Population of the Province bore to the Number of the aggregate Population of *Canada* at the then last preceding Re-adjustment of the Number of Members for the Province is ascertained at the then latest Census to be diminished by One Twentieth Part or upwards:

(5) Such Re-adjustment shall not take effect until the Termination of the then existing Parliament.

52. The Number of Members of the House of Commons may be from Time to Time increased by the Parliament of *Canada*, provided the proportionate Representation of the Provinces prescribed by this Act is not thereby disturbed.

MONEY VOTES; ROYAL ASSENT.

53. Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to the House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

55. Where a Bill passed by the Houses of the Parliament is presented to the Governor General for the Queen's Assent, he shall declare, according to his Discretion, but subject to the Provisions of this Act and to Her Majesty's Instructions, either that he assents thereto in the Queen's Name, or that he withholds the Queen's Assent, or that he reserves the Bill for the Signification of the Queen's Pleasure.

56. Where the Governor General assents to a Bill in the Queen's Name, he shall by the first convenient Opportunity send an authentic Copy of the Act to One of Her Majesty's Principal Secretaries of State, and if the Queen in Council within Two Years after receipt thereof by the Secretary of State thinks fit to disallow

the Act, such Disallowance (with a Certificate of the Secretary of State of the Day on which the Act was received by him) being signified by the Governor General, by Speech or Message to each of the Houses of the Parliament or by Proclamation, shall annul the Act from and after the Day of such Signification.

57. A Bill reserved for the Signification of the Queen's Pleasure shall not have any Force unless and until, within Two Years from the Day on which it was presented to the Governor General for the Queen's Assent, the Governor General signifies, by Speech or Message to each of the Houses of the Parliament or by Proclamation, that it has received the Assent of the Queen in Council.

An Entry of every such Speech, Message, or Proclamation shall be made in the Journal of each House, and a Duplicate thereof duly attested shall be delivered to the proper Officer to be kept among the Records of *Canada*.

V.—PROVINCIAL CONSTITUTIONS.

Executive Power.

58. For each Province there shall be an Officer, styled the Lieutenant Governor, appointed by the Governor General in Council by Instrument under the Great Seal of *Canada*.

59. A Lieutenant Governor shall hold Office during the Pleasure of the Governor General; but any Lieutenant Governor appointed after the Commencement of the First Session of the Parliament of *Canada* shall not be removable within Five Years from his Appointment, except for Cause assigned, which shall be communicated to him in Writing within One Month after the Order for his Removal is made, and shall be communicated by Message to the Senate and to the House of Commons within One Week thereafter if the Parliament is then sitting, and if not then within One Week after the Commencement of the next Session of the Parliament.

60. The salaries of the Lieutenant Governors shall be fixed and provided by the Parliament of *Canada*.

61. Every Lieutenant Governor shall, before assuming the Duties of his Office, make and subscribe before the Governor General or some Person authorized by him Oaths of Allegiance and Office similar to those taken by the Governor General.

62. The Provisions of this Act referring to the Lieutenant Governor extend and apply to the Lieutenant Governor for the Time being of each Province, or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of the Province, by whatever Title he is designated.

63. The Executive Council of *Ontario* and of *Quebec* shall be composed of such Persons as the Lieutenant Governor from Time

to Time thinks fit, and in the first instance of the following Officers, namely,—the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, with in *Quebec* the Speaker of the Legislative Council and the Solicitor General.

64. The Constitution of the Executive Authority in each of the Provinces of *Nova Scotia* and *New Brunswick* shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act.

65. All Powers, Authorities, and Functions which under any Act of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*, or of the Legislature of *Upper Canada*, *Lower Canada*, or *Canada*, were or are before or at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice or with the Advice and Consent of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of *Ontario* and *Quebec* respectively, be vested in and shall or may be exercised by the Lieutenant Governor of *Ontario* and *Quebec* respectively, with the Advice or with the Advice and Consent of or in conjunction with the respective Executive Councils, or any Members thereof, or by the Lieutenant Governor individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*), to be abolished or altered by the respective Legislatures of *Ontario* and *Quebec*.

66. The Provisions of this Act referring to the Lieutenant Governor in Council shall be construed as referring to the Lieutenant Governor of the Province acting by and with the Advice of the Executive Council thereof.

67. The Governor General in Council may from Time to Time appoint an Administrator to execute the Office and Functions of Lieutenant Governor during his Absence, Illness, or other Inability.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the Seats of Government of the Provinces shall be as follows, namely—of *Ontario*, the City of *Toronto*; of *Quebec*, the City of *Quebec*; of *Nova Scotia*, the City of *Halifax*; and of *New Brunswick*, the City of *Fredericton*.

LEGISLATIVE POWER.

1.—Ontario.

69. There shall be a Legislature for *Ontario* consisting of the Lieutenant Governor and of One House, styled the Legislative Assembly of *Ontario*.

70. The Legislative Assembly of *Ontario* shall be composed of Eighty-two Members, to be elected to represent the Eighty-two Electoral Districts set forth in the First Schedule to this Act.

2.—Quebec.

71. There shall be a Legislature for *Quebec* consisting of the Lieutenant Governor and of Two Houses, styled the Legislative Council of *Quebec* and the Legislative Assembly of *Quebec*.

72. The Legislative Council of *Quebec* shall be composed of Twenty-four Members, to be appointed by the Lieutenant Governor, in the Queen's Name, by Instrument under the Great Seal of *Quebec*, one being appointed to represent each of the Twenty-four Electoral Divisions of *Lower Canada* in this Act referred to, and each holding Office for the Term of his Life, unless the Legislature of *Quebec* otherwise provides under the Provisions of this Act.

73. The Qualifications of the Legislative Councillors of *Quebec* shall be the same as those of the Senators for *Quebec*.

74. The Place of a Legislative Councillor of *Quebec* shall become vacant in the Cases, *mutatis mutandis*, in which the Place of Senator becomes vacant.

75. When a Vacancy happens in the Legislative Council of *Quebec* by Resignation, Death, or otherwise, the Lieutenant Governor, in the Queen's Name, by Instrument under the Great Seal of *Quebec*, shall appoint a fit and qualified Person to fill the Vacancy.

76. If any Question arises respecting the Qualification of a Legislative Councillor of *Quebec*, or a Vacancy in the Legislative Council of *Quebec*, the same shall be heard and determined by the Legislative Council.

77. The Lieutenant Governor may from Time to Time, by Instrument under the Great Seal of *Quebec*, appoint a Member of the Legislative Council of *Quebec* to be Speaker thereof, and may remove him and appoint another in his Stead.

78. Until the Legislature of *Quebec* otherwise provides, the Presence of at least Ten Members of the Legislative Council, including the Speaker, shall be necessary to constitute a Meeting for the Exercise of its Powers.

79. Questions arising in the Legislative Council of *Quebec* be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the Negative.

80. The Legislative Assembly of *Quebec* shall be composed of Sixty-five Members, to be elected to represent the Sixty-five Electoral Divisions or Districts of *Lower Canada* in this Act referred to, subject to Alteration thereof by the Legislature of *Quebec*: Provided that it shall not be lawful to present to the Lieutenant Governor of *Quebec* for Assent any Bill for altering the Limits of any of the Electoral Divisions or Districts mentioned in the Second Schedule to this Act, unless the Second and Third Readings of such Bill have been passed in the Legislative Assembly with the Concurrence of the Majority of the Members representing all those Electoral Divisions or Districts, and the Assent shall not be given to such Bill unless an Address has been presented by the Legislative Assembly to the Lieutenant Governor stating that it has been so passed.

3.—Ontario and Quebec.

81. The Legislatures of *Ontario* and *Quebec* respectively shall be called together not later than Six Months after the Union.

82. The Lieutenant Governor of *Ontario* and of *Quebec* shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

83. Until the Legislature of *Ontario* or of *Quebec* otherwise provides, a Person accepting or holding in *Ontario* or in *Quebec* any Office, Commission, or Employment, permanent or temporary, at the Nomination of the Lieutenant Governor, to which an annual Salary, or any Fee, Allowance, Emolument, or Profit of any Kind or Amount whatever from the Province is attached, shall not be eligible as a Member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this Section shall make ineligible any Person being a Member of the Executive Council of the respective Province, or holding any of the following Offices, that is to say, the Offices of Attorney General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in *Quebec* Solicitor General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such Office.

84. Until the Legislatures of *Ontario* and *Quebec* respectively otherwise provide, all Laws which at the Union are in force in those Provinces respectively, relative to the following Matters, or

any of them, namely—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the Assembly of *Canada*, the Qualifications or Disqualifications of Voters, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which such Elections may be continued, and the Trial of controverted Elections and the Proceedings incident thereto, the vacating of the Seats of Members and the issuing and execution of new Writs in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the respective Legislative Assemblies of *Ontario* and *Quebec*.

Provided that, until the Legislature of *Ontario* otherwise provides, at any Election for a Member of the Legislative Assembly of *Ontario* for the District of *Algoma*, in addition to Persons qualified by the Law of the Province of *Canada* to vote, every Male *British* Subject, aged Twenty-one Years or upwards, being a Householder, shall have a vote.

85. Every Legislative Assembly of *Ontario* and every Legislative Assembly of *Quebec* shall continue for Four Years from the Day of the Return of the Writs for choosing the same (subject nevertheless to either the Legislative Assembly of *Ontario* or the Legislative Assembly of *Quebec* being sooner dissolved by the Lieutenant Governor of the Province), and no longer.

86. There shall be a Session of the Legislature of *Ontario* and of that of *Quebec* once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Legislature in each Province in one Session and its first Sitting in the next Session.

87. The following Provisions of this Act respecting the House of Commons of *Canada* shall extend and apply to the Legislative Assemblies of *Ontario* and *Quebec*, that is to say—the Provisions relating to the Election of a Speaker originally and on Vacancies, the Duties of the Speaker, the Absence of the Speaker, the Quorum, and the Mode of voting, as if those Provisions were here re-enacted and made applicable in Terms to each such Legislative Assembly.

4.—Nova Scotia and New Brunswick.

88. The Constitution of the Legislature of each of the Provinces of *Nova Scotia* and *New Brunswick* shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act; and the House of Assembly of *New Brunswick* existing at the passing of this Act shall, unless sooner dissolved, continue for the Period for which it was elected.

5.—Ontario, Quebec, and Nova Scotia.

89. Each of the Lieutenant Governors of *Ontario, Quebec,* and *Nova Scotia* shall cause Writs to be issued for the First Election of Members of the Legislative Assembly thereof in such Form and by such Person as he thinks fit, and at such Time and addressed to such Returning Officer as the Governor General directs, and so that the First Election of Member of Assembly for any Electoral District or any Subdivision thereof shall be held at the same Time and at the same Places as the Election for a Member to serve in the House of Commons of *Canada* for that Electoral District.

6.—The Four Provinces.

90. The following Provisions of this Act respecting the Parliament of *Canada,* namely,—the Provisions relating to Appropriation and Tax Bills, the Recommendation of Money Votes, the Assent to Bills, the Disallowance of Acts, and the Signification of Pleasure on Bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those Provisions were here re-enacted and made applicable in Terms to the respective Provinces and the Legislatures thereof, with the Substitution of the Lieutenant Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of One Year for Two Years, and of the Province for *Canada*

VI.—DISTRIBUTION OF LEGISLATIVE POWERS.

Powers of the Parliament.

91. It shall be lawful for the Queen, by and with the advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of *Canada,* in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of *Canada* extends to all Matters coming within the Classes of Subjects next hereinafter enumerated, that is to say,—

1. The Public Debt and Property.
2. The Regulation of Trade and Commerce.
3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.
6. The Census and Statistics.
7. Militia, Military and Naval Service, and Defence.

8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of *Canada*.
9. Beacons, Buoys, Lighthouses, and *Sable Island*.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Sea Coast and Inland Fisheries.
13. Ferries between a Province and any *British* or Foreign Country or between Two Provinces.
14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the Issue of Paper Money.
16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. *Indians*, and Lands reserved for the *Indians*.
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

EXCLUSIVE POWERS OF PROVINCIAL LEGISLATURES.

92. In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

1. The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant Governor.

2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.
3. The borrowing of Money on the sole Credit of the Province.
4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.
5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.
7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.
8. Municipal Institutions in the Province.
9. Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.
10. Local Works and Undertakings other than such as are of the following Classes:—
    (*a*) Lines of Steam or other Ships, Railways, Canals, Telegraphs and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province:
    (*b*) Lines of Steam Ships between the Province and any *British* or Foreign Country:
    (*c*) Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of *Canada* to be for the general Advantage of *Canada* or for the Advantage of Two or more of the Provinces.
11. The Incorporation of Companies with Provincial Objects.
12. The Solemnization of Marriage in the Province.
13. Property and Civil Rights in the Province.
14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.
15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province

made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.

16. Generally all Matters of a merely local or private Nature in the Province.

EDUCATION.

93. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:—

(1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:

(2) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in *Upper Canada* on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissentient Schools of the Queen's Protestant and Roman Catholic Subjects in *Quebec*:

(3) Where in any Province a System of Separate or Dissentient Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education:

(4) In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case require, the Parliament of *Canada* may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section.

UNIFORMITY OF LAWS IN ONTARIO, NOVA SCOTIA, AND NEW BRUNSWICK.

94. Notwithstanding anything in this Act, the Parliament of *Canada* may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil Rights in *Ontario*, *Nova Scotia*, and *New Brunswick*, and of the Procedure of all or any of

the Courts in those Three Provinces, and from and after the passing of any Act in that Behalf the Power of the Parliament of *Canada* to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of *Canada* making Provision for such Uniformity shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof.

AGRICULTURE AND IMMIGRATION.

95. In each Province the Legislature may make Laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of *Canada* may from Time to Time make Laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any Law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of *Canada*.

VII.—JUDICATURE.

96. The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in *Nova Scotia* and *New Brunswick*.

97. Until the Laws relative to Property and Civil Rights in *Ontario, Nova Scotia*, and *New Brunswick*, and the Procedure of the Courts in those Provinces are made uniform, the Judges of the Courts of those Provinces appointed by the Governor General shall be selected from the respective Bars of those Provinces.

98. The Judges of the Courts of *Quebec* shall be selected from the Bar of that Province.

99. The Judges of the Superior Courts shall hold Office during good Behaviour, but shall be removable by the Governor General on Address of the Senate and House of Commons.

100. The Salaries, Allowances, and Pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in *Nova Scotia* and *New Brunswick*), and of the Admiralty Courts in Cases where the Judges thereof are for the Time being paid by Salary, shall be fixed and provided by the Parliament of *Canada*.

101. The Parliament of *Canada* may, notwithstanding anything in this Act, from Time to Time provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for *Canada*, and for the Establishment of any additional Courts for the better Administration of the Laws of *Canada*.

VIII.—REVENUES; DEBTS; ASSETS; TAXATION.

102. All Duties and Revenues over which the respective Legislatures of *Canada, Nova Scotia,* and *New Brunswick* before and at the Union had and have Power of Appropriation, except such Portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special Powers conferred on them by this Act, shall form One Consolidated Revenue Fund, to be appropriated for the Public Service of *Canada* in the Manner and subject to the Charges in this Act provided.

103. The Consolidated Revenue Fund of *Canada* shall be permanently charged with the Costs, Charges, and Expenses incident to the Collection, Management, and Receipt thereof, and the same shall form the First Charge thereon, subject to be reviewed and audited in such Manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides.

104. The annual Interest of the Public Debts of the several Provinces of *Canada, Nova Scotia,* and *New Brunswick* at the Union shall form the Second Charge on the Consolidated Revenue Fund of *Canada.*

105. Unless altered by the Parliament of *Canada,* the Salary of the Governor General shall be Ten thousand Pounds Sterling Money of the United Kingdom of *Great Britain* and *Ireland,* payable out of the Consolidated Revenue Fund of *Canada,* and the same shall form the Third Charge thereon.

106. Subject to the several Payments by this Act charged on the Consolidated Revenue Fund of *Canada,* the same shall be appropriated by the Parliament of *Canada* for the Public Service.

107. All Stocks, Cash, Banker's Balances, and Securities for Money belonging to each Province at the Time of the Union, except as in this Act mentioned, shall be the Property of *Canada,* and shall be taken in Reduction of the Amount of the respective Debts of the Provinces at the Union.

108. The Public Works and Property of each Province, enumerated in the Third Schedule to this Act, shall be the Property of *Canada.*

109. All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of *Canada, Nova Scotia,* and *New Brunswick* at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of *Ontario, Quebec, Nova Scotia,* and *New Brunswick* in which the same are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same.

110. All Assets connected with such Portions of the Public Debt of each Province as are assumed by that Province shall belong to that Province.

111. Canada shall be liable for the Debts and Liabilities of each Province existing at the Union.

112. *Ontario* and *Quebec* conjointly shall be liable to *Canada* for the Amount (if any) by which the Debt of the Province of *Canada* exceeds at the Union Sixty-two million five hundred thousand Dollars, and shall be charged with Interest at the Rate of Five *per Centum per Annum* thereon.

113. The Assets enumerated in the Fourth Schedule to this Act belonging at the Union to the Province of *Canada* shall be the Property of *Ontario* and *Quebec* conjointly.

114. *Nova Scotia* shall be liable to *Canada* for the Amount (if any) by which its Public Debt exceeds at the Union Eight million Dollars, and shall be charged with Interest at the Rate of Five *per Centum per Annum* thereon.

115. *New Brunswick* shall be liable to *Canada* for the Amount (if any) by which its Public Debt exceeds at the Union Seven million Dollars, and shall be charged with Interest at the Rate of Five *per Centum per Annum* thereon.

116. In case the Public Debts of *Nova Scotia* and *New Brunswick* do not at the Union amount to Eight million and Seven million Dollars respectively, they shall respectively receive by half-yearly Payments in advance from the Government of *Canada* Interest at Five *per Centum per Annum* on the Difference between the actual Amounts of their respective Debts and such stipulated Amounts.

117. The several Provinces shall retain all their respective Public Property not otherwise disposed of in this Act, subject to the Right of *Canada* to assume any Lands or Public Property required for Fortifications or for the Defence of the Country.

118. The following Sums shall be paid yearly by *Canada* to the several Provinces for the support of their Governments and Legislatures:

	Dollars.
Ontario	Eighty thousand.
Quebec	Seventy thousand.
Nova Scotia	Sixty thousand.
New Brunswick	Fifty thousand.
	Two hundred and sixty thousand;

and an annual Grant in aid of each Province shall be made, equal to Eighty Cents *per* Head of the Population as ascertained by the

Census of One thousand eight hundred and sixty-one, and in the Case of *Nova Scotia* and *New Brunswick*, by each subsequent Decennial Census until the Population of each of those Two Provinces amounts to Four hundred thousand Souls, at which Rate such Grant shall thereafter remain. Such Grants shall be in full Settlement of all future Demands on *Canada*, and shall be paid half-yearly in advance to each Province; but the Government of *Canada* shall deduct from such Grants, as against any Province, all Sums chargeable as Interest on the Public Debt of that Province in excess of the several Amounts stipulated in this Act.

119. *New Brunswick* shall receive by half-yearly Payments in advance from *Canada* for the Period of Ten Years from the Union an additional Allowance of Sixty-three thousand Dollars *per Annum;* but as long as the Public Debt of that Province remains under Seven million Dollars, a Deduction equal to the Interest at Five *per Centum per Annum* on such Deficiency shall be made from that Allowance of Sixty-three thousand Dollars.

120. All Payments to be made under this Act, or in discharge of Liabilities created under any Act of the Provinces of *Canada, Nova Scotia,* and *New Brunswick* respectively, and assumed by *Canada,* shall, until the Parliament of *Canada* otherwise directs, be made in such Form and Manner as may from Time to Time be ordered by the Governor General in Council.

121. All Articles of the Growth, Produce, or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

122. The Customs and Excise Laws of each Province shall, subject to the Provisions of this Act, continue in force until altered by the Parliament of *Canada.*

123. Where Customs Duties are, at the Union, leviable on any Goods, Wares, or Merchandises in any Two Provinces, those Goods, Wares, and Merchandises may, from and after the Union, be imported from one of those Provinces into the other of them on Proof of Payment of the Customs Duty leviable thereon in the Province of Exportation, and on Payment of such further Amount (if any) of Customs Duty as is leviable thereon in the Province of Importation.

124. Nothing in this Act shall affect the Right of *New Brunswick* to levy the Lumber Dues provided in Chapter Fifteen of Title Three of the Revised Statutes of *New Brunswick,* or in any Act amending that Act before or after the Union, and not increasing the Amount of such Dues; but the Lumber of any of the Provinces other than *New Brunswick* shall not be subject to such Dues.

125. No Lands or Property belonging to *Canada* or any Province shall be liable to Taxation.

126. Such Portions of the Duties and Revenues over which the respective Legislatures of *Canada, Nova Scotia,* and *New Brunswick* had before the Union Power of Appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all Duties and Revenues raised by them in accordance with the special Powers conferred upon them by this Act, shall in each Province form One Consolidated Revenue Fund to be appropriated for the Public Service of the Province.

IX.—MISCELLANEOUS PROVISIONS.

General.

127. If any Person being at the passing of this Act a Member of the Legislative Council of *Canada, Nova Scotia,* or *New Brunswick,* to whom a Place in the Senate is offered, does not within Thirty Days thereafter, by Writing under his Hand addressed to the Governor General of the Province of *Canada* or to the Lieutenant Governor of *Nova Scotia* or *New Brunswick* (as the Case may be), accept the same, he shall be deemed to have declined the same; and any Person who, being at the passing of this Act a Member of the Legislative Council of *Nova Scotia* or *New Brunswick,* accept a Place in the Senate, shall thereby vacate his Seat in such Legislative Council.

128. Every Member of the Senate or House of Commons of *Canada* shall before taking his Seat therein take and subscribe before the Governor General or some Person authorized by him, and every Member of a Legislative Council or Legislative Assembly of any Province shall before taking his Seat therein take and subscribe before the Lieutenant Governor of the Province or some Person authorized by him, the Oath of Allegiance contained in the Fifth Schedule to this Act; and every Member of the Senate of *Canada* and every Member of the Legislative Council of *Quebec* shall also, before taking his Seat therein, take and subscribe before the Governor General, or some Person authorized by him, the Declaration of Qualification contained in the same Schedule.

129. Except as otherwise provided by this Act, all Laws in force in *Canada, Nova Scotia,* or *New Brunswick* at the Union, and all Courts of Civil and Criminal Jurisdiction, and all legal Commissions, Powers, and Authorities, and all Officers, Judicial, Administrative, and Ministerial, existing therein at the Union, shall continue in *Ontario, Quebec, Nova Scotia,* and *New Brunswick* respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of *Great Britain* or of the

Parliament of the United Kingdom of *Great Britain* and *Ireland*), to be repealed, abolished, or altered by the Parliament of *Canada*, or by the Legislature of the respective Province, according to the Authority of the Parliament or of that Legislature under this Act.

130. Until the Parliament of *Canada* otherwise provides, all Officers of the several Provinces having Duties to discharge in relation to Matters other than those coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be Officers of *Canada*, and shall continue to discharge the Duties of their respective Offices under the same Liabilities, Responsibilities, and Penalties as if the Union had not been made.

131. Until the Parliament of *Canada* otherwise provides, the Governor General in Council may from Time to Time appoint such Officers as the Governor General in Council deems necessary or proper for the effectual Execution of this Act.

132. The Parliament and Government of *Canada* shall have all Powers necessary or proper for performing the Obligations of *Canada* or of any Province thereof, as Part of the *British Empire*, towards Foreign Countries, arising under Treaties between the Empire and such Foreign Countries.

133. Either the *English* or the *French* Language may be used by any Person in the Debates of the Houses of the Parliament of *Canada* and of the Houses of the Legislature of *Quebec;* and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or 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.

ONTARIO AND QUEBEC.

134. Until the Legislature of *Ontario* or of *Quebec* otherwise provides, the Lieutenant Governors of *Ontario* and *Quebec* may each appoint under the Great Seal of the Province the following Officers, to hold Office during Pleasure, that is to say—the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the Case of *Quebec* the Solicitor General, and may, by Order of the Lieutenant Governor in Council, from Time to Time prescribe the Duties of those Officers, and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof, and may also appoint other and additional Officers to hold Office during Pleasure, and may from

Time to Time prescribe the Duties of those Officers and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof.

135. Until the Legislature of *Ontario* or *Quebec* otherwise provides, all Rights, Powers, Duties, Functions, Responsibilities, or Authorities at the passing of this Act vested in or imposed on the Attorney General, Solicitor General, Secretary and Registrar of the Province of *Canada,* Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver General, by any Law, Statute, or Ordinance of *Upper Canada, Lower Canada,* or *Canada,* and not repugnant to this Act, shall be vested in or imposed on any Officer to be appointed by the Lieutenant Governor for the Discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the Duties and Functions of the Office of Minister of Agriculture at the passing of this Act imposed by the Law of the Province of *Canada,* as well as those of the Commissioners of Public Works.

136. Until altered by the Lieutenant Governor in Council, the Great Seals of *Ontario* and *Quebec* respectively shall be the same, or of the same Design, as those used in the Provinces of *Upper Canada* and *Lower Canada* respectively before their Union as the Province of *Canada.*

137. The Words "and from thence to the End of the then next ensuing Session of the Legislature," or Words to the same Effect, used in any temporary Act of the Province of *Canada* not expired before the Union, shall be construed to extend and apply to the next Session of the Parliament of *Canada* if the Subject Matter of the Act is within the Powers of the same as defined by this Act, or to the next Sessions of the Legislatures of *Ontario* and *Quebec* respectively if the Subject Matter of the Act is within the Powers of the same as defined by this Act.

138. From and after the Union the Use of the Words "*Upper Canada*" instead of "*Ontario,*" or "*Lower Canada*" instead of "*Quebec,*" in any Deed, Writ, Process, Pleading, Document, Matter, or Thing, shall not invalidate the same.

139. Any Proclamation under the Great Seal of the Province of *Canada* issued before the Union to take effect at a Time which is subsequent to the Union, whether relating to that Province, or to *Upper Canada,* or to *Lower Canada,* and the several Matters and Things therein proclaimed, shall be and continue of like Force and Effect as if the Union had not been made.

140. Any Proclamation which is authorized by any Act of the Legislature of the Province of *Canada* to be issued under the Great Seal of the Province of *Canada,* whether relating to that

Province, or to *Upper Canada*, or to *Lower Canada*, and which is not issued before the Union, may be issued by the Lieutenant Governor of *Ontario* or of *Quebec*, as its Subject Matter requires, under the Great Seal thereof; and from and after the Issue of such Proclamation the same and the several Matters and Things therein proclaimed shall be and continue of the like Force and Effect in *Ontario* or *Quebec* as if the Union had not been made.

141. The Penitentiary of the Province of *Canada* shall, until the Parliament of *Canada* otherwise provides, be and continue the Penitentiary of *Ontario* and of *Quebec*.

142. The Division and Adjustment of the Debts, Credits, Liabilities, Properties, and Assets of *Upper Canada* and *Lower Canada* shall be referred to the Arbitrament of Three Arbitrators, One chosen by the Government of *Ontario*, One by the Government of *Quebec*, and One by the Government of *Canada*; and the Selection of the Arbitrators shall not be made until the Parliament of *Canada* and the Legislatures of *Ontario* and *Quebec* have met; and the Arbitrator chosen by the Government of *Canada* shall not be a Resident either in *Ontario* or in *Quebec*.

143. The Governor General in Council may from Time to Time order that such and so many of the Records, Books, and Documents of the Province of *Canada* as he thinks fit shall be appropriated and delivered either to *Ontario* or to *Quebec*, and the same shall thenceforth be the Property of that Province; and any Copy thereof or Extract therefrom, duly certified by the Office having charge of the Original thereof, shall be admitted as Evidence.

144. The Lieutenant Governor of *Quebec* may from Time to Time, by Proclamation under the Great Seal of the Province, to take effect from a Day to be appointed therein, constitute Townships in those Parts of the Province of *Quebec* in which Townships are not then already constituted, and fix the Metes and Bounds thereof.

X.—INTERCOLONIAL RAILWAY.

145. Inasmuch as the Provinces of *Canada*, *Nova Scotia*, and *New Brunswick* have joined in a Declaration that the Construction of the Intercolonial Railway is essential to the Consolidation of the Union of *British North America*, and to the Assent thereto of *Nova Scotia* and *New Brunswick*, and have consequently agreed that Provision should be made for its immediate Construction by the Government of *Canada*: Therefore, in order to give effect to that Agreement, it shall be the Duty of the Government and Parliament of *Canada* to provide for the Commencement, within Six Months after the Union, of a Railway connecting the River *St. Lawrence* with the City of

Halifax in *Nova Scotia,* and for the Construction thereof without Intermission, and the Completion thereof with all practicable Speed.

XI.—ADMISSION OF OTHER COLONIES.

146. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of *Canada,* and from the Houses of the respective Legislatures of the Colonies or Provinces of *Newfoundland, Prince Edward Island,* and *British Columbia,* to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of *Canada* to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of *Great Britain* and *Ireland.*

147. In case of the Admission of *Newfoundland* and *Prince Edward Island,* or either of them, each shall be entitled to a Representation in the Senate of *Canada* of Four Members, and (notwithstanding anything in this Act) in case of the Admission of *Newfoundland* the normal Number of Senators shall be Seventy-six and their maximum Number shall be Eighty-two; but *Prince Edward Island* when admitted shall be deemed to be comprised in the third of the Three Divisions into which *Canada* is, in relation to the Constitution of the Senate, divided by this Act, and accordingly, after the Admission of *Prince Edward Island,* whether *Newfoundland* is admitted or not, the Representation of *Nova Scotia* and *New Brunswick* in the Senate shall, as Vacancies occur, be reduced from Twelve to Ten Members respectively, and the Representation of each of those Provinces shall not be increased at any Time beyond Ten, except under the Provisions of this Act for the Appointment of Three or Six additional Senators under the Direction of the Queen.

SCHEDULES.

[The First and Second Schedules set out the Electoral Divisions and Districts of Ontario and Quebec respectively.]

THE THIRD SCHEDULE.

Provincial Public Works and Property to be the Property of Canada.

1. Canals with Lands and Water Power connected therewith,
2. Public Harbours.

3. Lighthouses and Piers, and Sable Island.
4. Steamboats, Dredges and Public Vessels.
5. Rivers and Lakes Improvements.
6. Railways and Railway Stocks, Mortgages, and other Debts due by Railway Companies.
7. Military Roads.
8. Custom Houses, Post Offices, and all other Public Buildings, except such as the Government of Canada appropriate for the Use of the Provincial Legislatures and Governments.
9. Property transferred by the Imperial Government, and known as Ordinance Property.
10. Armouries, Drill Sheds, Military Clothing, and Munitions of War, and Lands set apart for general Public Purposes.

THE FOURTH SCHEDULE.

Assets to be the Property of Ontario and Quebec conjointly.

Upper Canada Building Fund.
Lunatic Asylums.
Normal School.
Court Houses in Aylmer, Montreal, Kamouraska, } Lower Canada.
Law Society, Upper Canada.
Montreal Turnpike Trust.
University Permanent Fund.
Royal Institution.
Consolidated Municipal Loan Fund, Upper Canada.
Consolidated Municipal Loan Fund, Lower Canada.
Agricultural Society, Upper Canada.
Lower Canada Legislative Grant.
Quebec Fire Loan.
Tamisconata Advance Account.
Quebec Turnpike Trust.
Education—East.
Building and Jury Fund, Lower Canada.
Municipalities Fund.
Lower Canada Superior Education Income Fund.

THE FIFTH SCHEDULE.

Oath of Allegiance.

I *A.B.* do swear, That I will be faithful and bear true Allegiance to Her Majesty Queen Victoria.

NOTE.—*The Name of the King or Queen of the United Kingdom of Great Britain and Ireland for the Time being is to be substituted from Time to Time, with proper Terms of Reference thereto.*

DECLARATION OF QUALIFICATION.

I, *A.B.* do declare and testify, That I am by Law duly qualified to be appointed a Member of the Senate of Canada [*or as the Case may be*], and that I am legally or equitably seised as of Freehold for my own Use and Benefit of Lands or Tenements held in Free and Common Socage [*or* seised or possessed for my own Use and Benefit of Lands or Tenements held in Franc-alleu or in Roture (*as the Case may be*),] in the Province of Nova Scotia [*or as the Case may be*] of the Value of Four thousand Dollars over and above all Rents, Dues, Debts, Mortgages, Charges, and Incumbrances due or payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a Title to or become possessed of the said Lands and Tenements or any Part thereof for the Purpose of enabling me to become a Member of the Senate of Canada [*or as the Case may be*], and that my Real and Personal Property are together worth Four thousand Dollars over and above my Debts and Liabilities.

THE BRITISH NORTH AMERICA ACT, 1915, 5-6 GEORGE V, CHAPTER 45.

An Act to amend the British North America Act, 1867.

[19*th May,* 1915.]

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

Alteration of Constitution of Senate.

1. (1) Notwithstanding anything in the British North America Act, 1867, or in any Act amending the same, or in any Order in Council or terms or conditions of union made or approved under the said Acts or in any Act of the Canadian Parliament—

(*i*) The number of senators provided for under section twenty-one of the British North America Act, 1867, is increased from seventy-two to ninety-six:

(*ii*) The Divisions of Canada in relation to the constitution of the Senate provided for by section twenty-two of the said Act are increased from three to four, the Fourth Division to comprise the Western Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta, which four Divisions shall (subject to the provisions of the said Act and of this Act) be equally represented in the Senate, as follows:—Ontario by twenty-four senators; Quebec

by twenty-four senators; the Maritime Provinces and Prince Edward Island by twenty-four senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof representing Prince Edward Island; the Western Provinces by twenty-four senators, six thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta:

(*iii*) The number of persons whom by section twenty-six of the said Act the Governor General of Canada may, upon the direction of His Majesty the King, add to the Senate is increased from three or six to four or eight, representing equally the four divisions of Canada:

(*iv*) In case of such addition being at any time made the Governor General of Canada shall not summon any person to the Senate except upon a further like direction by His Majesty the King on the like recommendation to represent one of the four Divisions until such Division is represented by twenty-four senators and no more:

(*v*) The number of senators shall not at any time exceed one hundred and four:

(*vi*) The representation in the Senate to which by section one hundred and forty-seven of the British North America Act, 1867, Newfoundland would be entitled in case of its admission to the Union is increased from four to six members, and in case of the admission of Newfoundland into the Union, notwithstanding anything in the said Act or in this Act, the normal number of senators shall be one hundred and two, and their maximum number one hundred and ten:

(*vii*) Nothing herein contained shall affect the powers of the Canadian Parliament under the British North America Act, 1886.

(2) Paragraphs (*i*) to (*vi*) inclusive of sub-section (1) of this section shall not take effect before the termination of the now existing Canadian Parliament.

Constitution of House of Commons.

2. The British North America Act, 1867, is amended by adding thereto the following section immediately after section fifty-one of the said Act:—

"**51A.** Notwithstanding anything in this Act a province shall always be entitled to a number of members in the House of Com-

mons not less than the number of senators representing such province.

Short title.

3. This Act may be cited as the British North America Act, 1915, and the British North America Acts, 1867 to 1886, and this Act may be cited together as the British North America Acts, 1867 to 1915.

THE BRITISH NORTH AMERICA ACT, 1916, 6-7 GEORGE V, CHAPTER 19.

An Act to amend the British North America Act, 1867.

[1*st June*, 1916.]

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

Extension of duration of Twelfth Parliament of Canada.

1. Notwithstanding anything in the British North America Act, 1867, or in any Act amending the same, or in any Order in Council, or terms or conditions of Union, made or approved under the said Act, or under any Act of the Canadian Parliament, the term of the Twelfth Parliament of Canada is hereby extended until the seventh day of October, nineteen hundred and seventeen.

Short title.

2. This Act may be cited as the British North America Act, 1916, and the British North America Acts, 1867 to 1915, and this Act may be cited together as the British North America Acts, 1867 to 1916.

XVI. THE KINGDOM OF BELGIUM.

Area: 11,744 *sq. miles.* *Population*: 7,684,272.

When, in 1830, the peoples of Belgium revolted against the authority of the King of the Netherlands, their first act was to create a Provisional Government. This Government was constituted on the 26th September, and was composed of notable persons, who met in the Hotel de Ville, Brussels. It held no other sanction than a general consent derived from the insurgent population of the City of Brussels.

The first act of this Provisional Government was to appoint a Central Committee of four members, to which the Provisional Government at once transferred all its powers. This Committee was appointed on the 30th September, and on the 4th October it issued the following decree:—

1. The Provinces of Belgium, detached by force from Holland, shall constitute an independent State.
2. The Central Committee shall occupy itself as soon as possible with the Draft Bill for the Constitution.
3. A National Congress, representing all the Provinces, shall be convoked. It will examine the Draft Bill for a Belgian Constitution, modify it as it thinks proper and make it the definite Constitution of force throughout Belgium.

Arrangements were at once made for the election of this National Congress, which comprised 200 members, and met on the 10th November as a Constituent Assembly. In virtue of the principle of the full sovereignty of the people, it possessed the powers of conferring a Constitution upon the country and of making laws, decrees and regulations. To it, therefore, the Provisional Government resigned all its powers; and the Assembly re-appointed the original Committee of four members as an Executive responsible to it for the execution of its decrees.

It was decided by the Assembly that a clear majority would in any case be sufficient for a final decision; but the Constitution was voted Article by Article, generally by considerable majorities. The Provisional Government had originally appointed a Committee to draft a preliminary Bill, and this Committee continued to sit concurrently with the Assembly for the completion of its Draft. The entire Draft was completed by the end of January, 1831, based on the debates in the Assembly. It was then presented

as a complete Bill and was passed in that form after one week's further debate.

Apart from the Constitution, the Assembly undertook the framing of the first Budget, passed the necessary credits for the continuance of the government of the country, adopted certain urgent legislation and formulated certain decrees. It refrained, however, from precipitate measures of reform and from all legislation that was not urgently required by the necessities of the hour. Such measures as it considered necessary to be passed, consequent on the passing of the Constitution, or deriving from the creation of a new State, it indicated as matters of particular urgency and enumerated them in the final Article (Article 139) of the Constitution. It is necessary to note that the recommendations in Article 139 had by no means the character of a constitutional obligation. That is to say, they did not bind subsequent Chambers to legislate upon these matters. Most of them have since been passed into legislation, but certain of them have not yet been acted upon, noteworthily the fifth recommendation as to the definition of the responsibility of Ministers.

In virtue of the judicial principle that a law, even after a revolution, remains in full force so long as it has not been formally repealed, the French and Dutch laws continued to be of force; and in fact, Belgium to this day preserves the French code (*Code Napoléon*), as well as several Dutch laws.

The Constitution adopted provided for an hereditary monarchical form of Government; but it did not name the dynastic house. When the dynastic house was subsequently chosen, the King stepped into the place provided for him in the Constitution. Although the Belgians had previously been a subject nation, they had hitherto enjoyed certain constitutional privileges, which were embodied in the Charters of their cities and communes. The matter of these usages and liberties was drawn into the substance of the Constitution, and in this way the Constitution preserved a continuity with the past.

The powers of the Constituent Assembly lapsed on the passing of the Constitution. The Constituent Assembly was a single Assembly possessing in itself full powers, whereas the Constitution adopted provided for two bodies, a Chamber of Deputies and a Senate. Under the Constitution which it had itself adopted it was, therefore, unable to continue the work of legislation and government. But all members who had formed part of the Assembly were eligible for either of the two Chambers thereafter to be elected; and, in fact, a great number of the members became Deputies and Senators in these subsequent Chambers.

The interpretation of the Constitution—that is to say, the decision as to the constitutionality of a law—rests with the legislative power. The Courts may not refuse to apply a law on the ground that in their opinion it is unconstitutional. This applies, however, only to laws passed since 1830. The presumption of constitutionality does not affect decrees and general regulations, provincial or local, which do not emanate from the legislative chambers appointed under the Constitution. The Courts may refuse to apply these earlier laws and regulations when they violate either the Constitution or subsequent legislation. Equally the Courts may determine in each case in what measure the laws or decrees promulgated prior to the passing of the Constitution, and not repealed by it or by subsequent enactments, are still applicable. That is to say, the Parliamentary vote is itself able to determine the constitutionality of laws passed since 1830, because these laws are passed under the Constitution, whereas earlier laws were not passed under the powers conferred by the Constitution. Definite amendment, or revision, of the Articles of the Constitution must be submitted to a vote of the joint sitting of the two Legislative Houses.

Such amendments to the original Constitution have been made from time to time, and are embodied in the text herewith. The most noteworthy of these were made in 1893 and 1921. They are all dealt with in the footnotes to the text of the Constitution; but the more important of them are perhaps worthy of fuller attention.

In regard to the initiative in introducing legislation the Constitution of 1831 reserved two classes of bills for introduction in the House of Representatives. These two classes dealt (1) with revenue and expenditure in the State, and (2) with the contingent for the Army. These reservations survived until 1901, when an equal power of initiative was given to the King, the Senate, and the House of Representatives.

As regards the qualification for the suffrage, a comprehensive footnote will be found at the foot of the text explaining the changes made in 1893. The property qualification adopted in 1831 gave a very restricted list of voters. About 1890, for example, in a population of 6,147,000, there were only 133,000 voters. With the advance of time this anomaly created increasing discontent. Riots took place, and the working classes threatened to hold up the economic life of the nation. As the result of this constant agitation considerable changes were made in 1893; but the property qualification and the plural vote remained. Even after 1893, for instance, every citizen aged 25 years possessed a vote, provided he was resident for one year in the same commune. In addition to this vote, certain citizens were qualified in respect of, among other things, possession of property, to a second vote. A third

vote might even be possessed by certain citizens in respect of educational and academic qualifications. But it was provided that no one person might possess more than three votes. It will be seen from the amendments made in 1921* that a drastic simplification was then made. Only one vote is now allowed to each male citizen, on the attainment of 21 years of age, subject to a residence of six months in the same commune, if not otherwise excluded by law. The extension of the franchise to women was referred to the legislators, and recommended subject to the acceptance of the principle by two-thirds of the votes cast in that Assembly. This change has not, however, since been made by the legislature. The municipal franchise has, however, been extended to women, and legislation has been introduced to enable women to vote in the Provincial elections.

In 1891 a change was also made with regard to the duration of the House of Representatives and of the Senate. The Constitution of 1831 fixed the period of office of a representative as four years, and required that half the number of members should be renewed every two years. The House is now renewed in its entirety every four years. A similar amendment was made at the same time with regard to the Senate.

Very important changes were made in the Constitution of the Senate in the year 1921. Under the original Constitution of 1831 the Senate was elected by the same class of voters as for the House of Representatives, but the number of Senators was one-half the number of the Representatives. The property qualification for membership of the Senate, however, was much higher, with the result that the Senate represented but a single class in the country. In 1893 it was decided to elect the Senate in part directly from the people voting by Provinces and in part indirectly by the Provincial Councils. In 1921 a third category was introduced by a provision for the election of Senators indirectly by the Senate itself. At the same time, in 1921, a change was made with regard to members elected by the Provincial Councils. Moreover, a change was made in the personal qualification of candidates for the Senate. In each case the candidate was required to be a Belgian resident enjoying civil and political rights, and aged 40 years. But whereas in 1893 a property qualification only was required, in 1921 an effort was made to bring in men of wide experience and culture, such as, for example, Ministers, University graduates, ex-officers of the Army of superior rank, professors, provincial governors, managers of commercial enterprises, representatives of labour councils, and so forth. The list of these quali-

*See footnote to Article 47.

fications, enumerated under Article 56 (*a*), is of considerable interest. The desire manifestly was to constitute the Senate of persons who were representative of all classes, and who had attained eminence in their respective spheres of life, intellectual, industrial, religious, administrative, or social.

CONSTITUTION

OF THE

KINGDOM OF BELGIUM

Of the 7th February, 1831,
As revised up to the 15th October, 1921.

In the name of the Belgian people, the National Congress enacts:

TITLE I.—THE TERRITORY AND ITS DIVISIONS.

Article 1.*—Belgium is divided into provinces. These provinces are: Antwerp, Brabant, West Flanders, East Flanders, Hainaut, Liege, Limbourg, Luxembourg, Namur.

If there should be occasion for it, the territory may be divided by law into a greater number of provinces.

The colonies, possessions beyond the sea, or protectorates which Belgium may acquire shall be governed by special laws. The Belgian forces required for their defence shall be recruited only by voluntary enlistment.

Article 2.—Sub-divisions of the provinces shall not be made except by law.

Article 3.—The boundaries of the State, of the provinces, and of the communes shall not be changed or rectified except by law.

TITLE II.—BELGIAN CITIZENS AND THEIR RIGHTS.

Article 4.—Belgian nationality is acquired, retained, and lost according to regulations established by the civil law.

The present Constitution and the other laws relating to political rights determine what other conditions are necessary for the exercise of these rights.

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*Amendment dated the 7th September, 1893. The original Article read as follows:—"Belgium is divided into provinces. These provinces are: Antwerp, Brabant, West Flanders, East Flanders, Hainaut, Liege, Limbourg, Luxembourg, Namur, saving the relations of Luxembourg with the German Confederation. If there should be occasion for it, the territory may be divided by law into a greater number of provinces."

Article 5.—Naturalisation is granted by the legislative power.

Full naturalisation alone admits foreigners to equality with Belgians in the exercise of political rights.

Article 6.—There shall be no distinction of classes in the State.

All Belgians are equal before the law; they alone are admissible to civil and military offices, with such exceptions as may be established by law for particular cases.

Article 7.—Individual liberty is guaranteed.

No one may be prosecuted, except in cases provided for by law and in the form therein prescribed.

Except when taken in the act of committing an 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.

Article 8.—No person shall be removed against his will from the jurisdiction of the Judge to whom the law assigns him.

Article 9.—No penalty shall be established or enforced except by virtue of a law.

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

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

Article 12.—Punishment by confiscation of property shall not be established.

Article 13.—Total deprivation of civil rights (*mort civile*) is abolished and shall not be re-established.

Article 14.—Religious liberty and the freedom of public worship, as well as free expression of opinion in all matters, are guaranteed, with the reservation of power to suppress offences committed in the exercise of these liberties.

Article 15.—No one shall be compelled to join in any manner whatever in the forms or ceremonies of any religious denomination, nor to observe its days of rest.

Article 16.—The State shall not interfere either in the appointment or in the installation of the ministers of any religious

denomination whatever, nor shall it forbid them to correspond with their superiors or to publish their proceedings, subject, in the latter case, to the ordinary responsibility of the press and of publication.

Civil marriage shall always precede the religious ceremony, except in cases to be established by law if found necessary.

Article 17.—Private instruction shall not be restricted; all measures interfering with it 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.

Article 18.—The press is free; no censorship shall ever be established; no security 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 shall not be prosecuted.

Article 19.—Belgians have the right, without previous authorisation, to assemble peaceably and without arms, conforming themselves to the laws which regulate the exercise of this right.

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

Article 20.—Belgians have the right of forming associations; this right shall not be restricted by any preventive measure.

Article 21.—Anyone has the right to address petitions to the public authorities, signed by one or more persons.

Legally organised bodies alone have the right to petition under a collective name.

Article 22.—The privacy of correspondence is inviolable. The law shall determine who are the agents responsible for the violation of the secrecy of the letters entrusted to the post.

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

Article 24.—No previous authorisation is necessary to bring action against public officials for the acts of their administration, except as provided for Ministers.

TITLE III.—CONCERNING POWERS.

Article 25.—All powers emanate from the nation.

They shall be exercised in the manner established by the Constitution.

Article 26.—The legislative power shall be exercised collectively by the King, the House of Representatives, and the Senate.

Article 27.*—Each of the three branches of the legislative power shall have the right of initiative.

Article 28.—The authoritative interpretation of the laws shall belong only to the legislative power.

Article 29.—The executive power is vested in the King, subject to the regulations of the Constitution.

Article 30.—The judicial power shall be exercised by the Courts and the tribunals.

Decrees and judgments shall be executed in the name of the King.

Article 31.—Exclusively communal or provincial affairs shall be regulated by the communal or provincial councils, according to the principles established by the Constitution.

CHAPTER I.—THE HOUSES.

Article 32.—The members of the two Houses shall represent the nation, and not the province alone, nor the sub-division of the province which elected them.

Article 33.—The sessions of the Houses shall be public.

Nevertheless each House may resolve itself into a secret committee upon the demand of its president or of ten members.

It shall then decide by vote of an absolute majority whether the session shall be resumed in public upon the same subject.

Article 34.—Each House shall judge of the qualifications of its own members, and shall decide all contests which arise upon that subject.

Article 35.—No person shall at the same time be a member of both Houses.

Article 36.†—Any member of either of the two Houses who shall be appointed by the Government to any other salaried office

*The original Article 27 contained a second paragraph which ran as follows:—

"Provided that laws dealing with the revenue or expenditure of the State or the contingent for the army must, in the first instance, be passed by the House of Representatives."

This provision was repealed on the 15th October, 1921.

†Amendment dated the 7th September, 1893. The original Article was as follows:—

"A member of either House, who is appointed by the Government to a salaried position, and who accepts the same, shall immediately vacate his seat, and shall only resume his functions by virtue of a fresh election."

except that of Minister, and who accepts the same, shall vacate his seat immediately, and may resume his duties only by virtue of a new election.

Article 37.—At each session each of the Houses shall elect its president and vice-president, and shall appoint its official staff.

Article 38.—An absolute majority of the votes shall be necessary to pass any resolution except as otherwise established by the rules of the Houses in regard to elections and nomination.

In case of an equal division of votes, the proposition under consideration is rejected.

Neither of the two Houses shall pass a resolution unless a majority of its members are present.

Article 39.—The votes shall be *viva voce,* or by rising and sitting; the vote on a law as a whole shall always be by roll-call and *viva voce.* The election and nomination of candidates shall be by secret ballot.

Article 40.—Each House has the right to review the conduct of public affairs.

Article 41.—A proposed law shall not be passed by either of the Houses unless it has been voted upon Article by Article.

Article 42.—The Houses have the right to amend and to divide the Articles and amendments proposed.

Article 43.—To present petitions in person to the Houses is forbidden.

Each House has the right to send to the Ministers the petitions which are addressed to it. The Ministers are obliged to give explanations upon the contents of such petitions whenever the House demands.

Article 44.—No member of either House shall be arrested or prosecuted on account of opinions expressed or votes cast by him in the performance of his duties.

Article 45.—No member of either House shall, during the continuance of the session, be prosecuted or imprisoned after trial except by the authority of the House of which he is a member, unless he be apprehended in the act of committing an offence.

No member of either House shall be arrested during the session, except by the same authority.

The detention or the prosecution of a member of either House shall be suspended during the session and for the entire term, if the House so demands.

Article 46.—Each House shall determine by its own rules the manner in which it is to exercise its powers.

SECTION I.—THE HOUSE OF REPRESENTATIVES.

Article 47.*—The members of the House of Representatives shall be elected directly by citizens who have reached the age of twenty-one years, are resident for at least six months in the same commune, and are not otherwise excluded by law.

Each elector shall have but one vote.

Subject to the same conditions, the right to vote may be extended to women by a special enactment passed by a majority of two-thirds of the votes cast.

Article 48.†—The constitution of the electoral colleges shall be regulated for each province by law.

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*Amendment dated the 7th February, 1921. Article 47 had formerly (1831) been in these terms:—

"The House of Representatives is composed of members directly elected by citizens paying taxes to the amount required by electoral law, not exceeding 100 florins of direct tax, nor less than 20 florins."

In 1848 the taxation qualification was continued, the amount being at the minimum. The proportion of voters, however, remained very small. The result was increasing discontent. The whole subject of the suffrage was taken up in 1892 by the Legislature sitting for the purpose of revising the Constitution. Fourteen different schemes were submitted to this body, including universal suffrage, which was voted down. Great agitation resulted among the working classes, and serious rioting occurred. Parliament then voted a reduction of the age of eligibility, but this concession did not allay the discontent. A universal strike was threatened, whereupon a new Article was drafted, the effect of which was to raise the number of voters to about 1,370,000, having at their disposal 2,110,000 votes. The principal features of this new Article of 1893 were as follows:—

One vote to citizens of 25 years of age, who have been resident for at least one year in the same community, and who are not otherwise excluded.

One additional vote is allowed in any of the following cases:—

(1) If 35 years of age, married or a widower with children, and paying a tax as a householder not less than 5 francs, unless exempt on account of profession.

(2) If 25 years of age, the owner of real estate of 2,000 francs valuation, or possessing revenues corresponding to that valuation, from land, or from Belgium Government Stock or Savings Bank Deposit.

The property of the wife is counted with that of the husband, that of minor children with that of the father.

Two additional votes are allowed to citizens aged 25 years provided that:—

A. They hold a diploma from a higher educational institution, or showing the completion of secondary education of the higher degree.

B. Holding office or practising a profession presupposing a degree of education equivalent to secondary instruction of the higher degree.

C. No one shall have more than three votes.

†Amendment dated the 15th November, 1920. The old Article 48 ran as follows:—

"The elections shall be held in such provincial divisions and in such places as the law determines."

The elections shall be held in accordance with the principle of proportional representation as determined by law.

Voting is obligatory and the ballot is secret; it shall take place in the commune except as otherwise determined by law.

Article 49.—The number of representatives shall be determined by law, according to the population; this number shall not exceed the proportion of one representative for 40,000 inhabitants. The qualifications of an elector and the process of election shall also be determined by law.

Article 50.*—To be eligible it is necessary:

1. To be a Belgian citizen by birth, or to have received full naturalisation;
2. To enjoy civil and political rights;
3. To have reached the age of twenty-five years;
4. To be a resident of Belgium.

No other condition of eligibility shall be required.

Article 51.†—The members of the House of Representatives shall be elected for four years. The House shall be renewed every four years.

Article 52.‡—Each member of the House of Representatives shall receive an annual remuneration of 12,000 francs.

He shall have, in addition, the right to free travel over all State and concessionary lines of communication.

Other means of transport which may be used gratuitously by Representatives shall be determined by law.

After 1893 the Article ran:—

"The constitution of the electoral colleges is regulated by law for each province. Voting is obligatory; it shall take place in the community when not otherwise determined by law."

*Amendment dated the 15th November, 1920. The original Article corresponded almost word for word with the above, slight verbal alterations being made as in the case of category (3), which is worded now: "Avoir atteint l'age de vingt-cinq ans accomplis," whereas prior to that date it ran as follows:—"etre age de vingt-cinq ans accomplis."

†Amendment dated the 15th October, 1921. The original Article was as follows:—

"The members of the House of Representatives are elected for four years. Half of their number are selected every two years in a sequence to be prescribed by electoral law.

In the case of a dissolution of the House it is renewed as a whole."

‡Amendment of the 15th November, 1920. The original Article was as follows:—

"Each member of the House of Representatives receives a monthly allowance of 200 florins during the whole period of the Session. Those who reside in the city where the Session is being held do not receive any allowance."

The allowance had been fixed at 4,000 francs per annum in the year 1893.

An annual remuneration, chargeable on the funds devoted to the expenses of the House of Representatives, may be allotted to the Chairman of that Assembly.

The House shall decide the amount of deduction to be made from the remuneration in respect of contribution to any superannuation or pension fund it may think fit to establish.

Section II.—The Senate.

Article 53.*—The Senate shall be composed:

(1) Of members elected according to the population of each province in conformity with Article 47. The provisions of Article 48 are applicable to the election of these senators.

(2) Of members elected by Provincial Councils in the proportion of one senator for each 200,000 inhabitants. Every increase of at least 125,000 inhabitants gives the right to a further senator.

(3) Of members elected by the Senate to the number of one-half of the number elected by the Provincial Councils. If this number is uneven it is increased by one.

These members are chosen by the senators elected in accordance with the provisions of Clauses 1 and 2 of this Article.

The election of senators under the provision of Clauses (2) and (3) shall be conducted upon the principle of proportional representation determined by law.

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*Amendment dated the 15th October, 1921.

The original Article was as follows:—"Senators are elected on a basis of the population of each province by the citizens who elect the House of Representatives."

After the revision of 1893 the Article ran thus:—

"The Senate is composed:—

(1) Of members elected according to the rate of the population of each province conformably to Article 47; though the law may require that the electors shall have reached the age of thirty years. The provisions of Article 48 are applicable to the election of senators.

(2) Of members elected by the provincial councils, to the number of two for each province having less than 500,000 inhabitants, of three for each province having from 500,000 to 1,000,000 inhabitants, and of four for each province having more than 1,000,000 inhabitants."

To the present Article 53 there is added a transitional provision in these terms:—"Women admitted to the franchise in respect of the House of Representatives concurrently with the citizens referred to in Article 47 of the Constitution have an equal right to participate in the election of members of the Senate referred to in Article 53 (1)."

Article 54.*—The number of senators elected directly by the voters shall be equal to half the number of members of the House of Representatives.

Article 55.†—Senators shall be elected for four years. The Senate shall be entirely renewed every four years.

Article 56.‡—In order to be elected a senator it shall be necessary:

(1) To be a Belgian citizen by birth, or to have received full naturalisation.

(2) To enjoy civil and political rights.

(3) To be resident in Belgium.

(4) To be at least 40 years of age.

Article 56a.§—To be eligible for election to the Senate under the provisions of Clause 1 of Article 53 it shall be necessary, as a

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*Amendment dated the 7th September, 1893. The former Article was as follows:—

"The Senate is composed of a number of members equal to half the members of the other House."

†Amendment dated the 15th October, 1921. The original Article 55 read as follows:—

"Senators are elected for eight years; they are renewed as to half every four years in a sequence to be determined by electoral law.

In case of dissolution the Senate is renewed in its entirety."

‡Amendment dated the 15th October, 1921. Article 56 had already been revised on the 7th September, 1893. The original Article contained a fifth category as follows:—

"(5) To pay in Belgium at least 1,000 florins in direct taxation including licences. In provinces where the list of citizens paying 1,000 florins in direct taxation does not reach the proportion of 1 in 6,000 of the population, the names of the most heavily taxed are added until the proportion of 1 to 6,000 is achieved."

Under the revision of 1893, category (5) read as follows:—

"To pay into the treasury of the State at least 1,200 francs of direct taxes, including licences;

Or to be either the proprietor or the usufructuary of real estate situated in Belgium, the assessed revenue of which amounts to at least 12,000 francs.

In the provinces, where the number of those eligible does not reach the proportion of one for every 6,000 inhabitants, the list shall be completed by those residents of the province paying the highest taxes. The citizens on this supplementary list are eligible only in the province where they reside.

The Senators elected by the Provincial Councils are exempt from all property qualification; they must not be members of the Assembly which elects them, nor have been members of it during the year of the election, nor during the two preceding years."

In the revision of 1921 both variations of (5) were omitted.

§This Article, which is a new one, was included in the Constitution on the 15th October, 1921, concurrently with a transitional provision in these terms:—

"The term of five years in the cases of categories 14, 17, 18 and 19, and

further qualification, to be within one of the following categories:

(1) Ministers, ex-Ministers and Ministers of State

(2) Members and ex-Members of the House of Representatives and of the Senate.

(3) Holders of Degrees conferred by such higher educational establishments as may be determined by law.

(4) Ex-officers of superior rank in the Army and Navy.

(5) Regular Members and former regular members of Commercial Tribunals who have held office for at least two terms.

(6) Those who, during a period of not less than ten years, have exercised the functions of Minister of one of the religions endowed by the State.

(7) Regular members and former members of one of the Royal Academies and professors and ex-professors of one of the higher educational establishments the list of which shall be determined by law.

(8) Ex-Provincial Governors; members and ex-members of standing delegations; ex-commissioners of arrondissements.

(9) Members and ex-members of Provincial Councils who have held office for at least two terms.

(10) Burgomasters and ex-burgomasters, aldermen and ex-aldermen of communes that are chief towns of arrondissements and of communes having more than 4,000 inhabitants.

(11) Ex-Governors-General and Vice-Governors-General of Belgian Congo, members and ex-members of the Colonial Council.

(12) Ex-Directors-General, ex-Directors and ex-Inspectors-General of the various Ministries.

(13) Proprietors and usufructuaries of real estate situate in Belgium of which the assessed income amounts to at least 12,000 francs; taxpayers contributing annually to the State Exchequer at least 3,000 francs of direct taxation.

(14) Those who in the position of general manager, director, or in a similar capacity have during five years exercised control of the working of a Belgian joint stock commercial enterprise of which the capital issued amounts to at least 1,000,000 francs.

(15) Heads of industrial enterprises providing regular employment for at least 100 workers, and of agricultural enterprises comprising at least 50 hectares.†

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that of three years in the case of category 16 are reduced to two years for the first application of this provision.''

*Ministers of State are Ministers without portfolio, called on special occasions by the King.

†*i.e.*, about 120 acres.

(16) Those who in the capacity of managing director or in a similar position have been in control of the working of a Belgian co-operative society having a membership of at least 500.

(17) Those who in the capacity of active members have exercised for five years the duties of chairman or secretary of a mutual benefit association or friendly society having during the last five years a membership of 1,000.

(18) Those who in the capacity of active members have exercised for five years the duties of chairman or secretary of a professional, industrial or agricultural association having during the last five years a membership of at least 500.

(19) Those who for five years have exercised the duties of Chairman of a Chamber of Commerce or Industry having for the last five years a membership of at least 300.

(20) The members of industrial and labour councils, or provincial agricultural committees and of trades' councils who have held office for at least two terms.

(21) The members elected to one of the consultative councils established in connection with ministerial departments.

New categories of eligible persons may be established by a law passed by a majority of two-thirds of the votes.

Article 56b.*—Senators elected by the Provincial Councils shall not be members of the Assembly which elects them, nor have been members of it during the year of the election, or the two preceding years.

Article 56c.†—Upon the dissolution of the Senate the King may dissolve the Provincial Councils. The act of dissolution involves provincial elections within forty days and the summoning of the Provincial Councils within two months.

Article 57.‡—Senators shall receive no emolument.

They are, however, entitled to an indemnity in respect of expenses. The amount of the indemnity is fixed at 4,000 francs per year.

They are entitled, in addition, to free travel over all State and concessionary lines of communication.

The means of transport, other than those above referred to, which may be used gratuitously by senators shall be determined by law.

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*Amendment dated the 15th October, 1921.

†A new Article added to the Constitution on the 15th October, 1921.

‡Amendment of the 15th October, 1921. The original Article 57 was as follows:—

"Senators shall receive no emolument."

Article 58.*—The sons of the King, or if there be none, the Belgian princes of the branch of the royal family designated to succeed to the Throne, shall be by right senators at the age of eighteen years. They shall have no deliberative voice until the age of twenty-five.

Article 59.—Every meeting of the Senate which may be held at any other time than during the session of the House of Representatives shall be null and void.

CHAPTER II.—THE KING AND THE MINISTERS.

SECTION I.—THE KING.

Article 60.†—The constitutional powers of the King are hereditary in the direct descendants, natural and legitimate, of His Majesty Leopold-George-Christian-Frederick of Saxe-Coburg, in the male line in the order of primogeniture, and to the perpetual exclusion of females and of their descendants.

The Prince who shall marry without the consent of the King, or of those who in his absence exercise his authority as provided by the Constitution, shall forfeit his rights to the Crown.

Nevertheless, with the consent of the two Houses, he may be relieved of this forfeiture by the King or by those who in his absence exercise his authority according to the Constitution.

Article 61.‡—In default of male descendants of His Majesty Leopold-George-Christian-Frederick of Saxe-Coburg, the King may name his successor, with the consent of the Houses expressed in the manner prescribed by the following article.

If no nomination has been made after the aforesaid manner the throne shall be vacant.

Article 62.—The King shall not at the same time be the head of another State without the consent of the two Houses.

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*Amendment of the 7th September, 1893. The text of 1831 provided:—

"At the age of eighteen years the Heir Apparent of the King is by right a senator. He has no deliberative voice until the age of twenty-five years."

†Amendment dated the 7th September, 1893. The former Article 60 provided:—

"The constitutional powers of the King are hereditary in the direct descendants, natural and legitimate, of His Royal Highness Leopold of Saxe-Coburg in the male line in the order of primogeniture, and to the perpetual exclusion of women and their descendants."

‡Amendment dated the 7th September, 1893. The former Article 61 provided:—

"In default of male descendants of His Royal Highness Leopold of Saxe-Coburg, He may nominate His successor with the consent of the Houses expressed in the manner prescribed by the following Articles. If no nomination has been made in the aforesaid manner the Throne shall be vacant."

Neither of the Houses shall deliberate upon this matter unless two-thirds, at least, of the members who compose it are present, and the resolution must be adopted by at least two-thirds of the votes cast.

Article 63.—The person of the King is inviolable; his Ministers are responsible.

Article 64.—No decree of the King shall take effect unless it is countersigned by a Minister who, by that act alone, renders himself responsible for it.

Article 65.—The King appoints and dismisses his Ministers.

Article 66.—He confers rank in the army.

He appoints the officers of the general administration and of foreign affairs, except as otherwise established by law.

He appoints other governmental officials only by virtue of an express provision of law.

Article 67.—He shall issue all regulations and decrees necessary for the execution of the laws, without power to suspend the laws themselves, or to dispense with their execution.

Article 68.—The King commands the forces both by land and sea, declares war, and makes treaties of peace, of alliance, and of commerce. He shall acquaint the two Houses of these acts as soon as the interests and safety of the State permit, giving also appropriate information thereon.

Treaties of commerce, and treaties which may burden the State, or bind Belgians individually, shall take effect only after having received the approval of the two Houses.

No cession, exchange, or addition of territory shall take place except by virtue of a law. In no case shall the secret articles of a treaty be destructive of those openly expressed.

Article 69.—The King approves and promulgates the laws.

Article 70.—The Houses shall assemble each year, the second Tuesday in November, unless they shall have been previously summoned by the King.

The Houses shall remain in session at least forty days each year.

The King pronounces the closing of the session.

The King shall have the right to convene the Houses in extraordinary session.

Article 71.—The King shall have the right to dissolve the Houses either simultaneously or separately. The act of dissolu-

tion shall order a new election within forty days, and summon the Houses within two months.

Article 72.—The King may adjourn the Houses. In no case shall the adjournment exceed the term of one month, nor shall it be renewed in the same session, without the consent of the Houses.

Article 73.—He shall have the right to remit or reduce the penalties pronounced by the Judges of Courts, except such as are fixed by law in the case of Ministers.

Article 74.—He shall have the right to coin money in accordance with the law.

Article 75.—He shall have the right to confer titles of nobility, but without the power of attaching to them any privilege.

Article 76.—He may confer military orders in accordance with the provisions of the law.

Article 77.—The civil list shall be fixed by law for the duration of each reign.

Article 78.—The King shall have no other powers than those which the Constitution and the special laws, enacted under the Constitution, formally confer upon him.

Article 79.—At the death of the King the Houses shall assemble without a summons, at the latest on the tenth day after his decease. If the Houses shall have been previously dissolved, and if in the act of dissolution the re-assembling had been fixed for a day later than the tenth day, the former members shall resume their duties until the assembling of those who should replace them.

If only one House shall have been dissolved, the same rule shall be followed with regard to that House.

From the date of the death of the King and until the taking of the oath by his successor to the Throne, or by the Regent, the constitutional powers of the King shall be exercised, in the name of the Belgian people, by the Ministers as one body in council, and upon their responsibility.

Article 80.—The King is of age when he shall have completed eighteen years.

He shall not assume the Throne until he shall have solemnly taken, before the united Houses, the following oath:—

> I swear to observe the Constitution and the laws of the Belgian people, to maintain the national independence and the integrity of the territory.

Article 81.—If, at the death of the King, his successor is a minor, the two Houses shall sit in joint session for the purpose of providing for the regency and guardianship.

Article 82.—If the King become incapacitated to reign, the Ministers, after having ascertained this incapacity, shall immediately convene the Houses. The Houses shall provide for the regency and guardianship.

Article 83.—The Regency shall be conferred upon only one person.

The Regent shall enter upon his duties only after having taken the oath prescribed by Article 80.

Article 84.—No change in the Constitution shall be made during a regency.

Article 85.—In case there is a vacancy of the Throne the Houses deliberating together shall arrange provisionally for the regency, until the first meeting of the Houses after they have been wholly renewed. That meeting shall take place at the latest within two months. The new Houses deliberating together shall provide definitely for the vacancy.

Section II.—The Ministers.

Article 86.—No person shall be a Minister unless he is a Belgian by birth, or has received full naturalisation.

Article 87.—No member of the Royal Family shall be a Minister.

Article 88.—Ministers shall have no deliberative vote in either House unless they are members of it.

They shall have admission to either House, and are entitled to be heard when they so request.

The Houses shall have the right to demand the presence of Ministers.

Article 89.—In no case shall the verbal or written order of the King relieve a Minister of responsibility.

Article 90.—The House of Representatives shall have the right to accuse Ministers and to arraign them before the Court of Cassation, which, the divisions being assembled in joint session, alone shall have the right to judge them, except in such matters as shall be established by law respecting a civil suit by an aggrieved party and respecting crimes and misdemeanours committed by Ministers when not in the performance of their official duties.

The law shall determine the responsibility of Ministers, the penalties to be imposed upon them, and the method of proceeding against them, whether upon accusation made by the House of Representatives or upon prosecution by the aggrieved parties.

Article 91.—The King shall not have power to grant pardon to a Minister sentenced by the Court of Cassation, except upon request of one of the two Houses.

CHAPTER III.—THE JUDICIAL POWER.

Article 92.—Actions which involve questions of civil rights belong exclusively to the jurisdiction of the Courts.

Article 93.—Actions which involve questions of political rights belong to the jurisdiction of the Courts, except as otherwise determined by law.

Article 94.—No tribunal nor contentious jurisdiction shall be established except by virtue of a law. No commissions or extraordinary tribunals under any title whatever shall be established.

Article 95.—There shall be a Court of Cassation for the whole of Belgium.

This Court shall not consider questions of fact except in the trial of Ministers.

Article 96.—The sessions of the Courts shall be public, unless this publicity would be dangerous to public order or morals; and, in such case, the Court makes a declaration by a judgment to that effect.

In cases of political offences, and offences of the press, closed doors shall be enforced only by a unanimous decision of the Court.

Article 97.—Every judgment shall be pronounced in open Court, and the reasons therefor stated.

Article 98.—The right of trial by jury shall be established in all criminal cases and for all political offences and offences of the press.

Article 99.—The justices of the peace and the Judges of Courts shall be appointed directly by the King.

The members of the courts of appeal and the presidents and vice-presidents of the courts of original jurisdiction shall be appointed by the King from two double lists presented, the one by these courts and the other by the provincial councils.

The members of the Court of Cassation shall be appointed by the King from two double lists presented, one by the Senate and one by the Court of Cassation.

In both cases the candidates named upon one list may be named also upon the other.

All names presented shall be published at least fifteen days before the appointment.

The courts shall choose their presidents and vice-presidents from among their own number.

Article 100.—Judges shall be appointed for life.

No Judge shall be deprived of his office or suspend until after trial and judgment.

The removal of a Judge from one place to another shall take place only by means of a new appointment and with his consent.

Article 101.—The King appoints and removes the State officials serving in the courts and tribunals.

Article 102.—The salaries of the members of the judiciary shall be fixed by law.

Article 103.—No Judge shall accept from the government any salaried office, unless he perform the duties thereof gratuitously, and not in cases of incompatibility as determined by law.

Article 104.—There shall be three Courts of appeal in Belgium.

Their jurisdiction and the places where they shall be held shall be determined by law.

Article 105.—Special laws shall govern the organisation of military tribunals, their powers, the rights and obligations of the members of these tribunals, and the duration of their functions.

There shall be commercial Courts in places which shall be designated by law. Their organisation, powers, the method of appointment of their members, and the duration of their term of office shall also be determined by law.

Article 106.—The Court of Cassation shall decide conflicts of jurisdiction, according to the method prescribed by law.

Article 107.—The Courts and tribunals shall enforce executive decrees and ordinances, whether general, provincial, or local, only so far as they shall conform to the laws.

CHAPTER IV.—PROVINCIAL AND COMMUNAL INSTITUTIONS.

Article 108.*—Provincial and communal institutions shall be regulated by law.

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*The second paragraph of category (2) ("Several provinces . . . in common") was added to this Article on the 24th August, 1921.

The law shall establish the application of the following principles:—

(1) Direct election, except in the cases which may be established by law with regard to the chiefs of the communal administration and government commissioners acting in the provincial councils.

(2) The relegation to provincial and communal councils of all provincial and communal affairs, without prejudice to the approval of their acts in the cases and according to the procedure determined by law.

Several provinces or several communes may, in accordance with the conditions and methods prescribed by law, enter into mutual agreement or association for the purpose of regulating and controlling in common matters of provincial or communal interest. The several provinces or several communes shall not, however, be permitted to deliberate in common.

(3) The publicity of the sittings of the provincial and communal councils within the limits established by law.

(4) The publicity of budgets and of accounts.

(5) The intervention of the King or of the legislative power to prevent provincial and communal councils from exceeding their powers and from acting against the general welfare.

Article 109.—The keeping of the civil register is exclusively the duty of the communal authorities.

TITLE IV.—FINANCES.

Article 110.—No tax for the benefit of the State shall be imposed except by law.

No provincial charge or tax shall be imposed without the consent of the provincial council.

No communal charge or tax shall be imposed without the consent of the communal council.

The law shall determine the exceptions which experience shall show to be necessary in regard to provincial and communal taxes.

Article 111.—Taxes for the benefit of the State shall be voted annually.

The laws which impose such taxes shall remain in force for one year only unless they are re-enacted.

Article 112.—No privilege shall be established with regard to taxes.

No exemption or abatement of taxes shall be established except by law.

Article 113.*—Beyond the cases expressly excepted by law, no payment shall be exacted of any citizen other than taxes levied for the benefit of the State, of the province, or of the commune. No change shall be made in the existing system of "polders" and "wateringen," which remain subject to ordinary legislation.

Article 114.—No pension or gratuity shall be paid out of the public treasury without the authority of law.

Article 115.—Each year the Houses shall enact the law of accounts and vote the budget.

All the receipts and expenditure of the State shall be contained in the budget and in the accounts.

Article 116.—The members of the Court of Accounts shall be appointed by the House of Representatives, and for a term fixed by law.

This Court shall be entrusted with the examination and settlement of the accounts of the general administration and of all persons accountable to the public treasury. It shall see that no item of the expenditure of the budget is overdrawn and that no transfer takes place. It shall audit the accounts of the different administrative organs of the State, and shall gather for this purpose all information and all necessary vouchers. The general accounts of the State shall be submitted to the House with the comments of the Court of Accounts.

This Court shall be organised by law.

Article 117.—The salaries and pensions of the ministers of religion shall be paid by the State; the sums necessary to meet this expenditure shall be provided for annually in the budget.

TITLE V.—THE ARMY.

Article 118.—The method of recruiting the army shall be determined by law. The laws shall also regulate the promotion, the rights and the duties of soldiers.

Article 119.—The army contingent shall be voted annually. The law which fixes it shall remain in force for one year only, unless re-enacted.

Article 120.—The organisation and the duties of the armed police shall be regulated by law.

Article 121.—No foreign troops shall be admitted into the service of the State, to occupy or to cross its territory except by virtue of law.

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*Polders are lands reclaimed from the sea by dikes. The owners of these lands are grouped into associations for the maintenance of the dikes and are governed by particular local customs. Wateringen are canals for drainage and irrigation.

Article 122.*—In the event of the organisation of a Civil Guard such organisation shall be regulated by a special enactment.

Article 123.†—(Repealed.)

Article 124.—Soldiers shall not be deprived of their rank, honours, or pensions save in the manner prescribed by law.

TITLE VI.—GENERAL PROVISIONS.

Article 125.—The Belgian nation adopts for its colours red, yellow and black, and for the coat of arms of the kingdom, the Belgian lion, with the motto, "Union Gives Strength."

Article 126.—The City of Brussels is the capital of Belgium and the seat of government.

Article 127.—No oath shall be imposed except by virtue of law. The form of the oath shall also be determined by law.

Article 128.—Every foreigner within the territory of Belgium shall enjoy protection of his person and property, except as otherwise established by law.

Article 129.—No law, ordinance, or regulation of the general, provincial or communal government shall be obligatory until after having been published in the manner prescribed by law.

Article 130.—The Constitution shall not be suspended, either in whole or in part.

TITLE VII.—THE REVISION OF THE CONSTITUTION.

Article 131.—The legislative power has the right to declare that a revision of such constitutional provisions as it shall designate is in order.

After this declaration the two Houses are *ipso facto* dissolved.

Two new Houses shall then be summoned in conformity with Article 71.

These Houses, with the approval of the King, shall then act upon the points submitted for revision.

In this case the Houses shall not deliberate unless at least two-thirds of the members of each are present, and no amendment shall be adopted unless it is supported by at least two-thirds of the votes.

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*Amendment of the 24th August, 1921. The former Article was as follows:—

"There shall be a citizen militia, the organisation of which shall be regulated by law—the officers commanding all grades, as high as the position of captain at least, are appointed by the militia, with such exceptions as may be judged necessary in the case of officers responsible for accounts."

†Article 123 was repealed on the 24th August, 1921. It was in the following terms:—

"Mobilisation of the citizen militia can only take place in accordance with law."

TITLE VIII.—TEMPORARY PROVISIONS.

Article 132.—For the first choice of the head of the State the first provision of Article 80 may be neglected.

Article 133.—Foreigners established in Belgium before January 1, 1814, and who continue to reside therein, shall be considered Belgians by birth, upon condition that they declare their intention to take advantage of this provision.

Such declaration shall be made within six months after this Constitution goes into effect, if the foreigners are of age; and if they are minors, within the year after attaining their majority.

This declaration shall be made before the provincial authority of the province where they reside.

It shall be made in person or by an agent having a special and authentic authorisation.

Article 134.—Until further provision by law, the House of Representatives shall have discretionary power to accuse a Minister, and the Court of Cassation to try him, define the offence, and fix the penalty.

Nevertheless, the penalty shall not extend further than removal from office, without prejudice to the cases expressly provided for by the penal laws.

Article 135.—The personnel of the Courts shall be maintained as it now exists, until further provision has been made by law. Such a law shall be enacted during the first legislative session.

Article 136.—A law passed during the first legislative session shall provide for the manner of the first nomination of members of the Court of Cassation.

Article 137.—The fundamental law of August 24, 1815, and the provincial and local statutes are abolished. However, the provincial and local authorities shall retain their powers until a law shall make other provisions.

Article 138.—As soon as this Constitution goes into effect all laws, decrees, orders, regulations, and other instruments contrary thereto are abrogated.

SUPPLEMENTARY PROVISION.

Article 139.—The National Congress declares that it is necessary to provide for the following objects by separate laws and as soon as possible:—

(1) The press.

(2) The organisation of the jury.

(3) The finances.

(4) Provincial and communal organisation.

(5) The responsibility of Ministers and of other officers.
(6) The judicial organisation.
(7) The revision of the pension list.
(8) Measures proper to prevent the abuse of cumulative office-holding.
(9) The revision of the laws of bankruptcy and of suspension.
(10) The organisation of the army, the rights of advancement and of retirement, and the military penal code.
(11) The revision of the codes.

To the executive power is committed the task of carrying out the present decree.

XVII. THE KINGDOM OF NORWAY.

Area: 124,964 square miles. *Population*: 2,646,306.

Fundamentally the Constitution of Norway has remained intact since it was first framed and adopted in 1814. From 1397 to 1814 Norway had formed part of the State of Denmark, and after the 17th century the Government of Norway was wholly controlled from Denmark. During the Napoleonic Wars Denmark allied herself with the Emperor, whereas Sweden allied herself with Russia. As a condition of her alliance Sweden undertook to furnish an army to co-operate with the Russians against the French in North Germany, in return for which Russia promised Sweden the enforced cession of Norway in the event of a military victory. In 1813 the Swedish army invaded Holstein. Napoleon being unable to assist the Danes, Denmark was compelled to agree to the Treaty of Kiel, according to which Norway was ceded to Sweden.

The Norwegian people, however, did not recognise the Treaty of Kiel, and decided to resist the proposed annexation. A meeting of representatives from all parts of the country was convened at Eidsvold and, there within a few days, the Constitution was framed, and adopted on the 17th May, 1814. This Constitution was based on the Constitutions of America (1787), France (1791), and Spain (1812). The Constitution having been framed, a Danish Prince was elected to the place and function appointed for the King in the Constitution.

On the creation of a separate Kingship the Swedes at once invaded Norway, with the consequence that the Norweigians were compelled to agree to a union of the Crowns. The Norwegian King therefore abdicated, but Norway was declared a "free, independent and indivisible kingdom," and retained intact the Constitution of May, 1814.

This Constitution has since then remained the Constitution of Norway. During the course of the century, however, certain amendments were made. The most important were those of:—

(1) April 24th, 1869, establishing annual sessions of the Storthing;

(2) July 4th, 1884, extending the franchise;

(3) April 3rd, 1898, conferring a further extension of the franchise by the establishment of universal male suffrage;

(4) May 25th, 1905, providing for direct election of members of the Storthing;

(5) November 18th, 1905, giving effect to the dissolution of the Union with Sweden; and

(6) July 1st, 1907, extending the franchise to women.

Under this Constitution, as has been said, Norway was declared to be a "free, independent and indivisible Kingdom." Nevertheless, it was "united with Sweden under one King". The constitutional machinery by which this dual object was to be maintained is of considerable interest. The relations of the King to the Norwegian Legislature were in principle the same as they are now, when the Union has been dissolved. Then, as now, Article 79 was in force, according to which the Legislature was empowered to enact laws without the Royal assent. The main difference is to be found in the relations between the King and the Norwegian Executive, or Council of State.

The Constitution of 1814 provided that while the King was in Sweden a Norwegian Minister of State should be in constant attendance upon him, together with two members of the Norwegian Council of State, who were to be changed yearly. All purely Norwegian business had to be submitted to the King through these Norwegian Ministers. No Norwegian business could be dealt with by the King save in their presence. Besides this, however, other precautions were maintained. Except when for special reasons the procedure was impracticable, no purely Norwegian business could be transacted by the King, even though the Norwegian delegation of Ministers was present, until the opinion of the main body of the Norwegian Council of State had first been ascertained.

All orders of the King relating to Norwegian affairs, excepting strictly military matters, required for their authority the countersignature of the Norwegian Minister of State. When matters arose that affected both Norway and Sweden, the Norwegian Ministers in attendance upon the King sat in Council with the Swedish Ministers. It was also provided that, except in case of urgency, the opinion of the Norwegian Council of State should be ascertained before any such joint deliberation took place.

This latter procedure was emphasised in the original Article 26 of the Constitution in regard to a declaration of war. According to the Constitution, the King was empowered with the right to declare war, and the Constitution also provided that before doing so he should "communicate his views to the Government in Norway, and procure its opinion thereon, together with a full report as to the condition of the Kingdom with regard to its finances, means of defence, and so forth." A similar report had to be obtained from the Swedish Executive. When both reports had been obtained, a special Council of State had to be summoned at which

the Swedish Ministers and the Norwegian delegation of Ministers were required to attend. Before this joint Council the King's proposals had to be laid, in the light of the reports from the two countries. And it was enjoined that the advice each Minister tendered to the King was to be entered individually and separately upon the minutes of the meeting.

The control of the Norwegian Council of State and the delegation of Norwegian Ministers over the conduct of Norwegian business by the King in Sweden was further strengthened by the right of the Storthing under Article 75 of the Constitution. This Article required that the Storthing should have laid before it "the minutes of the Government in Norway and all public reports and documents (matters of strictly military command excepted), as well as certified copies of or extracts from the minutes kept by the Norwegian Minister of State and the two Norwegian Councillors of State in attendance upon the King in Sweden."

As further guarantees of the independence of Norway the Constitution of 1814 provided that none but Norwegian troops should be stationed in Norway, and that no Norwegian troops might be stationed in Sweden, excepting only in relation to annual manœuvres of the two Armies. Similarly, the Norwegian fleet was maintained as a separate fleet, manned by Norwegian seamen and with its own bases in Norway. Neither the Army nor the Navy of Norway might be used for offensive war without the assent of the Storthing.

Norway maintained her own bank, her own currency system, and her own separate treasury. Her revenues were applied exclusively to her own purposes, and she was not liable for any other than her own National Debt. All military, civil and ecclesiastical appointments in Norway were made by the King on the advice of the Norwegian Council of State. Further, it was provided that all Norwegian governmental business should be recorded in the Norwegian language, and that every King should receive sufficient instruction in that language.

Stringent provisions were also included in the Constitution of 1814 so as to secure equality of the Kingdoms in all matters relating to the royal succession, the selection of a royal house, Government during the minority of a King, and so forth. All such matters were to be dealt with by joint action of the Legislatures, or, failing agreement, by a joint Committee of the two Legislatures, or by the two Councils of State, as the case required.

Nevertheless, despite these elaborate provisions, there was constant friction. Norway was dissatisfied with the Union, particularly in regard to its effect upon Norway's external affairs. In 1891 this dissatisfaction was expressed in a demand by Norway for a separate consular system. For fourteen years this contest was

maintained, and in 1905 it culminated in the breaking off of all negotiations by Norway, and the passing of a law by the Storthing organising a separate Norwegian consular service. This law was vetoed by the King. The consequence was that on June 7th the Storthing resolved "to empower the reigning Council of State until further notice to exercise as the Norwegian Government the powers belonging to the King in accordance with the Constitution of the Kingdom of Norway and with existing laws, with the changes rendered necessary by the fact that the union with Sweden, which provides that there shall be a common King, is dissolved in consequence of the fact that the King has ceased to act as King of Norway."

After some months of negotiation a mutual agreement was signed on October 26th for the repeal of the Union, and on November 18th the Norwegian Constitution was revised so as to omit all reference to the Union with Sweden. Thereupon, Prince Carl of Denmark was elected King, and on June 22nd, 1906, he was crowned as King Haakon VII., the new dynasty taking the place appointed in the original Constitution of 1814.

Apart from the exceptional provisions necessitated by the now dissolved Union with Sweden, the Norwegian Constitution is noteworthy for the unique solution it offers of the problems presented by single-chamber and two-chamber Legislatures. The Norwegian Storthing is elected as a single chamber, but immediately on its assembly it resolves itself into two divisions, the Lagthing and Odelsthing. These two divisions function as in a two-chamber Legislature, but in the event of any lasting conflict arising between them, they are resolved into the single chamber to which their members were elected, and the matter is decided by a joint vote.

CONSTITUTION

OF THE

KINGDOM OF NORWAY

Adopted by the National Assembly at Eidsvold on May 17th, 1814.

(Certain Articles, indicated by numbers in parentheses, have been repealed by constitutional amendments, without re-numbering of the remainder.)

A.

FORM OF GOVERNMENT AND RELIGION

Article 1.*—The kingdom of Norway shall be a free, independent, indivisible and inalienable kingdom. Its form of government shall be a limited and hereditary monarchy.

Article 2.†—The Evangelical Lutheran religion shall remain the public religion of the State. The inhabitants professing it shall be required to bring up their children in the same. Jesuits shall not be tolerated.

B.

THE EXECUTIVE POWER, THE KING, AND THE ROYAL FAMILY.

Article 3.—The Executive power shall be vested in the King.

Article 4.—The King shall always profess the Evangelical Lutheran religion, and maintain and protect the same.

Article 5.—The King's person shall be sacred; he cannot be accused or proceeded against. The responsibility shall rest upon his Council.

Article 6.‡—The order of succession shall be lineal and agnatic,§ so that only males born in lawful wedlock can succeed, and so that the nearer line takes precedence of the remoter, and the elder in the line takes precedence of the younger.

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*The words "united with Sweden under one King" which ended the first sentence in the text of 1814 were deleted in 1905.

†A clause debarring Jews from entering the Kingdom was deleted in 1851. The words "and monastic orders" which appeared after "Jesuits" in the 1814 text were deleted in 1897.

‡The provisions of the text of 1814 incorporating the Swedish law as to the order of succession to the Throne were deleted in 1905.

§Descending in the direct male line.

Among those entitled to the succession shall be reckoned also the child unborn, who shall take his proper place in the line of succession when he is born into the world after the death of his father.

When a prince is born who is entitled to succeed to the Crown of Norway, his name and the time of his birth shall be notified to the Storthing held next thereafter and shall be entered in its records.

Article 7 *—If there is no prince entitled to the succession, the King can propose his successor to the Storthing, which shall have the right to decide the election in case the King's proposal does not find approval.

Article 8.†—The age at which the King attains his majority shall be fixed by law.

As soon as the King has reached the age appointed by the law, he shall publicly declare himself to be of full age.

Article 9.‡—As soon as the King, being of full age, assumes the government, he shall take the following oath before the Storthing: "I promise and swear that I will govern the Kingdom of Norway in accordance with its Constitution and laws; so truly help me God the Almighty and Omniscient."

If the Storthing is not in session at the time, the oath shall be set down in writing in the Council of State, and repeated solemnly by the King to the first Storthing.

(*Article* 10.§)

Article 11.||—The King shall reside within the Kingdom and may not, without the consent of the Storthing, remain outside the Kingdom for longer than six months at a time, unless he personally shall have lost his right to the throne.

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*The text of 1814 provided for simultaneous nomination by the King to the Storthing of Norway and the Estates of Sweden, the final decision being taken by a joint committee consisting of equal numbers from both Parliaments. This provision was deleted in 1905.

†A provision requiring the law to be passed by agreement of the Storthing and the Swedish Estates, or by a joint committee thereof, was deleted in 1905..... .. .. ..

‡In the text of 1814 the first paragraph concluded "God and His Holy Word" and the second paragraph continued after "Storthing"—"either by word of mouth or in writing by the person he may thereto appoint". The Article was amended to the present form in 1908.

§This Article was annulled in 1908. It read:—"The coronation and anointing of the King shall take place, after he has come of age, in the Cathedral of Trondhjem, at such time and with such ceremonies as he himself shall determine.

||The original Article 11 read:—"The King shall reside in Norway for some time each year, unless prevented by some serious obstacle." This was deleted in 1905, and the present Article was adopted in 1908.

The King may not accept any other crown or sovereignty without the assent of the Storthing, for which a majority of two-thirds shall be essential.

Article 12.*—The King himself shall choose a Council of Norwegian citizens, who must not be under thirty years of age. This Council shall consist of a Minister of State and at least seven other members.

More than one-half of the members of the Council of State must profess the public religion of the State.

The King shall apportion the business among the members of the Council of State in such manner as he shall deem advantageous. On extraordinary occasions, the King may summon, in addition to the ordinary members of the Council of State, other Norwegian citizens, not being members of the Storthing, to take a seat in the Council of State.

Husband and wife, parent and child, or two children of the same family may not at the same time have seats in the Council of State.

Article 13.†—When the King is travelling within the Kingdom he may remit the administration of the Kingdom to the Council of State. The Council shall carry on the government in the King's name and on his behalf. They shall observe inviolably not only the provisions of this Constitution but also the separate directions in comformity therewith which may be communicated to them in an Instruction by the King.

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*The first paragraph was revised in 1873 to provide for two Ministers of State and again in 1905, when the original provision in the text of 1814 for only one Minister of State was restored. The second paragraph was added in 1919. In 1891 the second sentence of the third paragraph was amended to read:—"On extraordinary occasions, the King, *or in his absence the Minister of State in conjunction with the Councillors of State*, may summon . . . . etc.," but the clause in italics was deleted in 1905. The last paragraph was amended to its present form in 1916, the original of 1814 having read:—"Father and son or two brothers may not at the same time have seats in the Council of State." The text of 1814 included as the second paragraph the following provision:—"The King may likewise appoint a Viceroy or 'Statholder' (governor or regent)." In 1873 the reference to a "Statholder" was deleted, and in 1891 the whole provision was omitted.

†The first paragraph in the text of 1814 read:—"During the King's absence he shall transfer the administration of the kingdom, in such cases as he himself prescribes, to the Viceroy or Statholder, together with at least five other members of the Council of State." In 1873 this was amended to read:—"During the King's absence he shall transfer the administration of the Kingdom, in such cases as he himself prescribes, to the Viceroy, whenever such an officer is appointed, together with one of the Ministers of State, and at least five of the other members of the Council of State, or, if no Viceroy is appointed, to one of the Ministers of State together with at least five of the other members of the Council of State." In 1891 this was further amended to read:—"During the King's

The business transacted shall be decided by vote and in case of an equality of votes the Minister of State, or in his absence, the first member of the Council of State, shall have two votes.

The Council of State shall forward to the King a report upon the matters thus dealt with.

(*Article* 14.*)

(*Article* 15.†)

Article 16.—The King shall regulate all public Church and Divine service, all meetings and assemblies about religious matters, and shall see that the public teachers of religion follow the rules prescribed for their guidance.

Article 17.—The King can issue and repeal regulations concerning commerce, customs, trade and industry, and police; but

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absence . . . . prescribes, to one of the Ministers of State together with at least five of the other members of the Council of State." In 1905, a further amendment was made:—"During the King's absence from the Capital of the Kingdom he shall transfer . . . . . to the Minister of State together with at least five of the other members of the Council of State." Slight consequential alterations in the remainder of the Article were, of course, involved in these successive changes of the first sentence. In 1911 the Article was amended to its present form.

*In the text of 1814 the following Article appeared:—"Only the Crown Prince or his eldest son may be Viceroy, and they only if they have reached the age appointed for the King's majority. Either a Norwegian or a Swede may be appointed as 'Statholder'."

The Viceroy shall reside in the Kingdom, and may not be absent therefrom and may not be absent for longer than three months in the year.

Whenever the King is present the Viceroy's functions shall be suspended. If there is no Viceroy but a Statholder the latter's functions shall likewise cease, he being in such a case merely the first Councillor of State.

In 1873 the second sentence and the last sentence were deleted. In 1891 the whole Article was struck out.

†This Article appeared in the original text as follows:—"During the King's residence in Sweden there shall always remain in attendance upon him the Norwegian Minister of State and two members of the Council of State, the latter being changed yearly.

They shall have the same duties and the same constitutional responsibility as the Government in Norway (as set forth in Article 3), and only in their presence may Norwegian affairs be dealt with by the King. All petitions from Norwegian citizens to the King shall first be presented to the Norwegian Government, and its report shall be submitted therewith before they are dealt with. In general, no Norwegian business may be dealt with without the opinion of the Government in Norway being obtained, unless serious obstacles should render this impracticable. The Norwegian Minister of State shall submit the business to be dealt with, and shall be responsible for the execution thereof in accordance with the decisions taken."

In 1873 the phrase "the Norwegian Minister of State" was altered in the first sentence to "one of the Ministers of State" and in the last sentence to "the Minister of State." The whole Article was deleted in 1905.

they must not be at variance with the Constitution or with the laws passed by the Storthing (as hereinafter provided in Article 77, 78 and 79). Such regulations shall operate provisionally until the next Storthing.

Article 18.*—The King shall generally cause the taxes and duties imposed by the Storthing to be collected.

Article 19.—The King shall take care that the Crown estates and regalia are utilised and managed in the manner appointed by the Storthing and most advantageous to the public.

Article 20.†—The King in Council shall have the right to pardon criminals after judgment is pronounced. The criminal shall have the choice whether he will throw himself on the King's mercy or submit to the punishment to which he has been sentenced.

In respect of proceedings that the Odelsthing‡ causes to be brought before the Risgret§ no other pardon than exemption from capital punishment can be granted.

Article 21.||—The King, with the advice of his Council of State, shall choose and appoint all civil, ecclesiastical, and military officials. Such officials shall swear, or, if by law exempted from taking the oath, solemnly promise obedience and allegiance to the Constitution and the King. The Royal Princes may not hold civil offices.

Article 22.¶—The Minister of State and the other members of the Council of State, together with the departmental officials, diplomatic and consular officials, higher civil and ecclesiastical

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*The concluding clause of the text of 1814—"The Norwegian Treasury shall remain in Norway and its revenues shall be applied solely for the benefit of Norway"—was deleted in 1905.

†The first sentence of this Article in the text of 1814 read:—"The King in Council shall have the right to pardon criminals after judgment has been pronounced by the Supreme Court, and after obtaining the Court's opinion." It was revised to its present form in 1862.

‡The word "Norwegian" appeared before the "Council of State" in the text of 1814, was deleted in 1889, restored in 1891 and finally deleted in 1905. The provision for an affirmation instead of an oath was inserted in 1889. The last sentence in the text of 1814 read:—"The Royal Princes may not hold civil offices, but the Crown Prince or his eldest son may be appointed as Viceroy." It was amended to its present form in 1891.

§In the text of 1814 this Article commenced:—"The King's Statholder the Minister of State————." In 1873 this was altered to "The Ministers of State————." In 1911 the last paragraph was added and the words "Ambassadors and Consuls," in the 1814 text altered to "Diplomatic and Consular officers."

||The Lower Division of the Storthing. See Articles 73 and 82.

¶The Constitutional Court of Realm. See Article 86.

authorities, commanders of regiments and of other military corps, commandants of forts and commanding officers of warships, may, without any preceding judicial sentence, be dismissed by the King, after hearing the opinion of the Council of State on the subject. Whether or not pensions should be granted to the officials thus dismissed is determined by the next Storthing. In the meantime they receive two-thirds of their previous pay.

Other officials may only be suspended by the King, and shall then at once be prosecuted before the Courts, but they may not be dismissed unless judgment has been pronounced against them, nor may they be transferred against their will.

All officials may be discharged without previous judgment against them, if they have reached the age limit prescribed by law.

Article 23.*—The King can confer orders on any one he pleases as a reward for distinguished services, which must be publicly announced, but he can confer no other rank or title except such as each office carries with it. Such orders shall exempt no one from the duties and burdens common to all citizens, nor shall they carry with them any preference in securing appointment to any State office. Officials who retire with the King's favour retain the title and rank of the office they filled. This provision shall not apply, however, to members of the Council of State.

No personal or mixed hereditary privileges may henceforth be granted to any one.

Article 24.—The King may choose and dismiss at his own pleasure his Royal household and Court attendants.

Article 25.†—The King is Commander-in-Chief of the Army and Navy of the Kingdom. These forces may not be increased or reduced without the consent of the Storthing. They may not be transferred to the service of foreign powers, and no soldiers of foreign powers, except auxiliary troops against hostile attack, may be brought into the Kingdom without the consent of the Storthing.

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*The last sentence of the first paragraph was added in 1920.

†In the text of 1814 the following appeared as the second, third, fourth and fifth paragraphs:—

"In time of peace none but Norwegian troops may be stationed in Norway, and no Norwegian troops may be stationed in Sweden. The King may, however, have in Sweden a Norwegian guard of volunteers, and can for a short time, at most six weeks in the year, assemble the nearest troops of the military forces of both the kingdoms for manœuvres within the borders of either kingdom; but in no case may more than 3,000 soldiers of all arms, taken together, be brought in times of peace into the one kingdom from the forces of the other kingdom.

The Landevaern* and the other Norwegian troops, which cannot be classed as troops of the line, may never be employed beyond the borders of the Kingdom without the consent of the Storthing.

Article 26.†—The King shall have the right to mobilize troops, to declare war for the defence of the country, and to conclude peace, to enter into and to withdraw from alliances, to send and to receive ambassadors.

Article 27.‡—All Councillors of State shall, unless they have a lawful excuse, be present at the Council of State, and no decision may be taken there unless more than half the number of members be present.

The Norwegian troops and flotilla may not be used for offensive war without the sanction of the Storthing. The Norwegian Navy shall have its dockyards and, in times of peace, its stations or harbours in Norway.

The warships of the one kingdom may not be manned by the seamen of the other, except in so far as such seamen sign articles of their own free will."

In 1905 the Article was amended so that the second paragraph read:—"In time of peace none but Norwegian troops may be stationed in Norway," the remainder of the paragraph as given above, together with the fifth clause, being deleted. In 1908 this amended second paragraph and the fourth paragraph of the 1814 text were deleted.

In 1917 the third paragraph of the 1814 text was deleted.

*The Norwegian Militia or Landwehr.

†In the text of 1814 this Article read:—"The King shall have the right to mobilize troops, to declare war and to conclude peace, to enter into and to break off alliances, to send and to receive ambassadors. When, the King proposes to commence war, he shall communicate his views to the Government in Norway, and procure its opinion thereon, together with a full report as to the condition of the kingdom with regard to its finances, means of defence, and so forth. This having been done, the King shall summon the Norwegian Minister and Norwegian Councillors of State, [*i.e.*, those in attendance upon the King as Stockholm during his residence in Sweden], as well as the Swedish Minister and Councillors, to an extraordinary Council State, and shall then explain the reasons and the circumstances which in such a case required to be taken into consideration, and at the same time the report of the Norwegian Government on the condition of this kingdom, as well as a similar report on that of Sweden, shall be laid on the table. The King shall ask their opinion on these subjects which they, each for himself, shall enter upon the minutes, under the responsibility which the Constitution imposes upon them, and then the King shall have the right to take and to carry into effect such decisions as he deems to be in the best interests of the State."

In 1905 all after the first sentence was deleted. In 1917 the words "for the defence of the country" were inserted after "to declare war."

‡The text of 1814 included the following as the second paragraph:—"As regards Norwegian business which in accordance with Article 15 is transacted in Sweden, no decision may be taken unless either the Norwegian Minister of State and one Norwegian Councillor of State, or else both Norwegian Councillors of State, are present." This provision was deleted in 1905. The present second paragraph was added in 1919.

A member of the Council of State who does not profess the public religion of the State shall not take part in the consideration of matters concerning the State Church.

Article 28.*—Reports on the subject of appointments to offices and other matters of importance shall be presented to the Council of State by the member to whose department they belong, and such matters shall be dealt with by him in accordance with the decision taken in the Council of State. Matters relating strictly to the military command may, however, be exempted from discussion in the Council of State to such extent as may be determined by the King.

Article 29.—If a Councillor of State is prevented by a lawful excuse from attending the meeting and bringing forward the matters that belong to his department, these shall be brought forward by another Councillor of State, whom the King shall appoint for the purpose.

If so many are prevented by lawful excuse from attending that not more than half the fixed number of members are present, other officials shall in like manner be deputed to take seats in the Council of State.

Article 30.†—All the proceedings of the Council of State shall be recorded in the minutes. Diplomatic business which the Council of State decides shall be kept secret shall be recorded in separate minutes. The same shall apply also to matters relating to the military command which the Council of State decides shall be kept secret.

Everyone that has a seat in the Council of State is in duty bound fearlessly to express his opinions, to which the King is bound to listen. But it remains with the King to take a decision according to his own judgment.

If any member of the Council of State considers that the King's decision is at variance with the Constitution or the Laws of the Kingdom, or is clearly prejudicial to the Kingdom, it is his duty to make strong representations against it, and also to record his opinion on the minutes. A member who has not thus protested shall be regarded as having concurred with the King, and shall be answerable therefor in the manner hereinafter provided, and may be impeached by the Odelsthing before the Rigsret.

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*In the text of 1814 the words "with the exception of diplomatic affairs and of matters relating strictly to the military command" appeared after "matters of importance." This phrase was deleted and the second sentence of the present Article substituted in 1911.

†The second and third sentences of this Article was added in 1911.

Article 31.*—All orders issued by the King must, in order to be valid, be countersigned. In matters relating to the military command, orders shall be countersigned by the member who submitted the matter, but in all other cases by the Minister of State or, if he was not present, by the senior member of the Council of State present.

Article 32.†—The decisions that are taken by the Government in the King's absence shall be issued in the King's name, and signed by the Council of State.

(*Article* 33.‡)

Article 34.—The nearest heir to the Throne, if he is the son of the reigning King, shall bear the title of Crown Prince. The other persons entitled to succeed to the Crown are to be called Princes, and the daughters of the Royal House, Princesses.

Article 35.—As soon as the heir to the Throne has completed his eighteenth year, he is entitled to take a seat in the Council of State, but without vote or responsibility.

Article 36.§—A Prince of the Blood may not marry without the sanction of the King. Nor may he accept any other Crown or sovereignty without the consent of the King and the Storthing; for the consent of the Storthing a majority of two-thirds of the votes shall be requisite.

If he acts contrary to this rule, both he and his descendants forfeit their right to the Crown of Norway.

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*In 1814 this Article read:—"All orders issued by the King (matters of military command excepted) must be countersigned by the Norwegian Minister of State." In 1873 the last words were amended to "one of the Ministers of State" and in 1905 to "the Minister of State." The Article was given its present form in 1911.

†In the text of 1814 this Article read:—"The decisions taken by the Government in Norway during the King's absence shall be issued in the King's name and signed by the Viceroy or the 'Statholder' and by the Council of State, and countersigned by the person who submitted the matter, who shall be held responsible for transmitting a despatch in accordance with the minutes in which the resolution shall be set forth." In 1873 it was altered to read:—"The decisions . . . . signed by the Viceroy and by the Council of State." In 1891 the words "by the Viceroy and" were omitted. In 1905 the Article was amended to its present form.

‡The original Article of 1814 read:—"All reports on Norwegian affairs, as well as the despatches in connection therewith, shall be in the Norwegian languages." In 1905 the words "on Norwegian affairs" were deleted, and in 1908 the whole Article was omitted.

§In 1814 this Article read:—"No Prince of the Blood may marry without the consent of the King. If he should violate this rule, he shall forfeit his right to the Crown of Norway." The Article was amended to its present form in 1908.

Article 37.—The Royal Princes and Princesses shall not, personally, be answerable to any other person than the King, or to such person as he may ordain to be judge over them.

(*Article* 38.*)

Article 39.†—If the King dies, and the heir to the Throne is still under age, the Council of State shall at once summon a meeting of the Storthing.

Article 40.‡—Until the Storthing is assembled and has taken measures for the government during the King's minority, the Council of State shall carry on the government of the Kingdom, in accordance with the Constitution.

Article 41.§—If the King is absent from the Kingdom, without being in the field, or if he is so ill as to be unable to carry on the government, the Prince next in succession to the Throne shall, provided he has attained the age fixed for the King's majority, carry on the government, temporarily exercising the Royal power. Otherwise the Council of State shall carry on the administration of the Kingdom.

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*In the text of 1814, the following Article appeared:—"The Norwegian Minister of State, as well as the two Norwegian Councillors of State in attendance upon the King, shall have seats and deliberative votes in the Swedish Council of State when matters affecting both Kingdoms are being dealt with.

In such matters the opinion of the Norwegian Council of State must also be obtained, unless the business requires to be dealt with so urgently that time will not permit of this being done."

The Article was repealed in 1905.

†This Article read as follows in the text of 1814:—"If the King dies and the Heir to the Throne is still under age, the Norwegian and Swedish Councils of State shall at once meet together, in order jointly to summon the Storthing in Norway and the Riksdag in Sweden."

This Article was amended as at present in 1905.

‡In 1814 this Article read:—"Until the representatives of both Kingdoms have assembled, and have made provision for the government during the King's minority, a Council of State composed of equal numbers of Norwegian and Swedish members shall carry on the administration of the Kingdom, in conformity with their respective Constitutions.

The Norwegian and the Swedish Minister of States, who shall have seats in the aforesaid joint Council, shall cast lots as to which of them shall preside."

The Article was amended to its present form in 1905.

§In 1814 this Article read:—"The provisions laid down in the preceding Articles 39 and 40 shall also apply on every occasion when in accordance with the Swedish Constitution the carrying on of the government is vested in the Swedish Council of State as such." In 1873 the following addition was made:—"On the occasions when in accordance with the Norwegian and Swedish Constitutions and the provisions of the Act of Union the administration of the Kingdoms has hitherto developed upon the Interim Government when the King is prevented, either by reason

(*Article* 42.*)

Article 43.†—The election of regents, who shall administer the government for the King when he is under age, shall be carried out by the Storthing.

Article 44.‡—The Prince who, in the cases mentioned in Article 41, is carrying on the government, shall subscribe to the following oath in writing before the Storthing: "I promise and swear to carry on the government in accordance with the Constitution and the laws, so truly help me God the Almighty and Omniscient."

If the Storthing is not sitting at the time, the oath shall be delivered to the Council of State, and be transmitted afterwards to the next Storthing.

A Prince who has once taken the oath need not repeat it.

Article 45.—As soon as the administration of the State ceases, they shall render to the King in the Storthing an account of the same.

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of being on a journey outside his Kingdoms or by reason of sickness, from carrying on the Government, the Prince next in succession to the Throne shall, provided he has attained the age prescribed for the King's majority, carry on the Government, temporarily exercising the Royal powers, with the same rights as in the Interim Government. These provisions shall only come into operation provided that between the date hereof and the next ordinary Storthing corresponding provisions in Sweden are published." (The corresponding Swedish provisions were issued in June, 1863.) In 1905 the Article was amended to its present form.

*The following Article appeared in the text of 1814:—"In regard to the more detailed provisions necessary in the cases dealt with in Articles 39, 40 and 41, the King will introduce into the next Storthing in Norway and the next Riksdag in Sweden a law based on the principle of full equality between the two Kingdoms." The Article was repealed in 1905.

†In the text of 1814 this Article read:—The election . . . . . shall take place according to the same rules and in the same manner as is hereinbefore prescribed, in Article 7, for the election of a successor to the Throne." It was amended to the present form in 1905.

‡In the text of 1814 this Article read:—"The persons who carry on the government in the cases dealt with in Articles 40 and 41 shall take the following oath, the Norwegians taking it before the Storthing:—'I promise and swear that I will carry on the government in conformity with the Constitution and the Laws, so help me God and His Holy World!' The Swedes shall take the oath before the Swedish Estates of the Realm.

If the Storthing or the Riksdag is not in session, the oaths shall be subscribed to in writing in the Council of State and repeated afterwards before the next Storthing or Riksdag."

In 1905 the Swedish references were omitted. In 1908 the conclusion of the oath was altered to "so help me God the Almighty and Omniscient." In 1910 the Article was amended to its present form.

Article 46.*—If the proper authorities neglect to summon the Storthing at once in accordance with Article 39, it becomes the absolute duty of the Supreme Court of Justice, as soon as four weeks have elapsed, to cause this summons to be issued.

Article 47.†—The conduct of the King's education during his minority shall be determined by the Storthing, unless his father has left directions in writing.

It must be an inviolable rule that the King during his minority be given sufficient instruction in the Norwegian language.

Article 48.‡—If the Royal family becomes extinct in the male line, and no successor to the Throne has been elected, then a new King shall be elected by the Storthing. Meanwhile, the executive power shall continue to be exercised according to Article 40.

C.

CITIZENSHIP AND THE LEGISLATIVE COUNCIL.

Article 49.—The people shall exercise the legislative power through the STORTHING, which shall consist of two divisions, a Lagthing and an Odelsthing.

Article 50.§—Every Norwegian citizen, man or woman, who has completed his or her twenty-third year and has resided in the country for five years and is still resident therein, is entitled to vote.

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*In the text of 1814 this Article referred to Article 41 as well as 39. It was amended in 1905 to its present form.

†In the text of 1814 the first sentence of this Article read "... determined in the manner prescribed in Articles 7 and 43 . . . ." It was amended to the present form in 1905.

‡In the text of 1814 this Article concluded:—" . . . a new Royal House shall be elected in the manner prescribed in Article 7. Meanwhile the executive powers shall continue to be exercised in accordance with Article 43." The reference to Article 43 instead of 40 was a clerical error. The Article was amended as at present in 1905.

§In the text of 1814, the right to vote was conferred exclusively upon Norwegian citizens who had completed their 25th year of age, had resided in the country for five years and were still resident therein, and who were either officials or owners or leaseholders of landed property, or burgesses or owners of property to a stated amount in towns. In 1821, provision was made to meet the special conditions of Finmark (Lappland).

In 1884 the property qualification was modified so as to extend the franchise to persons who had cultivated land for a period of five years or who paid direct taxes upon an income of stated amount, persons in service in the household of another being still disfranchised. In 1898, all the property and occupational qualifications were repealed.

In 1907 the Article was amended to read:—"The persons entitled to vote are:—(*a*) Men who are Norwegian citizens, have completed their 25th year, have resided in the country for five years and are still resident

Article 51.*—Regulations as to the keeping of the register and the entering therein of all persons entitled to vote shall be prescribed by law.

Article 52.†—The right to vote shall be suspended:—

(*a*) On indictment for a penal offence, in accordance with the provisions of the law in this respect.

(*b*) On being declared incapable of managing one's own affairs.

Article 53.‡—The right to vote shall be lost:—

(*a*) On conviction of a penal offence, in accordance with the provisions of the law in this respect;

(*b*) On entering the service of a foreign power without the consent of the government;

(*c*) On acquiring citizenship in a foreign State;

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therein; (*b*) Women who are Norwegian citizens, have completed their 25th year, have resided in the country for five years and are still resident therein, and have paid taxes to the State or Commune on a declared income of at least 400 Kroner in the towns and 300 Kroner in the rural districts or live wholly or partly in community of goods with a husband who has paid taxes to that amount.

Every one who is in joint possession of an income of 400 Kroner in the towns and 300 Kroner in the rural districts, shall pay tax to the Commune even if the individual according to the tax regulations in force should be exempt from tax. The amount of tax in such cases may not be less than 50 Ore or more than 2 Kroner.''

In 1913, the Article was amended to its present form save that the age limit remained at 25 years. In 1920, the age limit was reduced to 23 years.

*The text of 1814 designated the officials who should keep the register of voters and required every voter, before being entered on the register, to swear allegiance to the Constitution. In 1889 an affirmation instead of an oath of allegiance was permitted, and in 1899 the Article was amended to its present form.

†In 1814 the disqualifications included also bankruptcy. The Article was amended in detail, but not in principle in 1877, and a further clause introduced disqualifying persons who were in receipt of poor relief at the time of or during the year preceding the election. Minor amendments as to penal offences and bankruptcy were made in 1902 and 1903, and in 1908 and 1916 the poor relief disqualification was mitigated. The Article was amended to its present form in 1911.

‡In the text of 1814, Clause (*a*) read as follows:—''On having been sentenced to imprisonment, slavery or degrading punishment.'' In 1877 it was altered to read:—''On having been sentenced to penal servitude or dismissed from office, or to prison for a crime mentioned in any of the chapters of the penal code regarding perjury, theft, robbery or fraud.'' In 1887 the following addition was made:—''This effect of such sentence ceases on the person in question becoming rehabilitated.'' In 1902 the Article was altered to its present form.

(*d*) On conviction of having bought votes, sold one's own vote, or voted at more than one polling-place.

Article 54.*—Elections shall be held every three years. They shall all be concluded by the end of November.

Article 55.*—The elections shall be conducted in the manner prescribed by law. Questions as to the right of voting shall be decided by the officer in charge of the election from whose decision an appeal may be made to the Storthing.

Article 56.*—Before the election begins Articles 50 to 64 of the Constitution shall be read aloud by the officer in charge.

Article 57.*—The number of representatives to be elected to the Storthing shall be one hundred and fifty. The number of representatives in the Storthing from the towns as compared with the number of representatives from the country shall always be in the proportion of one to two.

Article 58.*—The number of representatives in the Storthing to be elected by the town districts shall be fifty. Of these there shall be elected from Christiania seven, from the towns of Akershus and Smaalenenes counties jointly four, from the towns in Hedemarken and Kristians counties jointly three, from the towns in Buskeruds county jointly three, from the towns in Jarlsberg and Larviks county jointly four, from the towns in Bratsberg and Nedenes county jointly five, from the towns in Lister and Mandals and Stavanger counties jointly seven, from Bergen city five, from the towns in Romsdal county three, from the towns in north and south Trondhjem counties jointly five, and from the towns in Nordland, Tromsoe and Finmark counties jointly four.

The number of representatives in the Storthing to be elected by the country districts shall be fixed at one hundred. Of these there shall be elected from Akershus county seven, from North Bergenhus county five, from South Bergenhus county eight, from Bratsberg county five, from Buskeruds county five, from Finmark county three, from Hedemarken county seven, from Jarlsberg and Larviks county four, from Kristians county six, from Lister and Mandals county four, from Nedenes county four, from Nordland county eight, from Romsdal county seven, from Smaalenenes county six, from Stavanger county five, from Tromsoe county five, from Northern Trondhjem county five, and from Southern Trondhjem county six.

Article 59.*—Every town and in the country districts each "Herred" (rural commune) as well as each "Ladested" (small

*Articles 44 to 59 were the subject of a series of amendments between 1814 and 1919. Several of these amendments varied the lists of electoral districts, but others effected a complete change from indirect to direct

seaport town) with its own municipal authority shall form a separate electoral division. The towns may by law be divided into several electoral divisions.

Any town not mentioned herein or which may hereafter come into existence shall be included in the town electoral district as fixed by law.

The polls shall be held separately for each electoral district. At the polls there shall be direct voting for the Storthing representatives, with substitutes for them, for the entire electoral district.

The elections shall take place by proportional representation. The regulations relative thereto and to the entire mode of procedure at the elections shall be prescribed by law in accordance with the provisions of the Constitution.

Article 60.*—Persons entitled to vote in the Kingdom who are not able to be present on account of sickness, military service, or other lawful impediment, may send their votes in writing to the officers in charge of the elections before the poll is closed.

Where and in what manner qualified voters sojourning outside the Kingdom may be allowed to send their votes in writing to the officers in charge of the elections, shall be determined by law.

Article 61.†—No one can be elected as a representative unless he is thirty years of age, has resided for ten years in the Kingdom, and is entitled to vote in the electoral district for which he is nominated.

Any person who is or has been a Minister of State or Councillor of State may, however, also be elected as a representative for

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election. In 1814 the enfranchised inhabitants of each district met and nominated electors in the proportion of one elector to each 50 inhabitants in the towns and one to each 100 in the rural districts. These electoral colleges then met and elected, either from their own number or from among the other voters of the town or county, representatives to sit in the Storthing, the number of representatives being a prescribed fraction of the number of electors in the college up to a maximum of four. In 1859, the numbers of representatives in the Storthing of the towns and rural districts respectively were fixed at 37 and 74, and the constituencies were designated and allotted specified numbers of representatives, the details being altered by later amendments. Direct election to the Storthing was introduced in 1905, and Proportional Representation in 1919.

*The second clause was added in 1896, and amended, on account of the change to direct election, in 1905.

†The concluding phrase of the first paragraph "and is entitled to vote in the electoral district," etc., and the second paragraph, were added in 1905, the latter, however, being worded thus: "Any person who has been a Minister of State," etc. In 1913 the words "is or" were inserted before "has been."

an electoral district in which he is not entitled to vote, provided he is otherwise eligible for election.

Article 62.*—The officials employed in the Departments of the Council of State as well as Court officials and pensioners cannot be elected as representatives.

Members of the Council of State cannot attend at the Storthing as representatives so long as they have seats in the Council of State.

Article 63.†—Every person who is elected as a representative shall be bound to accept election unless he has been elected in the circumstances mentioned in the second paragraph of Article 61, or is prevented by some impediment which is deemed lawful by the Storthing. A person who has attended as representative at three ordinary Storthings after one election shall not be bound to accept election at the next elections for the Storthing.

Any one who is elected as representative without being obliged to accept such election must, within the period and in the manner prescribed by law, make a declaration as to whether he accepts election or not.

The law shall likewise determine within what period and in what manner any person elected as representative for two or more electoral districts shall make a declaration as to which election he shall accept.

Article 64.‡—The elected representatives shall be furnished with credentials the validity of which shall be adjudged by the Storthing.

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*In 1814 the text was as follows:—"Members of the Council of State and officials employed in its offices as well as Court officials and pensioners cannot be elected as representatives." The Article was altered to its present form in 1913.

†In 1814 the first paragraph read:—" . . . . . deemed lawful by the electoral college, whose decision may be submitted to the judgment of the Storthing. A person who has attended as a representative at the ordinary Storthings for two successive periods shall not be bound to accept election for the following ordinary Storthing. If a representative is prevented by lawful impediments from attending at the Storthing, his place shall be taken by the person who received the next highest number of votes." The second sentence was amended to its present form in 1869, and the third sentence was concluded by the words "or, if a separate election for a substitution has been held by the District Assembly, by the electoral substitute." This third sentence was struck out in 1905, when the last two paragraphs were added. The reference to Article 61 was inserted in 1884.

‡In 1814 this Article read:—"As soon as the representatives are elected they shall be furnished with a certificate signed in the rural districts by the chief magistrate and in the towns by the burgomaster, as well as by the whole electoral college, as evidence of their having been elected in the

Article 65.*—Every representative and every substitute summoned shall be entitled to reimbursement from the State Treasury for travelling expenses to and from the Storthing, and from the Storthing to his own and back again during vacations of not less than one month's duration, and also for expenses for curative treatment and nursing in case of illness.

For participation in an ordinary Storthing he shall also be entitled to an allowance of three thousand Kroner.**

If a representative and his substitute have taken part in an ordinary Storthing the allowance shall be divided between them according to the time during which each of them has participated or attended.

For attendance in an extraordinary Storthing the allowance shall be twelve Kroner a day.

Article 66.—The representatives shall be exempt from personal arrest while on their way to and from the Storthing, as well as during their attendance there, unless apprehended in public crimes; nor may they be made answerable outside the meetings of the Storthing for the opinions they have expressed there. Every representative shall be bound to conform to the established rules of the Storthing.

Article 67.—The representatives elected in the manner aforesaid shall constitute the Storthing of the Kingdom of Norway.

Article 68.†—The Storthing shall as a rule assemble on the first week-day after the tenth of January in every year, in the capital of the Kingdom, unless the King, by reason of extraordinary circumstances, such as hostile invasion or infectious disease, shall appoint for the purpose another town in the Kingdom. Such an appointment must then be publicly notified in good time.

Article 69.‡—In extraordinary cases the King shall have the right to summon the Storthing at an unusual time.

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manner prescribed by the Constitution. The validity of these certificates shall be adjudged by the Storthing." The Article was amended to its present form in 1905.

*The text of 1814 read:—"Every representative shall be entitled to reimbursement from the State Treasury for travelling expenses to and from the Storthing and for his maintenance during the time he his attending there." The additional provisions were added in 1910 and slightly amended in 1919.

**About £166. In recent years an additional grant has been made to meet the higher cost of living.

†The text of 1814 provided for a meeting every "third year." This was altered to "every year" in 1869. The exact date of assembly was altered in 1857, 1869, 1898 and 1907.

‡The text of 1814 continued:—"The King shall then issue a proclamation which shall be read in all the churches of the chief towns at least six weeks before the members of the Storthing are to meet at the appointed place." In 1869, "six weeks" was altered to "14 days" and the whole sentence was struck out in 1916.

Article 70.—Such an extraordinary Storthing may be dissolved by the King when he may think proper.

Article 71.*—The members of the Storthing shall act as such for three successive years in extraordinary as well as in the ordinary Storthings that are held during that period.

Article 72.*—If an extraordinary Storthing is still in session at the time when an ordinary Storthing is to open, the former shall be dissolved before the latter assembles.

Article 73.†—The Storthing shall elect from among its members one-fourth of their number, who shall constitute the LAGTHING; the remaining three-fourths shall form the ODELSTHING. The election shall take place at the first ordinary Storthing that meets after a general election, and thereafter the Lagthing shall remain unchanged during all Storthings which meet after the same election except in so far as any vacancy which may occur among its members has to be filled by special election.

Each Thing shall hold its meetings separately, and elect its own President and Secretary. No Thing can meet unless two-thirds of its members are present.

Article 74.‡—As soon as the Storthing is constituted the King, or the person he appoints for the purpose, shall open its proceedings with a speech, in which he shall inform it of the condition of the Kingdom and the matters to which he particularly desires to call the attention of the Storthing. No deliberation may take place in the presence of the King.

When the proceedings of the Storthing are opened, the Minister of State and the Councillors of State have the right to attend in the Storthing as well as in both its divisions, on an equal footing with its members, but without giving a vote, to take part in the current proceedings, in so far as these are conducted in public session, but in such matters as are discussed in private session only in so far as the Thing in question may grant permission.

Article 75.§—The Storthing shall have power:

(*a*) To enact and to repeal laws; to impose taxes, duties, customs, and other public burdens, which, however,

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*Small amendments were made in 1869, consequent on the change in Article 68.

†Only the last sentence of this Article appeared in the text of 1814. All that precedes was added in 1869.

‡In the text of 1814, what are now the first sentences of paragraphs 1 and 2 of Article 73 formed the second and third paragraphs of this Article, the transfer being made in 1869. The present second paragraph was added in 1884, a small amendment being made in 1905.

§Minor alterations in Clause (*a*) were made in 1857, 1869, 1898 and 1907. Clause (*b*) included in 1814 a reference to the Viceroy which was

shall not remain in force longer than till the first day of July of the year in which the next ordinary Storthing meets unless they are expressly renewed by the Storthing then sitting.

(*b*) To raise loans on the credit of the Kingdom.

(*c*) To control the finances of the Kingdom.

(*d*) To grant the sums of money necessary to meet the expenditure of the State.

(*e*) To determine the amount which shall be paid yearly to the King for his Royal household, and to determine the appanage of the Royal Family, which may not, however, consist of real property.

(*f*) To have laid before it the minutes of the Council of State and all public reports and documents; minutes of diplomatic affairs and matters relating to military command which it has been decided shall be kept secret shall, however, be laid before a Committee of not more than nine members elected from the members of the Odelsthing, and may likewise be brought before the Odelsthing if any member of the Committee proposes that the Odelsthing should express its opinion thereon or that proceedings should be instituted before the Rigsret.

(*g*) To have communicated to it the alliances and treaties that the King on behalf of the State has entered into with foreign powers; with regard to secret articles, which, however, must not be at variance with the published ones, the same provisions apply as are provided under clause (*f*) for matters which it has been decided shall be kept secret.

(*h*) To summon any one to attend before it in matters of State, the King and the Royal family excepted;

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deleted in 1891. Clause (*f*) read as follows in 1814:—"To have laid before it the minutes of the Government in Norway and all public reports and documents (matters of strictly military command excepted), as well as certified copies or extracts of the minutes kept by the Norwegian Minister of State and the two Norwegian Councillors of State in attendance upon the King in Sweden, or the public documents that have been there produced." In 1905 this was altered to read:—"To have laid before it the minutes of the Council of State and all public reports and documents (matters of strictly military command excepted)." The clause was given its present form in 1911. The provision in clause (*g*) for the submission of secret article in treaties to a Committee was introduced in 1911. Clause (*h*) in 1814 concluded "any office other than that of Viceroy," and was amended to its present form in 1891. The first part of clause (*j*) in 1814 concluded "shall be delivered to those auditors every year on the 1st July" and was altered to its present form in 1880; the second part was added in 1917.

this exception, however, does not apply to the Royal Princes in case they hold any office.

(*i*) To revise temporary salary and pension lists, and to make therein such alterations as it finds necessary.

(*j*) To appoint five auditors, who shall annually examine the accounts of the State and publish printed abstracts of the same, for which purpose such accounts shall be delivered to these auditors within six months after the expiration of the year for which the grants of the Storthing are made; and to make appropriate regulations as to the arrangements for the deciding authority over the State Accountants.

(*k*) To naturalise aliens.

Article 76.—Every law shall first be proposed in the Odelsthing, either by its own members, or by the Government through a Councillor of State.

If the proposal is there accepted, it shall be sent to the Lagthing which shall either approve or reject it, and in the latter case shall return it with its observations appended. These shall be taken into consideration by the Odelsthing, which may either drop the Bill or again send it to the Lagthing, with or without alteration.

When a Bill from the Odelsthing has twice been laid before the Lagthing and has been a second time rejected by the latter, the whole Storthing shall meet and dispose of the Bill by a majority of two-thirds.

There must be an interval of at least three days between each of these deliberations.

Article 77.*—When a Bill passed by the Odelsthing is approved by the Lagthing or by the entire Storthing, it shall be submitted to the King, with a request that it shall obtain his sanction.

Article 78.†—If the King assents to the Bill, he shall append his signature to it, whereupon it shall become law.

If he does not assent to it, he shall return it to the Odelsthing with a declaration that he does not at the time consider it

*In 1814 this Article read "..... submitted, by a deputation from both divisions of the Storthing, to the King, if he is present, or, if not to the Viceroy, or to the Norwegian Government, with a request . . . " The references to the deputation and the Viceroy were struck out in 1891, and the words "if he is present, or, if not, to the Norwegian Government" in 1905.

†The last sentence was added in 1869.

expedient to sanction it. In this case the Bill may not again be submitted to the King by the Storthing then assembled.

Article 79.*—If a Bill has been passed unaltered by three ordinary Storthings, constituted after three different successive elections and separated from each other by at least two ordinary Storthings, without any conflicting measure having been adopted by any Storthing in the period between the first and the last passage, and is then submitted to the King with the earnest request that His Majesty will not refuse his sanction to a Bill that the Storthing, after the most mature deliberation, considers to be for the benefit of the State, it shall become law, even if the King's sanction is not accorded, before the Storthing separates.

Article 80.†—The Storthing shall remain in session as long as it considers necessary. When, having finished its business, it is adjourned by the King, he shall at the same time communicate his decision with regard to the measures that have not already been disposed of (see Articles 77 to 79), by either ratifying or rejecting them. All such measures as he does not expressly assent to shall be deemed to be rejected by him.

Article 81.‡—All laws with the exception of those referred to in Article 79 shall be promulgated in the King's name, under the seal of the Kingdom of Norway, and in the following terms: "We, N.M., make it publicly known that the following act of the Storthing of (such and such a date) in the following terms has been laid before Us (here follows the Act). Accordingly, We have assented to and confirmed, and We do hereby assent to and confirm the same as law under Our hand and the seal of the State."

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*In the text of 1814 this Article commenced:—"A Bill which may not in such circumstances be again submitted to the King by the Storthing then assembled may be proceeded with in the same way if the next ordinary Storthing again adopts the same measures. But if in the third ordinary Storthing, after the matter has been again considered, both Things again adopt the measure unaltered, and it is then submitted to the King with the earnest request . . . ." It was amended to its present form in 1869, with a slight verbal alteration in 1913.

†In the text of 1840 the first sentence read:—"The Storthing shall remain in session as long as it considers necessary, but not more than three months without the King's permission." In 1869 the period was altered to two months. The Article was amended to its present form in 1908 save for a slight verbal alteration in 1913.

‡In 1814 this Article commenced:—"All laws shall be promulgated in the Norwegian language, and, with the exception of those referred to in Article 79, in the King's name . . . ." It was altered to its present form in 1908.

(*Article* 82.)*

Article 83.—The Storthing may procure the opinion of the Supreme Court of Justice on questions of law.

Article 84.—The Storthing shall be held with open doors, and its proceedings shall be printed and published, except in those cases where a majority decides to the contrary.

Article 85.—Any person who obeys an order, the purpose of which is to disturb the liberty and security of the Storthing, shall thereby be guilty of treason to the Fatherland.

D.

THE JUDICIAL POWER.

Article 86.†—The members of the Lagthing together with the Supreme Court, but, in case the number of members of the Lagthing or of the Supreme Court shall exceed 31 or 9 respectively, 30 of the members of the Lagthing in addition to the President of the Lagthing and 8 members of the Supreme Court in addition to the President of the Supreme Court, shall constitute the Rigsret, which shall try, in first and last instance, actions brought by the Odelsthing either against members of the Council of State or of the Supreme Court for offences committed in their respective offices, or against members of the Storthing for such offences as they may have committed in their capacity as such members.

The President of the Lagthing shall preside in the Rigsret.

Article 87.—The accused may, without alleging any reason for it, challenge up to one-third of the members of the Rigsret, provided, however, that the Court does not consist of less than fifteen persons.

Article 88.‡—The Supreme Court shall be the Court of Final Appeal. Restrictions upon the right of appeal to the Supreme

*This Article was repealed in 1913. It read:—"The approval of the King is not required for resolutions of the Storthing, by which:—

"(*a*) It declares itself assembled as Storthing, in accordance with the Constitution.

"(*b*) It determines its own rules of procedure.

"(*c*) It approves or rejects the credentials of the members present.

"(*d*) It affirms or reverses decisions in election controversies.

"(*e*) It naturalizes foreigners.

"(*f*) And finally, the action by which the Odelsthing impeaches Councillors of State or others."

†The passage "but in case ..... in addition to the President of the Supreme Court" was added in 1908, and a slight verbal alteration was made in 1911.

‡The second sentence was added in 1911, in substitution for the following paragraphs which had been added in 1862:—"This Article

Court may, however, be prescribed by law. The Supreme Court shall consist of a President and at least six other members.

(*Article* 89.)*

Article 90.†—Judgments of the Supreme Court can in no case be appealed against.

Article 91.—No one may be appointed a member of the Supreme Court before he is thirty years of age.

E.

GENERAL PROVISIONS.

Article 92.‡—To official posts in the State there may be appointed only such Norwegian citizens as speak the language of the country and also:—

(*a*) Were either born in the Kingdom of parents who were then subjects of the State;

(*b*) or were born in foreign countries of Norwegian parents who were not at the time subjects of another State;

(*c*) or have hereafter resided ten years in the Kingdom;

(*d*) or have been naturalised by the Storthing.

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however, shall not prevent penal cases from being finally decided, as may be provided by law, without the intervention of the Supreme Court."

*In the text of 1814 this Article read:—"In peace-time the Supreme Court, together with two officers of high rank nominated by the King, shall be the Court of second and last instance in all military cases involving either life or honour or loss of liberty for a longer period than three months." In 1913 this was altered to:—"In military cases two officers of high rank, nominated by the King, shall be added to the Supreme Court." The Article was deleted in 1920.

†In 1914 the concluding words "or be subjected to the revision" which appeared in the 1814 text, were deleted.

‡In the text of 1814 the phrase "profess the Evengelical Lutheran religion, have sworn fidelity to the King and the Constitution, and" appeared before "speak the language." This was struck out in 1878. Clause (*c*) in 1814 read:—"or on May 17, 1814, have a permanent residence in the Kingdom and have not refused to take the prescribed oath to maintain the independence of Norway." This was struck out in 1879 and the remaining clauses re-lettered accordingly. The last paragraph dates from 1909. In 1878, the following paragraph was included:—"Only such persons as profess the public religion of the State may be members of the King's Council, or fill judicial positions. The same shall also apply, unless otherwise provided by law, to other public State offices." In 1892 the last sentence of this was altered to:—"As regards other public offices the necessary conditions shall be prescribed by law." The paragraph was deleted in 1919.

Others, however, may be appointed as teachers at the University and Colleges, as medical officers, and as consuls in foreign places.

No one may be appointed as chief magistrate before he is thirty years of age, or as burgomaster, subordinate Judge or sheriff before he is twenty-five years of age.

The extent to which women, who fulfil the conditions prescribed by the Constitution for men, may be appointed to State offices shall be prescribed by law.

(*Article* 93.)*

Article 94.—Steps shall be taken by the first, or, if this is not possible, by the second ordinary Storthing, for the publication of a new general civil and criminal code. In the meantime the laws of the State now in operation shall remain in force, in so far as they are not at variance with this Constitution, or with the provisional ordinances that may be issued in the meantime.

The existing permanent taxes shall likewise continue until the next Storthing.

Article 95.—No dispensations, protections, postponements of payments, or redresses may be granted after the new general law comes into force.

Article 96.—No person may be tried except according to law, or be punished except according to judicial sentence. Examination by torture may not take place.

Article 97.—No law may be given retractive effect.

Article 98.—All fees paid to officials of the Courts of Justice are exempt from taxes to the Exchequer.†

Article 99.—No person may be arrested except in cases determined by law, and in the manner prescribed by law. For unjustifiable arrest or illegal detention, the person concerned shall be responsible to the person imprisoned.

The Government shall not be entitled to employ military force against citizens of the State, except in accordance with the forms provided for by law, unless an assembly should disturb the public peace and not immediately disperse after the Articles

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*This Article was repealed in 1905. It read:—"Norway shall not be liable for any other than her own National Debt."

†This Article is now practically obsolete. All fees to various Courts of Justice are now paid direct to the Exchequer, and the officials are in receipt of fixed salaries. (Note by H. L. Brækstad, "The Constitution of Norway.")

of the Laws of the Land relating to riots have been read aloud three times by the civil authority.

Article 100.—There shall be liberty of the press. No person can be punished for any writing, whatever its contents may be, which he has caused to be printed or published, unless he has wilfully and clearly, either himself shown or incited others to disobedience to the laws, contempt of religion or morality or the constitutional authorities, or resistance to their orders, or has advanced false and defamatory accusations against any person. Everyone shall be at liberty to speak his mind frankly on the administration of the State and on any other subject whatsoever.

Article 101.—New and permanent restrictions on the freedom of industry shall not be granted to anyone in future.

Article 102.—Domiciliary searches may not be made, except in criminal cases.

Article 103.—Refuge shall not be granted to such persons as hereafter become bankrupt.

Article 104.—Neither landed nor movable property may in any case be confiscated.

Article 105.—If the welfare of the State shall demand that any person shall surrender his movable on immovable property for the public use, he shall receive full compensation from the Treasury.

Article 106.—Both the proceeds of the sale of, and the income derived from, the landed property constituting the benefices of the clergy 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 their use.

Article 107.—The Odel and Assaede* rights may not be abolished. The precise conditions under which they shall continue, to the greatest benefit of the State and advantage of the country population, shall be determined by the first or next following Storthing.

Article 108.—No earldoms, baronies, entailed estates, or trusts in real property may be created in future.

**The Odelsret* (right of allodial possession and primogeniture), is the ancient right to complete ownership of land in country districts, including the right of redemption of the property by the family, within three years, if it has been sold. The *Assaedesret* (right of succession to landed property) is the right of the eldest son to retain possession of the property at a moderate price. Note by H. L. Brækstad, "The Constitution of Norway."

Article 109.*—All citizens of the State are, in general, equally bound, for a certain time, to defend the Fatherland, without regard to birth or fortune. The application of this principle and the limitations to be placed upon it shall be determined by law.

Article 110.†—The Reserve Fund of the State, amounting to forty million kroner, shall be used exclusively for warding off dangers to the Kingdom or when the Kingdom has been afflicted by a national calamity. The Reserve Fund shall be administered in accordance with the regulations prescribed therefor by the Storthing

Article 111.‡—The form and colours of the Norwegian flag shall be determined by law.

Article 112.§—If experience should show that any part of this Constitution of the Kingdom of Norway requires to be altered, the proposal therefor shall be submitted at the first or second ordinary Storthing after a new election, and be published in print But only the first or second ordinary Storthing after the next election shall be entitled to decide whether the proposed alteration should be made or not. Such an alteration, however, must never be at variance with the principles of this Constitution, but must be rigidly restricted to such modifications in particular provisions as do not change the spirit of this Constitution; and two-thirds of the Storthing must agree to such an alteration.

A constitutional provision thus adopted shall be signed by the President and Secretary of the Storthing and transmitted to the

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*In 1814 this Article concluded:—"The application of this principle and the limitations to be placed upon it, together with the question of how far it may be to the interest of the Kingdom that the obligation of military service should cease at the age of 25 years, shall be remitted for decision by the next ordinary Storthing, after all information has been collected by a committee. In the meantime the existing provisions shall continue in force." The change to the present form was made in 1907.

†The present Article dates from 1911. The original Article read:—"Norway shall retain her own Bank and her own currency and coinage, and these matters shall be regulated by law."

‡The original Article read:—"Norway is entitled to have her own merchant flag. Her naval flag shall be a Union flag." It was amended as at present in 1905.

§The second paragraph of this Article was added in 1913. In the text of 1814 the first sentence read:—". . . . the proposal therefor shall be submitted to the ordinary Storthing . . . ." and the second sentence read:—"But only the next ordinary Storthing . . . ." In 1869, these passages were altered to:—". . . . . the first ordinary Storthing after the next elections . . . ." and "But only the first of the ordinary Storthings after the next election . . . ." In 1905, the first sentence was altered to "one of the ordinary Storthings after a new election." The further amendment to the present form was made in 1907.

King for publication in print as an operative provision of the Constitution of the Kingdom of Norway.

On behalf of the National Assembly.

C. M. TALSEN,	H. M. KROHG,	CHRISTIE,
President.	Vice-President.	Secretary.

We, the undersigned, representatives of the Kingdom of Norway, hereby declare this Constitution, as adopted by the National Assembly, to be the Fundamental Law of the Kingdom of Norway, to which each and every one must conform.

Eidsvold: 17th May, 1814.

(*Here follow the signatures of the representatives of the Counties, Towns, Army Regiments, &c.*)

XVIII. THE KINGDOM OF SWEDEN.

Area: 173,035 *sq. miles.* *Population*: 5,903,762.

The Swedish Constitution dates from 1809. It is, therefore, in its present form the oldest written Fundamental Law now in force in Europe.

Sweden had, however, a long history of constitutional experience, and legislation, prior to the coming into existence of the present Constitution. Its Parliament, known as the Riksdag, dates from early in the 15th century. An Organic Law for the organisation of the Riksdag was adopted in 1617. A Constitution Act was passed in 1664 for a re-organisation of State Administration; and further successive Constitution Acts were passed in 1719, 1720 and 1772.

It was during this early period that the constitution of the Riksdag in four chambers, which persisted in the Constitution of 1809, came into being. These four chambers consisted of the Four Estates of the Nobility, the Clergy, the Burgesses and the Land-owning Farmers. Sometimes, during these centuries, power was held by the Riksdag, sometimes by the King. Between the King and the Four Estates, in fact, there was a constant rivalry for supremacy, with varying results. And early in the 19th century the King, Gustavus IV, a man of conspicuous incapacity, ruled almost as a pure autocrat. His participation in the European War resulted in the loss of Finland to Russia, and as a result of this he was deposed on March 13, 1809. After a period of strife and revolution, the present Constitution of 1809 was adopted by the Riksdag, and the Duke Regent was proclaimed King. Ultimately, the French Marshal Bernadotte was adopted as Crown Prince with succession to the Crown, and in the end assumed the throne as Charles XIV.

The Constitution was framed by the Four Estates of the Realm with the manifest intention of dividing between the executive powers of the King and the legislative independence of the Riksdag. The King was required to act in counsel with responsible Ministers, and strong executive powers were conferred upon him. The Riksdag, as an independent legislature, was given power in all matters relating to constitutional control, general legislation and taxation. In the following year, 1810, the Constitution (or Regeringsform) was supplemented by an Organic Law for the Riksdag and a law on the liberty of the press.

This Constitution of 1809 has remained without substantial change to this day. Partial alterations, however, have been made at almost every session of the Riksdag. Some of these alterations are of great importance. Generally, the tendency has been continually to strengthen the powers of the people's elected representatives.

Even when the Constitution was first adopted it was felt that the Four Chamber system no longer suited the circumstances of the day; but, in view of the general unsettled condition of the country, the moment did not seem opportune for dealing with the complicated problem of creating an entirely new basis of representation. This problem was therefore postponed to the future. Events proved, however, that fundamental problems such as these required a general agreement in favour of change, and a general agreement of this sort is not usually attained except at times of unrest and discontent. The problem was therefore not again raised until 1830, at a time of constitutional unrest in Europe; but the demand proved ineffectual. It was not again raised with any strength until 1848,—another time of general constitutional discontent in Europe. In that year the Government brought in a Bill for reforming the system of representation; but it was rejected in the following Riksdag. The question again lay in a state of slumber until 1866, another occasion of general constitutional discontent in Europe. On this occasion the agitation was successful. The necessary reform was made; the Constitution was amended to provide for a two chamber Riksdag; and a new Organic Law was adopted.

Under the new Organic Law the Upper House of the Riksdag was intended to form an aristocratic Senate consisting of members with a high property qualification. The method of election was indirect. Electoral bodies in rural districts and in towns not included in such rural districts were appointed to elect members to this Upper House on the basis of one member for every 30,000 of the population. In 1867 this gave an Upper House of 125 members.

The Lower House was to be elected every three years by a limited suffrage, the proportion between members and population being fixed on a separate basis for the country and for the towns.

In 1894 the number of members for the Upper House was definitely fixed at 150 and for the Lower House at 230. The membership of the Lower House was divided as between country constituencies and town constituencies in the proportion of 150 for the former and 80 for the latter. The franchise still remained very restricted. In 1872 the percentage of adult males entitled to vote in elections for the Lower House had only been 22. In 1898 it rose to 35.

In 1902, however, the Government introduced a bill for a further extension of the franchise. The chief feature of this bill required that the electors should be 25 years of age, and it conferred two votes on married men over 40 years of age. This proposal was deemed inadequate and provoked a three days' general strike, with the result that the matter was deferred. Eventually, after conference between the two Chambers a new franchise law was passed in 1907, coming into force in 1909. Under this law universal manhood suffrage was established. The consequence was that in 1911 the percentage of adult males entitled to vote rose to 71.

Under the same law the property qualification for the Upper House was reduced and it was ordained that elections should be held on the principles of proportional representation for both Chambers.

At the present moment the Upper House consists of 150 members, who must be above 35 years of age, and who, moreover, must have possessed, for at least three years prior to election, either real property to the taxed value of 50,000 kroner (about £2,777) or an annual income of 3,000 kroner (about £166). These members are elected for a term of eight years by the members of the Landstings, or County Councils, and by the electors of Stockholm and five other large towns, the nineteen constituencies so formed being arranged in eight groups in one of which an election takes place each year.

The Lower House consists of 230 members, elected for four years on universal suffrage, all men and women of over 23 years of age being entitled to vote. Women may be elected to both Chambers. The system of election is such that with each representative a substitute is also elected, to take his place in case of need, thus avoiding the necessity of bye-elections.

These were changes, it is true, of the Organic Law, not strictly of the Constitution itself. But they are necessary to the understanding of the progress of the Constitution during the 19th century. For the Organic Law is practically a Constitutional instrument.

The Constitution itself, however, has also been altered. It was altered in 1814, for example, to provide for the Union of the Crowns of Sweden and Norway; and it was revised again in 1905 when this Union was dissolved.

Moreover, in 1840 the Council of State (or Cabinet) was reorganised in order that the majority of the Ministers should become heads of Departments. In 1876, the office of Minister of State, or Prime Minister, was established. Under the Executive provisions Ministers need not necessarily be members of either

Chamber of the Riksdag. The King acts as the head of the Executive, presiding at meetings of the Council of State. Parliamentary responsibility of Ministers is, however, well established; and a special body in the Riksdag, known as the "Constitutional Committee" has been created for enforcing it.

A peculiar feature of the Swedish Constitution is the system of Committees in the Riksdag. In these Committees equal numbers of members from both Chambers work together. It is the duty of these Committees to express their opinion on all bills introduced into the Riksdag. These Committees also act as mediators in case of disagreement between the two Chambers. If the two Chambers disagree, and no compromise can be reached by referring the question back to Committee, the bill is dropped. This method, however, does not prevail in questions of finance. Here, if agreement cannot be achieved by the ordinary method, the two Chambers sit and vote together.

Among recent amendments of the Constitution provision is now made for the holding of a Referendum. It is provided that a Referendum may be held on any bill, but a special act is required for that purpose.

CONSTITUTION

OF THE

KINGDOM OF SWEDEN.

FORM OF GOVERNMENT

established

BY HIS MAJESTY AND THE ESTATES OF THE REALM, STOCKHOLM, 6TH JUNE, 1809,

with the subsequent alterations, including those accepted by the King and the Riksdag during the session of the year 1922, in Stockholm.

We, CARL, by God's grace, King of Sweden, Gota and Wend, etc., etc., etc., Hereditary Lord (Arvinge) of Norway, Duke of Schleswing Holstein, Stormarn and Ditmarsen, Court of Oldenburg and Delmenhorst, etc., etc., make known:*

That We, with unlimited confidence in the Estates of the Realm, having unconditionally confided to them the drawing up of a new form of government which shall establish the safety and independence of a common fatherland for ever, We fulfil a duty, dear and longed for from our heart, in that We hereby proclaim a new Constitution which the now assembled Estates of the Realm, after the most careful deliberation, have unanimously established and accepted and which, together with their free and unanimous offer of the crown and government of Sweden, has been presented to Us to-day in the Hall of State. In meeting their wishes We are deeply touched and moved with tender sympathy for the destiny of this people, who have presented to Us such an unforgettable proof of trust and attachment and We are filled with a more certain hope of the success of Our continual efforts to promote the weal of the fatherland in future, in that Our rights and duties and those of Our subjects mutually have been so plainly defined in the new Constitution, so as to retain the King's power sacred and effective and the constitutional freedom of the Swedish nation. We, therefore, hereby accept, approve and confirm this Constitution

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*The Union of the Crowns of Sweden and Norway was dissolved by mutual agreement of the two States in 1905, but this title is still retained in the official text of the Swedish Constitution.

as approved by the Estates of the Realm, exactly as follows, word for word:

PREAMBLE.

We, the Estates of the Swedish Kingdom, counts, barons, bishops, nobles, clergy, burghers, and peasants, assembled in general session, on our own behalf and on behalf of our brethren at home, publicly declare that, whereas we the deputies of the Swedish people have gained the opportunity of improving the condition of our country through the establishment of a revised Constitution in consequence of the recent change of government to which we have given our unanimous consent, we do hereby repeal the fundamental laws which have been more or less in force up to this time, viz.: the Constitution of August 21, 1772, *the Act of Union and Security of February* 21 *and April* 3, 1789, *the Riksdag ordinance of January* 24, 1617, *and all other such old or new laws, acts, ordinances, enactments, or resolutions as have heretofore gone under the name of fundamental laws; and we do hereby make known the adoption of the following Constitution for the Swedish Kingdom and its dependencies, which from henceforth shall be the foremost fundamental law of the land, reserving to this Diet the right to adopt in the manner herein prescribed, the other fundamental laws mentioned in Article* 85 *of this Constitution:*

Article 1.—Sweden shall be governed by a king and shall be a hereditary monarchy with the order of succession established by the Law of Succession.

Article 2.—The King shall always belong to the pure evangelical faith as adopted and explained in the unaltered Augsburg Confession and in the resolution of the Upsala Synod.

Article 3.—The person of the King shall be held sacred and reverenced; He shall not be subject to any prosecution for His actions.

Article 4.—The King alone shall govern the Kingdom in accordance with the provisions of this Constitution; he shall, however, in the cases hereafter specified, ask for the information and advice of a Council of State; for which purpose the King shall summon and appoint capable, experienced, honourable and generally respected native Swedish citizens who belong to the pure evangelical faith. Relatives related in any degree of ascending or descending kinship, brothers and/or sisters, or their spouses may not be members of the Council of State at the same time.

Article 5.—For the various branches of the government of the Kingdom there shall be not less than eight nor more than ten State Departments, as decreed by the King and Riksdag jointly, who shall name each Department and define its principal sphere of action.

The further distribution of duties among the Departments shall be regulated by the King, in a special order, publicly issued.

For each Department the King shall select a Head and representative from among the members of the Council of State. The Head of the Department for Foreign Affairs shall be the Minister of Foreign Affairs.

Article 6.—The Council of State shall be composed of Heads of Departments, together with three Ministers without Departments. Of the three Ministers without Departments, at least two shall have held civil office.

The King shall appoint one member of the Council of State as Prime Minister and principal member of the Council.

The members of the Council of State shall be present whenever any business is transacted.

Article 7.—All measures of the government, except those mentioned in Article 15, shall be laid before the King in Council and shall be decided there.

Article 8.—The King shall not give a decision upon a measure upon which the Council of State should be consulted, unless at least three Councillors of State are present in addition to the one who properly presents the measure. Unless they have a legitimate excuse, all members of the Council shall be present for the consideration of measures of special weight and importance touching the general administration of the Kingdom; by the order of the day previous notice shall be given of such measures, which are: questions and projects regarding the adoption of new general laws; the repeal or amendment of existing general laws; the establishment of new organisations within the several branches of the government, and other questions of a similar character.

Article 9.—Minutes shall be kept of all measures which shall be brought before the King in Council. When the safety of the Kingdom is concerned or particularly important reasons concerning the relationship of the Kingdom to foreign powers demand secrecy as to the measures, special minutes on the matter shall be kept.

Such members of the Council of State as are present shall, being held responsible for their advice in accordance with Articles 106 and 107, positively express and explain their opinions, which shall be entered upon the minutes; nevertheless, it is reserved to the King alone to decide. Should at any time the unexpected event occur that the King's decision would be plainly contrary to the Constitution of the Kingdom or to its general laws, it shall be the duty of the members of the Cabinet to enter a vigorous protest against such decision. The member who does not separately enter his opinion in the minutes shall be held responsible as if he had supported the King in such decision.

Article 10.—Before matters are presented to the King in Council they shall be prepared by the member presenting them, who shall gather for this purpose necessary information from the proper administrative offices.

Article 11.—In matters which concern the relationship of the State with foreign powers, all communications with foreign powers or with the King's ambassadors abroad shall, without regard to the nature of the business, be made through the Minister for Foreign Affairs.

Article 12.—The King shall have power to enter into agreements with foreign powers, after the Council of State have been heard upon the subject. When such agreements deal with matters which are required under this Constitution to be decided by the Riksdag, either alone or jointly with the King, or when, though not dealing with such matters, they are of great importance, they shall be laid before the Riksdag for confirmation; and such agreements shall contain a reservation making their validity dependent upon confirmation by the Riksdag.

Should there be an occasion when the interests of the State require that agreements, which are of great importance but do not deal with matters required to be decided by the Riksdag, should be concluded without the confirmation of the Riksdag, this may be done; but in such circumstances the Committee for Foreign Affairs, established under Article 54, shall, as provided in that article, have an opportunity to express their opinions before the agreements are concluded.

Article 13.—If the King wishes to declare war or to conclude peace he shall convene all the members of the Council of State into extraordinary council, shall lay before them the causes and circumstances to be considered, and shall require their opinions concerning the matter; each of them shall separately enter his opinion in the minutes, under the responsibility referred to in Article 107. The King may then make and execute such a decision as he considers in the best interests of the country.

Article 14.—The King shall be commander-in-chief of the land and naval forces of the Kingdom.

Article 15.—Matters of military command, that is to say, decisions in which the King personally acts in his capacity as commander-in-chief of the land and naval forces, shall be decided by the King, when he is personally exercising the executive power, in the presence of the head of the military department within whose province the matter falls. The head of that department is bound, under his responsibility, to express his opinion upon the measures adopted by the King at the time when such measures are under consideration; should he disapprove of the decision of the King he

shall enter his objections and advice upon a minute which the King shall authenticate by his royal signature.

The matters of government which are to be considered matters of military command shall be determined by law enacted by the King and the Riksdag jointly.

Article 16.—The King shall maintain and further justice and truth, prevent and forbid iniquity and injustice; he shall not deprive anyone nor allow anyone to be deprived of life, honour, personal liberty, or well-being, without legal trial and sentence; he shall not deprive anyone nor permit anyone to be deprived of any real or personal property without trial and judgment in accordance with the provisions of Swedish law; 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 nor 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.

Article 17.—(1) The judicial power of the King shall be vested in at least twelve men learned in the law, who shall be appointed by him; they must have fulfilled the conditions required by law for the exercise of judicial functions, and shall, as Judges, have shown insight, experience and honesty. They shall be called Councillors of Justice and shall constitute the Supreme Court of the King. Their number shall not exceed twelve unless the King and the Riksdag should decree, in accordance with Article 87, sec. 1, that the Supreme Court shall work in divisions; in this case the number of Councillors of Justice, within the limits defined above, and the distribution of business between the divisions shall be regulated in the same decree.

(2) The King's right to examine and decide matters, which according to the Constitution may be dealt with by Departments, shall, to the extent prescribed by a separate law enacted by the King and Riksdag jointly, as provided in Article 87, sec. 1, be exercised by at least seven men appointed by the King, who shall have held civil office and shown insight, experience and honesty. They shall be called Administrative Councillors and compose the King's Administrative Council.

At least two-thirds of the whole number of Administrative Councillors shall have fulfilled the conditions required by law for the exercise of judicial functions. More detailed provisions as to the composition and duties of the Administrative Council shall be prescribed by the above mentioned law.

Article 18.—(1) The Administrative Council shall also receive and decide petitions asking that the King set aside judgments that have acquired legal force or that he grant relief from forfeiture resulting from the expiration of a legal term. All other petitions shall be decided by the Supreme Court.

(2) The Supreme Court shall hear and decide petitions for the institution of proceedings, which according to law, could not otherwise be brought into the King's Court.

Article 19.—In case requests are made to the King by Courts or officials regarding the proper interpretation of a law, the Supreme Court shall furnish such interpretation, if the matter is a proper one for the Courts.

Article 20.—Appeals to the King from the Military Courts shall be heard and decided by the Supreme Court. Two military officers of high rank, selected and appointed by the King for this purpose, shall, subject to judicial challenge and responsibility and without special remuneration, be present in the Supreme Court and have a voice in the decision of such cases; but the number of Judges shall not exceed eight.

Article 21.—Three members of the Supreme Court and one of the legal members of the Administrative Council shall together constitute the King's Law Council. The Law Council shall express its opinion on proposals for the enacting, annulling, changing or elucidating of laws or statutes which shall, for this purpose, be referred to them by the King.

Where it should prove necessary for certain business, the King may appoint one additional person known to possess insight, experience and honesty, to be a member of the Law Council.

Further provisions as to the duties of the Law Council shall be prescribed by a law enacted by the King and Riksdag, as provided by Article 87, sec. 1.

Article 22.—(1) Cases of minor importance may be heard and decided in the Supreme Court by five members, and also by four, when all four agree.

In more important cases at least seven members shall take part in the judgment. No more than eight members shall, at the same time, take part in the trial of any case, except in certain cases otherwise provided for by legislation in accordance with Article 87, sec. 1.

Legislation shall likewise determine the number of members of the Court who shall take part in the hearing of petitions referred to in Article 16, sec. 2.

(2) In the Administrative Council, five members may hear and decide cases, and four members may do so, when three are of the same opinion.

Article 23.—All decisions of the Supreme Court shall be issued in the name of the King and under his signature or under his privy seal.

Article 24.—The Royal Revising Judicial Office shall prepare judicial business for trial and decision by the Supreme Court.

Article 25.—Matters for the consideration and decision of the Administrative Council shall be prepared by the Department to which the business in question, as allotted under Article 6, belongs.

Article 26.—The King shall have power to grant pardons in criminal cases, to commute death penalties, to restore honours, and to return property forfeited to the Crown. The Administrative Council shall, however, be consulted in such cases as, by their nature, come before them for final consideration, but in other cases the Supreme Court shall be consulted; and the King's decision shall be taken in the Council of State. The offender shall then have the right to accept the pardon granted by the King or to suffer the punishment imposed upon him.

Article 27.—The King shall appoint as Attorney-General an able, impartial person, well versed in the law, who has had experience as a Judge. It shall be the principal duty of the Attorney-General as the highest legal officer of the King, personally or through his subordinate officers, to act as prosecutor, in the name of the King, in all cases which affect the public safety or the rights of the Crown; and also, on behalf of the King, to exercise supervision over the administration of justice, and in this capacity to prosecute for offences committed by Judges or other officers.

Article 28.—The King in Council shall have power to appoint and promote native Swedes to all offices and positions, high and low, for which the King's commissions are granted; the proper authority shall, however, first submit nominations when such a practice has heretofore been customary. The King may likewise, after having consulted the proper authorities or upon their nomination, appoint and promote also foreigners of distinguished merit, professing the pure evangelical faith, to professorships in the universities, excepting however, to the theological teaching staffs; to professorships or other positions in other institutions for science, manual training, or fine arts, as well as to medical appointments. The King may likewise employ foreigners of unusual skill in the military service, but not as commanders of fortresses. Foreigners may also be appointed as consuls, when there is no remuneration attached to the appointment.

Women may be appointed and promoted to the positions and services set out above, under circumstances, prescribed by the King and the Riksdag as suitable, but women may not be appointed

to any priestly office, unless otherwise prescribed by legislation in accordance with Article 87, sec. 2.

Only persons professing the pure evangelical faith shall be appointed to any priestly office or to other office carrying with them 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 in any other capacity, in the discussion or decision of questions relating to divine worship, to religious instruction, or to appointments within the Swedish church.

In making all appointments, the King shall take into consideration only the merit and skill of the candidates, but not their birth. Each Head of a Department shall present and conduct all business relative to the appointment, commission, leave of absence and discharge of all officers and employees in the offices and establishments belonging to the Department.

Article 29.—The King shall appoint the archbishop and bishops, one from a list of three candidates presented to him in the manner provided by the Church Law.

Article 30.—Appointments as clergymen to congregations, and the rights which appertain to the King and to the congregations in this connection, shall be governed by a special law enacted in accordance with Article 87, sec. 2.

Article 31.—Men and women resident in cities and those entitled to vote in municipal affairs shall propose three competent persons for the office of burgomaster. Each voter is entitled to one vote. The King shall appoint the burgomaster from among those proposed candidates. The same principle shall apply to the selection of Aldermen and City Clerks in Stockholm.

More detailed provisions governing the elections of candidates to be proposed for the above mentioned offices shall be prescribed by a special law enacted by the King and the Riksdag jointly.

Article 32.—Before such offices, for which candidates have been elected, are filled by the King, the members of the Council of State shall express their opinion as to the competence and merits of the candidates. They shall also have the right to make dutiful representations with regard to the King's appointments to other offices and positions.

Article 33.—The King shall have power to confer Swedish nationality on foreign men and women by means of naturalization, in the manner and upon the conditions determined by a special law

passed in accordance with Article 87, sec. 1. A naturalised foreigner shall enjoy the same rights and privileges as native-born Swedish citizens except that he may not be appointed to membership of the Council of State.

Article 34.—The Prime Minister and the Minister for Foreign Affairs shall have the highest rank in the kingdom, and members of the Council of State shall rank next. Members of the Council of State shall not perform the duties of or receive income from any other office. A Councillor of Justice or an Administrative Councillor shall not hold any other office or perform other duties.

Article 35.—Members of the Council of State, presidents and heads of administrative boards or of institutions established in their place, the Attorney-General, the heads of the prisons, of the surveying service, of the State railroads, of the pilot, postal, telegraph, customs, and forestry services; the under-secretaries of the Departments of the Government, the governor, deputy governor, and chief of police of the capital; the governors of provinces, field-marshals, generals, and admirals of all grades, adjutants-general, adjutants-in-chief, and adjutants of the staff, commanders of fortresses, colonels of regiments, lieutenant-colonels, of both cavalry and infantry regiments of guards and of the household guards as well as of other military corps and battalions having a separate organisation, the chiefs of artillery, of fortifications, and of the topographical and hydrograph surveys; ministers, envoys, and commercial agents in foreign countries, as well as officers and employees of the King's Cabinet for foreign correspondence, and of the legations, shall hold their offices during the pleasure of the King, who may remove them whenever he thinks it for the good of the State. He shall, however, make known his action to the Council of State, whose members shall make humble remonstrances if they think that they have reason to do so.

Article 36.—Persons occupying judicial positions, higher as well as lower, and all officers or employees other than those mentioned in the preceding article shall not be removed from office by the King, except after trial and sentence; nor shall they be promoted or transferred to other offices, except upon their own application.

Article 37.—The King shall have power to grant titles of nobility to persons who by fidelity, courage, virtue, learning, or useful services have deserved well of the King and of the country. The King may also, as a reward for important and distinguished services, confer upon a noble the rank of baron, or upon a baron the rank of count. The rank of nobility and the titles of baron and count hereafter granted shall be borne only by the person ennobled or elevated in rank, and, after his death, shall descend lineally, by the eldest male heir of the oldest branch of his family

and after its extinction, by the nearest male heir of the ancestor belonging to the oldest branch in existence, and so forth. If noble rank should pass by inheritance to a person who has already been ennobled or has received a title by previous inheritance, his own rank shall lapse, unless it is a higher grade, in which case the lower rank shall go to the nearest branch of the family; if no such branch is in existence, the title shall become extinct. If anyone should forfeit his noble rank, the title shall go to the nearest heir, in accordance with the rules herein established.

An ordinance regarding the nobility, to be adopted by the King in concert with the knights and nobles, shall prescribe the manner in which knights and nobles may assemble to decide upon matters which they have in common.

Article 38.—All dispatches and orders issued by the King, except in matters of military command, must, in order to be valid, be signed by the King and bear the countersignature of the person presenting the matter, whose duty it shall be to see that the action taken is in agreement with the minutes made concerning it. The Heads of Departments may issue directly to proper parties, instructions and memoranda regarding the execution of orders already given. Should the person presenting a matter think that any order of the King is in conflict with this Constitution, he shall make a representation to the Council of State concerning it; if the King should still insist upon issuing the order, it shall be the Minister's right and duty to refuse his countersignature thereto and as a consequence to withdraw from his office, which he shall not resume until the Riksdag has examined and approved his conduct. In the meantime his salary and other emoluments shall continue.

Article 39.—Should the King desire to travel abroad, he shall make known his intention at a full meeting of the Council of State and ask their opinion, as provided by Article 9.

Should the King decide to make such a journey and put his decision into execution, he shall not take part in the government of the country or exercise the royal power while he is outside the Kingdom; but during his absence, the government shall be conducted in the King's name by the Heir Apparent to the Throne, if he has attained the age fixed by Article 41. This Prince shall govern as Regent with all the royal power and authority, in accordance with this Constitution; he shall not however, confer any rank or title of nobility, raise persons to the rank of count or baron, or confer dignity of knighthood; and all officers of trust appointed by the Regent shall hold office only by temporary appointment.

If the Prince who is Heir Apparent to the Throne is prevented by sickness or absence abroad from assuming the government,

then under such conditions, shall that son of the Heir Apparent to the Throne, who is next entitled in the succession, govern as Regent in the King's name, provided he has attained the age fixed by Article 41, and is not debarred from so doing by the above mentioned conditions.

If there is no Prince entitled to govern under these conditions, the Council of State shall conduct the government with the same powers as a Regent.

Article 91 provides for the measures to be taken in case the King remains out of the Kingdom for more than twelve months.

Article 40.—Should the King become too ill to perform his functions, the government shall be carried on in accordance with the preceding article.

Article 41.—The King shall attain his majority when he is eighteen years of age. This provision shall apply also to the majority of the Heir Apparent to the Throne and of his Son who shall be next in order of succession. Should the King die before the Heir Apparent has reached this age, the Council of State shall, in conformity with Article 39, carry on the government in the name of the King, until the Riksdag assembles and until the Regency established by it has entered upon its duties; the Council of State shall conform strictly to this Constitution.

Article 42.—If the misfortune should happen that the whole royal family, in which the succession is vested, becomes extinct in the male line, the Council of State shall carry on the government, in conformity with Article 39, until the Riksdag assembles and chooses a new royal house, and until the King-elect assumes his office.

In each of the cases provided for by this and the three preceding articles, when the government is being carried on by the Council of State, all the members thereof shall be present and vote, unless legitimately prevented.

Article 43.—When the King takes active part in a war, or when he visits distant parts of the Kingdom, he shall designate three members of the Council of State, under a president whom He shall specially appoint, either from among the princes of His House or from among the members of the Council of State, to conduct such matters of government as the King may direct. Matters in which the King himself acts shall be dealt with in accordance with article 8.

The above provisions regarding the King shall also apply to the Regent when he is carrying on the government.

Article 44.—No Prince of the Royal House, whether Crown Prince, hereditary Prince, or Prince, shall marry without the King's

knowledge and consent. Should he do so, he forfeits all hereditary rights to the Crown, for himself, his children, and his descendants.

Article 45.—Neither the Crown Prince of Sweden, his Heir Apparent, nor the Princes of the Royal House, shall have any territorial rights of government or civil office; they may, however, according to ancient custom, bear the titles of duchies and principalities, without any rights over the territory of which they bear the name.

Article 46.—The country shall continue to be divided into provinces under the customary provincial governments. No governor-general shall hereafter be appointed within the Kingdom.

Article 47.—The Courts of appeal of the Kingdom and all other Courts shall decide cases in accordance with the laws. The administrative boards of the Kingdom, provincial governments, and all other offices, together with superior or inferior officers of the Government, shall perform their duties and functions in accordance with the instructions, regulations, and orders already issued or which may hereafter be issued; they shall obey all orders and commands of the King and assist one another in the execution of such orders and in the performance of all functions which the good of the Kingdom may require of them, being responsible to the King, in accordance with the law, for any omission, negligence, or illegal actions.

Article 48.—The King's Court shall be under his own direction. He may conduct it according to his own wishes. He may, at will, appoint or dismiss all officials of his Court.

Article 49. (1)—The Riksdag shall represent the Swedish people. All rights and duties, now vested in the Estates of the Kingdom, shall hereafter be vested in the Riksdag. The Riksdag shall be divided into two Chambers, the members of which shall be chosen in the manner prescribed by a special Riksdag law enacted by the King and Riksdag jointly. The Chambers shall have equal power and authority in all matters; the Riksdag shall, by virtue of this Constitution, assemble in regular session on the 10th of January of each year, or, if this day is a holiday, on the following day; the King shall, however, have the power to summon an extraordinary session of the Riksdag in the intervals between its regular sessions.

An extraordinary session of the Riksdag shall consider only the matters which occasioned its being summoned or other matters submitted to it by the King, and questions which may be inseparably connected with such matters.

(2) If, having regard to the particular importance of some measure or the nature thereof, it should be deemed necessary that, prior to its enactment, the opinion of the people should

be ascertained, the King and Riksdag may by a law enacted jointly, determine that a popular vote should be held. This law shall determine the question or questions to be answered by the popular vote, together with the date and manner of holding the same. The right to take part in the popular vote shall be vested in those who have the right to vote for the Second* Chamber of the Riksdag. After the popular vote the measure shall be dealt with in accordance with the Constitution.

Article 50.—The Riksdag shall meet in the capital of the Kingdom, except when invasion of an enemy, pestilence, or some other equally grave obstacles makes it impossible or dangerous to the liberty and security of the Riksdag. In such a case the King, after conferring with the persons elected by the Riksdag as Commissioners of the State Bank and of the Office of the National Debt, shall decide upon and announce another place of meeting.

Article 51.—When the Riksdag is convened by the King, Regent, or Council of State, the time of meeting fixed shall not be less than seven days nor more than twenty days after the summons is published in the public newspapers.

Article 52.—Each Chamber of the Riksdag shall appoint its own President as well as a First and a Second Vice-President, according to the procedure laid down by the Riksdag.

Article 53.—When in regular session, the Riksdag shall appoint the following committees for the preparation of business:—a Constitutional Committee, a Committee on Finance, an Appropriation Committee, a Committee on the Bank, two Committees on Laws and an Agricultural Committee, the composition and the duties of which shall be determined by the Riksdag Law.

At an extraordinary session of the Riksdag no more committees shall be appointed than are necessary for the preparation of the measures to be considered.

Article 54.—For each session of the Riksdag the Chambers shall appoint a Committee of sixteen members to confer with the King on matters concerning the relationship of the Kingdom with foreign powers. Conference with this Committee for Foreign Affairs shall take place before all matters of major importance relating to foreign affairs are decided. All relevant documents and information relating to business to be dealt with by the Committee shall be communicated to them. The decision of the King relative to the subject-matter of a conference with the Committee shall be communicated to its members at their next meeting at the latest.

At the beginning of each session of the Riksdag and afterwards as often as circumstances may require, the Minister for

*The Second Chamber is the lower or more numerous Chamber, constituted by direct election; the First Chamber is the Senate, constituted by indirect election.

Foreign Affairs shall present to the Committee a statement of the general political circumstances abroad which might be of importance to the Kingdom.

The members of the Committee shall observe the greatest caution with regard to communicating to others information concerning what occurs at meetings of the Committee. In case the King, or whoever may be dealing with the matter in his absence, shall deem it necessary that absolute secrecy be observed, the members shall be bound thereto. Each member shall, on the first occasion of his attending a meeting of the Committee, give an assurance of his intention to fulfil the duty of secrecy.

Article 55.—Neither the Riksdag, its Chambers, nor any of its Committees shall deliberate or decide upon any matter in the presence of the King.

Article 56.—The Riksdag Law shall determine the order of proceeding with reference to propositions of the King and with reference to questions raised by members of the Chambers.

Article 57.—The ancient right of the Swedish people to tax themselves shall be exercised by the Riksdag alone.

The manner in which the separate areas of local government shall tax themselves for their own needs, shall be determined by municipal laws to be enacted by the King and the Riksdag jointly.

Article 58.—At each regular session the King shall cause to be presented to the Riksdag a statement of the financial condition of the State Administration in all its branches, both income and expenses, assets and liabilities. Should the country receive any revenue because of treaties with foreign powers, it shall be accounted for in the same manner.

Article 59.—In connection with the statement of the condition and requirements of the Treasury the King shall cause to be presented to the Riksdag a proposal relative to the appropriation of funds which the State may need in addition to its ordinary revenues.

Article 60.—The customs and excise taxes, postal charges, stamp taxes, taxes on domestic distillation, and all such other taxes as each Riksdag may vote shall be reckoned as public revenues. No general tax, of whatever name or character, may be increased without the consent of the Riksdag, the duties on imported and exported grain alone excepted; nor shall the King lease the revenues of the State, or establish any monopoly for the benefit of himself and the Crown or of individuals and corporations.

Article 61.—All taxes voted by the Riksdag under the headings mentioned in the preceding Article shall be paid up to the

beginning of the financial year, for which new grants shall be passed by the Riksdag.

Article 62.—It devolves upon the Riksdag, after consideration of the requirements of the Treasury, to vote supplies to meet such needs, and also to prescribe the special purposes for which the separate items of appropriation may be used, and to grant these items under definite budgetary headings.

Article 63.—In addition to this, two separate sums, or sufficient amount, shall be voted and placed subject to payment by the Office of the National Debt, for use in case of emergency; the one to be available when the King, after having taken the advice of the Cabinet at a full meeting, decides that it is absolutely necessary to use it for the defence of the country or for other important and urgent purposes; the other to be used by the King in case of war, after he has consulted the Council of State in full session and has convened the Riksdag. The sealed order of the Riksdag for this latter amount shall not be opened, nor shall the amount be paid by the Commissioners of the Office of the National Debt, until after the summons convening the Riksdag has been published in the public newspapers.

Article 64.—The regular public funds and revenues, as well as the supplies voted by the Riksdag as extraordinary advances or appropriations in the manner above mentioned, shall be at the disposal of the King for application to the purposes indicated by the Riksdag, in accordance with the budgetary law.

Article 65.—Such funds shall not be applied to other purposes than those specified; the members of the Council of State shall be responsible if they permit any violation of this rule without entering their protests in the minutes of the Council and calling attention to what the Riksdag has enacted in the matter.

Article 66.—The Office of the National Debt shall remain under the direction, control, and administration of the Riksdag; and, as the Riksdag is responsible for the public debt which that Office administers, it shall, after the condition and needs of that Office have been properly explained, provide by special appropriation the funds which are found to be necessary for the payment of the interest and capital of this debt, in order that the credit of the country may not be impaired.

Article 67.—The delegate of the King in the Office of the National Debt shall not attend the meetings of the Commissioners of that Office except when they desire to consult with him.

Article 68.—The funds belonging to or appropriated for the Office of the National Debt shall not, under any pretext or

condition, be withdrawn or applied to other purposes than those specified by the Riksdag. All orders in conflict with this provision shall be void.

Article 69.—The Riksdag Law shall determine how the Riksdag shall proceed in the consideration of the reports of the Committee on Finance with reference to the establishment of the budget, to the whole appropriation necessary to meet the requirements of the budget, to the expenses and revenues of the Office of the Public Debt, or to the principles of its administration. Should the Chambers reach different conclusions which cannot be brought into agreement each Chamber shall vote separately upon the matter in dispute; the opinion which receives the majority of the votes of the two Chambers when counted together shall be the decision of the Riksdag.

Article 70.—When the two Chambers disagree with regard to regulations for the State Bank, as to its receipts and expenses, or as to relieving the Bank Commissioners from their responsibility in cases of supposed misdemeanour, each Chamber shall vote separately as provided in the preceding Article.

Article 71.—The same procedure shall also be followed when the Chambers do not agree upon the principles of any appropriation or upon the manner of its application or payment.

Article 72.—The State Bank shall remain under the guarantee of the Riksdag, and shall be administrated by Commissioners appointed for this purpose, in accordance with a law enacted by the King and the Riksdag jointly.

The Commissioners shall be seven in number, one of whom the King shall appoint for three years; the King shall also nominate one Deputy Commissioner; the other six Commissioners and three Deputies shall be chosen by the Riksdag for the term and in the manner prescribed by the Riksdag Law. The regular member appointed by the King shall preside over the Commissioners, but shall perform no other duties in the administration of the Bank. Any Commissioner whom the Riksdag find guilty of improper conduct shall lose his position. The Commissioner or Deputy appointed by the King may be removed at the discretion of the King.

The State Bank alone shall have the right to issue bank notes which may circulate as money in the Kingdom. These notes shall be redeemed by the Bank upon demand, in gold at their face value; with the exception that when, by reason of war, danger of war or a severe money crisis, it should be unavoidably necessary to suspend such redemption, the King and the Riksdag jointly, or, if the Riksdag is not sitting, the King at the request of the Commissioners of the State Bank and after consultation with the Commissioners of the National Debt Office, shall permit

such suspension for a certain time. Such permission when given by the King between sessions of the Riksdag, if not confirmed by the Riksdag within twenty days from the beginning of its next session, shall after the lapse of that period cease to have effect.

Article 73.—No new imposition of taxes, compulsory enrolment of troops, nor levy of money or of goods shall hereafter be ordered, demanded, or executed without the free will and consent of the Riksdag, in the manner provided above.

Article 74.—From the day when, by decision of the King in Council after summoning the Riksdag to assemble, the forces of the Kingdom are placed upon a war footing, either for the preservation of the neutrality of the Kingdom when, in case of war between foreign powers, such neutrality is threatened or violated by any of the belligerent powers or for defence against an imminent or actual attack, until the return to a peace footing, the King shall have power, upon the credit of the State, in the manner and under the conditions prescribed by special law to be enacted by the King and the Riksdag jointly, to make requisitions upon communities or individuals for such supplies and services as may be furnished by the locality, are indispensably necessary to meet the needs of the army, and cannot be provided for with sufficient promptness in any other manner.

Article 75.—The annual table of market rates shall be prepared by persons chosen in the manner specially provided by the Riksdag; such table shall be followed until its modification is sought and obtained in the regular manner.

Article 76.—The King shall not, without the consent of the Riksdag, contract loans at home or abroad or burden the Kingdom with new debts.

Article 77.—The King shall not, without the consent of the Riksdag, sell, mortgage, grant, or in any other way dispose of royal demesnes, and Crown lands with the houses and other appurtenances thereto, royal forests, parks, or meadows, the salmon or other fisheries belonging to the Crown, or of other Crown property. Such property shall be administered in accordance with principles established by the Riksdag; however, persons in communities which, according to the present law, are in the possession and enjoyment of such State property shall retain their legal rights therein. Land in the royal forests capable of cultivation may be sold in accordance with laws now in force or hereafter to be enacted.

Article 78.—No part of the Kingdom may be disposed of by sale, mortgage, gift, or in any other similar manner.

Article 79.—(1) No change shall be made in the arms or flag of the Kingdom without the consent of the Riksdag.

(2) Nor shall any change be made in the standard or weight of the money of the Kingdom, by way of either increase or decrease, without the consent of the Riksdag; however, the King's right to coin money shall remain undisturbed.

Article 80.—The recruiting of the land and naval forces shall remain under the system of equipment duty and military tenure based on the contract and agreement to supply troops made with the towns and rural districts; this system shall not be altered in its fundamental principles until the King and the Riksdag agree upon the necessity of some change. No new or increased obligations to furnish recruits shall be imposed except by agreement between the King and the Riksdag.

Should a special law abolish the military tenure system and establish some other principles for the organisation of land and naval forces, no change shall be made in such law except by agreement between the King and the Riksdag.*

Article 81.—This Constitution and the other Fundamental Laws shall not be altered or repealed except by decision of the King and of two regular sessions of the Riksdag.

The decision of the Riksdag upon a proposal made by the King with reference to a Fundamental Law shall be communicated to him in the manner prescribed by the Riksdag Law. If the Riksdag should adopt such a proposal made within its own body, its decision thereon shall be submitted to the King. In the latter case the King, before the adjournment of the Riksdag, shall take the advice of the Council of State in full session and shall, in the Hall of State, inform the Riksdag of his consent or of his reasons for not approving its resolution.

Article 82.—Amendments to the Fundamental Laws adopted by the Riksdag and approved by the King, or proposed by the King and adopted by the Riksdag, in the prescribed manner, shall have force as Fundamental Laws.

Article 83.—No interpretation of the Fundamental Laws to hold good for the future shall be valid unless adopted in the manner provided for amending such laws.

Article 84.—The Fundamental Laws shall be applied literally in each particular case.

Article 85.—The following shall be considered Fundamental Laws; this Constitution, the Riksdag Law, the Act of Succession,

*The Swedish forces are now maintained on the basis of universal compulsory service, with a permanent nucleus recruited by voluntary enlistment.

and the Law relating to the Freedom of the Press which shall be adopted by the King and Riksdag jointly in accordance with the principles established by this Constitution.

Article 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 the public officials; the individual may afterwards be prosecuted before a regular Court because of the contents of his publication, but shall not be punished unless such publication is plainly in conflict with a law enacted to preserve the public peace, without interfering with public instruction. All proceedings and official minutes of whatever character, except the minutes of the Council of State and those relating to military command under the King, shall be published without restriction. The minutes and proceedings of the State Bank and of the Office of the National Debt, concerning matters which should be kept secret, shall not be published.

Article 87.—(1) The Riksdag shall have power, in concert with the King, to enact civil and criminal laws, and criminal laws for the armed forces of the Crown, and to amend or repeal any such laws now in force. Neither the King without the approval of the Riksdag nor the Riksdag without the consent of the King shall have power to enact new laws or to repeal existing laws. Proposals may be made in either Chamber and, after the competent Committee has reported upon them, shall be decided upon by the Riksdag. If the Riksdag decides, on its own initiative, to adopt a new law or to amend or repeal an existing law, its proposal shall be submitted to the King, who shall consult the Council of State and the Law Council regarding it and, after having reached his decision, shall inform the Riksdag of his consent to its proposal or of his reasons for refusing consent. Should the King not be able to make or announce his decision before the adjournment of the Riksdag, he may before the opening of the next session approve the measure exactly as passed by the Riksdag, and cause it to be published. Otherwise the proposal shall be regarded as rejected, and the King shall inform the Riksdag at its next session of the reasons which prevented the acceptance of the measure. If the King wishes to propose a bill to the Riksdag, he shall obtain the opinion of the Council of State and of the Law Council regarding the matter and shall present his proposal, together with such opinions, to the Riksdag; the Riksdag shall then proceed with the proposal according to the Riksdag Law.

(2) The Riksdag shall have power, in concert with the King, to enact, amend or repeal laws relating to the Church, but the consent of a General Church Council shall also be necessary.

When a law upon this subject is proposed in accordance with the procedure set out in Section 1, the opinion of the Council of State and of the Law Council shall be obtained, and these together

with the King's proposal, if such is made, shall be submitted to the Riksdag. If the proposal in question has not been promulgated as a law before the beginning of the session next after that in which the proposal originated or was presented to the Riksdag, it shall lapse and the King shall inform the Riksdag of the reasons which prevented the acceptance of the proposal.

Article 88.—With reference to the interpretation of civil, criminal, or church laws the same procedure shall be followed as in the passage of such laws. Interpretations which the King may give through the Supreme Court, during the recess of the Riksdag, in answer to questions regarding the true meaning of a law, may be overruled by the Riksdag at its next session; or if the interpretation relates to a church law, it may be overruled by the first general church council meeting after its publication. The interpretations which have thus been overruled shall lose their validity and shall not be observed or relied upon by the Courts.

Article 89.—Projects regarding the amendment, interpretation, or repeal of laws and decrees relating to the general economy of the Kingdom, new laws of this character, and proposals concerning the principles to be followed in all branches of the public administration, may be introduced in the Chambers of the Riksdag. In such matters, however, the Riksdag shall merely present an address to the King expressing its wishes and opinions; the King, after consulting the Council of State, shall take such action as he considers most beneficial to the Kingdom. If the King wishes to consider with the Riksdag any matters relating to the general administration of the country, the procedure shall be the same as that prescribed in Section I of Article 87 for the consideration of laws.

Article 90.—Questions relating to the appointment and removal of officers, to decisions, decrees, or judgments of the Government or of the Courts, to the conduct of individuals or corporations, or to the execution of any law, decree, or undertaking shall in no case or manner be subject to consideration or investigation by the Riksdag, by its Chambers, or by its Committees, except as literally prescribed by the Fundamental Laws.

Article 91.—When the King, in the case referred to in Article 39, having journeyed abroad, shall remain out of the Kingdom for more than twelve months, the Regent, or the Council of State, if the latter is in charge of the government, shall summon the Riksdag by public proclamation, such summons to be published in the public newspapers within fifteen days after the expiration of the twelve months. The King shall be notified of this action, and if he still remains out of the Kingdom, the Riksdag shall take such action as it thinks most proper regarding the government of the country.

Article 92.—The same procedure shall be followed, if illness of the King should prevent his performing the duties of his office for more than twelve months.

Article 93.—If the King should die when the Heir Apparent is still under age, the Council of State shall summon the Riksdag, such summons to be published in the public newspapers within fifteen days after the death of the King. The Riksdag shall have power, without regard to anything in the deceased King's will regarding the Government, to establish a Regency of one, three, or five persons, who shall conduct the Government in the King's name, in accordance with this Constitution, until the King becomes of age.

Article 94.—Should the unfortunate event occur that the Royal Family having the right of succession to the Throne becomes extinct in the male line, the Council of State shall, within the period after the last King's death fixed by the preceding Article, summon the Riksdag, which shall choose a new Royal House always maintaining this Constitution.

Article 95.—If unexpectedly the Regent or the Council of State should fail to summon the Riksdag immediately, in the cases mentioned in the four preceding Articles, it shall be the absolute duty of the Courts of Appeal of the Kingdom publicly to make known such fact, in order that the Riksdag may assemble to protect its own rights and the rights of the country. In such a case the Riksdag shall assemble on the twentieth day after the latest date on which the Regent or the Council of State should have issued the summons.

Article 96.—The Riksdag shall at each regular session appoint two persons of known legal ability and of proved integrity, the one as Attorney for Judicial Affairs and the other as Attorney for Military Affairs, to act in the capacity of Attorneys for the Riksdag, according to instruction laid down by the Riksdag, and to supervise the execution of the laws and the Constitution. The Attorney for Military Affairs shall supervise all matters concerning the Military Courts, together with the Government officials and staff thereof, with remuneration from grants for the defence forces, and the Attorney for Judicial Affairs shall supervise all other matters appertaining to the Courts, their officials and staff; and in accordance with the division just mentioned, these Attorneys shall institute proceedings before the proper Courts against those who, in the execution of their official duties, have shown partiality, respect of persons, or who for any other reason have acted unlawfully or who have neglected to perform their official duties properly. These Attorneys shall be subject to the same responsibilities and penalties as are provided for public prosecutors by general laws and by the laws of procedure.

Article 97.—During their terms of office, the Attorney for Judicial Affairs and the Attorney for Military Affairs shall in every respect have the same rank as the King's Attorney-General, they shall be chosen in the manner provided by the Riksdag Law and at the same time two other persons with the qualifications of Attorneys to the Riksdag shall be appointed to succeed these two Attorneys respectively, should they die before their successors are elected at the next general session of the Riksdag, and to perform the duties of these Attorneys respectively during the time these officials are prevented from exercising their functions by serious illness or from any other legitimate cause.

Article 98.—If the Attorney for Judicial Affairs or the Attorney for Military Affairs resigns from his office or dies during the session of the Riksdag, the Riksdag shall immediately appoint in his place the person who has been chosen as his substitute. Should the substitute resign from his position, be appointed to the vacant position, or die during the session, another qualified person shall be chosen in his place, in the manner provided above. Should any of these circumstances arise during the recess of the Riksdag, the powers of that body with regard to them shall be exercised by the Commissioners of the State Bank and the Commissioners of the Office of the National Debt who are elected by the Riksdag.

Article 99.—The Attorney for Judicial Affairs and the Attorney for Military Affairs may, whenever they consider it necessary in the exercise of their duties, attend the deliberations and conclusions of the Supreme Court, Administrative Council, Revising Judicial Office, Courts of Appeal, the administrative boards or the institutions established in their place, and all the lower Courts, but without the right to take part in their proceedings; they shall also have access to the minutes and records of all Courts, administrative boards and public offices. The King's officers are in general bound to afford the Attorney for Judicial Affairs and the Attorney for Military Affairs lawful assistance and all public prosecutors shall aid them in the conduct of cases, if they ask for their assistance.

Article 100.—The Attorney for Judicial Affairs and the Attorney for Military Affairs shall each present to every regular session of the Riksdag a report of the administration of his office, in which they shall give accounts of the administration of justice throughout the Kingdom in the spheres defined in Article 96 as the scope of their duties, call attention to defects in the laws and decrees, and make suggestions for their improvement.

Article 101.—Should the unexpected event occur, that either the entire Supreme Court or one or more of its members, because of self-interest, partiality or negligence, shall have rendered such

an unjust judgment, in conflict with clear law and with duly proved evidence, that it causes or might have caused anyone loss of life, of personal liberty, of honour, or of property; or if the Administrative Council, or one or more of its members, should, in the hearing of actions of appeal become liable to such accusations, it shall be the duty of the Attorney for Judicial Affairs or, if the appeal has come to the Supreme Court from a Military Court, the Attorney for Military Affairs, as it shall be within the power of the King's Attorney-General, to bring charges against the offender before the Court hereinafter provided, and to prosecute him in accordance with the law of the land.

Article 102.—This Court, to be known as the Court of Impeachment, shall in such cases be composed of the president of the Svea Court of Appeals, who shall preside, the presidents of all the administrative boards of the Kingdom, and in actions against the Supreme Court, four of the senior members of the Administrative Council or, if the Administrative Council is accused, then of four of the senior members of the Supreme Court, and in both cases, the highest officer in command of troops stationed at the Capital, the highest naval officer in command of the fleet stationed at the Capital, the two senior members of the Svea Court of Appeals and the senior member of each of the administrative boards of the Kingdom. When the King's Attorney-General, the Attorney for Judicial Affairs or the Attorney for Military Affairs thinks himself justified in accusing the entire Supreme Court or any of its members before the Court of Impeachment, or the King's Attorney-General or the Attorney for Judicial Affairs thinks himself justified in accusing the entire Administrative Council or any of its members, he shall ask the president of the Svea Court of Appeals, as president of the Court of Impeachment, to issue a summons in legal form to the person or persons to be prosecuted. The president of the Court of Appeals shall then take steps to convene the Court of Impeachment in order that it may issue the summons and further deal with the case according to law. Should he unexpectedly fail to do this, or should any of the above-mentioned officers refuse to act in the Court of Impeachment, they shall be legally responsible for such intentional neglect of their official duty. If one or more members of the Court of Impeachment has a lawful excuse or if he is properly challenged as incompetent to act, the Court shall still be qualified, if it consists of twelve persons. If the president of the Court of Appeals has a lawful excuse or is challenged, the eldest of the remaining presidents shall take his place. After having tried the case and reached a lawful decision, the Court shall pronounce judgment in public session. No one shall have power to change this judgment; the King, however, may grant pardon, which shall not extend to a reinstatement of the convicted person in the service of the country.

Article 103.—Every fourth year the Riksdag shall in regular session, in the manner provided by the Riksdag Law, appoint a Commission whose duty it shall be to decide if all the members of the Supreme Court and of the Administrative Council deserve to be retained in their important offices, or if any of them ought to be deprived of the exercise of the judicial power, without their having clearly committed the errors or crimes referred to in the preceding Article. Should this Commission, after voting in the manner prescribed by the Riksdag Law, decide that one or more of the members of the Supreme Court or of the Administrative Council are undeserving of the confidence of the Riksdag, the person or persons in question shall be honourably discharged from their offices by the King, to whom the Riksdag shall report its decision. The King shall, however, grant to each such person an annual pension amounting to one-half of his salary.

Article 104.—The Riksdag shall not take under special examination any decisions of the Supreme Court or of the Administrative Council, nor shall such a decision be a subject for general consideration before the Commission provided above.

Article 105.—The Constitutional Committee of a regular session of the Riksdag shall have power to ask for the minutes kept by the Council of State. The special minutes referred to in Article 9 may, however, only be demanded with reference to a particular matter specified by the Committee. In such a case the King shall decide, having regard to the safety of the Kingdom or to particularly important reasons determined by relations with foreign powers, whether to prevent the delivery of such minutes to the Committee or not. Such minutes shall not be refused without the Committee for Foreign Affairs having had an opportunity to express their opinion on the subject.

Minutes relating to matters of military command may be demanded only with reference to matters already generally known and specified by the Committee.

Article 106.—If the Committee discovers from these minutes that any member of the Council of State, or any person assigned to lay a report before the King, has clearly acted in violation of the Constitution or of general laws, or has recommended such violation or has omitted to protest against it, or has occasioned or encouraged it by wilful concealment of any information, or that the person presenting a report has failed to refuse his countersignature to the decision of the King in the cases previously specified in Article 38 of this Constitution, then the Constitutional Committee shall, through the Attorney for Judicial Affairs, impeach such person before the Court of Impeachment and conduct the prosecution in accordance with the procedure laid down in Articles 101 and 102 for proceedings against State Councillors. When members of the Council of

State are found guilty in the manner provided above, the Court of Impeachment shall sentence them in accordance with the general law and with a special law as to their responsibility to be enacted by the King and the Riksdag.

Article 107.—Should the Constitutional Committee notice that all of the members of the Council of State or any of them, in their advice upon public measures, have not had due regard to the true welfare of the State, or that any person presenting matters to the King has failed to perform his duties with impartiality, zeal, ability, and energy, the Committee shall submit the matter to the Riksdag, which, if it thinks the welfare of the country so requires, may inform the King in writing of its wish that he shall cause the removal from the Council and from office of the person or persons who have incurred its censure.

Motions of this character may be made in the Chambers of the Riksdag and may be presented to the Chambers by other Committees than the Constitutional Committee, but no decision shall be reached by the Riksdag until the latter Committee has been heard. In the consideration of such matters by the Riksdag, decisions of the King with reference to the rights or affairs of individuals or corporations shall not even be mentioned, much less shall they be made the subject of any investigation by the Riksdag.

Everything that the Riksdag, after investigation, shall have approved or left uncensured shall be regarded as relieved from responsibility, and no new investigation of the same matter shall be undertaken by another Riksdag for the purpose of fixing liability; however, in addition to the general supervision of the administration of public funds exercised by the Committee of Auditors of the Riksdag, it shall be the duty of the proper officers to conduct such special audits as pertain to their official duties.

Article 108.—Every fourth year the Riksdag in regular session shall, in the manner prescribed by the Riksdag Law, appoint six persons of known intelligence and knowldege, who, together with the Attorney for Judicial Affairs as president, shall watch over the liberty of the press. These Commissioners, of whom two in addition to the Attorney for Judicial Affairs shall be lawyers, shall have the following duty: In case an author or printer before publishing, 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 Attorney for Judicial Affairs and not less than three of the Commissioners, of whom one shall be a lawyer, shall state their opinion in writing. If they decide that the manuscript may be printed, both author and publisher shall be free from all responsibility, but the Commissioners shall be responsible.

Article 109.—The regular session of the Riksdag shall not be adjourned without its own consent, until after a period of four months, unless the King, in accordance with the provisions of the Riksdag Law, orders a new election of one or both Chambers, in which case the Riksdag shall reassemble within three months after the dissolution upon the dates set by the King, and, preserving its character as a regular session, shall not again be adjourned by the King until after four months from the date of its last assembling.

The King may terminate an extraordinary session of the Riksdag whenever he thinks best, and shall always terminate it before the time fixed for the meeting of the regular session.

If the unexpected event should happen that the Riksdag shall not have passed the budget nor granted new supplies before the beginning of the new financial year, the former budget and grants shall remain in force until the new budget and grants are passed.

Article 110.—No member of the Riksdag shall be prosecuted or arrested on account of his actions or utterances in that body unless the Chamber to which he belongs has authorised such prosecution or arrest by special resolution, adopted by at least a five-sixths vote. No member of the Riksdag shall be banished from the place where it meets. Should any individual or body, civil or military, or any multitude of whatever name, either spontaneously or under direction of others, attempt to injure the Riksdag, its Chambers, its Committees, or any one of its members, or to disturb the freedom of its discussions and decisions, such actions shall be considered as treason, and the Riksdag may prosecute the offenders in accordance with law.

If a member of the Riksdag, during a session or when going to or from a session, is molested by word or action, the offender being aware of his errand, the offence shall be dealt with according to the general law with reference to assaults upon or insults to the King's officers. The same law shall apply to assaults upon or insults to the Commissioners, Auditors, Attorney for Judicial Affairs, or Attorney for Military Affairs, to the Secretaries or officers of either Chamber, or of any of their Committees, during or in consequence of the performance of their duties.

Article 111.—If a member of the Riksdag is accused of a serious offence he shall not be arrested until the Judge, after investigation, considers such arrest justifiable, provided that he was not caught in the act; however, if he does not obey the summons of the Court, he shall be dealt with according to the provisions of the general laws. No member of the Riksdag shall be deprived of his liberty except in the cases mentioned in this and in the preceding article.

The Commissioners of the State Bank and of the office of the Public Debt and the Auditors of the Riksdag shall receive no orders relating to their duties except from the Riksdag or in consequence of its instructions, nor shall they be called to account except by the action of the Riksdag.

Article 112.—No officer shall make an improper use of his authority in the election of members to the Riksdag. Should he do so he shall be deprived of his office.

Article 113.—Assessors whose duty it is, on behalf of the Riksdag, to apply the provisions of the appropriation law shall not be held liable because of the performance of their duties.

Article 114.—The ancient privileges, advantages, rights, and liberties of the Estates of the Kingdom shall remain in force, except where they are indissolubly connected with the right of representation formerly belonging to the Estates and have consequently ceased to exist with the abolition of that right. The rights of the Estates shall not be altered or annulled except by agreement between the King and the Riksdag, and with the consent of the nobility if their privileges are in question or of a General Church Council if the privileges of the clergy are affected.

In virtue of which we have to these presents put our names and seals to attest, confirm and establish the same, in Stockholm on the sixth day of June, in the one thousand eight hundred and ninth year after Christ.

On behalf of the Nobility:	On behalf of the Clergy:	On behalf of the Burghers:	On behalf of the General Peasantry:
M. ANKARSVARD	JAG. AX. LINDBLOM.	H. N. SCHWAM.	LARN OLSSON.

Everything as herein written We not only accept for Ourselves as the irrevocable fundamental laws, but We direct and graciously command all those throughout the Kingdom who are united in loyalty, fealty and obedience to Us and Our successors, to acknowledge, observe, follow and obey this Constitution.

In witness thereof We have with Our own hand signed and confirmed it, together with Our Seal duly sealed below, given in Our Capital, Stockholm, on the sixth day of the month of June in the year after the birth of Our Lord and Saviour Jesus Christ, one thousand eight hundred and ninth.

CARL.
(L.S)

XIX. THE UNITED STATES OF AMERICA.

*Area**: 3,743,529 *sq. miles.* *Population**: 117,859,495.

The Constitution of the United States of America holds a singular interest. It was born of War. Prior to the War of Liberation, the States that later became known as the United States, thirteen in number, were separate British Colonies, each with its own distinct history and antecedents. Each of these thirteen Colonies was governed by a Governor appointed by the British King, with separate Legislative Assemblies, some of which were set up by the Royal Prerogative. It was these thirteen separate and distinct Colonies that on July 4th, 1776, published what they themselves described as a "Unanimous Declaration" to the following effect:—

> "That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political communication between them and the State of Great Britain is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do."

Thus, the thirteen Colonies became by their declaration thirteen sovereign, free and independent States, prepared by War to defend the independence they had declared. The necessity of common action in such a War, however, led them, as free contracting parties, to draft certain Articles of Confederation. These Articles were drafted on November 15th, 1777. They were ratified by each of the thirteen States at various times, the final ratification being by the State of Maryland on March 1st, 1871. By these Articles the contracting States pledged themselves to common action in certain fundamental matters, such common action to be determined by a body described as a Congress. The use of the word Congress is significant, inasmuch as it reveals the strictly international aspect of this Confederacy, for the Congress was in fact and in effect an international Conference, which, under the stress of War, was endowed with certain administrative powers. The fundamental principles underlying the Confederation are clearly stated in the first three Articles.

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*Including non-contiguous territory—Alaska, Phillipine Islands, etc.—and soldiers, etc., abroad in 1920.

Article I.—The Style of this Confederation shall be "United States of America."

Article II.—Each State retains its Sovereignty, Freedom and Independence, and every Power, Jurisdiction and Right, which is not by this Confederation expressly delegated to the United States in Congress assembled.

Article III.—The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

After the War of Liberation the limited powers of this international Congress proved quite inadequate to deal with the financial and economic ruin that followed in its trail. To men like Alexander Hamilton the only remedy for such evils seemed the abolition, virtual or absolute, of the thirteen sovereignties, and the creation of a single central State. But each State preserved so strong a sense of its individual history, each State having come into existence as a Colony through causes so widely different, that any such counsel as this was clearly impracticable. In many States, even the limited powers granted to the United Congress were begrudged.

Nevertheless, it became more and more evident that the powers granted to their United Congress were inadequate to deal with problems that were common to all the States; therefore the Congress, on February 21st, 1787, declared that the "Confederation and perpetual union between the States" had not proved "adequate to the exigencies of government and the preservation of the Union"; and therefore deemed it "expedient that on the second Monday in May next a Convention of delegates who shall have been appointed by the several States be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the States render the federal constitution adequate to the exigencies of government and the preservation of the Union."

The result of this resolution was that twelve of the thirteen sovereign free and independent States sent official delegates to the Convention, which met on May 25th, 1787, when seven States were represented. George Washington was chosen President of the Convention. Finally delegates attended from every State except Rhode Island. As the result of the initial discussion, this Convention decided to go completely outside its terms of

reference, and, instead of revising the Articles of Confederation, to draw up a whole new Constitution. It decided, further, that such a Constitution, when drafted, should be referred for ratification, not to Congress or to the legislatures of the Colonies, but to the people themselves in each of the States.

This Convention thereupon became a Constituent Convention distinguished from a Constituent Assembly, for the purpose of convenience, by the fact that it would not of its sovereign right prescribe a Constitution, but would only refer it when drafted to the sovereign bodies or the sovereign peoples which it represented. The Convention consisted of fifty-five delegates. It continued to sit until September 17th, 1787, when thirty-nine delegates signed the Constitution which had been drafted and sent it forward to Congress with the following resolution attached:

> Resolution of the Federal Convention submitting the Constitution to Congress, September 17, 1787.
>
> In Convention Monday, September 17th, 1787.
> Present
>
> The States of
>
> New Hampshire, Massachusetts, Connecticut, Mr Hamilton from New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.
>
> Resolved—
>
> That the preceding Constitution be laid before the United States in Congress assembled, and that it is the Opinion of this Convention that it should afterwards be submitted to a Convention of Delegates, chosen in each State by the People thereof, under the Recommendation of its Legislature, for their Assent and Ratification; and that each Convention assenting to, and ratifying the Same, should give Notice thereof to the United States in Congress assembled.
>
> Resolved—
>
> That it is the Opinion of this Convention, that as soon as the Conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a Day on which Electors should be appointed by the States which shall have ratified the same, and a Day, on which the Electors should assemble to vote for the President and the Time and Place for commencing Proceedings under this Constitution. That after such Publication the Electors should be appointed and the Senators and Representatives elected; that the Electors should meet on the Day fixed for the Election of the President, and should transmit their Votes certified,

signed, sealed and directed as the Constitution requires, to the Secretary of the United States in Congress assembled; that the Senators and Representatives should convene, at the Time and Place assigned; that the Senators should appoint a President of the Senate for the sole purpose of receiving opening and counting the Votes for President; and, that after he shall be chosen, Congress, together with the President, should, without Delay, proceed to execute this Constitution.

By the Unanimous Order of the Convention.

G. WASHINGTON, *President.*

W. JACKSON, *Secretary.*

Congress on September 28th, 1787, directed the Constitution so drafted, together with the resolution and the covering letter from the President, "to be transmitted to the several legislatures in order to be submitted to a Convention of Delegates chosen in each State by the people thereof, in conformity to the resolves of this Convention."

On the 4th March, 1789, the day which had been fixed for commencing the operations of Government under the new Constitution, it had been ratified by the Conventions chosen in each State to consider it as follows:—Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 26, 1788; and New York, July 26, 1788.

The States of North Carolina and Rhode Island, however, still remained out, but on the 21st November, 1789, North Carolina ratified the Constitution, and on the 29th May, 1789, Rhode Island also ratified it. And on January 10th, 1789, the State of Vermont, which had not been in the Original Confederation, also ratified the Constitution, and was, by an act of Congress on February 19, 1791, "received and admitted into this Union as a new and entire member of the United States."

When adopting the Constitution, several of these State Conventions transmitted, with their resolutions of acceptance, requests that certain amendments should be made. Some of these were ultimately adopted, and they form the ten amendments of 1791. Nine further amendments were adopted from time to time. Of these, three (the Thirteenth, Fourteenth, and Fifteenth Amendments) were adopted as a direct result of the American Civil War. Consequently it appears that under normal circumstances there have been only six amendments to the Constitution in over one hundred and thirty years.

CONSTITUTION

OF THE

UNITED STATES OF AMERICA,
1787,

With subsequent Amendments.

We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Article 1.

Section 1.—All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2.—*(1) The Senate of the United States shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

(2) No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitent of that State in which he shall be chosen.

*(3) Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty

*This clause is amended by Article XIV., Amendments.

thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose 3; Massachusetts, 8; Rhode Island and Providence Plantations, 1; Connecticut, 5; New York, 6; New Jersey, 4; Pennsylvania, 8; Delaware, 1; Maryland, 6; Virginia, 10; North Carolina, 5; South Carolina, 5; and Georgia, 3.

(4) When vacancies happen in the representation from any State, the Executive Authority thereof shall issue writs of election to fill such vacancies.

(5) The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

Section 3.—The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

*(2) Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

(3) No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

(4) The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

(5) The Senate shall choose their other officers and also President *pro tempore,* in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

(6) The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

(7) Judgment in cases of impeachment shall not extend further than to removal from office, and disqualilcation to hold

*These clauses are amended by Article XVII, Amendments.

and enjoy any office of honour, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

Section 4.—(1) The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

(2) The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section 5.—(1) Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members in such manner and under such penalties as each House may provide.

(2) Each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two-thirds expel a member.

(3) Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.

(4) Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Section 6.—(1) The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

(2) No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

Section 7.—(1) All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills.

(2) Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approves, he shall sign it, but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two-thirds of that House it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

(3) Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and the House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Section 8.—The Congress shall have power:

(1) To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.

(2) To borrow money on the credit of the United States.

(3) To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

(4) To establish an uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States.

(5) To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

(6) To provide for the punishment of counterfeiting the securities and current coin of the United States.

(7) To establish post-offices and post-roads.

(8) To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

(9) To constitute tribunals inferior to the Supreme Court.

(10) To define and punish piracies and felonies committed on the high seas, and offences against the law of nations.

(11) To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

(12) To raise and support armies, but no appropriations of money to that use shall be for a longer term than two years.

(13) To provide and maintain a navy.

(14) To make rules for the government and regulation of the land and naval forces.

(15) To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

(16) To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

(17) To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles squire) as may by cession of particular States and the acceptance of Congress, become the seat of Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and

(18) To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Section 9.—(1) The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

(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.

*(4) No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

(5) No tax or duty shall be laid on articles exported from any State.

(6) No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another, nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

(7) No money shall be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

(8) No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign State.

Section 10.—(1) No State shall enter into any treaty, alliance, or confederation, grant letters of marque and reprisal, coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts, pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

(2) No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws, and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

(3) No States shall, without the consent of the Congress, lay any duty on tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

Article 2.

Section 1.—(1) The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:—

(2) Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole

*This clause is amended by Article XVI, Amendments.

number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative or person holding an office of trust or profit under the United States shall be appointed an elector.

*(3) The electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the vote shall be taken by States, the representation from each State having one vote. A quorum, for this purpose, shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.

(4) The Congress may determine the time of choosing the electors and the day on which they shall give their votes, which day shall be the same throughout the United States.

(5) No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years and been fourteen years a resident within the United States.

(6) In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as Presi-

*This clause is superseded by Article XII., Amendments.

dent, and such officer shall act accordingly until the disability be removed or a President shall be elected.

(7) The President shall, at times stated, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

(8) Before he enters on the execution of his office he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

Section 2.—(1) The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States except in case of impeachment.

(2) He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate and by and with the advice and consent of the Senate shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the Courts of law, or in the heads of departments.

(3) The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions, which shall expire at the end of their next session.

Section 3.—He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Section 4.—The President, Vice-President, and all civil officers of the United States shall be removed from office on

impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanours.

Article III.

Section 1.—The judicial power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the Supreme and inferior Courts, shall hold their offices during good behaviour, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office.

Section 2.—(1) The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

(2) In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

(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.

Section 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.

Section 1.—Full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other

State. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Section 2.—(1) The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

(2) A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

(3) No person held to service or labour in one State, under the laws thereof, escaping into another shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due.

Section 3.—(1) New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

(2) The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.

Section 4.—The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence.

Article V.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the Ninth Section of the First Article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

Article VI.

(1) All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation.

(2) This Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

(3) The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Article VII.

The ratification of the Conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in Convention by the unanimous consent of the States present the Seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the Twelfth. IN WITNESS whereof we have hereunto subscribed our names.

(*Here follow the signatures.*)

Articles in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the Fifth Article of the original Constitution.

(1791) **Article I.**

The Congress shall make no law respecting an establishment 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.

(1791) **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.

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*The year shown in parentheses is that in which the Amendment came into operation.

(1791) **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.

(1791) **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 persons or things to be seized.

(1791) **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.

(1791) **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 witness against him; to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel for his defence.

(1791) **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 by a jury shall be otherwise re-examined in any Court of the United States than according to the rules of the common law,

(1791) **Article VIII.**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

have engaged in insurrection or rebellion against the same or given aid and comfort to the enemies thereof. But Congress may, by a vote of two-third of each House, remove such disability.

Section 4.—The validity of the public debt of the United States, authorised by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection and rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

Section 5.—The Congress shall have power to enforce by appropriate legislation the provisions of this article.

(1870) **Article XV.**

Section 1.—The right of the 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.

Section 2.—The Congress shall have power to enforce this article by appropriate legislation.

(1913) **Article XVI.**

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

(1913) **Article XVII.**

(1) The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years, and each Senators shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

(2) When vacancies happen in the representation of any State in the Senate the executive authority of such State shall issue writs of election to fill such vacancies: Provided that the Legislature of any State may empower the Executive thereof to make temporary appointments until the people fill the vacancies by election as the Legislature may direct.

(3) This amendment shall not be so construed as to affect the election or terms of any Senator chosen before it becomes valid as

(1919) **Article XVIII.**

(1) After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to this jurisdiction thereof for beverage purposes is hereby prohibited.

(2) The Congress and the several States shall have concurrent power to enforce this Article by appropriate legislation.

(3) This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

(1919) **Article XIX.**

(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 sex.

(2) The Congress shall have power to enforce the provisions of this Article by appropriate legislation.